

**WARWICKSHIRE FIRE & RESCUE SERVICE**

**FIREFIGHTERS PENSION SCHEME (ENGLAND) ORDER 2006**

**SCHEME MANAGER DISCRETIONS STATEMENT**

No	Discretion	Regulation	Scheme Manager Discretion
<b>Personal awards</b>			
1	Pension on member-initiated early retirement.	Rule 5	The Fire and Rescue Authority may refuse a firefighter's request for early payment of a deferred pension where this is likely to be less than the GMP at State pensionable age. However this shall be considered on case-by-case basis subject to financial, legal, economical and organisational restrictions.
2	Authority-initiated early retirement.	Rule 6	Where the retirement of a firefighter aged 55 or over is in the interests of the management of the Service, the Fire & Rescue Authority may process an early retirement for the individual.  However this shall be considered on a case by case basis subject to financial, legal, economical and organisational restrictions.
3	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.	Rule 7B	A list of pensionable payments is available from Payroll. Any changes would need to be agreed by the scheme manager.
4	Discretion to commute a small pension to a trivial commutation lump sum.	Rule 10	Where appropriate the Fire & Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.
5	Discretion to permit a firefighter to allocate a portion of pension for a dependant other than a spouse, civil partner, or nominated partner.	Rule 11, paragraph s 2(b) and 3)	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.

6	Requirement for, and acceptance of, an opinion as to normal life expectancy for allocation purposes.	Rule 11, paragraph 6(a)	Where a Firefighter elects to give up part of their pension (as per Part 3, Rule 11, Paragraphs 2(b) and 3), the Fire and Rescue Authority may require them to undertake a medical examination to ensure they are in good health before permitting them to do so. Each case will be considered on an individual basis.
<b>Survivors' pensions</b>			
7	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	Rule 1, Paragraph 3	The Fire and Rescue Authority will permanently withhold the survivor's pension where the deceased's spouse, civil partner, or nominated partner is convicted of manslaughter of the deceased.
8	Discretion, subject to request of surviving spouse, civil partner or nominated partner of a firefighter member, to commute their pension to a trivial commutation lump sum.	Rule 5	Where appropriate the Fire & Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.
9	Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.	Rule 7, paragraph 5	The Fire and Rescue Authority will permanently withhold the child's pension where the deceased's child is convicted of manslaughter of the deceased.
10	Discretion, subject to consent of child's remaining parent, guardian or the child (if not a minor) to commute a child's pension to a trivial commutation lump sum.	Rule 12	Where appropriate the Fire & Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.
<b>Awards on death</b>			
11	Discretion as to recipient of death grant and post-retirement death grant	Rules 1 and 2	This shall be decided on a case by case basis.
12	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	Rule 1, paragraph 12	The Fire and Rescue Authority may re-instate all, or part of, any death grant not paid in full to a person whose conviction for murder or manslaughter of the deceased has been quashed. Each case will be considered on an individual basis.
<b>Pension sharing on divorce</b>			

13	Discretion, with the agreement of the pension credit member, to commute the whole of a pension credit pension to a trivial commutation lump sum	Rule 2	In the circumstances of divorce, the Fire & Rescue Authority may allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.
14	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.	Rule 5, paragraph 2	This shall be decided on a case by case basis
<b>Determination of questions and appeals</b>			
15	Discretion to extend time limit for an appeal against the Fire and Rescue Authority's decision based on medical advice	Rule 4, paragraph 4	Where an appeal is not made within the specified time limit and the Fire & Rescue Authority believes it is not due to the person's own default, the Fire & Rescue Authority will extend the time limit for appeal by a maximum of one month from the date of the original appeal deadline.
16	Requirement to deal with a person's disagreement by Internal Dispute Resolution Procedure arrangements set up by a Fire and Rescue Authority in accordance with the requirements of section 50 of the Pensions Act 1995, where the disagreement is in respect of an Authority's determination under Part 8, Rule 2 and the disagreement does not involve an issue of a medical nature.	Rule 5	The Fire & Rescue Authority will deal with appeals using the Internal Disputes Resolution Procedure.
17	Requirement to decide, at such intervals as a 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 of undertaking regular employment.	Rule 1, paragraph 1	The Fire & Rescue Authority will undertake regular ill health pension reviews on individuals who are under state pension age and have been in receipt of an ill-health pension for less than 10 years and they become capable of carrying out any duty appropriate to the role from which they retired on health grounds and, in the case of a higher tier ill-health pension, that person has become capable of carrying out any regular employment.

