

Staff and Pensions Committee

12 December 2022

Abatement of Firefighters Pensions WFRS Re-engagement Following Retirement: Amendment to Service Order

Recommendation

That the Staff and Pensions Committee approves the amendments to the name and content of the WFRS Re-engagement Following Retirement Service Order as outlined within the body of this report and in Appendix 2.

1. Executive Summary

- 1.1 The WFRS Re-engagement Following Retirement Service Order (updated July 2018) (Appendix 1) sets out the discretionary policy on abatement of pensions when scheme members are re-engaged following their retirement.
- 1.2 The ability to abate applies in the final salary Firefighters' Pension Schemes (FPS 1992, FPS 2006) where a member begins to draw their pension and remains employed or is re-employed/ re-engaged either by a Fire and Rescue Authority or, in the case of interservice abatement, by another public sector body. The overriding principle is that the new salary plus pension cannot exceed the salary the pension is based on (plus inflation). The pension would continue to be abated until the employment has ceased, or there was a change to the new salary which meant that the total (new salary plus pension) was no longer higher than the salary the pension is based on (plus inflation).
- 1.3 Following a decision by the Pensions Ombudsman in November 2021 (Determination number PO-25374) upholding a complaint against WFRS, Fire and Rescue Authorities were recommended to amend their discretionary policies on abatement.
- 1.4 The change of policy is intended to implement the Pensions Ombudsman's findings and recommendations in the above decision.
- 1.5 The Service Order has been amended to change the policy on the application of abatement from a blanket approach to one which allows for case-by-case consideration of the member's circumstances and any representations from the member prior to deciding whether to apply abatement or whether in appropriate cases, that abatement should not be applied.

- 1.6 There is no specific guidance on the criteria which should be considered when making the decision on whether or not to abate an individual's pension as a result of re-employment. Decisions will need to take into account the general principle of abatement i.e to protect the public purse. It should be noted that in such cases WFRS will be responsible for the cost of deciding not to abate.
- 1.7 The title of this Service Order has been amended to clarify its purpose and will now be referred to as the 'Re-employment Following Retirement Service Order.'

2. Financial Implications

- 2.1 The cost of deciding not to abate will be the responsibility of WFRS.
- 2.2 A member of the relevant pension scheme is required to declare to the Council (or any other relevant employer) that they are in receipt of a Fire Service pension. Overpayments will be recovered so it is in the pensioner's interests to declare employment as soon as possible, and this is made clear in the amended Service Order.

3. Environmental Implications

- 3.1 None

4. Supporting Information

- 4.1 As set out in Firefighters' Pension Scheme Circular 10/2009 (<https://www.fpsregs.org/images/FPSC/10-2009.pdf>), HM Treasury (HMT) policy requires public sector pensions to be abated in certain circumstances when a public sector employee is re-employed following retirement. The general principle behind abatement is to protect the public purse from paying a pension and a salary to the same individual, i.e. the income from the public purse should not be increased by the addition of a pension.
- 4.2 Members of the Firefighters' Pension Scheme 1992 (FPS) receive special treatment under the Registered Pension Schemes (Prescribed Schemes and Occupations) Regulations 2005 (SI 2005 No. 3451) which allows them to retain a right to payment of a pension from age 50, i.e. before reaching the statutory normal minimum pension age, which is age 55.
- 4.3 Fire and Rescue Authorities must consider the application of abatement when it occurs in accordance with the regulations of the Firefighters' Pension Scheme 1992 and the New Firefighters' Pension Scheme 2006, although abatement does not apply to the Firefighters' Pension Scheme 2015.
- 4.4 The current Service Order relating to abatement - Re-engagement Following

Retirement Service Order (dated July 2018) is shown in Appendix 1 and outlines the current policy. This is to automatically abate the pension of a retired firefighter who is re-employed in any capacity by WFRS, to the extent that the aggregate of the pension in payment and the salary received on re-employment do not exceed the level of earnings received directly prior to their retirement.

- 4.3 FRAs were recommended to review their abatement policies in light of a decision by the Pension Ombudsman in November 2021 upholding a complaint against WFRS by a scheme member to whom the current policy had been applied. The Ombudsman determined that the blanket application of abatement was not appropriate in light of the wording of the Scheme Orders, and that FRAs' policies on abatement should set out clearly that abatement is not a blanket policy; that whether abatement should be applied will be assessed on a case by case basis; and that members will be given an opportunity to make representations which will be taken into account when a decision is being made whether or not to apply abatement to their pensions.

5. Timescales associated with the decision and next steps

- 5.1 Following approval, the amended Service Order will be published in Warwickshire Fire and Rescue Service Document Library.

Appendices

1. Appendix 1 July 2018 Service Order – Re-engagement Following Retirement.
2. Appendix 2 December 2022 Service Order – Re-employment Following Retirement

Background Papers

1. [Informal Abatement Guidance](#)
2. Pensions Ombudsman decision - https://www.pensionsombudsman.org.uk/sites/default/files/decisions/PO-25374_0.pdf
3. <https://www.fpsregs.org/images/FPSC/10-2009.pdf>

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The report was circulated to the following members prior to publication:

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Other members: