Corporate Policy and Strategy Committee

10.00am, Tuesday 15 May 2018

Armed Forces Reservists

Item number 7.2

Report number Executive/routine

Wards

Council Commitments

Executive summary

On 5 December 2017, the following motion was proposed and agreed in relation to Armed Forces Reservists; "that the Chief Executive is instructed to submit a report to Committee, in two cycles, detailing the number of Reservists currently employed; and update the Council Risk Register to include the information contained in the report".



Report

Armed Forces Reservists

1. Recommendations

- 1.1 To note the update provided.
- 1.2 To approve the updated Reserve Forces Training and Mobilisation Policy and related guidance.
- 1.3 To note the risk which has been be added to the Human Resources and Strategy and Insight risk registers.

2. Background

- 2.1 The Council is committed to supporting Armed Forces Reservists, with relevant guidance for employees and line managers in place.
- 2.2 The opportunity has been taken to review and update the current policy and associated guidance to reflect best practice as recommended by the Ministry of Defence (Appendix One).
- 2.3 The Edinburgh Partnership has formally signed up to the Armed Forces Covenant which has an agreement with the armed forces in Edinburgh to help strengthen ties between them and local communities.

3. Main report

- 3.1 A motion approved at Corporate Policy and Strategy Committee on 5 December 2017 instructed the Chief Executive to detail the number of Reservists currently employed (within two cycles).
- 3.2 The Council is committed to supporting employees who are Armed Forces Reservists and have updated the Policy and guidance for managers and employees who are Reservists.
- 3.3 We currently have 6 employees who are Reservists. As part of our commitment to the Armed Forces Reservists, we will:
 - 3.3.1 publicise the Armed Forces Covenant;
 - 3.3.2 celebrate Armed Forces Day; and
 - 3.3.3 support the employment, where appropriate, of wounded, injured or sick veterans.

- 3.4 We have created a field in iTrent (our HR system) which both managers and employees can complete with their membership details and which also now gives us a reporting function which previously did not exist in the system.
- 3.5 As instructed in the motion the following risk has been added to the Human Resources and Strategy and Insight risk registers; "There is a risk that the Council does not have adequate arrangements in place for the support and monitoring of Armed Forces reservists within the workforce". The mitigating action in progress relating to this risk is the work being led by the Lothian Armed Forces and Veterans Project Lead Development Officer in Strategy and Insight coupled with an updated Policy and guidance, monitoring of the number of employees who are currently reservists and the creation of an automated process to capture reservists' details.

4. Measures of success

- 4.1 That the Council captures data for all employees if they are Army Reservists.
- 4.2 That the Council has an ongoing commitment to the Armed Forces Covenant.

5. Financial impact

5.1 N/A.

6. Risk, policy, compliance, and governance impact

6.1 The proposed new Policy and associated guidance follow best practice as recommended by the Ministry of Defence.

7. Equalities impact

7.1 There are no significant equalities impacts arising directly from this report.

8. Sustainability impact

8.1 There is no sustainability impact of this report.

9. Consultation and engagement

9.1 Due to the nature of the Policy, it is deemed by the Council and Trade Unions that there is not a need for the Policy to be a local collective agreement. (Appendix One).

10. Background reading/external references

<u>Minute from Corporate Policy and Strategy Committee, 5 December 2017 – motion by the Lord Provost</u>

Edinburgh Partnership Armed Forces Covenant

Andrew Kerr

Chief Executive

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11. Appendices

Appendix 1 – Reserve Forces' training and mobilisation policy

Appendix 2 - Reservist and Manager User Guide

Reserve Forces' training and mobilisation policy

The City of Edinburgh Council (we) employ people who are members of the Reserve Forces and we recognise the valuable contribution they make to the UK Armed Forces, their communities, and the civilian workplace.

Further guidance can be found in The Reservists and Managers User Guide.

Author	Review
Human Resources	The policy will be reviewed as and when a change to the existing policy is deemed necessary, primarily because of changes to:
	legislation,statute, orGovernment policy.

