

**WARWICKSHIRE FIRE & RESCUE AUTHORITY  
FIREFIGHTER'S PENSION SCHEME 2015  
SCHEME MANAGER DISCRETIONS**

No	Discretion	Regulation	Scheme Manager Discretion
1	The scheme manager must ensure that delegated powers are appropriate and current.	5	The scheme manager will ensure delegated powers are appropriate and current at all times.
2	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	12	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
3	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.	16	An optant-out will cease to be an active member of the scheme with effect from the first day of the first pay period following the date on which the option is exercised
4	The scheme manager has discretion to determine if continual professional development payments are to be treated as pensionable pay	17	Continual Professional Development payments will be treated as pensionable in the 2015 scheme, and therefore will be included in the calculation of pensionable pay
5	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	19	During a period of unpaid authorised absence the Fire and Rescue Authority will determine on a case by case basis if the member is to be treated as active in the scheme during that period, if this is permitted this

	member during that period. (This Regulation links to Regulation 111(4) and subject to the member paying the appropriate contributions.) [Regulation 19(c)]		will be subject to the member paying the appropriate contributions in order to be considered active in the scheme.
6	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)]	28	Pension accounts for scheme members will be kept in accordance with pension's regulations.
7	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 discretion to choose.	37	This discretion shall be exercised as part of standard pension administration practice.
8	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.	49	This discretion shall be exercised as part of standard pension administration practice.
9	An employer can determine that an active member age 55 or over but under age 60 who on the grounds of business efficiency	62	Discretion shall be exercised on a case by case basis subject to financial, legal, economical and organisational restrictions.

	is dismissed or has their employment terminated by mutual consent, can receive immediate payment of retirement 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.		
10	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.	63	This discretion shall be exercised as part of standard pension administration practice and delegates the action to the Pensions Administrator to agree partial retirement dates on a case by case basis in line with regulation 63
11	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.	68	In line with regulation 68, ill- health awards are reviewed as detailed within the Independent Qualified Medical Practitioner (IQMP) ill-health report for the member.
12	If, following the review of a lower tier ill-health pension under Regulation 68, the	69	The Fire and Rescue Authority shall exercise discretion on a case by case basis subject to the individual being capable of undertaking the role.

	<p>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>		
13	<p>If a deferred member requests, and is entitled to, the early payment of retirement pension on grounds of ill-health, the scheme manager must determine the date of payment as being the date on which the person became incapable of undertaking regular employment because of infirmity of mind or body or, if that date cannot be ascertained, the date of the member's request for early payment.</p>	70	<p>This discretion shall be exercised as part of standard pension administration practice and the date of payment shall be decided on a case by case basis in line with regulation 70</p>
14	<p>The scheme manager must give consent for the allocation of a portion of pension to a dependant who is not the spouse, civil partner or cohabiting partner of an active or deferred member. (Consent can be withheld if the scheme manager is not satisfied that the person nominated is not substantially dependent of the active member).</p>	72	<p>Discretion shall be exercised on a case by case basis.</p>
15	<p>If a member who has made an allocation election dies after reaching age 75, and the amount of allocated pension does not qualify as a dependant's scheme pension under section 167 of the Finance Act 2004 (pension death benefit rules), the amount may be adjusted in a manner determined by the scheme manager.</p>	75	<p>Discretion shall be exercised on a case by case basis.</p>
16	<p>A cohabiting partner may be considered a "surviving partner" and potentially qualify</p>	76	<p>Discretion shall be exercised on a case by case basis.</p>

	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.		
17	Person to whom lump sum death benefit payable. .	95	Discretion shall be exercised on a case by case basis.
18	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.	100	Discretion shall be exercised on a case by case basis.
19	A scheme manager has the right to cease paying a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension 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.)	101	Discretion shall be exercised on a case by case basis.
20	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	102	Discretion shall be exercised on a case by case basis. .

	<p>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 manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so).</p>		
21	<p>If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death 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>	104	<p>Discretion shall be exercised on a case by case basis.</p>
22	<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>	110	<p>Applicable contribution rates shall be decided on a case by case basis. All rates will be published via the intranet and any changes to these rates will be brought to the attention of all members. Pay slips will show the individual contribution rate in payment at each pay period.</p>

22	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		Any additional circumstances where a reduction in pensionable pay will be disregarded on a case by case basis in line with Regulation 110.
23	Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions; if they do, the scheme employer may require that they should also pay employer contributions. [Regulation 111(2),(3)and (4)]	111	An employee who elects to pay their member contributions for authorised unpaid absence as a result of sickness, maternity or shared parental leave does not have to pay employer contributions. Employees absent on industrial action or on a career break will normally pay both employer and employee contributions in the event that they wish to count this as pensionable service. Consideration will be given on a case by case basis in exceptional circumstances.
24	Member contributions due under Regulation 110 may be deducted by the scheme employer from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the scheme manager and the member. [Regulation 114(1)] Contributions due in respect of absence from work on reserve forces service leave may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. Contributions which the member is required to pay, or has elected to pay under Regulations 111 and 113 may be	114	Payment of pension contributions under regulations 110,111,113 shall be arranged on an individual case basis.

	paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and the scheme manager.		
25	<p>The scheme manager must specify in a statement of entitlement the "guarantee date" date by reference to which the cash equivalent or club transfer value 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.</p> <p>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>	135	Statement of Entitlement - discretion to extend the "guarantee date" to within 6 months of the member's application shall be exercised on a case by cases basis.
26	<p>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>	141	Discretion shall be exercised on a case by case basis.
27	<p>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 count</p>	142	Discretion shall be exercised on a case by case basis.



	provided that the transfer date falls within two months of the date of the statement.		
28	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.	144	Discretion shall be exercised on a case by case basis.
29	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. *Regulation 146 identifies the requirements to be undertaken when calculating the amount of a transfer value or club transfer value	148	The scheme manager has resolved to follow the Internal Disputes Resolution Procedures.
30	It is the scheme manager that must determine whether a person is entitled to an award or to retain an award.	151	Discretion shall be exercised on a case by case basis.
31	Role of IQMP in determinations by the scheme manager (Regulation 152)	152	An IQMP shall be appointed to provide a written opinion in line with regulation 152

	<p>The scheme manager must select an IQMP to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion.</p>		<p>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 Fire and Rescue Authority can make the determination based on such medical evidence as it thinks fit, or without medical evidence.</p> <p>All medical evidence available shall be considered to make a determination, if a person wilfully or negligently fails to submit to a medical examination by the selected IQMP and the IQMP is unable to provide an opinion, based on the medical evidence available.</p>
32	<p>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>	153	<p>Where a member requests a review of an IQMP's opinion in the light of new evidence received by the Fire and Rescue Authority within 28 days of the member having received the opinion, the Fire and Rescue Authority will agree to giving the IQMP the opportunity of reviewing the opinion. Upon receiving the IQMP's response the Fire and Rescue Authority must confirm or revise its original determination and advise the member accordingly.</p>
33	<p>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</p>	155	<p>This discretion shall be exercised on a case by case basis having reviewed the reasons for the failure to give notice within the required period.</p>

	<p>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>		
34	<p>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 the board member will notify the Secretary of State accordingly. This will be copied to the scheme manager who must, in turn, 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 costs and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal.</p>	156	<p>The scheme manager notes their responsibilities under this regulation.</p>
35	<p>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).</p>	157	<p>The scheme manager notes their responsibilities under this regulation and will determine which persons will attend the interview and the nature of any written evidence or statement on a case by case basis.</p>

36	<p>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.</p> <p>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 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>	161	<p>The scheme manager has resolved to require the member to pay it a sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as deemed appropriate on a case by case basis.</p>
37	<p>If a member disagrees with a scheme manager's determination of award under Regulation 151 and the disagreement</p>	163	<p>The scheme manager has resolved to follow the Internal Disputes Resolution Procedures.</p>

	<p>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>		
38	<p>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>	167	<p>The scheme manager has resolved to pay a pension entitlement which does not exceed the small pensions commutation maximum as a lump sum, subject to the conditions outlined in regulation 167. Each case will be considered on a case by case basis.</p>
39	<p>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</p>	168	<p>The scheme manager has resolved to assert the discretion on a case by case basis.</p>

	<p>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>		
40	<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>	169	<p>The scheme manager has resolved not to apply this discretion generally and requires the production of grant of probate or letters of administration in order to pay monies due.</p>
41	<p>If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager 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 pension that exceeds any guaranteed minimum pension that can be withheld.</p>	171	<p>The scheme manager has resolved that where a member, surviving partner or eligible child is convicted for a Relevant Offence it is likely that the Authority will withdraw their pension to some extent. However, each case will be considered on an individual basis.</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		
42	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.	172	The scheme manager has resolved to assert the discretion on a case by case basis.
43	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	173	The scheme manager has resolved to restore the amount of benefit withheld to such extent and for such duration as determined, where payment of any lump sum is withheld due to a conviction which is subsequently quashed on appeal.

	<p>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>		
44	<p>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.</p> <p>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 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,</p>	174	The scheme manager has resolved to apply this discretion on a case by case basis.



	negligent or fraudulent act or omission. The procedure is set out in Regulation 176.		
45	A scheme manager has a 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.	175	The scheme manager has resolved to apply this discretion on a case by case basis.
46	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.	178	The scheme manager has resolved to apply this discretion.
47	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.	184	The scheme manager has resolved that 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.

	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.		
48	The total amount of accrued added pension must not exceed a certain limit. If it appears to the 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).	Sch 1 Part 1 Para 4	The scheme manager has resolved to assert its discretion to cancel member elections for periodical contributions should they appear to exceed the overall limit of extra pension
49	If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid.	Sch 1 Part 2 Chap1 Para 7	The scheme manager has resolved that if a scheme member wishes to make a periodical payment for added pension the minimum amount which must be paid is £50 per month.
50	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.	Sch 1 Part 2 Para 8	The scheme manager has resolved that if a scheme member wishes to make a periodical payment for added pension the payment must be deducted from pensionable pay, if practicable e.g. if on an authorised absence.
51	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.	Sch 1 Part 2 Para 10	The scheme manager has resolved not to apply this discretion unless payments exceed £200 and on a case by case basis.

52	<p>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>	Sch 2 Part 1 Para3	<p>The scheme manager has resolved to apply this discretion and will determine the taper protection date for FPS 2006 members returning to pensionable service subject to paragraph 9(5) or 21 applying. It may be that this discretion will no longer apply following legislative change</p>
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