



NOTTINGHAMSHIRE
Fire & Rescue Service
Creating Safer Communities

Nottinghamshire and City of Nottingham
Fire and Rescue Authority

DISCRETIONS UNDER THE FIREFIGHTER PENSION SCHEMES

Report of the Chief Fire Officer

Date: November 2016

Purpose of Report:

To seek member approval on the Service policy statement in relation to the exercise of discretions that are set out in the provisions of the Fire Pension Schemes

CONTACT OFFICER

Name :	Wayne Bowcock Deputy Chief Fire Officer
Tel :	(0115) 967 0880
Email :	wayne.bowcock@notts-fire.gov.uk
Media Enquiries Contact :	Therese Easom (0115) 967 0880 therese.easom@notts-fire.gov.uk

1. BACKGROUND

- 1.1 The Firefighter Pension Schemes set out a number of discretions within their provisions which can be exercised by the employer.
- 1.2 These are detailed within the following scheme provisions:
- Firefighter Pension Scheme (1992)
 - New Firefighter Pension Scheme (2006)
 - Firefighter Compensation Scheme (2006)
 - Firefighter Pension Scheme (2015)
- 1.3 The Fire Authority previously considered the exercise of three discretions in relation to the 1992 and 2006 Fire Pension Schemes on the 27 September 2013 following the introduction of two new Statutory Instruments. These discretions related to:
- Commutation and the discretion to permit the maximum payment
 - Pensionable Pay and changes to definition
 - Abatement of Pension

2. REPORT

- 2.1 The Service is required to provide a statement outlining how the discretions under the pension regulation will be exercised.
- 2.2 The Pension Administrator, Leicestershire County Council has provided the Service with a list of the discretions within the different fire pension schemes.
- 2.3 These provisions have been reviewed by the Service in relation to how the discretions are to be exercised. Appendix A sets out the policy statement for each of the discretions.
- 2.4 The policy statement sets out the following information:
- The nature of the discretion;
 - The Pension Regulation it pertains to;
 - An explanation and or process for exercising the discretion;
 - A statement of how this discretion is to be exercised.
- 2.5 In setting out the policy statement, the view that has been taken is that in most cases the option to exercise that discretion should be available to the Service and this allows for the individual circumstances of each case to be taken into account when arriving at the decision. In Appendix A, these discretions are categorised as “Yes” in the final column although it is important to note that where a discretion is available to be exercised it does not mean that it will be. There are a very few instances where discretions have been categorised as “No” in the final column, which means that they will not be considered at all.

These discretions have been deemed as not appropriate for one of three reasons:

- 2.5.1 Because the scheme member already has a period of time in which to make a decision and change their mind about the decision.
 - 2.5.2 Because exercising the discretion would create an unnecessary administrative burden for the Authority, with no discernible advantage for the scheme member.
 - 2.5.3 Because it is not considered that the discretion would ever be exercised in practice.
- 2.6 Where discretions are categorised as “Yes” i.e. they will be dealt with by the Officer who has the delegated authority to act as Scheme Manager on behalf of the Fire Authority, unless Appendix A indicates that this responsibility has been delegated elsewhere. The appropriate person or body will be responsible for considering the case and making the decision on whether or not the discretion is to be exercised in each case.

3. FINANCIAL IMPLICATIONS

The financial impact of the exercise of a pension discretion will vary depending on the particular discretion in question, with many having no financial impact at all. Where there is a financial implication, either for the pension fund or for the Authority’s revenue budget, the over-riding aims will be to act in the Authority’s best interests and to safeguard public money. This means that the option to exercise the discretion may not be taken, however the policy allows for some discretions to be exercised where it is felt that this would result in fair treatment for the employee concerned.

4. HUMAN RESOURCES AND LEARNING AND DEVELOPMENT IMPLICATIONS

- 4.1 The Service is required to provide a statement of how it intends to exercise the policy towards the discretions as set out in the provisions of the Fire Pension Schemes.
- 4.2 The HR Department will be responsible for ensuring that discretions are exercised in line with the Service policy statement.

5. EQUALITY IMPLICATIONS

An Equality Impact Assessment has not been undertaken because this report relates to the exercise of pension discretions under the Pension Regulations and will not impact detrimentally on a particular group of employees.

6. CRIME AND DISORDER IMPLICATIONS

There are no crime and disorder implications arising from this report.

7. LEGAL IMPLICATIONS

The Service are required to comply with the provisions of the Pension Regulations.

8. RISK MANAGEMENT IMPLICATIONS

- 8.1 A failure to comply and implement the requirements of the pension scheme regulations would have the potential for a future challenge to the Pensions Ombudsman / Regulator.
- 8.2 The policy statement ensures that the Service is acting in a consistent manner between members when exercising discretions. A record is kept of all discretions exercised and the reasons for the decision to ensure this consistency.

9. RECOMMENDATIONS

Members approve the statement of Service policy in relation to the discretions that exist under the Fire Pension Schemes (appendix A).

10. BACKGROUND PAPERS FOR INSPECTION (OTHER THAN PUBLISHED DOCUMENTS)

None.

John Buckley
CHIEF FIRE OFFICER

DISCRETIONS UNDER THE FIREFIGHTER PENSION SCHEME 1992

Discretion	Regulation	Explanation/process for exercising discretion	NFRS statement on whether the discretion is to be exercised or not (the individual exercising the discretion is stated where appropriate)
1 - Commutation of trivial pension.	Rule B8	This discretion allows the consideration of conversion of a small pension to a single lump sum payment and is governed by financial limits set by the Finance Act 2004.	Yes
2 - Acceptance of condition of normal life expectancy for allocation purposes	Rule B9(6)	Rule B9 allows a member of FPS to allocate (give up) part of their pension during their lifetime, when they first become eligible to retire, to provide, on their death, a pension for a spouse, civil partner or a dependant. This is a very old part of the FPS and has largely been replaced by better provision for spouse and civil partners, or dependants in the scheme. Rule B9(6) contains a requirement that the member has normal life expectancy and this discretion allows consideration of whether that is so.	Yes
3 - Discretion to reinstate all or part of a spouse's or civil partner's pension or gratuity for such period as the fire and rescue authority think fit following termination on marriage, remarriage, formation of a civil partnership or subsequent civil partnership.	Rule C9	Discretion to allow reinstatement of all or part of a widow(er)'s pension which had ceased on remarriage of the widow(er). This provision comes into effect only should the widow(er)'s new spouse/civil partner die or the marriage or civil partnership be dissolved.	Yes

4 - Award of benefit to a child aged 17 or over who has had an interruption in whole-time education or vocational training.	Rule D5(5) and (3)(b)	The FPS allows the payment of a child's pension when the child is in full time education. This provision allows the consideration of reinstatement of the pension when there has been an interruption in whole time education or vocational training.	Yes
5 - Award of benefit to a child aged 17 or over who is permanently disabled and who would not otherwise qualify for an award.	Rule D5(4)(c) and (3)(a)	This discretion allows the consideration of making an award to a disabled child who would not otherwise qualify for an award.	Yes
6 - Award of dependent relative's gratuity to a dependent relative.	Rule E3		Yes
7 - Decision to commute for a lump sum, part or all of a spouse's or civil partner's pension which is of limited amount.	Rule E5 subject to limitations in Rule E7	This discretion allows consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum.	Yes
8 - Decision to commute for a lump sum, part or all of a child's pension.	Rule E6 subject to limitations in Rule E7	This discretion allows consideration of commutation of a limited amount of a child's pension into a lump sum.	In normal circumstances the Service would not exercise this discretion. However, if raised by an individual and the circumstances are considered exceptional, consideration would be given by the Scheme Manager
9 - Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive.	Rule E9(6)	This discretion allows consideration of substitution of a higher amount than the child's flat rate when neither of the child's parents are alive.	Yes
10 - Decision as to amount of pensionable service (to be set out in Certificate of Pensionable Service with notice of right of appeal).	Rule F1	This discretion allows a decision to be made on the amount of pensionable service and notification of appeal rights to the secretary of state.	Yes
11 - Extension of six month time limit for election to pay certain sums in order that earlier pensionable service may count on re-joining the fire and rescue service.	Rule F4(1)(c), (3)(c), 4(d) and Rule F5(1)(c)].	This discretion allows consideration of an extension of the time limit for an election to pay for previous service where a firefighter commences work with another fire authority after retiring without a pension.	Yes

