



# **Hard Hat Exemption – Proposals to Extend Exemption under Employment Act 1989.**

## **AFSA Response: 10<sup>th</sup> February 2014**

**Joint Authors:**

**Jagtar Singh OBE ex DCFO Bedfordshire Fire and Rescue Service (FRS)  
Wayne McCollin ex DCFO Lothian and Borders  
Yasmin Buhariy, AFSA General Secretary  
Mohamed Jogi, AFSA Strategic Coordinator**

**Date 10<sup>th</sup> February 2014**



**To: CFO Mark Yates, Hereford Worcester FRS & Chief Fire Officer Association (CFOA)**

**Health & Safety lead**

Hereford & Worcester Fire and Rescue Service Headquarters, 2 Kings Court, Charles Hastings Way, Worcester, WR5 1JR

C.C Brandon Lewis, Minister for Local Government, Fire & Rescue,

C.C Peter Holland – Chief Fire and Rescue Adviser, Department for Communities and Local Government

C.C Paul Fuller - CFOA President

C.C Des Prichard –CFOA Director, People and Organisational Development

C.C Daryl Oprey – CFOA Equality Lead

C.C John Edwards, AFSA Local Government Advisor & Chair West Midlands FRS

C.C Robert Allen, Staff Officer to CFO Officer Hereford and Worcester FRS

**9<sup>th</sup> Feb 2014**

Dear CFO Yates

**Re: Hard Hat Exemption – Proposals to Extend Exemption under Employment Act 1989 - AFSA Response**

### **Background**

The issue of wearing hard hats in place of turbans has been an ongoing issue for Sikhs since the passing of the Employment Act 1989. Since our formation AFSA has been aware of individual cases outside the Fire & Rescue Service where Sikhs have been dismissed from longstanding employment due to their refusal to remove their turban and wear a hard hat.

We have also lobbied both CFOA and DCLG to invest resources to undertake research in this key area and adopt a more risk based approach. We hope this response will lead to parties coming together to look more creatively at this issue.

In accordance with their religion, baptised Sikhs, are required to wear their hair uncut and wrapped in a turban. This article of faith potentially brings them into conflict with legal provisions requiring head protection to be worn in workplaces where there are risks of head injury arising from the work undertaken. This potential conflict does not arise where Sikhs choose not to wear turbans. In the Fire Service the requirement to be clean shaven has a further impact on individuals from a Sikh background. This means that in practice a baptised Sikh wishing to wear his turban and facial hair cannot pass the 'face fit' seal requirements involving breathing apparatus thus being excluded from employment for operational duties.

On January 24<sup>th</sup> 2014 the Government outlined their intention to close a loophole to allow Sikhs to wear their turban in all workplaces. The proposed plan will extend the exemption that already exists in the Employment Act 1989 that allows Sikhs to wear their turbans in place of hard hats on building sites to now cover most other working environments.

At the same time there remains a proposed restriction in the military, fire service and police forces. It is on these proposed continued restrictions in respect of the Fire Service that this response intends to comment on.

### **AFSA Executive Meeting 7<sup>th</sup> February 2014**

The Asian Fire Service Association AFSA was approached by Robert Allen, Staff Officer Herford and Worcester Fire and Rescue Service, who contacted the Association on behalf of CFO Yates lead for Health and Safety for the Chief Fire Officers Association (CFOA).

AFSA values its close relationship with CFOA and therefore was very pleased that AFSA's knowledge and expertise in these areas was requested. At the same time we were also disappointed that sufficient time was not provided to enable AFSA to engage with its members and experts in the area and submit a comprehensive response to the proposals outlined above. This submission therefore needs to be seen within this context.

At the above meeting Robert Allen outlined the CFOA position as follows;

***“The CFOA lead for Health and Safety, supports the exclusion to the exemption for all Fire and Rescue Service employees who, as part of their role, are expected to work within the inner cordon or hazard zone of an operational incident\*. This exclusion should extend to both fire fighters and other fire service employees, whose work takes them within the proximity of dynamic operational situations.***

*\* defined as an emergency within the Civil Contingencies Act 2004*

In response AFSA **supports** the above CFOA position however we also ask CFOA and others to consider the following key points;

- 1) AFSA welcomes the news that the Government is intending to close a loophole to allow Sikhs to wear their turban in all workplaces. This follows a long campaign that began with senior representatives from the 'Sikh Council UK' with Government officials which took place on 17 January 2013.
- 2) AFSA recognises that construction sites are acknowledged to be one of the most dangerous workplaces. The fact that the law does not cover other environments, where hard hats are commonly worn such as factories and warehouses, has always been viewed as an anomaly.