18	Requirement to decide, at such intervals as a Fire and Rescue Authority think proper, whether a person under normal benefit age (65) who is in receipt of a deferred pension paid early on permanent disablement, has become capable of carrying out any duty appropriate to their former role, and of undertaking regular employment	Rule 1, paragraph 2 and Rule 2	The Fire and Rescue Authority will undertake regular reviews of individuals who are receiving deferred pensions paid early on permanent disablement.
19	Discretion to withdraw the whole or part of a Part 3 (personal awards) pension for any period during which the person entitled to it is again employed as a firefighter, or in any other capacity, by any Fire and Rescue Authority	Rule 3	Where a firefighter has retired and been re-employed as a firefighter, discretion is to be exercised in accordance with the Fire and Rescue Authority's <b>Re-Employment Following Retirement Service Order</b> .
20	Discretion to disallow early payment of a deferred pension under Part 3, Rule 3, paragraph 4 because of firefighter's dismissal from a Fire and Rescue Authority's employment	Rule 4	Early payment of a deferred pension due to permanent disability may not be made where a Firefighter has been dismissed from the Fire and Rescue Authority due to non-medical reasons. Each case will be considered on an individual basis.
21	Discretion to withdraw pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.	Rule 5, paragraphs 1 to 3	Where an individual is convicted for offences covered in Part 9 Rule 5, it is likely that the Fire & Rescue Authority will withdraw all or part of their pension. However, each case will be considered on an individual basis.
22	Discretion, at any time and to such extent as a Fire and Rescue Authority think fit, to restore a pension withdrawn under Part 9, Rule 5, paragraphs 1 to 3, or to apply it for the benefit of any dependant of the pensioner.	Rule 5, paragraph 4	The Fire and Rescue Authority may restore a pension withdrawn under Part 9, Rule 5 or apply it for the benefit of any dependent of the pensioner. Each case will be considered on an individual basis.

23	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).	Rule 6	Each case will be considered on an individual basis.
<b>Qualifying service and pensionable service</b>			
24	Discretion for a Fire and Rescue Authority to pay the employer's pension contributions (otherwise payable by the firefighter) due for a firefighter's unpaid period of absence where the firefighter gives notice that he/she wishes to pay contributions in order that the period may count as pensionable service or special pensionable service	Rule 4, paragraph 3	The Fire and Rescue Authority will normally give 30 days but will consider on case by case basis.
<b>Pensionable pay, pension contributions and purchase of additional service</b>			
25	Discretion to deduct pension contributions from each instalment of pensionable pay as it becomes due (or by any other method of payment that may be agreed between a Fire and Rescue Authority and the member).	Rule 3, paragraph 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.
26	Discretion to extend the time limit in which an election to pay pension contributions in respect of unpaid additional maternity, paternity or adoption leave must be made.	Rule 4, paragraph 3	This discretion no longer applies as the FPS 2006 is closed.

27	Discretion to deduct contributions in respect of unpaid additional maternity, paternity or adoption leave from the death grant payable under Part 5 if a member or connected member dies without giving notice within the election time limit that he/she wishes to pay such contributions.	Rule 4, paragraphs 6 and 7	The Fire and Rescue Authority may treat a period of unpaid leave as pensionable where the member has died without giving notice of their election. Each case will be considered on an individual basis.
28	Discretion to allow a part-time regular firefighter to pay contributions at a part-time rate to purchase additional service.	Rule 5, paragraph 5	The Fire and Rescue Authority may allow a part-time regular firefighter to purchase pro-rated additional service. Each case will be considered on an individual basis.
29	Discretion to allow a retained or volunteer firefighter to purchase additional service by periodical contributions	Rule 5, paragraph 6	Each case will be considered on an individual basis.
30	Purchase of service during the limited period	Rule 5A	Each case will be considered on an individual basis.
31	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, and 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.	Rule 8	The Fire and Rescue Authority will agree to discontinuance of payment of additional contributions for increased benefits where the member is able to provide evidence of financial hardship.  The scheme manager considers that it is unlikely that there will be further cases.

32	The payment of contributions in respect of periods of unpaid service or absence, and discretion to extend the time limit in which the firefighter must pay	Rule 9, paragraph 4(c)	This discretion no longer applies as the FPS 2006 is closed.
<b>Transfers into and out of the scheme</b>			
33	Discretion to charge member for third or subsequent statement of cash equivalent transfer value entitlement requested within any 12 month period	Rule 3, paragraph 6	The Fire and Rescue Authority may charge a member for third or subsequent statements of cash equivalent transfer values requested in any 12 month period. Each case will be considered on an individual basis.
34	Discretion to extend time limit in which a member, other than a special firefighter member, may apply for a transfer value payment from a non-occupational pension scheme.	Rule 9(1)(c)(ii)	Each case will be considered on an individual basis.
35	Discretion to accept a transfer value.	Rule 10, paragraph 1, subject to paragraphs 3 and 4 and Part 10, Rule 2, paragraphs 2 and 3	Where there is discretion to accept a transfer value, advice will be sought from the Fire & Rescue Authority's Pension Administrators regarding the appropriate value.
36	Discretion to extend 12-month time limit for acceptance of a "miss-selling" transfer value payment	Rule 14, paragraph 3	The scheme manager has resolved that it is unlikely that there will be further cases.
37	Discretion to adjust "miss-selling" transfer value to take account of any earlier service credit.	Rule 14, paragraph 6	The scheme manager has resolved that it is unlikely that there will be further cases.

<b>Payment of awards</b>			
38	Discretion to delay payment of an award to the extent necessary for determining any question as to a Fire and Rescue Authority's liability	Rule 3, paragraph 2(a)	The Fire and Rescue Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.
39	Discretion to pay an award at other reasonable intervals if impracticable to pay at the standard monthly periods	Rule 3, paragraph 2(b)	The Fire and Rescue Authority may pay an award at reasonable intervals if it is impracticable to pay at the standard monthly periods.
40	Discretion to recover all or part of an overpayment following a pensioner's death of which a Fire and Rescue Authority were not informed (possibly by making an off-set against any other awards payable under the Firefighters' Pension Scheme 2006 in respect of the deceased).	Rule 3, paragraph 5	The Fire and Rescue Authority will recover any overpayments made following a pensioner's death in line with the 'Managing Public Money' guidance.
41	Repayment of aggregate contributions.	Rule 3, paragraph 6	The scheme manager has resolved that this is in line with pension regulations on pension refunds
42	Discretion as to recipient of any sum payable to a minor and directions as to application for the minor's benefit.	Rule 5, paragraph 1	This will be decided on a case by case basis
43	Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.	Rule 5, paragraph 2	This will be decided on a case by case basis
44	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	Rule 6, paragraph 1	The recipient of awards of less than £5,000 shall be decided on a case by case basis.



45	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 6, paragraphs 4 to 7	Sums due in respect of an award to a firefighter shall be withheld 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.
<b>Miscellaneous provisions</b>			
46	Discretion to require a person who is or may be entitled to a pension or a lump sum under the Firefighters' Pension Scheme 2006 to provide a 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	Rule 3	Where an individual fails to comply with the Fire and Rescue Authority's requirements regarding evidence of entitlement, the Fire and Rescue Authority will withhold the whole or part of any amount that is otherwise payable.
47	Decision as to date of issue of annual benefit statements and relevant date for the pension illustration.	Rule 4	Annual Benefit Statements will be issued in August each year in line with the regulations.
<b>Appeals to board of medical referees</b>			
48	Discretion to extend 28 day time limit, in which a person must lodge a medical appeal, to a period not exceeding 6 months	paragraph 1(2))	Where an appeal is not made within the specified time limit and the Fire and Rescue Authority believe it is not due to the person's own default, the Fire and Rescue Authority will extend the time limit for appeal by a maximum of one month from the date of the original appeal deadline.
49	Discretion to decide the Fire and Rescue Authority's representative at Medical Appeal Board interview	paragraph 6(5)	It is likely that the Fire & Rescue Authority's representation at a Medical Appeal Board will be the Service Manager – Workforce Advisory Services and any other individual they consider appropriate.
50	Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board	paragraph 7(1)	The Fire and Rescue Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

51	Discretion, where Medical Appeal Board determines an appeal in favour of the Fire and Rescue Authority and states that, in its opinion, the appellant'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).	paragraph 10(2)	Where a Medical Appeal Board decides that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Fire & Rescue Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.
52	Discretion 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 amount of fees and allowances payable to the Board by the Authority under Annex 2, paragraph 9(1), in circumstances where the appellant gives notice to the Medical Appeal Board, withdrawing the appeal or requesting cancellation of, postponement of, or adjournment of, the date appointed for the medical examination less than 22 working days before the appointed date, or if the appellant's acts or omissions cause the Board to cancel, postpone or otherwise adjourn less than 22 days before the appointed date	paragraph 10(3)	Where an appellant withdraws their appeal less than 22 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.