12 - Discretion to accept a transfer value.	Rule F7(1) subject to Rule F7(2) and (3)	As described	Yes
13 - Extension of 6 month time limit for a former firefighter to request payment of a transfer value to another pension scheme.	Rule F9(2)		Yes
14 - Extension of 12 month time limit after leaving in which a former firefighter must be subject to a new scheme and may request a transfer value after having previously received a gratuity or repayment of pension contributions.	Rule F9(5)	This discretion allows consideration of the situation of a firefighter who has received a gratuity or a refund of contributions requesting a transfer value instead. The refund of contributions or gratuity must also be paid back.	No
15 - Determination of pensionable pay.	Rule G1(1)	This discretion allows consideration of which elements of pay are pensionable.	Yes
16 - Discretion to deduct pension contributions from instalments of pay.	Rule G2(2)		Yes
17 - Discretion to extend 30-day time limit in which an election to pay contributions in respect of unpaid additional maternity or adoption leave must be made.	Rule G2A(3)		Yes
18 - Discretion not to accept a firefighter's election to purchase increased benefits through the payment of additional contributions unless the firefighter has undergone a medical examination at own expense and satisfied the fire and rescue authority as to his/her good health.	Rule G6(4)(b)	This discretion allows the authority to require that a firefighter is in good health before accepting additional contributions.	Yes - delegated to Head of POD
19 - Discretion of fire and rescue authority to agree to discontinuance of payment of periodical contributions for increased benefits where satisfied that payment is causing, or likely to cause, financial hardship.	Rule G7(3)	This discretion is to allow a firefighter to cease making additional contributions.	Yes

20 - Discretion to pay a pension in lieu of gratuity, or increase an ill-health pension, for a serviceman injured during his forces period.	Rule I2(3), and I3(3)		Yes
21 - Requirement to decide, at such intervals as the fire and rescue authority think proper, whether a person under age 60 and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds and, in the case of a higher tier ill-health pension, whether that person has become capable of carrying out any regular employment.	Rule K1(1) and (2)	Requirement to review ill health pensions.	Yes
22 - Requirement to decide, at such intervals as the fire and rescue authority think proper, whether a person under age 60 and in receipt of a deferred pension has become capable of firefighting and performing any other duties appropriate to his former role as a firefighter.	Rule K1(3)	Requirement to review deferred pensions paid early on permanent disablement.	Yes
23 - Requirement to decide whether to offer a person, whose ill-health pension has been reviewed under Rule K1 and who is found to be capable of performing duties appropriate to his/her former role, an offer of employment in that role.	Rule K1A(2)		Yes
24 – The discretion to reduce the level of an ill-health pension to not less than half of the full amount where firefighter contributed to infirmity by own default.	Rule K3(1)	This discretion permits the reduction of a firefighter pension to not less than half the amount due where it is considered that they have contributed to an infirmity by their default.	Yes

25 - Discretion to withdraw whole or part of a person's pension (other than a spouse's or civil partner's award under FPS) during any period of his/her re-employment as a regular firefighter with a fire and rescue authority.	Rule K4	This discretion allows abatement of a firefighter pension where the employee has been re-employed as a regular firefighter	Yes
26 - Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.	Rule K5(1)	This discretion only applies in the case of treason or a serious offence under the official secrets act.	Yes
27 - Discretion to restore, at any time and to such extent as the fire and rescue authority think fit, a pension withdrawn under Rule K5(1) to the pensioner or to apply it for the benefit of any dependant of the pensioner.	Rule K5(5)	This discretion allows consideration of the reinstatement of the pension withdrawn as a result of a decision in delegation 29	Yes
28 - Determination of intervals at which instalments of pension shall be paid.	Rule L3(1)	This discretion allows the arrangement of normal monthly payments of annual pension	Yes
29 - Discretion to delay payment of an award to the extent necessary for determining any question as to the fire and rescue authority's liability.	Rule L3(1)	This discretion allows The fire authority to delay the payment of an award sum until they are satisfied as to the eligibility of an award	Yes
30 - Discretion to decide an earlier payment date for survivors' benefits than the date prescribed where the deceased received a gratuity, and an option to pay a gratuity in instalments rather than as a single lump sum.	Rule L3(7) and (8)	This discretion allows consideration of earlier payment of survivor benefits which are normally paid one year after the date the member deceased. There is also the option to pay a smaller amount in regular instalments where this would be of advantage to the person entitled.	Yes
31 - Discretion as to the recipient of any sum payable to a minor.	Rule L5(1)	This discretion allows the payment of any sum due to a minor to any appropriate person.	Yes
32 - Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.	Rule L5(2)	This discretion allows the consideration of payment of an award to an appropriate person where the recipient is deemed to be incapable of managing their affairs.	Yes

33 - Discretion, following death of a person, as to recipient(s) of sums less than amount specified in the Administration of Estates (Small Payments) Act 1965.	Rule L5(3)	This discretion deals with awards less than £5,000 and allows decision to be made of who should receive this amount.	Yes
34 - Discretion to withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the fire and rescue authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.	Rule L5(6)	This discretion allows the authority to reclaim sums lost as a result of fraud, theft or negligence on the part of that person in connection with their employment.	Yes
35 - Requirement to estimate amounts payable to, and out of, the Firefighters' Pension Fund for each financial year and discretion to submit revised information to Secretary of State.	Rule LA4		Yes delegated to Head of Finance
36 - Discretion to deduct from an award any outstanding balance of payments in respect of previous service.	Schedule 6, Part 1, paragraph 1(4)	This discretion relates to where a member has elected to pay additional sums in respect of previous pension service and then retires before completing the payments. The scheme provides that they will receive a pension as if they have completed the payments. This discretion allows the recovery of the payments not made.	Yes
37 - Discretion to extend 14-day time limit in which a person must lodge a medical appeal, to a period not exceeding 6 months from the date of issue of the medical opinion to that person, provided the fire and rescue authority are of the opinion that the person's failure to lodge the appeal within 14 days was not due to his/her own default.	Schedule 9, Part I, paragraph 1(2)	This discretion allows consideration of extending the time limit for an appeal.	Yes basis delegated to Head of POD

38 - Discretion to decide the fire and rescue authority's representation at Medical Appeal Board interview.	Schedule 9, Part 1, paragraph 4(5)	This discretion deals with the arrangements for representation at a medical appeal board	Yes delegated to Head of POD
39 - Discretion to decide whether or not to submit written evidence or a written statement to a Medical Appeal Board.	Schedule 9, Part 1, paragraph 5	This discretion allows consideration of whether to present written evidence to a medical appeal board. In practice this is always done.	Yes delegated to Head of POD
40 - Discretion, where Medical Appeal Board decide that a person's appeal was "frivolous, vexatious or manifestly ill-founded" to require the appellant to pay to the fire and rescue authority such sum as the authority think fit, not exceeding the fees and allowances of the specialist member of the Board.	Schedule 9, Part I, paragraph 8(2)		Yes
41 - Discretion, where appellant withdraws appeal within 21 working days before the date appointed for interview or medical examination, to require the appellant to pay to the fire and rescue authority such sum as the authority think fit not exceeding the Medical Appeal Board's total fees and allowances payable to the Board by the authority.	Schedule 9, Part I, paragraph 8(2A)		Yes

