



Ministry
of Defence

Ministry of Defence
Main Building
Whitehall
London
SW1A 2HB

Ref: FOI2017/10262

Reply to: [REDACTED]

10 November 2017

Dear [REDACTED]

Thank you for your email of 18 October 2017 requesting the following information:

- “1. Does the protection from overseas deployments continue if the Service Person (SP) is posted during the protection period?”*
- 2. Can a SP reapply?”*
- 3. What are the criteria for approval?”*
- 4. What, if any, are the limits to the protection in terms of total duration the protection can be in place (in a single instance or within a career) or the number of applications.*
- 5. Are there any career implications inherent in this protection. For example, all other things being equal, is someone under this protection as likely to get promoted as someone who remains willing to deploy.*
- 6. If protection is granted under the current trial, does this have any effect on a future application after the trial ends (which I understand to be in March 2019)?*
- 7. Is there a limit on the number of SP who will be allowed this protection at any one time?*
- 8. Can the protection be revoked at any time by the Service - for instance in times of crisis?”*

I am treating your correspondence as a request for information under the Freedom of Information Act 2000 (FOI Act).

I can advise you that following a search of our records, I have established that the Ministry of Defence (MOD) holds information within the scope of your request. The answers to each point you have raised are set out below.

1. Does the protection from overseas deployments continue if the Service Person (SP) is posted during the protection period?

If it were necessary to remove protection from operational deployment under either FD1 (reduced deploy ability) or 2 (reduced deploy ability and part-time working) during the period applied for, whether as the result of an assignment or otherwise, this would constitute reversion under para 9 of the DIN which states that ‘Personnel will be liable, as an operational necessity or to meet the needs of the Service, to be assigned back to full-time Regular service at any time, at 28 calendar days’

Notice to Return whenever possible (a shorter notice period may be unavoidable). However, RAF Manning will take into account an individual's Future Availability Date in considering the initial application for Flexible Duties and would be unlikely to grant an application which would require an extension in post.

2. Can a SP reapply?

For the Flexible Duties Trial, there are no limitations on the number of applications that an individual can submit during the Trial period.

3. What are the criteria for approval?

Eligibility criteria for the Trial are detailed in 2017DIN01-006 which states that Regular Service personnel wishing to participate in the Trial must:

- a. have entered productive Service.
- b. if returning from a Career Intermission of more than two years in length, have completed a full year of full-time service.
- c. have a minimum of 12 months of residual service left, post completion of the Trial.

Beyond eligibility, applications will be assessed against the impact on Operational Capability and the need to deliver day-to-day output.

4. What, if any, are the limits to the protection in terms of total duration the protection can be in place (in a single instance or within a career) or the number of applications?

For the Trial, no limitation has been placed on the duration of protection or number of applications. However, both duration and number of applications will be limited in practical terms by the limited duration of the Trial itself which ends in March 2019.

5. Are there any career implications inherent in this protection? For example, all other things being equal, is someone under this protection as likely to get promoted as someone who remains willing to deploy.

The policy intent of the Trial is that participation should have no systemic career impact. In terms of the relationship between participation in the Trial and career management, the following refers:

Reckonable Service for Promotion. All service on the Trial is reckonable for promotion, including unpaid days absence (for those on FD2 and 3) and all participating Service personnel remain eligible for consideration for promotion in line with existing promotion rules. This is different from the rules that apply to Career Intermissions as individuals will continue to work on a regular basis, thus maintaining currency in Knowledge, Skills and Experience and professional development, and will still receive Annual Reports. Service personnel will be required to complete the usual career courses, such as Command and Management Training, within current timeframes to qualify for promotion which may require reversion to full-time working for the duration of the course.

Appraisals. Service personnel employed on Flexible Duties will be reported on in accordance with standard policy for annual reporting, with performance reporting focussed on their ability to meet the agreed outputs of their appointments without any adverse reference to their type of Service. Participation in the Trial is not usually relevant for appraisal purposes, and should not be referenced.

Assignment/Advancement/Selection for Promotion and Conversion during Flexible Duties. Whilst on the Trial, there will be change to the standard Regular processes for Service personnel to compete for promotion and selection boards, if eligible, or to express a preference for future assignments. However, Service personnel must be prepared for their Flexible Duties Trial participation to end on change of assignment or when promoted and assigned to a post of higher rank. Individuals can apply to delay or decline promotion to complete their involvement in the Trial, however, declining promotion to remain on the Trial will be dealt with in accordance with single Service promotion policy.