Purpose Scope

This policy defines our obligations towards employees who are members of the Reserve Forces. The Reservists and managers user guide is a practical guide to implementing this policy.

We will not disadvantage Reservists and shall agree to release them for training events where these take place on normal working days. We support members of the Reserve Forces, and those wishing to join. We acknowledge the training they undertake and support the release of all employees mobilised for Reservist duties.

During mobilisation we will treat Reservists' contracts of employment as operable and there will be no loss of continuous service or service-related benefits.

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1. Types of Reservist

There are two main types of Reservist:

- Volunteer
- Regular.

2. Reserve status notification – Employee Actions

You must update MyHR and let your manager know which specific force you belong to.

You must grant permission for the Ministry of Defence (MoD) to write directly to us. This is known as 'Employer Notification'.

Further information is available in 'The Reservists and managers user guide'.

3. Training commitments and time off for Reservists

You will usually be committed to 24-40 days training per year. Details of all training can be found in 'The Reservists and managers user guide'.

We will grant you special leave (paid) for two weeks per year so you can attend your mandatory annual training.

Additional unpaid leave or annual leave from your entitlement will be granted for short periods of training if you provide sufficient notice, double the amount of time off requested; for example, if you need 2 days off you need to give 4 days' notice.

Once we have approved time off this will not be overturned unless there are exceptional circumstances.

4. Mobilisation

Mobilisation is when you're called into full-time service with the Regular Forces for military operations. The maximum period of mobilisation will depend on the scale and nature of the operation but is usually no longer than 12 months.

The Call-out papers for mobilisation are sent to us by post or you can hand these directly to your line manager. There is a requirement for you to give us copies of your call out papers, even if the MoD has sent them to us. Your manager needs to record and authorise the unpaid leave so we can issue the correspondence that sets out your position whilst undertaking military service.

5. Applying for exemption, deferral, or revocation

We will release you to report for duty unless there are exceptional circumstances. Line managers can apply for exemption, deferral, or cancellation if your absence would cause serious disruption to service delivery. Details on the application process can be found in 'The Reservists and managers user guide'.

6. Treatment of Terms & Conditions during mobilisation

The Reserve Forces (Safeguarding of Employment) Act 1985 provides protection of employment rights. This means that your contract of employment will continue to exist during the period of special unpaid leave.

When mobilisation occurs, you'll be given special unpaid leave of absence.

Your employment cannot be terminated on the grounds of your military duties or if you're mobilised. To do this would be a criminal offence under Section 17 of The Reserve Forces (Safeguarding of Employment) Act 1985.

You can be included in the redundancy pool if this is necessary, for example, following an organisational review. Redundancy criteria will not discriminate against you on the grounds of your Reserve status or call-up liabilities.

7. Pay, benefits, and pension

Pay

- The MoD will assume responsibility for your salary for the duration of your mobilisation. They will pay a basic salary according to your military rank. If this is less than you receive from us it's your responsibility to apply to the MoD for the difference to ensure you don't suffer a loss of earnings. This is known as a Reservist Award.
- We're not required to pay your salary during the period of mobilisation.
- You will receive an automatic pay step in both the development and competency zones of your pay scale when
 you have been called out. This is to ensure that you're not disadvantaged under the terms of the Reserve
 Forces (Safeguarding of Employment) Act 1985.
 - Notes: A pay step will not be applied if you have a live warning on file for absence or misconduct.

Benefits

- You can claim back any contractual benefits that are suspended during mobilisation, for example: assisted car scheme, ride to work scheme and childcare vouchers.
- You should discuss benefit arrangements during your pre-mobilisation meeting with your line manager. Please refer to 'The Reservists and managers user guide' for further information.

Pension

- The rules about pensions and Reserve Forces service are set out in the Local Government Pension Scheme (Scotland) Regulations 1998. If you receive a call-out notice you and your manager should seek advice from Lothian Pension Fund.
- If you're a teacher you should seek advice from the Scottish Public Pensions Agency (Teachers Section) when you receive your call out notice.

8. Annual leave

You should try to take any accrued annual leave before mobilisation.