DISCRETIONS UNDER THE FIREFIGHTERS' PENSION SCHEME 2006

Discretion	Regulation	Explanation / process exercising discretion	NFRS policy/individual responsible for decision
42 - Determination of eligibility for membership of NFPS.	Part 2, Rule 1		Yes
43 - Decision, by agreement with firefighter, as to last day of membership where firefighter on unpaid leave or absent without permission on the day on which he/she leaves the Scheme.	Part 2, Rule 4].		Yes
44 - Resolution that an optant-out may not re-join the Scheme unless he/she has undergone a medical examination at his/her own expense and satisfied the fire and rescue authority as to his/her good health.	Part 2, Rule 6	This allows the consideration of whether to require a medical examination before allowing a firefighter that has opted out of the pension scheme before allowing them to re-join the scheme.	Yes
45 - Discretion to refuse a firefighter's request for early payment of a deferred pension ("member-initiated early retirement") where this is likely to be less than the GMP at State pensionable age.	Part 3, Rule 5		Yes
46 - Discretion to retire a firefighter aged 55 or over on grounds of economical, effective and efficient management of their functions ("authority-initiated early retirement").	Part 3, Rule 6	This discretion allows the early payment of a pension to a firefighter aged 55 or over where the retirement is in the interests of the management of the service.	Yes
47 - Discretion to commute a small pension payable to firefighter.	Part 3, Rule 10	This discretion allows consideration of a small pension to a single lump sum payment.	Yes
48 - Discretion to permit a firefighter to allocate a portion of pension for a dependant other than a spouse, civil partner, or nominated partner.	Part 3, Rule 11, paragraphs 2(b) and 3	This discretion allows consideration of a firefighter allocating a portion of pension for a dependant other than a spouse, civil partner or nominated partner.	Yes

49 - Acceptance of good health and normal life expectancy for allocation purposes.	Part 3, Rule 11, paragraph 6(a)	This is similar to delegation 52 above and allows a firefighter to allocate (give up) part of their pension during their lifetime when they first become eligible to retire to provide, on their death, a pension for a spouse, civil partner or a dependant. There is a requirement that the member has normal life expectancy and this discretion allows consideration of whether this is so.	Yes
50 - Discretion to withhold all or part of a survivor's pension, permanently or temporarily, where the deceased's spouse, civil partner, or nominated partner is convicted of manslaughter of the deceased.	Part 4, Rule 1, paragraph 3		Yes
51 - Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.	Part 4, Rule 7, paragraph 5		Yes
52 - Decision to cease payment of a child's pension where the fire and rescue authority are satisfied that the child is no longer permanently disabled or the child's pension should not have been awarded.	Part 4, Rule 7, paragraph 9	This discretion allows the Authority to deal with the review of a child's pension on change of circumstances	Yes
53 - Discretion as to recipient of death grant.	Part 5, Rule 1, paragraph 10	This discretion allows the Authority to decide who should receive a death grant.	Yes
54 - Discretion to pay part of any death grant not paid in full, to a person whose conviction for murder or manslaughter of the deceased has been quashed.	Part 5, Rule 1, paragraph 12		Yes
55 - Discretion, with the agreement of the pension credit member, to commute whole of pension credit pension.	Part 6, Rule 2	This discretion allows the commutation of a small pension into a lump sum in the circumstances of divorce. A small pension is defined in paragraph 20 schedule 29 of the Finance Act 2004 as a lump sum which is not more than 1% of the standard lifetime allowance on the date the lump sum is paid.	Yes

56 - Discretion to pay a post-retirement death grant in respect of a pension credit member to such person or persons as the fire and rescue authority think fit.	Part 6, Rule 5, paragraph 2	This discretion allows the consideration of who to pay a post retirement death grant	Yes
57 - Determination, in the first instance, of entitlement to and type of award due under the NFPS.	Part 8, Rule 2, paragraph 1	This the general power to make awards under the NFPS	Yes
58 - Requirement to use, but right to select independent qualified medical practitioner (IQMP) for providing a medical opinion.	[Part 8, Rule 2, paragraph 2].	The NFPS requires that an IQMP is used to provide a medical opinion. This discretion allows the authority to appoint such a person.	Yes delegated to Head of POD
59 - Discretion to determine award without an independent qualified medical practitioner's opinion if the firefighter wilfully or negligently fails to submit him or herself to medical examination and the medical practitioner is unable to give an opinion on the basis of medical evidence available to him/her.	[Part 8, Rule 2, paragraph 6].	This discretion allows the authority to make decisions in the absence of an IQMP opinion if the firefighter wilfully or negligently fails to submit him or herself to a medical examination.	Yes delegated to Head of POD
60 - Discretion to agree with person concerned that the independent qualified medical practitioner should be given the opportunity to review his/her medical opinion if new evidence is presented within appropriate time-scales.	[Part 8, Rule 3, paragraph 1].	This discretion allows the opportunity for an IQMP to review a decision where new medical evidence is presented	Yes delegated to Head of POD
61 - Confirmation or revision of decision following an independent qualified medical practitioner's reconsideration of opinion.	[Part 8, Rule 3, paragraphs 4 and 5].	This delegation requires the authority to confirm the decision after IQMP reconsideration of opinion within specific timescales.	Yes delegated to Head of POD
62 - Discretion to extend time limit for an appeal against the authority's decision based on medical advice.	[Part 8, Rule 4, paragraph 4].	This discretion allows the authority to consider exceptions to the 28 day time limit for a firefighter to submit an appeal.	Yes delegated to Head of POD

63 - Requirement to deal with appeals under Internal Dispute Resolution Procedures.	[Part 8, Rule 5].	This requirement applies where a person disagrees with the authority's decision and the question is not of a medical nature.	The Service would always allow the individual to raise an issue of this nature through the Service IDRPs process
64 - Requirement to decide, at such intervals as the fire and rescue authority think proper, whether a person under State pensionable age and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds and, in the case of a higher tier ill-health pension, whether that person has become capable of carrying out any regular employment.	[Part 9, Rule 1, paragraph 1].	Requirement to review ill-health pensions.	Yes
65 - Requirement to decide whether to make to a person whose ill-health pension has been reviewed under Part 9 Rule 1 and who is found to be capable of performing duties appropriate to his/her former role, an offer of employment in that role.	[Part 9, Rule 3, paragraph 3(b)].		Yes
66 - Discretion to withdraw the whole or part of a Part 3 (personal award) pension paid to a former regular firefighter during any period of re-employment as a regular firefighter, or to a retained or volunteer firefighter during any period of re-employment as a retained or volunteer firefighter.	[Part 9, Rule 3, paragraphs 1 and 2].	This discretion allows consideration of withdrawing a firefighter pension in payment if the person is re-employed as a regular firefighter.	Yes
67 - Discretion to abate a pension under Part 3 (personal award) for so long as the recipient is employed in any capacity by any fire and rescue authority.	[Part 9, Rule 3, paragraph 3].	This discretion allows consideration of withdrawing a firefighter pension in payment if the person is re-employed in any capacity by any fire and rescue authority.	Yes

