

WARWICKSHIRE FIRE & RESCUE SERVICE

FIREFIGHTERS PENSION COMPENSATION SCHEME 2006

SCHEME MANAGER DISCRETIONS STATEMENT

No	Discretion	Regulation	Scheme Manager Discretion
1	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	Where the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which their qualifying injury was sustained, the Fire and Rescue Authority will reduce the amount due by such amount as they consider, having regard to all the circumstances of the case, is appropriate.
2	Discretion to commute small compensatory pension for a lump sum.	Part 2, Rule 4	The option to allow a single lump sum to be provided as an alternative to a small pension will not usually be offered.
3	Discretion whether 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)	An augmented award to a spouse or civil partner will be awarded notwithstanding that the specific eligibility conditions for such an award are not met, if the Fire and Rescue Authority is of the opinion that the deceased member received their injuries in circumstances where it would be inequitable not to make an augmented award.
4	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	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 considers, having taken into consideration all of the circumstances of the case, that the pension should be paid at an increased rate, then the Fire and Rescue Authority will increase the pension to the rate it deems appropriate and for such period as it thinks fit. 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 considers, having taken into consideration all of the circumstances of the case, that a gratuity should be paid then the Fire and

			Rescue Authority will authorise the gratuity be paid, either in whole or in part as they think fit.
5	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	Where the widow(er) or civil partner's new spouse/civil partner dies then the special or augmented award will be reinstated from the day after the date of death. Where the marriage or civil partnership is dissolved then each case shall be decided upon its merits.
6	Decision to continue to pay a child's pension where the fire and rescue authority are satisfied that the child, having attained the age of 17 is no longer permanently disabled or to disregard an interruption in full time education or vocational training after the child has attained age 19.	Part 4, Rule 3, paragraph 4(c) and 5(b)	If the Fire and Rescue Authority receives information that satisfies it that, at attaining age 17, a child is no longer permanently disabled 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. Education or training shall be treated as continuous for the purpose of determining eligibility to receive a child's pension where the Fire and Rescue Authority was advised, at the time the interruption began, that the child intended to return to education or training following the break. In cases where there is uncertainty about whether or not the child intended to return to education or training following the break, each case shall be decided upon its merits.
7	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	Each case will be considered upon its merits. An adult dependent relative's special pension will be awarded only where the Fire and Rescue Authority concludes that there are strong and compelling reasons for making the award. The special pension will remain payable for so long as the Fire and Rescue Authority considers appropriate.
8	Discretion to award a dependent relative's gratuity	Part 5, Rule 2, paragraph 3	Each case will be considered upon its merits. A dependent relative's gratuity will be awarded only where the Fire and Rescue Authority concludes there are strong and compelling reasons for making the award.
9	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	The option to allow a single lump sum to be provided as an alternative to a small pension will not usually be offered.

10	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	The option to allow a single lump sum to be provided as an alternative to a small pension will not usually be offered.
11	Discretion to select independent qualified medical practitioner for providing a medical opinion.	Part 6, Rule 1	The Fire and Rescue Authority will 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
12	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 paragraph 4	Where 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 will make the determination based on such medical evidence as the scheme manager thinks fit, or without medical evidence.
13	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	Where a serviceman becomes incapacitated as a result of a qualifying injury or an injury received during his period of service with the armed forces then an increased award will be agreed only where the Fire and Rescue Authority believes there are strong and compelling reasons to justify it.
14	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	Where a serviceman dies as a result of an injury received during his period of service with the armed forces then an increase in the level of award to that of a flat rate award, will only be agreed where the Fire and Rescue Authority believes there are strong and compelling reasons to justify it.
15	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	Where a reservist becomes incapacitated as a result of a qualifying injury or an injury received during his period of service with the armed forces then an increased award will be agreed only where the Fire and Rescue Authority believes there are strong and compelling reasons to justify it.
16	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	Part 7A, Rule 3	Where a reservist dies as a result of an injury received during his period of service with the armed forces or a qualifying injury, then an increase in the level of award , will only be agreed where the Fire and Rescue Authority believes there are strong and compelling reasons to justify it.

