

Report to	<b>Fire and Rescue Authority</b>	
Date	<b>9 November 2020</b>	
Lead Officer	<b>Helen MacArthur, Assistant Chief Officer (Finance and Resources)</b>	
Contact Officer	<b>Julie Brown, Pensions Manager</b>	
Subject	<b>Firefighters Pension Schemes Discretionary Policy Statement</b>	

## PURPOSE OF REPORT

- 1 To inform Members of the requirement for the Scheme Manager (the Authority) to produce a Firefighters Pension Discretionary Policy Statement.
- 2 To seek approval of the resolutions within the Firefighters Pension Scheme Discretionary Policy Statement and to seek approval that, on behalf of the scheme manager, decisions will be delegated on a day-to-day basis to the Chief Fire Officer and Treasurer.

## EXECUTIVE SUMMARY

- 3 The Firefighters' Pension Scheme Regulations provide the Authority with the responsibility to make decisions on certain discretionary elements of the scheme. The Authority is required to formulate and publish a discretionary policy which sets out how the Authority will discharge this responsibility.

## RECOMMENDATIONS

- 4 Members are requested to approve the resolutions within the Firefighters Pension Scheme Discretionary Policy Statement including, where appropriate, the delegation to the Chief Fire Officer and Treasurer.

## OBSERVATIONS FROM THE LOCAL PENSION BOARD

- 5 This report was considered by the Local Pension Board on 27 May 2020 and no issues of note were highlighted.

## BACKGROUND

- 6 There are currently four pension schemes in place for firefighters, the 1992 scheme (FPS), the 2007 scheme (NFPS), the 2007 RDS modified pension scheme (MPS) and the 2015 scheme. This policy sets out some of the discretions applicable to the schemes and seeks approval of the Authority to an approach to dealing with these discretions.

## INFORMATION

- 7 The firefighters' pension scheme regulations require every scheme manager to
- (i) issue a written policy statement on how it will exercise the various discretions provided by the pension schemes;
  - (ii) keep it under review; and
  - (iii) revise it as necessary.
- 8 A summary of the discretionary elements within each scheme and the recommended approach is set out in the draft discretionary policy attached at appendix A.

## IMPLICATIONS

Wellbeing Objectives	The Discretionary Policy provides clarity for decision making on certain pension issues contributing to securing the Authority's financial sustainability.
Budget	Certain decisions can impact the budget in terms of increased employer superannuation payments and the impact on future actuarial valuations.
Legal	The regulations governing the administration of the Firefighters' Pension Schemes provide for a number of discretionary powers on the part of the Fire Authority.
Staffing	Potential impact on staffing levels if certain discretions impact a member's retirement decision making process. Potential impact on the acceptance of temporary promotions offered.
Equalities/Human Rights/ Welsh Language	None
Risks	Non-compliance with legislation

## Firefighters' Pension Scheme Discretionary Policy

Document type: Policy

Version number: 3

Date next review due: 15 June 2022

The following discretions are subject to change, either in line with any change in regulations or by due consideration by North Wales Fire and Rescue Authority (NWFRA). These provisions do not confer any contractual rights.

### FPS (92), NFPS (2007) and NFPS 2015 Scheme Discretions and Regulations

<b><u>PART 1 – NFPS 2015 SCHEME</u></b>		
<b>Regulation</b>	<b>Explanation</b>	<b>Recommendation</b>
<b>NFPS 2015 Scheme Delegation (Regulation 14 (2))</b>	The scheme manager must ensure that delegated powers are appropriate and current.	Under the Scheme of Delegation the Chief Fire Officer has discretion from the Authority to exercise all matters of day-to-day administration and operational management of the service and functions.
<b>Opting in (Regulation 21)</b>	<b>Opting into this scheme (Regulation 21).</b> 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. [Regulation 21 (5)]	The opting-in date will take effect from the beginning of the first pay period following the date on which the option is exercised. (For information – the pay period is 2 weeks in advance and 2 weeks in arrears of the monthly pay date).

