

**WARWICKSHIRE FIRE & RESCUE SERVICE
FIREFIGHTER'S PENSION SCHEME ORDER 1992
SCHEME MANAGER DISCRETIONS STATEMENT**

No	Discretion	Regulation	Scheme Manger Discretion
1	Permission for a Chief Fire Officer to retire and draw a pension before attaining age 55 where the CFO was appointed prior to 1 July 2013.	B1(2)(b) as modified by (d)	N/A– Chief Fire Officer was appointed after 1 July 2013 and no future impact.
2	Discretion to determine that certain payments, not otherwise pensionable, should be treated as such for the credit of Additional Pension Benefit to the firefighter member	B5C	Continual Professional Development payment or increase in pay for temporary promotion on or after 1 July 2013 shall be treated as pensionable for the credit of Additional Pension Benefit. A list of pensionable payments is available from Payroll. Any changes would need to be agreed by the scheme manager.
3	Consent for one quarter pension to be commuted in the case of a firefighter who, upon retirement, would otherwise not be permitted to commute such portion of pension as would provide a greater lump sum than two and a quarter times the full amount of pension	B7(5A)	Each case will be considered on an individual basis depending on the needs of the Service. A full business case would be needed demonstrating the economical, effective and efficient management of its functions with consideration of associated costs to the Fire and Rescue Authority likely to be incurred in any particular case.
4	Discretion to commute, for a “trivial commutation lump sum”, a small pension payable to a firefighter pensioner	B8	If the total amount of any pension(s) payable to a person – who has attained State pensionable age – under the provisions of the Firemen’s Pension Scheme Order 1992, which together with any increase under the Pensions (Increase) Act 1971 and any pension credit pension under Rule 1A1 of the Order does not exceed the commutation limit for the purposes of Part 1 of Schedule 29 to the Finance Act 2004 (lump sum rule), the Fire and Rescue Authority may, if it is considered appropriate, by case-by-case consideration, commute the pension(s) to a lump sum following the guidance of the Scheme Administrator.
5	A Scheme member may allocate a portion of pension for a dependent other than a spouse or civil partner	B9(2)(b)	Where a Firefighter elects to give up part of their pension (under Rule B9), the Fire and Rescue Authority before giving consent to the allocation, must have demonstrated to the satisfaction of the Fire and Rescue Authority that the nominee is a person substantially dependent on the member. Each case will be considered on an individual basis on the evidence provided by the member and legal advice may be sought at that time.

6	Requirement for, and acceptance of, an opinion as to normal life expectancy for allocation purposes.	B9(6)	If a member of the Firefighters' Pension Scheme 1992 wishes to allocate a portion of pension in favour of a beneficiary (a spouse, or civil partner or some other person that the Fire and Rescue Authority are satisfied is substantially dependent on the firefighter), that member must satisfy the Fire and Rescue Authority as to his/her normal life expectancy at the time of the request. There is no guidance in the Scheme Rules as to the method of demonstration and so the Authority will determine how this will be done, for example by an opinion from the member's GP, or from the Fire Authority's Occupational Health Physician, or from an IQMP. In the absence of such an opinion, or if the opinion suggests limited life expectancy, the Fire and Rescue Authority would refuse the request on a case-by-case basis.
7	Discretion to increase, for such period as the fire and authority think fit, the level of spouse's or civil partner's 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	C8 (6) and (7)	Where a firefighter and their spouse or civil partner were living apart at the date of the firefighter's death, and a reduced pension would ordinarily be paid to the spouse or civil partner, and the Fire and Rescue Authority consider, having taken into consideration all of the circumstances of the case, that the pension should be paid at an increased rate, then the authority will increase the pension to the rate they deem appropriate and for such period as they think fit. Each case will be considered on a case-by-case basis.
8	Discretion to allow a gratuity to be paid, in whole or in part, to the surviving spouse or civil partner where it would otherwise not be payable because husband and wife, or civil partners, were living separately at the date of death.	C8 (7)	In cases where a gratuity would have been paid but for the firefighter and their spouse or civil partner living apart, if the Fire and Rescue Authority consider, having taken into consideration all of the circumstances of the case, that a gratuity should be paid then the authority will authorise the gratuity be paid, either in whole or in part.
9	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	C9	Whilst it is unlikely that the Fire and Rescue Authority will reinstate an ex-spouse's pension at the end of a new remarriage or civil partnership or cohabitation, consideration will be made on each case based on evidence provided by the applicant whether to allow the full award to be reinstated, and the date from which reinstatement should be made.

10	Cessation of payment of a child's pension.	D5(1) and (2)	The Fire and Rescue Authority shall cease paying a child's pension when the child ceases to be eligible upon attaining a particular age, or ceasing full-time education and entering paid employment, or upon marriage or forming a civil partnership on a case-by-case basis.
11	Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.	D5(5) to (8)	The Fire and Rescue Authority may permanently withhold all of a child's pension where the child is convicted of the manslaughter of the deceased until and unless the conviction is quashed on appeal. The scheme manager will decide, taking account of the circumstances of the case, as to whether or not to withhold the pension to which they would otherwise be entitled.
12	Determination of entitlement to a child's allowance for a child aged 18 or over who was dependent on the deceased by reason of permanent disablement; review of that award, and the action taken if the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled.	D5(3) and (9)(c)	If and when information is received that satisfies the Fire and Rescue Authority that either a child is no longer permanently disabled or the child's pension should not have been awarded then payment of the pension will cease. A decision regarding whether or not to pursue repayment of pension paid when the child was not entitled to receive it will be based upon the circumstances of the case. An opinion from an IQMP may be sought, and any review periods will be based on evidence obtained and case-by-case.
13	Discretion to make an award of dependent relative's gratuity to a dependent relative who is not entitled to any other award under the Firemen's Pension Scheme Order 1992 in respect of the same firefighter	E3	Where a portion of a pension has been allocated to a dependent who is not a spouse, civil partner or cohabiting partner of the member, the Fire and Rescue Authority will withhold the payment if they cannot be satisfied that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.
14	Decision to commute for a lump sum, a spouse's or civil partner's pension which is of limited amount.	E5 subject to limitations in E7	If the total amount of any pension payable to a surviving spouse or civil partner under the provisions of the Firemen's Pension Scheme Order 1992, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purposes of Part 2 of Schedule 29 to the Finance Act 2004 (lump sum death benefit rules) or the "permitted amount" as defined in Rule E7(3), and: (a) the deceased spouse or civil partner died before age 75, and (b) the Fire and Rescue Authority are satisfied that there are sufficient reasons, and (c) the surviving spouse or civil partner consents, the Fire and Rescue Authority have discretion to commute the whole of the surviving spouse's or civil partner's pension for a lump sum in accordance with the guidance of the Scheme Actuary at the time when the pension first becomes payable and considering the information on a case-by-case basis.

15	Decision to commute a child's pension, which is of limited amount, for a lump sum.	E6 subject to limitations in E7	<p>If the total amount of a child's allowance payable under the provisions of the Firemen's Pension Scheme Order 1992, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purposes of Part 2 of Schedule 29 to the Finance Act 2004 (trivial commutation lump sum death benefit rules) or the "permitted amount" as defined in Rule E7(3), and :</p> <p>(a) the deceased parent died before age 75, and</p> <p>(b) the Fire and Rescue Authority are satisfied that there are sufficient reasons, and</p> <p>(c) the surviving parent or the child's guardian or – if neither – the child him or herself consents</p> <p>the Fire and Rescue Authority will consider on a case-by-case basis whether to commute the pension for a lump sum in accordance with Schedule 5, Part III and factors prepared by the Scheme Actuary current at the time when the commutation takes effect.</p>
16	Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive.	E9(6)	Each case will be considered on a case-by-case basis as it arises.
17	Discretion that the Fire and Rescue Authority should pay the employer's pension contributions (otherwise payable by the firefighter) due for a firefighters' period of absence without pay where the firefighter gives notice that he/she wishes to pay contributions in order that the period may count as pensionable service.	F2(5)	<p>If the firefighter has given notice under Rule F2(3) that s/he wishes to pay contributions in order that a period of unpaid leave may count as pensionable service, the Fire and Rescue Authority can use their discretion under Rule F2(5) to pay the employer's contributions otherwise payable by the firefighter in addition to member contributions in these circumstances.</p> <p>Each case will be considered on a case-by-case basis, however, employees absent on industrial action or on a career break will pay both employer and employee contributions in the event that they wish to count this as pensionable service.</p> <p>This discretion no longer applies as the FPS 1992 is closed.</p>
18	Decision as to amount of pensionable service (to be set out in Certificate of Pensionable Service with notice of right of appeal).	F1	Where a decision is required on the amount of pensionable service, and where this decision cannot be made, the member can utilise the notice of right of appeal.