During mobilisation

We're not obliged to accrue annual leave for you during the period of mobilisation as you will accrue leave from the MoD whilst you are in full-time service.

Post-mobilisation

When you demobilise, you're entitled to a period of post-operational leave (POL) which is determined by the MoD. During this period, you will continue to be paid by the MoD.

9. Sickness absence

Sick pay

During the period of mobilisation, you'll continue to accrue any rights to occupational sick pay.

During mobilisation

If you become sick or injured during mobilisation you will be covered by Defence Medical Services and any financial assistance will continue to be received (including pay) until you're demobilised. If the sickness or injury results in early demobilisation, you'll remain covered by the MoD until the last day of paid military leave. After this time our sickness absence procedure will cover you.

Post-mobilisation

If you become ill post-mobilisation, and a notional return to work date has been agreed, our sickness absence procedure will cover you.

Return to work responsibilities

You (the Reservist)	Us (The City of Edinburgh Council)
You must write to your line manager by the third Monday after their last day of military service making a formal request to return to work. Your return date should fall within six weeks of your last day of full-	We have an obligation under Reserve Forces (Safeguarding of Employment) Act 1985 to reinstate you, where possible to your former role, or, to a mutually acceptable role on the same terms and conditions prior to mobilisation. If you're not happy with the offer of alternative employment you must write to your Head of Service stating why you cannot accept it.
You should also speak directly to your line manager to discuss your return to work at the earliest opportunity.	If you believe that our response denies your rights under the Safeguard of Employment Act 1985, you can make an application to a Reinstatement Committee for assessment.
	You should be reinstated within six weeks of the last day of your full-time service.
	You may need refresher training when you return to work, or be given time to familiarise yourself with any changes in the workplace or your duties.

Aftercare

When you return to work you'll benefit from a smooth reintegration into the workplace/team. Your line manager should:

- update you on any changes and developments;
- offer specific refresher training where it is sought and/or considered necessary;
- provide skills training to assist with new aspects of the job; and
- provide reasonable time-off to seek therapeutic treatment if required and ensure you are made aware of Employee Assistance Programme which we have in place for all of our employees.

10. Financial assistance

Financial assistance for employers in the event mobilisation is governed by the Reserve Forces (Call out and recall) (Financial Assistance) Regulations 2005. These cover additional costs above the normal earnings of the Reservist associated with replacing them. There are three types of award available.

One-off costs	Recurring costs	Training award
 Agency fees, if a recruitment agency or employment agency is used to find a temporary replacement; Advertising costs. 	Overtime costs, if other employees work overtime to cover the work of the Reservist [by the amount that such costs exceed earnings of the Reservist]	If you need to undertake additional training on return from mobilisation we can make an application for financial assistance.
No financial cap on claims, but any claim must be supported by relevant documentation.	Costs of temporary replacement [by the amount that such costs exceed earnings of the Reservist].	Details on the application process can be found in 'The Reservists and managers user guide'.

11. Further information

Name	Contact details and website
Defence Relationship Management	https://www.gov.uk/government/groups/defence-relationship-management Helpline: 0800 389 5459. Free helpline, open during office hours, offering advice and guidance on training, mobilisation, and employment issues.
Royal Navy	www.royalnavy.mod.uk/the-fleet/maritime-reserves
Army	www.army.mod.uk/join/20233.aspx
Royal Air Force	www.raf.mod.uk/rafreserves

Reservist and Manager User Guide

This document provides guidance for managers and employees who are Reservists. It covers:

- actions for employees who are Reservists or if they want to become Reservists;
- guidance for line managers on how to manage Reservists;
- managing requests regarding time off for training; and
- guidance and actions for when a Reservist is mobilised, demobilised and returns to work.

Reservists

Reservists make up a significant element of the Nation's total defence capacity and are called upon as individuals for their specialist skills or as ready formed units when required.

Statement of support

We support our employees who are members of the Reserve Forces with a commitment to releasing you for work to attend training and support your liability to be mobilised for a period of full time military service.