Regulation	Explanation	Recommendation
<p><b>Opting out after the first three months (Regulation 25)</b></p>	<p>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. [Regulation 25(2)(b)]</p>	<p>The opting-out date will take effect from the beginning of the first pay period following the date on which the option is exercised, on the basis that the opt-out form is received within monthly payroll processing deadlines.</p>
<p><b>Pensionable pay (Regulation 26). The scheme manager has discretion to determine if continual professional development (CPD) payments are to be treated as pensionable pay. (Regulation 26 (1)(d)).</b></p>	<p>Under the FPS1992 and 2007 schemes, CPD payments are treated as pensionable and included in benefit awards as Additional Pension Benefits (APB).</p>	<p>In the interest of fairness and consistency CPD payments will continue to be pensionable under APB arrangements.</p>

Regulation	Explanation	Recommendation
<p><b>Contributions during absence from work due to illness, injury, trade dispute or authorised absence (Regulation 120). Applies to all schemes.</b></p>	<p>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 manager may require that they should also pay the employer contributions. (Regulation 120(2), (3) and (4).</p>	<p><b>Illness and injury (Regulation 120(2))</b> – NW FRA agree to delegate the authority to the Chief Fire Officer, in consultation with the Treasurer, to consider each case on an individual basis to determine whether the individual or the employer pay the employer contributions.</p> <p><b>Trade dispute (Regulation 120(3))</b> - Members will be required to pay the employer's contributions in accordance with regulation 126(3) in all cases of active member pension buy-back involving trade dispute(s) (unless exceptionally agreed differently by the Chief Fire Officer).</p> <p><b>Authorised unpaid absence (Regulation 120(4))</b> - NW FRA agree to delegate the authority to the Chief Fire Officer, in consultation with the Treasurer, to consider each case on an individual basis to determine whether the individual or the employer pay the employer contributions.</p> <p>For all cases where regulations 120 paragraphs 2, 3 or 4 apply, contributions must be paid within 6 months of NW FRA requesting the money and at the rate of pay applicable to the period of time. NW FRA will normally make the request for the monies within 6 months of the absence/dispute ending.</p>
<p><b>Establishment of pension accounts: general (Regulation 37)</b></p>	<p>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 37(2)]</p>	<p>The Authority will maintain pension accounts for scheme members in the most appropriate form considered by the Authority.</p>

Regulation	Explanation	Recommendation
<p><b>Closure and re-establishment of active member's account (Regulation 46)</b></p>	<p>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. [Regulation 46(3), (4) and (5)].</p>	<p>Where a member fails to choose an account to use to aggregate benefits, the Authority will choose the account considered most appropriate by the Authority. This is likely to be the most cost effective account to the Authority but each case will be considered on its merits and full details of the circumstances will be required.</p>
<p><b>Closure of deferred member's account after gap in pensionable service not exceeding five years. (Regulation 58)</b></p>	<p>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. [Regulation 58(3) and (4)]</p>	<p>Where a member has more than one deferred account and fails to choose which account to close, the Authority will choose the account considered the most appropriate by the Authority. This is likely to be the most cost effective account to the Authority but each case will be considered on its merits.</p>
<p><b>Employer initiated retirement (Regulation 71)</b></p>	<p>An employer can determine that an active member age 55 or over but under age 60 who on the grounds of business efficiency 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. [Regulation 71(1) and (2)]</p>	<p>The Authority will not normally grant early payment of benefits for business efficiency purposes or waive any actuarial reduction, except in exceptional circumstances, after considering the business case; agreement must be given by the Chief Fire Officer, in consultation with the Treasurer.</p>

Regulation	Explanation	Recommendation
<b>Exercise of partial retirement option (Regulation 72) (i.e. flexible retirement)</b>	An active 2015 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 (2015) 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. [Regulation 72(5)]	Where a member aged at least 55 opts to claim the whole of their accrued (2015) pension but continue in pensionable service, the Authority will agree a date most suitable for the Authority, taking into account operational requirements.
<b>Ill-Health Benefits - Review of ill-health award or early payment of retirement pension (Regulation 77)</b>	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. [Regulation 77(1) and (2)]	Every 5 years the Authority will undertake ill health pension reviews on individuals who are under the deferred pension age and have been receiving the award for less than 10 years, and will review the early payment of deferred pensions on ill-health grounds for so long as the recipient is below deferred pension age.  Injury awards will be reviewed in line with the recommendation made by IQMP in their certificate.
<b>Consequences of review (Regulation 78)</b>	If, following the review of a lower tier ill-health pension under Regulation 77, the 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. [Regulation 78(3)]	Where a member is receiving a lower tier ill-health pension and becomes capable of performing the duties appropriate to the role from which they retired, the Authority will consider making an offer of re-employment based on the individual circumstances.

