# VOLUNTARY RETIREMENT AND RE-EMPLOYMENT ON A FIXED TERM BASIS

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<th>Author:</th>
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<td>Endorsing Body:</td>
<td>Human Resources Forum</td>
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<td>Governance or Assurance Committee</td>
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### CONSULTATION AND DISTRIBUTION RECORD

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<td>Distribution:</td>
<td>• NHSL Intranet: Firstport</td>
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### CHANGE RECORD

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1. **INTRODUCTION**

As a result of the raising of the retirement age for NHS staff, it is important that NHS employers publicise and facilitate the range of retirement flexibilities within the NHS Pension Scheme. Staff are increasingly requesting to return to work on a full-time or part-time basis after taking age/voluntary retirement and this policy provides a framework within which such requests can be managed.

This option is not available to staff who retire on the grounds of organisational change or ill health or who retire on the grounds of efficiency of the service. It is only available for those who take age retirement or those who volunteer to take premature retirement with actuarial reduction i.e. no employer enhancements.

2. **AIM, PURPOSE AND OUTCOMES**

The purpose of this policy is to:

- enable the organisation to retain difficult to replace skills and experience
- enable employees who are retiring on age grounds or prematurely with actuarial reduction to return to work for NHS Lanarkshire in either the same role or a lower banded post, where these posts are hard to fill

3. **SCOPE**

The policy applies to all employees of NHS Lanarkshire who are members of the SPPA NHS pension scheme, irrespective of age, sex, disability, ethnicity/race, marital or civil partnership status, sexual orientation, religion or belief, pregnancy or maternity or gender reassignment.

No employee will have an automatic right to return to either their previous or a lower banded post following retirement. All requests to return to work following retirement should be considered on a case by case basis and approval or otherwise must be based on the needs of the service. This policy is not intended to be a substitute for succession planning but, rather, a potential short term solution for filling posts which meet the criteria outlined in paragraph 4.4. Managers are still required to consider the training and development needs of their staff and how this might support succession planning within their departments and across the wider organisation.

If there is no service requirement for an employee to return to either the same or a lower banded role following their retirement, the application will not be approved. This does not preclude the member of staff from applying for other posts via the normal recruitment procedures at that time or in the future.

NHS Lanarkshire takes care to ensure your personal information is only accessible to authorised people. Our staff have a legal and contractual duty to keep personal health
information secure and confidential. In order to find out more about current data protection legislation and how we process your information, please visit the Data Protection Notice on our website at www.nhslanarkshire.scot.nhs.uk or ask a member of staff for a copy of our Data Protection Notice.

3.1 Who are the Stakeholders

All employees of NHS Lanarkshire.

4. PRINCIPAL CONTENT

4.1 Where applications submitted in accordance with this policy are approved, it should be noted that contracts of employment should be issued on a one year fixed-term basis in the first instance. Thereafter the contract should be reviewed by the general manager, appropriate professional lead or equivalent on a yearly basis, in accordance with NHS Lanarkshire’s Fixed Term Contracts policy.

4.2 The procedure outlined below should be followed to manage requests from staff wishing to be re-employed in either their previous or a lower banded role following retirement.

4.3 The employee and their line manager, who must be at service manager level or equivalent, should meet on a 1:1 basis to discuss the employee’s plans. The employee should then contact the SPPA to discuss the implications of returning to work after retirement. The employee and their line manager should then complete the application form (Appendix A) and a meeting should be arranged to discuss the outcome of the application. A copy of the application must be submitted to the HR department. The application must also be signed off by either the appropriate professional lead or the general manager or equivalent.

4.4 The following criteria must be taken into account when considering a request:
   - The skills and experience of the applicant and the extent to which these are in short supply. It is essential that the applicant’s skills meet the full requirements of the role.
   - The availability of a suitable funded vacant post, as described below.
   - Whether the post to which the applicant wishes to return is normally hard to fill. The following criteria should assist managers in determining which posts are hard to fill:
     - Is the post in a clinical speciality where there are national shortages?
     - Does the post belong to a speciality or staff group where there has been a 6% or more vacancy rate for the last six months?
     - Is the role of a “stand alone” nature where unique skills, experience and local NHS Lanarkshire knowledge are required?
   - The impact on service provision if the applicant is allowed to return to work.
   - The employment record of the individual concerned, including disciplinary and attendance records, recognising in full the protection offered by the Equality Act 2010.
4.5 If the employee is dissatisfied with the outcome of their application they have the right to appeal to their general manager’s manager. This individual should be at director level or equivalent.

4.6 Where the application is approved, a new contract will be offered for the role. This will be on a fixed term basis for up to one year in the first instance when the position will be reviewed and a further contract issued if appropriate.