68 - Discretion to disallow early payment of a deferred pension under Part 3, Rule 3, paragraph 4 because of firefighter's dismissal from the fire and rescue authority's employment.	[Part 9, Rule 4].	Part 3 Rule 3 paragraph 4 contains the power to pay a deferred pension early where a person is permanently disabled. This discretion allows consideration of not making such a payment where the firefighter was dismissed.	Yes
69 - Discretion, at any time and to such extent as the fire and rescue authority think fit, to restore a pension withdrawn under Part 9, Rule 5, or to apply it for the benefit of any dependant of the pensioner.	[Part 9, Rule 5, paragraph 4].	This is the discretion to restore a pension withdrawn as in delegation 88 above.	Yes
70 - Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 34(6) of the Fire and Rescue Services Act 2004 (acts or omissions for purposes of obtaining awards or other sums). Section 34(6) of the Fire and Rescue Services Act 2004 states that A person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person— (a) an award under a scheme brought into operation under this section, or (b) a sum in respect of the repayment or application of contributions made under such a scheme.	[Part 9, Rule 6].	This discretion allows consideration to what extent an award should be forfeited in the circumstances described.	Yes
71 - Decision as to the amount of qualifying service which a firefighter may reckon.	[Part 10, Rule 1]	Power to determine qualifying service	Yes
72 - Decision as to the amount of pensionable service a firefighter may reckon.	[Part 10, Rules 2 and 3].	Power to determine pensionable service	Yes

73 - Determination of pensionable pay.	[Part 11, Rule 1]	This delegation allows the authority to determine what pensionable pay is.	Yes
74 - Discretion to extend the time limit in which an election to pay pension contributions in respect of unpaid additional maternity or adoption leave must be made.	[Part 11, Rule 4, paragraph 3].		Yes
75 - Discretion to deduct contributions in respect of unpaid additional maternity or adoption leave from the death grant payable under Part 5 if the member dies without giving notice within the election time limit that he/she wishes to pay such contributions.	[Part 11, Rule 4, paragraph 6].	This discretion allows the authority to consider whether to treat as pensionable service a period of unpaid leave where the member dies without giving notice within the election time limit that they wish to pay such contributions.	Yes
76 - Discretion to allow a part-time regular firefighter to purchase pro-rated additional service.	[Part 11, Rule 5, paragraph 5].		Yes
77 - Discretion to agree to a firefighter member's request to discontinue payment of additional contributions to purchase service provided this is solely on the grounds of the member's financial circumstances.	[Part 11, Rule 8, paragraph 1].	This discretion is to allow a firefighter to cease making additional contributions.	Yes
78 - Decision as regards timing of recommencement of payment of additional contributions to purchase service where agreed with member that discontinuance should be no greater than 6 months.	[Part 11, Rule 8, paragraph 2].		Yes
79 - Discretion to extend time limit for the payment of contributions in respect of periods of unpaid service or absence.	[Part 11, Rule 9, paragraph 4(c)]		Yes
80 - Selection of "the guarantee date" for statement of cash equivalent transfer value entitlement.	[Part 12, Rule 3, paragraphs 1 and 2].	This discretion allows the determination of a guarantee date for the calculation of a transfer value from the New Firefighter Pension Scheme.	Yes

81 - Discretion to charge member for third or subsequent statement of cash equivalent transfer value entitlement requested within any 12 month period.	[Part 12, Rule 3, paragraph 6].		Yes
82 - Discretion to extend the one-year time limit for an application for a transfer payment into the NFPS from another pension arrangement.	[Part 12, Rule 9, paragraph 2].		Yes
83 - Discretion to accept a transfer value.	[Part 12, Rule 10, paragraph 1, subject to paragraph 3].		Yes
84 - Determination, if so required by the firefighter, of accuracy of information contained in certificate of pensionable service to be supplied on firefighter's transfer to another English fire and rescue authority – the determination to be decided via Internal Dispute Resolution Procedures (IDRP) set up by authority.	[Part 12, Rule 12, paragraphs 3 to 5].	Discretion to determine pensionable service via IDRP procedure.	Yes
85 - Requirement to estimate amounts payable to, and out of, the Firefighters' Pension Fund for each financial year and discretion to submit revised information to Secretary of State.	[Part 13, Rule 4, paragraphs 3 and 4].		Yes
86 - Discretion to delay payment of an award to the extent necessary for determining any question as to the fire and rescue authority's liability.	[Part 14, Rule 3, paragraph 2(a)].	The fire authority need not pay the sum until they are satisfied as to the eligibility of an award.	Yes
87 - Discretion to pay an award at other reasonable intervals if impracticable to pay at the standard monthly periods.	[Part 14, Rule 3, paragraph 2(b)].		Yes
88 - Discretion to recover all or part of an overpayment following a pensioner's death of which the fire and rescue authority were not informed (possibly by making an off-set against any other	[Part 14, Rule 3, paragraph 5].		Yes

awards payable under the NFPS in respect of the deceased).			
89 - Discretion as to recipient of any sum payable to a minor.	[Part 14, Rule 5, paragraph 1].	This discretion allows the payment of sums due to a minor to an appropriate person.	Yes
90 - Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.	[Part 14, Rule 5, paragraph 2].	This discretion allows the consideration of payment of an award to an appropriate person where the recipient is deemed incapable of managing their affairs.	Yes
91 - Discretion, following the death of a person, as to recipient(s) of sums less than the amount specified in the Administration of Estates (Small Payments) Act 1965.	[Part 14, Rule 6, paragraph 1].	This discretion deals with awards less than £5,000 and allows decisions to be made of who should receive this amount.	Yes
92 - Discretion to withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the fire and rescue authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.	[Part 14, Rule 6, paragraphs 4 to 6].	This discretion allows the authority to reclaim sums lost as a result of fraud, theft or negligence on the part of that person in connection with their employment.	Yes
93 - Discretion to require a person who is or may be entitled to a pension or a lump sum under the NFPS to provide the fire and rescue authority with supporting evidence as to identity and to continuing entitlement to any payment under the Scheme, and discretion to withhold the whole or part of any amount due where a person fails to comply with this requirement.	[Part 15, Rule 3].	This discretion gives the authority the ability to require confirmation of identity when making an award.	Yes
94 - Decision as to date of issue of annual benefit statements and relevant date for the pension illustration.	[Part 15, Rule 4].		Yes
95 - Discretion to extend 28 day time limit in which a person must lodge a medical appeal to a period not exceeding 6 months from the date of issue of the documents under Part 8,	[Annex 2, paragraph 1(2)].	This discretion allows consideration of an extension to the time limit to make a medical appeal.	Yes

Rule 4, paragraph 4, provided the authority are of the opinion that the person's failure to lodge the appeal within the 28 days was not due to his/her own default.			
96 - Discretion to decide fire and rescue authority's representative at Medical Appeal Board interview.	[Annex 2, paragraph 6(5)].		Yes delegated to Head of POD
97 - Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.	[Annex 2, paragraph 7(1)].		Yes delegated to Head of POD
98 - Discretion, where Medical Appeal Board decide that a person's appeal was "frivolous, vexatious or manifestly ill-founded", to require the appellant to pay to the fire and rescue authority such sum as the authority think fit, not exceeding the total amount of fees and allowances payable by the authority to the Board under Annex 2, paragraph 9(1).	[Annex 2 paragraph 10(2)].	This discretion allows the authority to require the appellant to pay a sum to the authority where the appeal board decide that the appeal was frivolous, vexatious, or manifestly ill-founded.	Yes
99 - Discretion, where appellant withdraws appeal less than 22 working days before the date appointed for interview or medical examination, to require the appellant to pay to the fire and rescue authority such sum as they think fit, not exceeding the Medical Appeal Board's total amount of fees and allowances payable to the Board by the authority under Annex 2, paragraph 9(1).	[Annex 2, paragraph 10(3)]	This discretion allows the authority to require the appellant to pay a sum to the authority where the appellant withdraws their appeal at short notice.	Yes