19	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.	F4 (3)(c),	There shall be no extension of the 6-month time limit for an election to pay certain sums in order that earlier pensionable service may count upon a firefighter rejoining the fire and rescue service, however will only consider applications made under this Regulation in the most exceptional circumstances if: evidence indicates that the Fund had not informed the member about the transfer within the 6 month time limit, or verifiable evidence indicates that the member made an election to transfer within 6 month limit but the election form was not received by the Fund.
20	Discretion to extend period in which a firefighter may make a payment to count as pensionable service a period during which an injury award was payable.	F5(1)	If a firefighter is entitled under Rule F5 to pay to the Fire and Rescue Authority the amount required in accordance with Schedule 6, Part I, paragraph 1 of the Firemen's Pension Scheme Order 1992 in respect of a period during which the firefighter was entitled to receive an injury pension, in order that it may count as pensionable service on re-employment, the Fire and Rescue Authority will determine on a case-by-case basis to extend the period in which the election to pay and payment must be made (within six months of resuming service).
21	Extension of 12-month time limit for acceptance of "mis-selling" transfer value payment	F6A(3)(b)	It is unlikely that this will apply to further cases. This will only be considered if the Fire and Rescue Authority accept a transfer value.
22	Discretion to adjust "mis-selling" transfer value to take account of any earlier service credit	F6A(6) 27	This shall be considered on a case-by-case basis.
23	Discretion to accept a transfer value.	F7(1) subject to Rule F7(2) and (3)	Where there is a request to accept a transfer value, advice will be sought from the Pension Administrators regarding the appropriate value. It is unlikely that anyone would now satisfy the requirement that the written request to the Fire and Rescue Authority should be made no later than 12 months after the date of taking up employment with the Fire and Rescue Authority
24	Extension of 6 month time limit for a former firefighter to request payment of a transfer value to another pension scheme.	F9(2)	If a former firefighter or a serving firefighter who has opted out of the Firefighters' Pension Scheme 1992 becomes subject to another pension scheme and requests that the Fire and Rescue Authority should pay a transfer value to that other scheme, the written request must be made within 6 months of becoming subject to the other scheme. Requests shall be dealt with on a case-by-case basis.

25	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.	F9(5)	The Fire and Rescue Authority shall consider this on a case-by-case basis.
26	Determination of pensionable pay	G1(1)	A list of pensionable payments is available from Payroll. No changes shall be made to this list without the consent of the scheme manager.
27	Discretion to deduct pension contributions from instalments of pay.	G2(2)	Contributions will be deducted from instalments of pay where the pay is pensionable. Should the circumstances arise where consideration needs to be made to other means of paying instalments, these will be made on the basis of financial guidance at that time and as authorised by the Director of Finance or nominated manager.
28	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.	G2A(3)	Late applications will be considered up to a maximum of 90 days or under exceptional circumstances this may be extended to a reasonable timeframe however this discretion is unlikely to apply as the FPS 1992 is closed.
29	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.	G6(4)	This discretion no longer applies as the FPS 1992 is closed.
30	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.	G7(3)	This discretion no longer applies as the FPS 1992 is closed.

No	Discretion	Regulation	Scheme Manager Discretion
Part H: Determination of questions and appeals			
31	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 timescales.	H1A	If the Fire and Rescue Authority receives new evidence within the applicable 28 day timescale set out in the regulation and the member concerned requests that the IQMP should review their opinion, the Fire and Rescue Authority will agree to the IQMP being provided with the opportunity to reconsider their opinion.
32	Discretion to extend the time limit for appeal against a Fire and Rescue Authority's decision based on a medical opinion.	H2(4)(c)	The Fire and Rescue Authority shall consider this on a case-by-case basis.
33	Requirement to deal with a person's disagreement by Internal Dispute Resolution Procedure arrangements set up by the Fire and Rescue Authority in accordance with the requirements of section 50 of the Pensions Act 1995, where the disagreement is in respect of the Authority's determination under Rule H1 and the disagreement does not involve an issue of a medical nature.	H3	The Fire and Rescue Authority will use the Internal Dispute Resolution Procedure to resolve disagreements.
34	Pension credit members.	Part IA)	Charges to be made for administration shall be considered on a case-by-case basis.