4.7 In order to access their NHS pension benefits an employee must resign from their NHS Contract of Employment and a termination form must be completed. If they intend to access their pension, the relevant paperwork should be completed. Retirement documentation should be completed at least 4 months prior to the employee’s retirement date.

4.8 The hours of work for the role will be dependent on the needs of the service. Employees’ pension arrangements after retirement and re-employment can be affected by the hours they work so advice should be sought from SPPA. Employees are responsible for ensuring that they check any breaks in service required prior to re-employment and any restriction on hours of work once re-employed so that any impact on pension provision is understood. A summary from SPPA of the implications of re-employment in the NHS after retirement is attached as Appendix C. This summary does not replace the need for the member of staff to contact SPPA directly to clarify the implications of retiring and returning to work.

4.9 Continuous service will be calculated in accordance with section 12 of the NHS Terms and Conditions of Handbook. Therefore, previous periods of NHS service will count towards the employee’s entitlement to annual leave and sick pay.

4.10 The individual will be re-employed on their most recent pay point on their basic salary scale if they are returning to their previous role. This rate of pay will not include any protection of earnings applicable to their previous role or any allowances unless they relate to the new role. Where the individual is returning to a lower banded role the pay point will be determined in accordance with national terms and conditions.

4.11 Medical and Dental Consultants returning to work following retirement will be employed on a locum basis on basic salary with no distinction awards/discretionary points. Consultants and medical managers should familiarise themselves with the content of DL(2018)7, entitled “Promoting the Retention of Established Consultants”, which provides useful advice and support. Their appointment will be
in line with the National Terms and Conditions of Service for a locum appointment and the balance of their job plan should be in favour of direct clinical care sessions. The same arrangements will apply for Associate Specialist, Staff Grades and Speciality Doctors but Associate Specialist and Staff Grades returning to work following retirement should be aware that these are now closed grades and any return to work would be to the Speciality Doctor grade and the associated terms and conditions of service.

4.12 Employees who wish to consider this option are responsible for ensuring that they have clarified their pension position with the SPPA and also that they have checked any implications for their state pension.

4.13 Re-employment on a fixed-term basis into the same post as that previously held prior to retirement or into a lower banded post will not require the usual recruitment authorisation form or the normal recruitment process for appointment. However, re-employment to a higher banded post will require recruitment authorisation and the appointment to be made through normal recruitment processes.

5. **ROLES AND RESPONSIBILITIES**

Employees must
- Ensure they are familiar with the policy and procedures
- Comply with the policy

Managers must
- Ensure they communicate with staff about the policy
- Consistently implement the policy at their local level
- Keep accurate records

Staff Side Representatives must
- Support the principles and procedures in the policy
- Act in accordance with NHS Lanarkshire’s Partnership Agreement

Human Resources Staff must
- Provide advice and support on the application of the policy
- Monitor and review the policy

6. **RESOURCE IMPLICATIONS**

There may be an obligation to fund statutory redundancy payments in relation to the individual’s complete service. Entitlement to contractual redundancy pay would only be calculated on service accrued after retirement, unless the applicant does not wish to take their pension, in which case their previous service will count when calculating redundancy entitlement. In all cases section 16 of the NHS Terms and Conditions applies.

7. **COMMUNICATION PLAN**
This policy will be launched using the weekly staff briefing and it will be available on Firstport.

This policy will also be discussed at the appropriate management team meetings and local partnership fora.

8. **QUALITY IMPROVEMENT – Monitoring and Review**

This policy will be reviewed every 3 years via the Joint Policy Forum

9. **EQUALITY AND DIVERSITY IMPACT ASSESSMENT**

This policy meets NHS Lanarkshire’s EDIA (tick box)

10. **SUMMARY**

This policy applies to staff who wish to retire and return on a fixed-term basis to the post they held prior to retiring or a lower banded post. It does not apply to staff who wish to retire and return to a higher banded role, in which case the normal recruitment process will apply. It is essential that staff wishing to take advantage of this policy contact the SPPA to gain information about the implications of returning to work for their pension. There is no guarantee that an application submitted via this policy will be approved.

11. **REFERENCES**

Working After Retirement – Scottish Public Pensions Agency, factsheet

12. **APPENDICES**

Appendix A - Voluntary Retirement and Re-employment Application

Appendix B - Voluntary Retirement and Re-employment Application

Appendix C – Summary from SPPA
Appendix A

VOLUNTARY RETIREMENT AND RE-EMPLOYMENT APPLICATION

Sections 1 – 3 to be completed by applicant

1.
Division/HSCP/Directorate/Department:
Service/Directorate/Department:
Location/Ward:

2.
Name:
Job Title:
Pay No: Grade/Band: Incremental Point:
Basic Salary: £ Enhancements: £

Current WTE & Hours per Week:
Post wishing to return to:
(title, band, location)

Termination Date:
Proposed Re-employment Date

3.
I confirm I have contacted the Scottish Public Pensions Agency and I understand the implications of this proposal on all my pension benefits.