DISCRETIONS FIREFIGHTERS' COMPENSATION SCHEME 2006

Discretion	Regulation	Explanation/process for exercising discretion	NFRS policy/individual responsible for decision
100 - Discretion to reduce compensation for death or permanent incapacity while on duty if the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained; the reduction may be of such amount as the fire and rescue authority consider appropriate.	[Part 2, Rule 3, paragraph 6].	This discretion allows consideration of the reduction of compensation where serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained.	Yes
101 - Discretion to commute small compensatory pension for a lump sum.	[Part 2, Rule 4].	As described	Yes
102 - Discretion to pay augmented award to spouse or civil partner where specific conditions of eligibility are not met.	[Part 3, Rule 2, paragraph 2 (b) and (c)].	This discretion allows some flexibility on whether to pay an award if it would be considered inequitable to do so.	Yes
103 - Discretion to increase, for such period as the fire and authority think fit, the level of spouse's or civil partner's special or augmented award where firefighter and spouse or civil partner were living apart at the date of death and the normal level of benefit is reduced under FCS rules.	[Part 3, Rule 4, paragraphs 6 and 7].	This discretion allows consideration of payment of such an award. This does not apply to members of the NFPS 2006, nor to firefighters appointed on or after 6.4.2006 who have opted out of the NFPS – because the "living apart" limitation would not apply. No payment would normally be due for all other firefighters.	Yes
104 - Discretion to reinstate all or part of a spouse's or civil partner's special or augmented award for such period as the authority think fit following the termination of award on marriage, remarriage, formation of a civil partnership or subsequent civil partnership.	Part 3, Rule 5, paragraphs 1 and 2].	This discretion allows consideration of payment of such an award. This does not apply to members of the NFPS 2006, nor to firefighters appointed on or after 6.4.2006 who have opted out of the NFPS – because the post-retirement marriage/civil partnership limitation would not apply. No payment would normally be due for all other firefighters.	Yes

105 - Decision to cease payment of a child's pension where the fire and rescue authority are satisfied that the child is no longer permanently disabled or the child's pension should not have been awarded.	[Part 4, Rule 3, paragraph 5(c)].	This discretion allows the review of a child's pension on change of circumstances.	Yes
106 - Discretion to award an adult dependent relative's special pension for such period(s) as the fire and rescue authority may determine.	[Part 5, Rule 1].	As described	Yes
107 - Discretion to award a dependent relative's gratuity.	[Part 5, Rule 2, paragraph 3].	As described	Yes
108 - Discretion, with the consent of the person entitled to the award, to commute for a lump sum a small pension awarded to a surviving spouse or civil partner.	[Part 5, Rule 3].	This discretion allows the consideration of substitution of a lump sum for a small pension.	Yes
109 - Discretion, with the consent of the child, surviving parent or guardian, to commute for a lump sum a small pension awarded to a child.	[Part 5, Rule 4].	This discretion allows the consideration of substitution of a lump sum for a small pension.	Yes
110 - Determination, in the first instance, of entitlement to, and type of, award under FCS.	[Part 6, Rule 1].	This is the general power to determine payments under the scheme.	Yes delegated to Head of POD
111 - Requirement to use, but right to select independent qualified medical practitioner for providing a medical opinion.	[Part 6, Rule 1]	This is the general provision to obtain medical evidence so injury compensation can be determined.	Yes delegated to Head of POD
112 - Discretion to decide award without an independent qualified medical practitioner's opinion if a person wilfully or negligently refuses to submit to medical examination.	[Part 6, Rule 1].	As described	Yes delegated to Head of POD
113 - Requirement to reconsider, at person's request, his/her claim to an award where the fire and rescue authority do not admit the claim at all, or to its full extent.	[Part 6, Rule 3].	Requirement to reconsider an award. IDR process is appropriate.	Yes by way of IDR process

114 - Discretion to increase an award for a serviceman who, at the end of his/her forces period, is permanently disabled by a qualifying injury or injury received during his/her forces period.	[Part 7, Rule 2].	This discretion allows the consideration of increasing the award for a serviceman injured during his/her forces period.	Yes
115 - Discretion to increase dependents' benefits under the FPS 1992 to the level of a flat-rate award if a serviceman dies from the effects of an injury received during his/her forces period or a qualifying injury.	[Part 7, Rule 3].	This applies in respect of those covered by the FPS 1992.	Yes
116 - Discretion to increase an award to a reservist who is permanently disabled as a result of an injury received during his/her forces period or a qualifying injury.	[Part 7A, Rule 2]. <i>This applies in respect of those covered by the NFPS 2006.</i>	This discretion allows the consideration of increasing the award for a reservist injured during his/her forces period.	Yes on a case by case base Head of POD/Scheme Manager
117 - Discretion to increase dependents' benefits if a reservist dies from the effects of an injury received during his/her forces period or a qualifying injury. This applies in respect of those covered by the NFPS 2006.	[Part 7A, Rule 3].	This discretion allows the consideration of increasing the award for a reservist injured during his/her forces period.	Yes on a case by case base Head of POD/Scheme Manager
118 - Discretion to pay an injury award to or in respect of an employee of a fire and rescue authority who is not a firefighter but who has to retire, or dies, as a result of an injury received without his/her own default while in attendance at a fire in the execution of duties as an employee of the authority.	[Part 8, Rule 1].	This discretion is the general discretion to pay an award to an employee of the fire authority who is injured while in attendance at a fire.	Yes only to be considered if no compensation from other pension scheme eg LGPS by Scheme Manager
119 - Discretion to decide intervals at which a person's degree of disablement should be reviewed.	[Part 9, Rule 1, paragraph 1].	This discretion allows the Authority to set timescales for review of payments under the scheme.	Yes
120 - Discretion, 5 years after an injury pension first becomes payable, to resolve that no further review of degree of disablement should take place.	[Part 9, Rule 1 paragraph 3].	This discretion allows the Authority to decide to make no further reviews of degree of disablement.	Yes

121 - Discretion to reduce the level of an injury award to not less than half of the full amount where a person contributed to the infirmity by his/her own default.	[Part 9, Rule 2]	This discretion allows the authority to reduce an award where a person contributed to the infirmity by his/her own default.	Yes
122 - Discretion to withdraw the whole or part of a person's pension (other than a spouse's or civil partner's award) during any period of re-employment as a firefighter with a fire & rescue authority.	[Part 9, Rule 3]	This discretion allows the authority to withdraw a pension if the person is re-employed as a firefighter.	Yes
123 - Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.	[Part 9, Rule 4, paragraphs 1 to 3].	This discretion allows the withdrawal of a pension if the pensioner is convicted of an act of treason, or a serious offence under the Official Secrets Act.	Yes
124 - Discretion to restore at any time and to such extent as the fire and rescue authority think fit, a pension withdrawn under Part 9, Rule 4, paragraphs 1 to 3, to the pensioner or to apply it for the benefit of any dependent of the pensioner.	[Part 9, Rule 4, paragraph 4]	This discretion allows the consideration of reinstatement of a pension withdrawn at 131 above.	Yes
125 - Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 34(6) of the Fire and Rescue Services Act 2004 (acts or omissions for the purposes of obtaining awards or other sums). Section 34(6) of the Fire and Rescue Services Act 2004 states that A person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person— (a) an award under a scheme brought into operation under this section, or (b) a sum in respect of the repayment or application of contributions made under such a scheme.	[Part 9, Rule 5]	This discretion allows consideration to what extent an award should be forfeited in the circumstances described.	Yes by Head of POD