- 3) AFSA fully endorses the above CFOA position. This position reflects AFSA's believe that the exception whist applicable in other industries, which can ensure other control measures providing protection from hazards, is not possible in a fire service context 'dynamic fire situation' and thus would be inappropriate.
- 4) AFSA are also very keen to engage with CFOA and others to discuss the merits of policies that state that *'all personnel on the incident ground should wear appropriate head protection may lead to over provision and unnecessary challenges for staff and instead explore the validity of a policy that states that appropriate Personal Protective Equipment (PPE) (including head protection when necessary), be defined for various parts of the incident ground, by the Officer in Charge be more appropriate?'*
- 5) Similarly AFSA urges CFOA and others to explore the scenario where people contracted to be interior attack fire-fighters requiring optimum levels of PPE, as they are at a far higher risk, with non-fire-fighters attending the incident ground, who are there to conduct investigations, take photographs perform incident command etc. One view would be to ask parties to consider the view expressed recently by an observer, *'It is easier to say everyone wears full PPE just in case they find themselves inside a warm or hot zone, but it is better to define the tasks and level of PPE to undertake them using the principles of dynamic risk assessment the service has long developed'*.
- 6) AFSA would like to remind parties that we may be able to learn from the experience services took in decontamination work ware where applied policies required full fire fighting PPE should be worn underneath chemical suits notwithstanding the fact that decontamination operatives were not being required to enter a hot zone. The blanket policy led to severe fatigue amongst decontamination operatives as they worked for long periods in chemical suits and fire fighting kit.
- 7) AFSA believes that a more sensible approach allows for appropriate levels of PPE to be worn for the task in hand and such an approach should go some way to resolving this issue.
- 8) AFSA would like to also make it clear that the issue of hard hats and the employment of Sikh staff cannot be addressed in isolation and would like to recommend the importance of addressing the issue of 'facial hair'.
- 9) Therefore AFSA recommends a dynamic risk based approach for the employment of staff that for religious reasons, maintain facial hair. Therefore AFSA does not endorse the current fire service requirement that all operational firefighters should be and need to be clean shaven. Also the issue of facial hair is not limited to the employment of Sikh staff as this issue could be applicable to certain Muslim, Jewish and staff from other faiths.
- 10) AFSA would encourage CFOA and DCLG to lead and enter into consultation with AFSA and others to address the validity of the blanket requirement that requires all operational fire service staff to be cleanly shaven. AFSA would encourage parties to undertake an equality analysis.
- 11) AFSA would encourage the breathing apparatus industry to find a solution to the facial hair issues.

- 12) AFSA would advise the Health and Safety Executive to look at the safety issues and the need for a technological solution to facial hair with breathing apparatus requirements.
- 13) Furthermore AFSA is of the opinion that PPE industries should have done more to resolve the issue of breathing apparatus and facial hair (and the variety of size and shape of people's faces), and feel they will only do this if services and CFOA, encourage this as a business need.
- 14) AFSA will be holding three national events in 2014 and will be addressing the above key issues highlighted.

Notwithstanding AFSA's current support for the continued exemption at this time, the Association believes that with valid research and analysis it may be possible to develop a safe system of work that would facilitate the deployment of all individuals regardless of their religion or beliefs.

AFSA strongly believes that this consultation provides an excellent opportunity for CFOA to address the issue of protective headwear with the aspect of breathing apparatus and its restrictions when coupled with the having facial hair. We believe that through working together we can utilise the principles of Health and Safety and Equality and Diversity to support a move away from an arbitrary blanket ban and place a risk assessment based approach to appropriate levels of PPE involving operational settings to allow staff from certain faiths to be part of the FRS workforce.

Finally AFSA would like to reiterate support for the CFOA's current position in respect of headwear. At the same time we would like to explore other avenues together. In doing so it would place AFSA and CFOA at the forefront of innovation and creativity; opening the doors to people who may not have considered a career in the Fire & Rescue Service.

AFSA looks forward to working with you in the future.

**Yours sincerely**



**Umar Zamman**  
**AFSA Chair**

**For further information/advice or interviews please contact AFSA operational advisors;**

Mr. Jagtar Singh, OBE, AFSA National officer/Operational Advisor & Former Acting Chief Fire Officer Bedfordshire and Luton Fire & Rescue Service  
Mobile. 0774 8140588: Email: [afsafrs@yahoo.com](mailto:afsafrs@yahoo.com)

Mr. Wayne McCollin, QFSM, BA Ed, Dip HRS, AFSA Operational Advisor & Former  
Deputy Chief Fire Officer Edinburgh, Scotland  
Email: [wayne.mccollin@yahoo.com](mailto:wayne.mccollin@yahoo.com)



## **The Asian Fire Service Association (AFSA)**

### **Our organisation**

The Asian Fire Service Association (AFSA) is a consultative body that works with the national Fire and Rescue Service, and supporting agencies, to assist them in the achievement of their equality and diversity commitments to communities, staff, service users and partners.

In the last ten years AFSA has grown from a London based staff support group to an inclusive national association that provides support to Asian and non Asian individuals; all sharing the same core values.

### **Our aims**

AFSA has adopted the Core Values of the Fire and Rescue Service, which are:

- Service to the community
- People
- Diversity
- Improvement

We are committed to making these values a real and considered part of our development and progress. We will work with our stakeholders to ensure that our action plans and initiatives have real purpose, are outcome focused and meet the tenets of the Core Values.

### **Membership**

Membership is open to all employees of the Fire and Rescue Service in the form of Corporate Membership, Individual Membership and Associate Membership for non-Fire and Rescue Service employees. The Association is inclusive to **All**.