35	Discretion to commute a small pension due to a pension credit member.	Rule 1A2(1)	If permissible under the Finance Act 2004 and Regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (commutation of pension credit benefit: small pensions) the Fire and Rescue Authority may commute the whole of a small pension credit pension to a lump sum in accordance with the guidance of the Pensions Administrator.
Part K: Revision and withdrawal of awards			
36	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.	K1(1) and (2)	The Fire and Rescue Authority will undertake regular ill health pension reviews as determined by the IQMP on individuals who are under age 60 and have been in receipt of an ill-health pension for less than 10 years on a case-by-case basis.
37	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	K1(3)	The Fire and Rescue Authority will undertake regular reviews, at intervals based on IQMP advice, of individuals who are receiving deferred pensions paid early on permanent disablement.
38	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.	K1A(2)	The Fire and Rescue Authority will consider offering employment to a person whose ill-health pension has been reviewed and who is found to be capable of performing duties appropriate to their former role. Each case will be considered on a case-by-case basis.

39	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.	K3(1)	Where an individual has contributed to an infirmity by their default, it is likely that the Fire and Rescue Authority will reduce their pension to not less than half the amount due. However, each case will be considered on an individual basis.
40	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.	K4	Where a firefighter has retired and been re- employed as a regular firefighter, consideration of whether to withdraw pension will be given in accordance with the Fire and Rescue Authority's Re-Employment Following Retirement Service Order
41	Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.	K5(1)	Where an individual is convicted for treason or for a serious offence under the Official Secrets Act, it is likely that the Fire and Rescue Authority will withdraw their pension. However, each case will be considered on an individual basis.
42	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 dependent of the pensioner.	K5(5)	The Fire and Rescue Authority may restore a pension withdrawn under Rule K5 (1) or apply it for the benefit of any dependent of the pensioner. Each case will be considered on an individual basis
Part L: Payments of awards and financial provisions			
43	Determination of intervals at which instalments of pension shall be paid.	L3(1)	Pensions will be paid to individuals on a monthly basis.

44	Discretion to delay payment of an award to the extent necessary for determining any question as to the fire and rescue authority's liability.	L3(1)	The Fire and Rescue Authority will delay the payment of an award until they are satisfied as to the eligibility of an award. Each case will be considered on an individual basis.
45	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.	L3(7) and (8)	The Fire and Rescue Authority will consider earlier payment of survivor benefits and/or a smaller amount in regular instalments where this would be of advantage to the person entitled. Each case will be considered on an individual basis.
46	Repayment of aggregate pension contributions.	L3(9)	Instalment plans can be arranged on an individual basis.
47	Payment of awards - minors	L5(1)	The Fire and Rescue Authority shall consider this on a case-by-case basis
48	Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.	L5(2)	The Fire and Rescue Authority shall consider this on a case-by-case basis
49	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.	L5(3)	The Fire and Rescue Authority shall consider any awards less than £5,000 on a case-by-case basis

50	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	L5(6) to (9)	The Fire & Rescue Authority will withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the Fire & Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment on a case-by-case basis.
51	Discretion to deduct from an award any outstanding balance of payments in respect of previous service.		Where a member has elected to pay additional sums in respect of previous pension service and retires before completing the payments, then the balance of the outstanding payments will be recovered in order that the pension received is based on the payments being completed.
52	Discretion to extend 28-day time limit in which a person must lodge any medical appeal, to a period not exceeding 6 months from the date of issue of the documents referred to in Rule H2(4) to that person, provided the Fire and Rescue Authority are of the opinion that the person's failure to lodge the appeal within 28 days was not due to his/her own default.	Schedule 9 part 1 paragraph 1(2)	The Fire & Rescue Authority will extend the time limit up to six months on a case-by-case basis.
53	Discretion to decide the fire and rescue authority's representation at Medical Appeal Board interview.	Schedule 9, Part 1, para 4(5)	It is likely that the Fire & Rescue Authority representation at a Medical Appeal Board will be the Service Manager- Workforce Advisory Services (or substitute) and any other individual they consider appropriate.
54	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	The Fire and Rescue Authority will submit written evidence or a written statement dependent on the requirements of the case, to a Medical Appeal Board in accordance with the regulations

55	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)	Where a Medical Appeal Board decides that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Fire and Rescue Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations. Each case will be considered on an individual basis.
56	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)	Where an appellant withdraws their appeal within 21 working days before the date appointed for interview or medical examination, the Fire and Rescue Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.
57	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.	LA4	The scheme manager has resolved this discretion is delegated to the Director of Finance or nominated manager.