Types of reservist	
Туре	Details
Volunteer reservist	 ✓ Civilians recruited into the Royal Naval Reserves ✓ Royal Marines Reserves ✓ Territorial Army ✓ Royal Auxiliary Air Force.
Regular reservist	 Ex-regular servicemen who may retain a liability to be mobilised depending on how long they have served in the Armed Forces.
The Reserve Forces Act 1996 outlines other Reservist types	 ✓ Full Time Reserve Service: Reservists who wish to serve full time with regulars for a predetermined period in a specific posting. ✓ Additional Duties Commitment: Part-time service for a specified period in a post. ✓ Sponsored Reserves: Personnel employed by a contractor to provide a service to the MoD. ✓ High Readiness Reserves: These are Reserves, with a skill-set, that are available at short notice.



Recording Reservist details

If you're a Reservist, or are interested in joining the Reserve Forces, you must discuss this with your line manager prior to requesting any time off for training. You must record your Reservist status on MyHR. Line managers can also update your Reservist status on MyPeople if you do not have access to the Orb.

Both you and your line manager should familiarise yourselves with the Reserve Forces Training and Mobilisation Policy, and this guidance.

Line Managers must record any period of training granted using special, unpaid, or annual leave and record any details of mobilisation as unpaid leave in line with our Policy.

If you are going to volunteer for High Readiness Reservist status you should discuss this with your line manager and Head of Service as you are committing to accepting an increased liability for mobilisation. This means you can be deployed into full time armed force service with minimal notice. Your Head of Service will confirm if this is acceptable within your role with us and confirm this is writing to you.

When you are a Reservist or join the Reserve Forces the Ministry of Defence will provide us with detail of:

- our mobilisation obligations and your rights as an employee;
- our rights as an employer with details of the financial assistance available when you are mobilised; and
- details of any annual training commitments.

The MoD will also send us a follow-up letter each year to confirm that the information we hold is still accurate.

It's your responsibility to ensure that your personal details are kept up to date, for example if you change job or leave your Reserve Force.

Managing training commitments

We will provide you with two weeks' special paid leave for attending your mandatory two-week Reservist Training Camp.

Line Mangers will be flexible and aim to adapt work rosters if required to allow attendance at other training commitments you may have, for example weekly or weekend training sessions.

You should give your line managers as much notice as possible to allow appropriate planning for absences. You should make sure that you give your line manager double the amount of notice of the time off required. e.g. if you want 3 days leave you should give a minimum of 6 days' notice.

Permission will not be withdrawn unless there are exceptional circumstances.

Type Details Weekly training ✓ Most train at their local centre for around two-and-a-half hours, one evening a week. Weekend training ✓ All Reservists are expected to attend several training weekends which take place throughout the year. Annual training ✓ A mandatory two-week annual training course sometimes referred to as 'annual camp'. ✓ This may take place at a training establishment, as an attachment to a Regular Unit, a training exercise, or a combination of any of these. Training normally takes place within the UK, although each year some Reservists train overseas.

Performance review or appraisal

Experience gained through routine training (and mobilisation) brings essential skills into our organisation, such as leadership, communication, team working and organisational ability.

These skills and abilities should be recognised and taken into consideration in an individual's performance review/appraisal. They should be considered as evidence of achievement in the application of knowledge and skills.

You will receive an automatic pay step in both the development and competency zones of your pay scale when you have been called out.

N.B. A pay step will not be applied if you have a live warning on file for absence or misconduct within the relevant pay year.

Employment tribunals

The Defence Reform Act 2014 introduced legislation in the UK to provide reservists with immediate right of access, without a qualifying period, to an Employment Tribunal for unfair dismissal if the dismissal relates to Reserve Service.

Managing mobilisation

Mobilisation is when you are brought into permanent service with the Regular Forces, for military operations. The maximum period of mobilisation will depend on the scale and the nature of the operation and is typically no longer than 12 months.

A call out notice is legally enforceable and will be issued as formal notification of your mobilisation. We support mobilisation in all but exceptional circumstances and will normally release you for Reserve service.