126 - Decision as to responsibility for payment of awards in respect of a qualifying injury where person employed by more than one fire and rescue authority and injury relates to more than one employment.	[Part 10, Rule 1 and Rule 3].	This discretion allows the concept of split liability for payment of an award.	Yes by Head of POD
127 - Determination of intervals at which instalments of injury pension should be paid.	[Part 10, Rule 2, paragraph 1].	This requirement is to determine the frequency of pension payments.	Yes pension paid monthly
128 - Discretion to delay payment of an award to the extent necessary for determining any questions of the fire and rescue authority's liability.	[Part 10, Rule 2, paragraph 1].	This discretion allows the Authority to delay payment of the sum until satisfied as to the eligibility for an award.	Yes
129 - Discretion to pay a gratuity in instalments, rather than as a lump sum, of such reasonable amounts and over such reasonable period as the fire and rescue authority think fit.	[Part 10, Rule 2, paragraph 7].	This discretion allows the consideration of paying regular payments instead of a lump sum gratuity.	Yes
130 - Discretion to extend the 14-day time limit in which a person must lodge a medical appeal, to a period not exceeding 6 months from the date of issue of the medical opinion to the person, provided the fire and rescue authority are of the opinion that the person's failure to lodge the appeal within 14 days was not due to his/her own default.	[Schedule 5, paragraph 1(2)]	As described	Yes by Head of POD
131 - Discretion to decide fire and rescue authority's representation at Medical Appeal Board interview.	[Schedule 5, paragraph 5(5)]	As described	Yes by Head Of POD
132 - Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.	[Schedule 5, paragraph 6(1)]	As described	Yes

133 - Discretion, where Medical Appeal Board decide that a person's appeal was "frivolous, vexatious or manifestly ill-founded" to require the appellant to pay the fire and rescue authority such sum as the authority think fit, not exceeding the fees and allowances of the specialist member of the Board.	[Schedule 5, paragraph 9].	This discretion allows the authority to require the appellant to pay a sum to the authority where the appeal board decide that the appeal was frivolous, vexatious, or manifestly ill-founded.	Yes
134 - Discretion, where appellant withdraws appeal within 21 working days before the date appointed for interview or medical examination, to require the appellant to pay to the fire and rescue authority such sum as the authority think fit, not exceeding the Board's total fees and allowances.	[Schedule 5, paragraph 9(3)].	This discretion allows the authority to require the appellant to pay a sum to the authority where the appellant withdraws their appeal at short notice.	Yes

Date Last reviewed: 29 June 2016

Reviewed by: Scheme Manager (Head of Finance), Head of People and Organisational Development and Human Resources Manager

DISCRETIONS UNDER THE 2015 FIREFIGHTER PENSION SCHEME

Discretion	Regulation	Explanation / process exercising discretion	NFRS statement on whether the discretion is to be exercised or not (the individual / body exercising the discretion is stated where appropriate)
<i>Power to Delegate</i> 1. <u>Delegation</u> The Scheme Manager must ensure that delegated powers are current.	Regulation 5 (2)	Delegated to Head of Finance	Yes
<i>Opting Out</i> 2. <u>Opting into this scheme</u> An optant-in will become an active member of the scheme with effect from the beginning of the first pay period following the date on which the option is exercised. There is an option for the scheme manager to vary the date on which the person becomes an active member, to such other time as the scheme manager considers appropriate.	Regulation 12 (5)	Opting in from the first day only	No
3. <u>Opting Out after first three months</u> An optant-out ceases to be in pensionable service with effect from the first day of the first pay period following the date on which the option is exercised. If the scheme manager considers that day to be inappropriate, it may vary the date to the first day of any later pay period as the scheme manager does consider appropriate.	Regulation 16 (2) (b)	Retain discretion to vary date	Yes but retain discretion to vary date

<i>Pensionable Pay</i> 4. <u>Pensionable Pay</u> The scheme manager has discretion to determine if continual professional development payments are to be treated as pensionable pay.	Regulation 17 (1) (d)		Yes
<i>Membership</i> 5. <u>Active membership</u> A person who is on unpaid authorised absence can count the period as active membership if the scheme manager permits them to be treated as an active member during that (linked to regulation 111(4) and subject to the member paying the appropriate contributions.	Regulation 19 (c)		Yes
<i>Pension Accounts</i> 6. <u>Establishment of pension accounts: general</u> The Scheme Manager must establish and maintain pension accounts for scheme members, but they may be kept in such form as the scheme manager considers appropriate.	Regulation 28 (2)		Yes
7. <u>Closure and re-establishment of active member's account</u> If a member has more than two active member's account and ceases pensionable service with less than three months' qualifying service in respect of one account, that account must be closed and benefits aggregated with one of the others; the member may select which one. If the member fails to choose, the scheme manager has the discretion to choose.	Regulation 37 (3), (4) and (5)		Yes

<p>8. <u>Closure of deferred member's accounts after gap in pensionable service not exceeding five years</u> If a deferred member re-enters pensionable employment after a gap of five years or less, the scheme manager must close the deferred member's account and re-establish the active member's account, transferring entries from the deferred account. If the person had more than one relevant deferred member's account, they must select – within three months of re-entering scheme employment which one should close. If they fail to make a selection, the scheme manager must make the choice for them.</p>	<p>Regulation 49 (3) and (4)</p>		<p>Yes</p>
<p><i>Retirement benefits</i> 9. <u>Employer Initiated retirement</u> An employer can determine that an active member age 55 or over but under age 60 who on the grounds of business efficiency is dismissed or has their employment terminated by mutual consent, can receive immediate payment of pension without the early payment reduction. An employer may only use this discretion if the employer determines that a retirement pension awarded on this basis would assist the economical, effective and efficient management of its functions having taken account of the costs likely to be incurred in the particular case.</p>	<p>Regulation 62 (1) and (2)</p>	<p>Delegated authority is with Chief Fire Officer who may wish to refer the matter to the Fire Authority. In the case of a Principal officer this decision would be taken to the Fire Authority.</p>	<p>Yes</p>

<p>10. <u>Exercise of partial retirement option</u> An active member aged at least 55 who would be entitled to immediate payment of pension if they leave pensionable service and who claims payment of the pension, may opt to claim the whole of their accrued pension but continue in pensionable service. The person concerned must give appropriate notice to the scheme manager and the partial retirement option is taken to be exercised on a date agreed between the member and the scheme manager.</p>	Regulation 63 (5)		Yes
<p><i>III Health Benefits</i> 11. <u>Review of ill health award or early payment of retirement pension</u> The scheme manager must have a policy for reviewing, at such intervals as it considers appropriate, the award of ill-health pensions where the recipient is under deferred pension age and has been receiving the award for less than 10 years, and for reviewing the early payment of deferred pensions on ill health grounds for so long as the recipient is below deferred pension age.</p>	Regulation 68 (1) and (2)		Yes
<p>12. <u>Consequences of review</u> If, following the review of a lower tier ill-health pension under regulation 68, the scheme manager determines that the recipient is capable of performing the duties appropriate to the role from which the person retired on grounds of ill-health; the employer must consider whether or not to make an offer of re-employment.</p>	Regulation 69 (3)		Yes

section 167 of the Finance Act 2004 (pension death benefit rules), the amount may be adjusted in a manner determined by the scheme manager.			
<i>Death Benefits</i> 16. <u>Meaning of 'surviving partner'</u> A cohabiting partner may be considered a 'surviving partner' and potentially for a pension provided they meet certain conditions, one of which is that they must have been in a 'long term relationship' – a continuous period of at least two years – at the date at which entitlement needs to be considered. The scheme manager has discretion to allow the person to qualify where the period is less than two years.	Regulation 76 (1) (b) (v) and (2)		Yes
17. <u>Person to whom lump sum death benefit payable</u> The scheme manager has absolute discretion as to the recipient of any lump sum benefit payable.	Regulation 95		Yes
18. <u>Payment of pensions under Part 6 'Death Benefits'</u> If a child's pension is due in respect of an eligible child under age 18, the scheme manager will determine to whom it should be paid and will give directions to that person as to how the payment should be applied for the eligible child's benefit.	Regulation 100 (2)		Yes
19. <u>Surviving partner's pensions and eligible child's pensions: suspension and recovery</u> A scheme manager has the right to cease paying a surviving partner's pension and / or eligible child's pension	Regulation 101 (2) and (3)		Yes