17	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	Each case will be considered upon its merits. A pension or gratuity will only be payable where the Fire and Rescue Authority believes there are strong and compelling reasons to justify it.
18	Discretion to decide intervals at which a person's degree of disablement should be reviewed.	Part 9, Rule 1, paragraph 1	The Fire and Rescue authority will carry out a triennial review as to whether a person's degree of disablement has substantially altered. The pension will be reassessed if and where the degree of disablement has substantially altered. The injury pension will cease with immediate effect in cases where it is concluded that the disability has ceased.
19	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	The Fire and Rescue Authority will only resolve to cease the triennial review of degree of disablement where medical advice is that it is very unlikely that the degree of disablement will change substantially in the future.
20	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	Each case will be considered upon its merits. An injury award will be reduced excepting where the Fire and Rescue Authority believes there are strong and compelling reasons for not reducing the award. The Fire and Rescue Authority will decide the amount of the reduction on a case by case basis and taking into account the specific circumstances.
21	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	Discretion is to be exercised in accordance with the Fire and Rescue Authority's Re-Employment Following Retirement Service Order
22	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	Where a member, surviving partner or eligible child is convicted of a Relevant Offence, the Fire and Rescue Authority will 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 the Fire and Rescue Authority considers appropriate.
23	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	Part 9, Rule 4, paragraph 4	Where a pension has been withheld following a conviction for a Relevant Offence the Fire and Rescue Authority may, to such extent and for such duration as the scheme manager thinks fit, apply the pension for the benefit of any dependent of the member or restore it to the member.

	benefit of any dependent of the pensioner		
24	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).	Part 9, Rule 5.	A person who has been convicted of an offence under section 34(6) of the Fire and Rescue Services Act 2004 will forfeit the whole or part (as appropriate) of an award or sum unless the Fire and Rescue Authority concludes there are exceptional circumstances that justify not applying the forfeit.
25	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	Where an award is in respect of a qualifying injury and where person was employed by more than one fire and rescue authority and the injury relates to more than one employment then responsibility for payment of the award and the proportions attributable between the authorities involved will be agreed between them.
26	Discretion in respect of the determination of intervals at which instalments of injury pension should be paid.	Part 10, Rule 2, paragraph 1	Pensions and allowances will usually be paid monthly in advance. Payment will be made on the last banking day before the beginning of the month in question.
27	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	Where any question regarding the Fire and Rescue Authority's liability to make a payment remains unresolved, then payment of the award will be delayed until the question is resolved.
28	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	The option to pay a gratuity in instalments, rather than as a single lump sum, will be decided on a case by case basis and taking into account the specific circumstances.

29	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)	Where an appeal is not made within 14 days of the date upon which the member receives the medical opinion and the Fire and Rescue Authority 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 Fire and Rescue Authority will extend the time limit for such period as the scheme manager considers appropriate, not exceeding six months from the date of issue of the medical opinion to that person
30	Discretion to decide fire and rescue authority's representation at Medical Appeal Board interview	Schedule 5, paragraph 5(5)	It is likely that the Fire and 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.
31	Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.	Schedule 5, paragraph 6(1)	The Fire and Rescue Authority will decide on a case by case basis whether or not to submit written evidence or a written statement, and will decide a response to any written evidence or written statement from the appellant.
32	Discretion, where Medical Appeal Board decide that a person's appeal was "frivolous, vexatious or manifestly illfounded" 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	Where the 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 to the Fire and Rescue Authority such sum, not exceeding the fees and allowances payable to the specialist member of the board, as the scheme manager considers appropriate
33	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)	Where the appellant withdraws a medical appeal within 21 working days before the date appointed for interview or medical examination, the Fire and Rescue Authority will require the member to pay the authority such sum, not exceeding the total amount of the fees and allowances payable to the board, as the Fire and Rescue Authority considers appropriate.