A call-out notice can be appealed if your absence is considered to cause serious disruption to service provision. You can also appeal against call out if the notice comes at a difficult time for you.

We will receive a call out pack from the MoD as will you as a Reservist. The pack will include:

- the call-out date (when you must report for duty at a specified mobilisation centre); and
- the anticipated timeframe for mobilisation.

Technically you are on immediate notice for call-out, however whenever possible, the MoD will give at least a minimum of 28 days' formal notice of the date that you will be required to report to the mobilisation centre for contingency operations and 90 days' notice for pre-planned operations.

A period of mobilisation comprises three distinct phases:

- 1. Medical and pre-deployment training.
- 2. Operational tour.
- 3. Post-operational tour leave.

Mobilisation phases manager actions

Stage	Action
Pre-mobilisation	 Meet with the Reservist to ensure all mobilisation paperwork is understood and completed.
	✓ Agree employee benefits entitlements and required actions (refer to checklists within this guidance that cover these e.g. Pay, benefits, pension arrangements etc)
	✓ Make a claim for financial assistance as appropriate
	✓ Discuss any handover of work and return of equipment
	✓ Inform People Support of impending mobilisation, record on MyPeople as unpaid leave, with details of the first day of mobilisation, contained in the call out notice, so payroll can adjust pay and benefits accordingly
	✓ Complete the consent form included in the call-out pack and use template letter A to confirm the arrangements of the unpaid leave and other arrangements.
	Keeping in touch - exchange contact details so you can keep in regular contact with your member of staff (e.g. email addresses). This will also help with their smooth reintegration back into the workplace.
	✓ Check to see if next of kin details need updated.
During mobilisation	✓ Keep in touch with Reservist as arranged.
Post mobilisation	Helping to ensure a smooth re-integration into the workplace will require consideration and planning. You should:
	 Provide them with an update on changes and developments in the workplace or the Council.
	 Offer specific refresher training where sought and/or considered necessary particularly if your role has evolved or changed.
	 Encourage an informal get together with colleagues before or soon after they return to work to prevent a feeling of displacement.
	 Discuss any health concerns and encourage them to consult their unit, GP or Employee Assistance Programme if needed.

Reservist terms and conditions during mobilisation

Terms and conditions

Item	Details
Pay	The MoD will assume responsibility for your salary for the duration of your mobilisation. They will pay a basic salary according to your military rank. If this basic element is less than the salary you receive form us you must apply to the MoD for the difference to ensure that you do not suffer any loss of earnings. This is known as Financial Assistance and the Awards to Reservists.
Payroll	Mobilisation does not break continuity of employment (s.217 (a) Employment Rights Act 1996) and therefore we will: • not issue a P45 (in line with HMRC guidance) for service of less than 12 months; • record your absence as 'special unpaid leave'; and • note that any period of mobilisation counts towards reckonable service periods. See payroll guidelines on Reservists: https://www.gov.uk/employee-reservist We're not required to pay your salary during the period of mobilisation as this is the responsibility of the MoD.
Pension	The provisions relating to pensions and Reserve Forces service are set out in the Local Government Pension Scheme (Scotland) Regulations 1998. If you are called out for service you will only be required to continue to pay pension contributions for the duration of the call-out period if military pay received equals or exceeds the civilian pay that you would have received. In these circumstances you must make pension contributions on all military pay received during the period of call-out at the same contribution rate applicable prior to your call-out for service. On your return from call-out, you must contact Lothian Pension Fund to plan for the amount of contributions due, these can be paid either by deduction from pay through our payroll or directly to Lothian Pension Fund. You are not required to make pension contributions for the period of call-out where your military pay received was less than your civilian pay. In these circumstances, for pension purposes, you will be treated as if pension contributions had been paid. When you are called out the period Reserve Forces service counts as a period of pension scheme membership and therefore counts as reckonable service for the purposes of calculating pension benefits. If you are killed whilst serving as a Reservist, reach normal retirement age, or become incapable for health reasons of working in local government employment you will be treated for pension purposes as if you had been in employment at that time. For Teachers the provisions are set out in The Teachers Superannuation (Scotland) Regulations 1992. If a Teacher receives a call-out notice you must seek further advice on your case from the Scottish Public Pensions Agency (Teachers Section).
Annual leave	You should take any accrued annual leave before mobilisation and discuss this with your line manager. We do not accrue annual leave for you during your period of mobilisation. You will accrue annual leave with the MoD whilst you are in full time service and this is factored into the mobilisation period and taken by the last day in permanent service or before you return to work with us.