and recover any payment made in respect where it appears to the scheme manager that the recipient made a false declaration, or deliberately suppressed a material fact in connection with the award. (This does not affect the scheme manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.			
<p><u>20. Provisional awards of eligible child's pensions: later adjustments</u></p> <p>If children's pensions have been made to certain persons on the basis that they were eligible children and there were no others, and subsequently it appears that any of those children were not eligible, or there was a further eligible child to whom no payment has been made, or that a child born after the member's death is an eligible child, the scheme manager has discretion to adjust the amount of pensions as required in view of the facts as they subsequently appear. The adjustments may be made retrospectively (this does not affect the scheme managers' right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.</p>	Regulation 102 (2) and (3)		Yes
<p><u>21. Adjustments of benefits to comply with FA 2004 where members die over 75</u></p> <p>If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death</p>	Regulation 104 (1) (a) and (2)		Yes

would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules) the scheme manager has discretion to adjust the benefit payable to the person so that it would qualify under that section of the Act.			
<p>Contributions</p> <p>22. Member Contributions</p> <p>Where there is a change in scheme employment or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount falls into a different contribution rate band, the scheme manager must determine that this rate should be applied and inform the member of the new contribution rate and the date from which it is to be applied.</p> <p>When identifying the appropriate contribution rate, a reduction in pay in certain circumstances as listed in Regulation 110 are to be disregarded. In addition, the scheme manager can specify the circumstances in a particular case where a reduction in pensionable pay will be disregarded.</p>	<p>Regulation 110 (5)</p> <p>Regulation 110 (7) (h)</p>	<p>Scheme Manager to consider on a case by case basis.</p>	<p>Yes</p> <p>Yes</p>
<p>23. Contributions During Absence From Work Due to Illness, Injury, Trade Dispute or Authorised Absence</p> <p>Where an active member is absent from scheme employment because of illness or injury and not entitled to</p>	<p>Regulation 111(2), (3) and (4)</p>	<p>For illness, injury scheme employer will pay employer contribution.</p> <p>For Trade Dispute</p>	<p>Yes</p> <p>Decision on whether employer contribution to be</p>

<p>Transfers</p> <p>25. <u>Statement of entitlement</u> The scheme manager must specify in a statement of entitlement the 'guarantee date' date by reference to which the cash equivalent or club transfer is calculated; this date must fall within the three months beginning with the date of the member's application for the statement of entitlement and within ten days ending with the date on which the member is provided with the statement. The scheme manager has discretion, if it believes reasonable, to extend this date to within six months of the date of the member's application if, for reasons beyond the scheme manager's control, the information needed to calculate the transfer value cannot be obtained before the end of the three month period.</p>	Regulation 135(4)		Yes
<p>26. <u>Request for acceptance of a transfer payment</u> There is a time limit of one year from becoming an active member in which a person can request a transfer payment from a non-occupational pension scheme. The scheme manager has the discretion to extend this period.</p>	Regulation 141(3)	Case by case basis	Yes
<p>27. <u>Transfer statement</u> The scheme manager can require an active member to ask the scheme manager of a previous non-club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to</p>	Regulation 142(2)		Yes

count provided that the transfer date falls within two months of the date of the statement.			
<p>28. <u>Club transfer value statement</u> The scheme manager can require an active member to ask the scheme manager of a previous club pension scheme to provide a statement of the amount of transferred pension that the member would be entitled to count provided that the transfer date falls within two months of the date of the statement.</p>	Regulation 144(2)		Yes
<p><i>Appeals and determinations</i> 29. <u>Appeal concerning entries on the certificate</u> If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, they can require the scheme manager to deal with their disagreement under arrangements implemented by the scheme manager in accordance with the requirements of section 50 of the Pensions Act 1995 (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. The scheme manager must have these arrangements in place.</p>	Regulation 148(1)		Yes

<p>30. <u>Determinations by the scheme manager</u> It is the scheme manager that must determine whether a person is entitled to an award or to retain an award.</p>	Regulation 151		Yes
<p>31. <u>Role of IQMP in determinations by the scheme manager</u> The scheme manager must select an Independent Qualified Medical Practitioner to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion. If a person wilfully or negligently fails to submit to medical examination by the selected IQMP and the IQMP is unable to give an opinion on the basis of the medical evidence available, the scheme manager can make the determination based on such medical evidence as the scheme manager thinks fit, or without medical evidence.</p>	<p>Regulation 152(1)</p> <p>Regulation 152(7)</p>	Delegated to Head of POD 31,32,33,34,35.	<p>Yes</p> <p>Yes</p>
<p>32. <u>Review of medical opinion</u> Where a member requests a review of an IQMP's opinion in the light of new evidence received by the scheme manager within 28 days of the member having received the opinion, the scheme manager may agree to giving the IQMP the opportunity of reviewing the opinion Upon receiving the IQMP's response the scheme manager must confirm or revise its original determination and advise the member accordingly.</p>	<p>Regulation 153(1)</p> <p>Regulation 153(4) and (5)</p>		<p>Yes</p> <p>Yes</p>

<p>33. <u>Notice of appeal</u> If a member wishes to appeal against a determination made by the scheme manager and their grievance lies in the medical opinion upon which the determination was based, they can appeal to a board of medical referees. The appeal must be made within 28 days of the date on which the member receives the relevant documents under Regulation 154(4). If the appeal is not made within this time limit and the scheme manager is of the opinion that the person's failure to give notice within the required period was not due to the person's own default, the scheme manager has a discretion to extend the time limit for such period as the scheme manager considers appropriate, not exceeding six months from the date the Regulation 154(4) documents were supplied</p>	<p>Regulation 155(2)</p>		<p>Yes</p>
<p>34. <u>Reference of appeal to the board</u> Where a member has given notice of appeal to a board of medical referees, before the board arranges a time and place for the interview and medical examination a member of the board will review the documents supplied to the board in accordance with Regulation 156. If the board member is of the opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded board member will notify the Secretary of State accordingly. This will be copied to the scheme manager who must, in turn,</p>	<p>Regulation 156(8) to (12)</p>		<p>Yes</p>

send a copy of it to the scheme member advising that if their appeal is unsuccessful, the member may be required to pay the scheme manager's and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal.			
35. <u>Procedure where appeal to be pursued</u> The scheme manager must decide which persons will attend the interview as its representatives. The scheme manager must also decide whether or not to submit written evidence or a written statement (and must decide a response to any written evidence or written statement from the appellant).	Regulation 157(6) to (9)		Yes
36. <u>Expenses of each party</u> If the medical appeal board determines in favour of the scheme manager and states that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded, the scheme manager can require the appellant to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate If the appellant withdraws the appeal requesting cancellation, postponement or adjournment of the date appointed for interview and/or medical examination less than 22 working days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances	Regulation 161(2) Regulation 161(3)(a)		Yes Yes

<p>payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p> <p>If the appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed or interview and/or medical examination less than 22 days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p>	Regulation 161(3)(b)		Yes
<p><u>37. Appeals on other issues</u></p> <p>If a member disagrees with a scheme manager's determination of award under Regulation 151 and the disagreement does not involve an issue of a medical nature, the member can require the scheme manager to deal with the disagreement under requirements which the scheme manager must have in place in accordance with section 50 of the Pensions Act 1995 (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008.</p>	Regulation 163	In line with IDRP procedure level 1 dealt with by DCFO and level 2 Fire Authority	Yes