I am applying for voluntary retirement and re-employment having taken due regard of any impact on all my pension benefits, including my state pension.

Employee’s Signature: ……………………………….. Date: ………………………
Section 4 and section 5 (where applicable) to be completed by line manager (who will be at service manager level or equivalent) and by the appropriate Professional Lead or General Manager or equivalent

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<thead>
<tr>
<th>Question</th>
<th>Answer</th>
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<tr>
<td>How will re-employment benefit patient care?</td>
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<tr>
<td>What are the implications for patient care if application is refused?</td>
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<tr>
<td>How will re-employment represent value for money?</td>
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<tr>
<td>Details of Proposed Contract (hours, pattern of work etc) if application is approved</td>
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5. **Outcome**

5.1 I support the application for the following reasons:

*(please include reference to criteria in 4.4)*

5.2 I do not support this application for the following reasons:

*(please include reference to criteria in 4.4)*

Print Name: .................................................................

Line Manager Signature: .............................................. Date: ..............................

5.3 I have considered the details of this application and confirm that I support/do not support the application for the following reasons:

*(please refer to criteria in 4.4)*

Print Name: .................................................................

Professional Lead/General Manager Signature................................. Date................

**PLEASE SUBMIT A COPY OF THIS APPLICATION TO THE HR DEPARTMENT**
Appendix B

Voluntary Retirement and Re-employment Application

Summary of Process

Employee and Line Manager meet 1:1 to discuss employee’s interest in voluntary retirement & re-employment

Employee contacts SPPA and checks implications for pension benefits

Employee completes sections 1 to 3 of the application form

Line manager and Professional Lead/General Manager or equivalent complete sections 4 and 5 of the application form

Line Manager meets employee to advise of option offered or to explain reason(s) for refusal of request

Application agreed – contract to be issued

Application refused – employee has right of appeal
WORKING IN THE NHS AFTER RETIREMENT

This information applies to those eligible for re-employment under this policy – individuals who either:

- took age retirement at the relevant scheme’s Normal Pension Age (NPA), or
- took voluntary early retirement with actuarial reduction i.e. no employer enhancements.

The effect of returning to NHS employment following retirement depends on which of the NHS schemes you were in. It will also depend on the date you ceased employment and how you choose to work after retirement. Pensions can be subject to suspension or reduction (“abatement”).

**Former members of the 1995 Section (NPA 60)**

You can return to NHS employment following a 24 hour break in your contract without your pension being affected. However, you must only work 16 hours per week or less for the first calendar month. After a period of one month there is no restriction on the hours you can work.

If you return to work in the NHS for more than 16 hours per week within one calendar month of your retirement, your pension will be suspended from the date you return to work. Your lump sum is not affected.

If it is suspended, your pension will be put back into payment when you either:

- have a break in your contract for at least one calendar month;
- work 16 hours per week or less;
- leave NHS employment; or
- reach age 75

**Pension Abatement**

“Abatement” is a reduction in the pension of an NHS pensioner who becomes re-employed in the NHS after payment of their pension has commenced.

For those eligible for this re-employment policy, pension abatement will only apply if you retired with Special Class or Mental Health Officer status and are in receipt of an age pension. Age pensions for these categories of members are payable from age 55, and abatement will apply up to age 60.

In these cases, abatement applies where the income from your new post plus the gross annual pension exceeds your pensionable earnings at retirement. If you become re-employed, you should inform SPPA Payroll who will provide you with your “earnings limit”
– this is the level of income you can receive from your new employment before abatement applies.

Abatement is not applied to pension derived from service transferred into the NHS Scheme following a TUPE transfer from another employer.

**Former members of the 2008 Section (NPA 65) and 2015 Scheme**

You can return to NHS employment following a 24 hour break in your contract without your pension being affected.

**Pension Abatement**

There is no abatement in respect of employees who retire after NPA or who voluntarily retire before NPA with an actuarially reduced pension from the 2008 Section or the 2015 scheme.

**General Information**

You should notify the Scottish Public Pensions Agency, Payroll Section before you return to work in the NHS. The Payroll team can remind you of your ‘earnings limit’. This should help avoid the risk of you being overpaid your pension, as you will be required to repay any overpayment to SPPA.

You should contact the SPPA regarding whether you are eligible to rejoin the 2015 scheme, should you so choose, after returning to work.

If you are unclear about any aspect of this factsheet or have a specific question that is not answered by the information above, you can get in touch with SPPA through the “contact us” page on [www.sppa.gov.uk](http://www.sppa.gov.uk) or by calling NHS Awards on 01896 893000.