Applying for exemption, deferral, and revocation

If a line manager feels that the call out may cause serious disruption to service delivery they can apply to the MoD to seek an exemption, deferral or revocation of your call out.

Definitions of 'harm' will vary from case to case, but may include:

- loss of reputation, goodwill, or other financial harm;
- impairment of the ability to produce goods or provide services;
- harm to the research and development of new products, services, or processes (which
 could not be prevented by the granting of financial assistance under sections 83 and 84
 of The Reserve Forces Act 1996).

Details of how to apply for exemption are included in the call-out pack.

As a Reservist you also have the right to apply for exemption or deferral if the call-out papers arrive at a difficult time.

If an unsatisfactory decision is received we/you can appeal for a hearing by the Reserve Forces Appeals Tribunal.

If the tribunal rejects the application for exemption or deferral, we will be required to release you for mobilisation.

Financial assistance (Reservist)

During the period of mobilisation, the MoD provides financial assistance to members of the reserve forces and their employers who suffer financial loss as a direct result of the call out.

You can make a claim directly from the MOD for:

- ✓ payments to make up the difference between your civilian earnings and military salary which you can claim during periods of mobilised service. This award is to ensure that mobilisation does not financially disadvantage you; and
- ✓ certain allowable expenses arising from mobilisation, limited to:
 - additional payments for the care of a dependent child or relative;
 - additional expenses for the care of a pet; and
 - additional home insurance premiums; and payment for the essential maintenance of the Reservist's main residence and garden.

Demobilisation

You cannot return to work until you have been demobilised. This means that you will undergo checks and briefings including medical, welfare and take your period of post operational leave.

We will be notified of the demobilisation date and the last day of your permanent service. Once the accrued MoD leave has been taken you can return to work.

Return to work

We both have obligations under The Reserve Forces (Safeguarding of Employment Act) 1985 (SoE 85) regarding the return to work process.

Reservist

You have the right to be re-employed in the type of job in which you were last employed and on terms and conditions no less favourable to than in your previous role.

You should try and maintain contact with us while mobilised and make sure you notify your line manager of the last day of your permanent service and when you intend returning to work. You should also speak to your line manager to arrange a time to meet to discuss your return to work.

You **must** write to your line manager by the third Monday after your last day of military service making a formal request to return to work and suggesting a date to return. This date should fall within 6 weeks of your last day of full-time service. This letter formally starts the return to work process.

N.B. The formal application must be made in writing for it to be valid under SoE 85.

Please refer to the Reservists Training and Mobilisation Policy for further information on your terms and conditions of service.

Manager

We have an obligation under SoE 85 to reinstate the Reservist, wherever possible to their former role, if not a mutually acceptable role on the same terms and conditions prior to mobilisation.

Line Managers should acknowledge and respond to informal and formal contact from you with regards to your return to work arrangements. (Use Template Letter B –on receipt of the formal notification letter requesting a return to work.)

A Reservist is not immune from an organisational review and can be included in a redundancy pool but must be treated equally to all other employees throughout the process.

Further guidance and information

Name	Contact details and website
Defence Relationship Management	https://www.gov.uk/government/groups/defence-relationship-management Helpline: 0800 389 5459. Free helpline, open during office hours, offering advice and guidance on training, mobilisation, and employment issues.
Royal Navy	www.royalnavy.mod.uk/the-fleet/maritime-reserves
Army	www.army.mod.uk/join/20233.aspx
Royal Air Force	www.raf.mod.uk/rafreserves