Regulation	Explanation	Recommendation
<b>Commencement of pensions (Regulation 79)</b>	<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. [Regulation 79(7)]</p> <p>If a deferred member requests deferral of payment of a deferred pension beyond deferred pension age, or requests early payment with an early payment reduction before deferred pension age, the scheme manager will decide the payment date after the claim for payment has been made. [Regulation 79(8)]</p>	<p>A request for early payment of deferred benefits will only be considered in exceptional circumstances where there are grounds to justify this. Where it is considered that a deferred member is entitled to early payment of a deferred pension, or early payment of pension, the Authority will decide the payment date after the claim for payment has been made on an individual basis. Each case will be considered on its merits and full details of the circumstances will be required.</p>
<b>Allocation election (Regulation 81)</b>	<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 on the active member). [Reg.81(3)(b) and (4)]</p>	<p>Before giving consent to the allocation, it must be demonstrated to the satisfaction of the Authority that the nominee is a person substantially dependent on the member. The Authority will consider financial evidence over a period of two years. Each case will be considered on its merits and full details of the circumstances will be required.</p>
<b>Adjustment of allocated benefit (Regulation 84)</b>	<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. [Regulation 84(1) and (2)]</p>	<p>Where an allocated pension does not qualify as a dependant's scheme pension, the Authority will adjust the amount accordingly.</p>

Regulation	Explanation	Recommendation
<b>Meaning of "surviving partner" (Regulation 85)</b>	A cohabiting partner may be considered a "surviving partner" and potentially qualify 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. [Regulation 85(1)(b)(v) and (2)]	Where a Surviving Partner has been a in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.
<b>Person to whom lump sum death benefit payable (Regulation 104)</b>	The scheme manager has absolute discretion as to the recipient of any lump sum death benefit payable. [Regulation 104]	The Authority will use their discretion on who receives any lump sum death benefit where the matter does not appear straightforward.
<b>Payment of pensions under Part 6 "Death Benefits" (Regulation 109)</b>	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. [Regulation 109(2)]	When paying Death Benefits to an eligible child under age 18, the Authority will make considerations on a case by case basis as to whom it should be paid and how the payment should be applied.
<b>Surviving partner's pensions and eligible child's pensions: suspension and recovery (Regulation 110)</b>	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). [Regulation 110(2) and (3)]	The Authority will cease payment of a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension where it appears a false declaration had been made or where a material fact has been deliberately suppressed.

Regulation	Explanation	Recommendation
<p><b>Provisional awards of eligible child's pensions: later adjustments (Regulation 111)</b></p>	<p>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 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.) [Regulation 111(2) and (3)]</p>	<p>Where a child is eligible/ineligible to a child's pension, the Authority will adjust the pensions accordingly. Each case will be considered on its merits and full details of the circumstances will be required.</p>
<p><b>Adjustment of benefits to comply with Finance Act 2004 where members die over 75 (Regulation 113)</b></p>	<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. [Regulation 113(1)(a) and (2)]</p>	<p>The Authority may adjust benefits payable to individuals who do not qualify as a dependant's scheme pension under the Finance Act 2004. Each case will be considered on its merits and full details of the circumstances will be required.</p>
<p><b>Member contributions (Regulation 119)</b></p>	<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. [Regulation 119(5)]</p>	<p>The Authority will assess contributions when there is a change to pensionable pay and revise contribution rates accordingly. Members will receive written communication of the change at the time of the change. When identifying the appropriate contribution rate, a reduction in pay in certain circumstances as listed in Regulation 120 are to be disregarded.</p>

Regulation	Explanation	Recommendation
<p><b>Deduction and payment of contributions (Regulation 123)</b></p>	<p>Member contributions due under Regulation 119 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 123(1)]</p> <p>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. [Regulations 123(2)]</p> <p>Contributions which the member is required to pay, or has elected to pay under Regulations 111 and 113 may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and the scheme manager. [Regulation 123(3)]</p>	<p>The Authority will ensure that member contributions due under Regulation 119 may be deducted from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the Authority and the member. The Authority will ensure that member contributions due in respect of absence from work on reserve service leave may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. The Authority will ensure that member contributions which the member is required to pay, or has elected to pay under Regulations 120 and 121 may be paid by a lump sum or by deduction from instalments of pensionable pay as agreed between the member and the Authority, and agreed on a case by case basis.</p>
<p><b>Statement of entitlement (Regulation 144)</b></p>	<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. 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. [Regulation 144(4)]</p>	<p>The Authority will only extend the date of calculation of transfer value where the information needed to calculate the transfer value cannot be obtained before the end of the three month period, or where there are circumstances beyond their control. The date of extension will not be extended beyond six months of the member's application.</p>