<p><i>Payment of pensions</i></p> <p>38. <u>Commutation of small pensions</u> If the pension entitlement of a member of the scheme, or the pension entitlement of a member's beneficiary, does not exceed the small pensions commutation maximum the scheme manager may pay the entitlement as a lump sum. This would, however, be subject to the consent of the recipient and must comply with the commutation provisions that apply in the circumstances.</p>	<p>Regulation 167(3)</p>		<p>Yes</p>
<p>39. <u>Payments for persons incapable of managing their affairs</u> If it appears to the scheme manager that a person other than an eligible child who is entitled to benefits under the scheme, is by reason of mental incapacity or otherwise, incapable of managing his or her affairs, the scheme manager may pay the benefits or any part of them to a person having the care of the person entitled, or such other person as the scheme manager may determine, to be applied for the benefit of the person entitled. If the scheme manager does not pay the benefits in this way, the scheme manager may apply them in such manner as it may determine for the benefit of the person entitled, or any beneficiaries of that person</p>	<p>Regulation 168</p>		<p>Yes</p>

<p>40. <u>Payments due in respect of deceased persons</u></p> <p>If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager can pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration.</p>	<p>Regulation 169</p>		<p>Yes</p>
<p>Forfeiture</p> <p>41. <u>Forfeiture: offences committed by members, surviving partners or eligible children</u></p> <p>If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme member can withhold pensions payable under the scheme to a member, any person in respect of the member, a surviving partner or an eligible child, to such extent and for such duration as it considers appropriate. "Relevant offence" is defined in this Regulation. The definition includes offences injurious to the State (including treason) or likely to lead to a serious loss of confidence in the public service. There are certain conditions set out in the Regulation, e.g. it is only the part of the</p>	<p>Regulation 171(1), (2), (3) and (5)</p>		<p>Yes</p>

<p>pension that exceeds any guaranteed minimum pension that can be withheld</p> <p>Where a pension is withheld, the scheme manager can at any time, and to such extent and for such duration as the manager thinks fit, apply the pension for the benefit of any dependant of the member or restore it to the member.</p>	Regulation 171(4)		Yes
<p>42. <u>Forfeiture of pensions: offences committed by other persons</u></p> <p>If a surviving partner or eligible child is convicted of the murder of a scheme member from whose benefits their pension would be derived the scheme manager must withhold all of the survivor's or child's pension otherwise payable. However, if a surviving partner or eligible child is convicted of the manslaughter of the member or any other offence, apart from murder, of which the unlawful killing of the member is an element, the scheme manager has discretion as to whether or not to withhold the pension to which they would otherwise be entitled. The amount withheld must only be that part of the pension which exceeds any guaranteed minimum pension. If the conviction is subsequently quashed, the pension must be restored with effect from the day after the date on which the member died. If, after the conviction has been quashed, the person is again convicted of murder, manslaughter or an associated offence as outlined above, any restoration is cancelled.</p>	Regulation 172(1) to (5)		Yes

<p>43. <u>Forfeiture of lump sum death benefit: offences committed by other persons</u> If a person is convicted of a relevant offence, i.e. the murder or manslaughter of the member, or any other offence of which the unlawful killing of the member is an element, the scheme manager must withhold all of any lump sum death benefit payable to that person. If, however, the conviction is subsequently quashed on appeal, the scheme manager may, to such extent and for such duration as it thinks fit, restore to the person the amount of benefit withheld. If, after the conviction has been quashed, the person is again convicted of murder, manslaughter or an associated offence as outlined above, any restoration is cancelled.</p>	<p>Regulation 173</p>		<p>Yes</p>
<p>44. <u>Forfeiture: relevant monetary obligations and relevant monetary losses</u> If a member has a relevant monetary obligation or has caused a relevant monetary loss, the scheme manager may, to such extent and for such duration as it considers appropriate, withhold benefits payable to that person under the scheme. “Relevant monetary obligation” and “relevant monetary loss” are defined in the Regulation. There are certain limits, e.g. the amount withheld may only be that which exceeds the person’s guaranteed minimum pension and the scheme manager may only withhold it if there is no dispute about the amount or, if there is, there is a court order or the award of an arbitrator. The monetary obligation must have been</p>	<p>Regulation 174</p>		<p>Yes</p>

incurred to the employer after the person became an active member and arising out of or connected with the scheme employment in respect of which the person became a member of the scheme, and arising out of the person's criminal, negligent or fraudulent act or omission. The procedure is set out in Regulation 176.			
<p>45. <u>Set-off</u></p> <p>A scheme manager has discretion to set off a "relevant monetary obligation" against a member's entitlement to benefits under the scheme, subject to certain conditions which are similar to those contained in Regulation 174 (Forfeiture). The procedure is set out in Regulation 176.</p>	Regulation 175		Yes
<p><i>Payment and Deduction of Tax</i></p> <p>46. <u>Payment on behalf of members of lifetime allowance charge</u></p> <p>At a scheme member's request, the scheme manager may pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager may only comply with the request if the member pays it the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs.</p>	Regulation 178		Yes

<p>47. <u>Evidence of entitlement</u> The scheme manager can require any person who is in receipt of a pension or may have entitlement to a pension or lump sum under the scheme to provide such supporting evidence as the scheme manager may reasonably require so as to establish the person's identity and their continuing or future entitlement to the payment of any amount under the scheme If a person fails to comply with the scheme manager's requirements in this respect, the scheme manager can withhold the whole or part of any amount that it otherwise considers to be payable under the scheme.</p>	<p>Regulation 184(1) and (2)</p> <p>Regulation 184(3)</p>		<p>Yes</p> <p>Yes</p>
<p><i>Added pension</i> 48. <u>Amount of accrued added pension may not exceed overall limit of extra pension</u> The total amount of accrued added pension must not exceed a certain limit. If it appears to be scheme manager that a member who has elected to make periodical contributions will exceed the limit the scheme manager may cancel the election (by written notice to the member).</p>	<p>Schedule 1 Part 1, Paragraph 4</p>		<p>Yes</p>
<p>49. <u>Member's election to make periodical contributions for added pension</u> If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid.</p>	<p>Schedule 1 Part 1, Paragraph 7(3)</p>	<p>Scheme Manager determined minimum figure of £25 per month</p>	<p>Yes</p>

<p>50. <u>Periodical payments</u> If a scheme member wants to make periodical payments for added pension, but does not want them to be deducted from pensionable pay, the scheme manager may agree another method of payment.</p>	<p>Schedule 1 Part 2, Paragraph 8(3)</p>		<p>No</p>
<p>51. <u>Periodical payments during periods of assumed pensionable pay</u> After a period of assumed pensionable pay or a period of reduced pay, the member may give written notice to the scheme manager authorising the employer to deduct the aggregate of payments – which would have been made but for the leave – from the member's pay during the period of six months from the end of the period of reduced pay. The scheme manager can extend this period of six months.</p>	<p>Schedule 1 Part 2, Paragraph 10(4)</p>		<p>Yes</p>
<p><i>Tapered Protection</i> 52. <u>Meaning of 'tapered protection closing date'</u> The tapered protection closing dates for tapered protection members are given in the 1992 scheme tables in Schedule 2 Part 4. In most cases the appropriate closing date can be ascertained by reference to the band of dates in which the firefighter's birthday falls. The tapered protection date for a tapered protection member of FPS 2006 to whom paragraph 9(5) or 21 applies (members returning to pensionable service) is determined by the scheme manager.</p>	<p>Schedule 2 Part 1, Paragraph 3(3); Schedule 2 Part 2, Paragraph 9(5); and Schedule 2 Part 3, Paragraph 21</p>		<p>No</p>

Date Last reviewed: 29 June 2016

Reviewed by: Scheme Manager (Head of Finance), Head of People and Organisational Development and Human Resources Manager