6. If protection is granted under the current trial, does this have any effect on a future application after the trial ends (which I understand to be in March 2019)?

Any applications made under the Flexible Engagements System, which is expected to provide a longer-term policy for part-time or limited separation working from April 2019 onwards, would be treated as fresh applications on the basis that both the extent of protection available and impact on terms and conditions of service will be different. However, it is inevitable that the chain of command's recommendation will take into account any experience gained from the Trial in terms of the degree to which a reduction in deploy ability or working hours can be absorbed.

7. Is there a limit on the number of SP who will be allowed this protection at any one time?

No, whilst the single Services will consider the totality of the impact on the deploy ability of any particular cohort with a rank and branch/trade in staffing applications, no pre-determined limits have been placed on the numbers of applications that will be approved.

8. Can the protection be revoked at any time by the Service - for instance in times of crisis?

The policy for reversion to full-time/fully deployable service is as follows:

Notice to Return. The Armed Forces will endeavour not to move any individual off the Trial during the agreed Trial period. However, the fact that a Flexible Duties arrangement could be terminated by a shorter Notice to Return than a Reservist reflects the fact that those serving on the Trial remain members of the Regular Service and thus remain liable to meet operational contingencies, hence justifying their retention of Regular status and conditions of service. The Services will endeavour to provide 28 calendar days' Notice to Return whenever possible.

Returning to Normal Regular Service. There are four methods by which Service personnel on the Trial could be returned to full-time/full commitment Regular service:

- a. **Operational Necessity or the Needs of the Service.** The Armed Forces retain the enduring right to appoint any Regular Service person who is participating in the Trial back to standard Regular service, at any time during the Trial at 28 calendar days' Notice to Return, in line with Service need. The direction to return to fully committed Regular service must be issued by the appropriate Service Personnel Centre, to ensure it is to support an operational necessity; it cannot be undertaken solely by a Commanding Officer or Line Manager. Personnel who consider that they have been treated unfairly and have grounds for complaint may do so through the Service Complaints process.
- b. **On Request.** Not relevant to this FOI request.
- c. **End of the Flexible Duties Assignment.** Not relevant to this FOI request.

- d. **Abuse of the FD Scheme.** If an individual is not performing to the appropriate standard, directly as a result of working less than full time, a discussion should take place between the participating Service person and their line manager to address the problem. If a compromise solution cannot be found, the Service may consider giving Notice to Return. It will not be appropriate to remove an individual from the Flexible Duties Trial purely as a disciplinary measure, however where the disciplinary offence relates to an abuse of the FD scheme, it may be appropriate to consider giving a Notice to Return.

Under Section 16 I can further advise that the policy detail on the Flexible Engagements System (FES) as it currently stands is set out in the two factsheets which were provided to the House of Lords and are on the .Gov website for the Armed Forces (Flexible Working) Bill at the following links.

<https://www.gov.uk/government/collections/armed-forces-flexible-working-bill-2017>

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/643032/070917_FWBill - Fact Sheet 1 - Policy and Evidence FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/643032/070917_FWBill_-_Fact_Sheet_1_-_Policy_and_Evidence_FINAL.pdf)

[https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/643041/070917_FWBill - Fact Sheet 2 - Admin Appeals Pay - FINAL.pdf](https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/643041/070917_FWBill_-_Fact_Sheet_2_-_Admin_Appeals_Pay_-_FINAL.pdf)

If you have any queries regarding the content of this letter, please contact this office in the first instance.

If you wish to complain about the handling of your request, or the content of this response, you can request an independent internal review by contacting the Information Rights Compliance team, Ground Floor, MOD Main Building, Whitehall, SW1A 2HB (e-mail CIO-FOI-IR@mod.uk). Please note that any request for an internal review should be made within 40 working days of the date of this response.

If you remain dissatisfied following an internal review, you may raise your complaint directly to the Information Commissioner under the provisions of Section 50 of the Freedom of Information Act. Please note that the Information Commissioner will not normally investigate your case until the MOD internal review process has been completed. The Information Commissioner can be contacted at: Information Commissioner's Office, Wycliffe House, Water Lane, Wilmslow, Cheshire, SK9 5AF. Further details of the role and powers of the Information Commissioner can be found on the Commissioner's website at <https://ico.org.uk/>.

Yours sincerely,

Defence People Secretariat FOI