Regulation	Explanation	Recommendation
<p><b>Request for acceptance of a transfer payment (Regulation 150). This applies to all schemes.</b></p>	<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. [Regulation 150(3)]</p>	<p>It is not the policy of the Authority to consider extending the time limit for a transfer in of previous pension rights to proceed after twelve months of joining unless:</p> <p>(i) the scheme member has requested that investigations commence within the twelve month time limit, or</p> <p>(ii) if there is reason to believe that the individual would not have known of the need to request an investigation into potential transfer in or previous pension rights within the twelve month time limit, and the HR and/or pension files support this. Only in exceptional circumstances will a longer period be allowed so long as there is no known reason or prospect of the employee having access to their pension rights within the next 12 months.</p> <p>This also applies to occupational pension scheme transfer requests.</p>
<p><b>Transfer statement (Regulation 151)</b></p>	<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 provided that the transfer date falls within two months of the date of the statement. [Regulation 151 (2)]</p>	<p>Apply this discretion; each case will be considered on an individual basis.</p>

Regulation	Explanation	Recommendation
<b>Club transfer value statement (Regulation 153)</b>	<p>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. [Regulation 153(2)]</p>	<p>Apply this discretion; each case will be considered on an individual basis.</p>
<b>Appeals and determinations Appeal concerning entries on the certificate (Regulation 157)</b>	<p>If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 156, 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 157(1)]</p>	<p>If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 156, the member can follow the Internal Dispute Resolution Procedure (IDRP) to seek resolution.</p>

Regulation	Explanation	Recommendation
<p><b>Expenses of each party (Regulation 161)</b></p>	<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 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. [Regulation 161(2)]</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 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. [Regulation 161(3)(a)]</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 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. [Regulation 161(3)(b)]</p>	<p>In each of the circumstances above, the Authority will require the appellant to pay the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 170(1).</p>

Regulation	Explanation	Recommendation
<p><b>Role of IQMP in determinations by the scheme manager (Regulation 162)</b></p>	<p>The scheme manager must select an Independent Qualified Medical Practitioner (IQMP) to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion. [Regulation 162(1)]</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 scheme manager can make the determination based on such medical evidence as the scheme manager thinks fit, or without medical evidence. [Regulation 162(7)]</p>	<p>Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make determination based on such medical evidence as they deem fit, or without medical evidence.</p>
<p><b>Review of medical opinion (Regulation 163)</b></p>	<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. [Regulation 163(1). Upon receiving the IQMP's response the scheme manager must confirm or revise its original determination and advise the member accordingly. [Regulation 163(4) and (5)]</p>	<p>Where the Authority receives new evidence from a member within 28 days of the opinion; the Authority will request the IQMP to review the opinion. Upon receiving the IQMP's advice, the Authority will confirm or revise its original determination and advise the member accordingly.</p>

Regulation	Explanation	Recommendation
<b>Notice of appeal (Regulation 165)</b>	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 164(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 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 164(4) documents were supplied. [Regulation 165(2)]	Where an appeal is not made within the specified time limit and the Authority believes it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of one month from the date of the original appeal deadline.
<b>Reference of appeal to the board (Regulation 166)</b>	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 166. 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. [Regulation 166(8) to (12)]	Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they deem fit subject to capping as per the regulations.

<b>Regulation</b>	<b>Explanation</b>	<b>Recommendation</b>
<b>Procedure where appeal to be pursued (Regulation 167)</b>	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). [Regulation 167(6) to (9)]	The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.
<b>Appeals on other issues (Regulation 173)</b>	If a member disagrees with a scheme manager's determination of award under Regulation 161 and the disagreement 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. [Regulation 173]	Where a member disagrees with the Authority's determination of award under Regulation 161 and the disagreement does not involve an issue of a medical nature, the member can follow the Internal Dispute Resolution Procedure (IDRP) to seek a resolution.
<b>Payment of pensions Commutation of small pensions (Regulation 177)</b>	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. [Regulation 177(3)]	Where appropriate the 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.

Regulation	Explanation	Recommendation
<p><b>Payments for persons incapable of managing their affairs (Regulation 178)</b></p>	<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 manager may apply them in such manner as it may determine for the benefit of the person entitled, or any beneficiaries of that person. [Regulation 178]</p>	<p>The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.</p>
<p><b>Payments due in respect of deceased persons (Regulation 179)</b></p>	<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. [Regulation 179]</p>	<p>When paying personal representatives death benefits, the Authority will consider each case on an individual basis.</p>

Regulation	Explanation	Recommendation
<p><b>Forfeiture: offences committed by members, surviving partners or eligible children (Regulation 181)</b></p> <p><b>Forfeiture of pensions: offences committed by other persons (Regulation 182)</b></p> <p><b>Forfeiture of lump sum death benefit: offences committed by other persons (Regulation 183)</b></p> <p><b>Forfeiture: relevant monetary obligations and relevant monetary losses (Regulation 184)</b></p>	<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.</p> <p>"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. [Regulation 181 (1), (2), (3) and (5).]</p> <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. [Regulation 181(4)]</p> <p>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. [Regulation 182(1) to (5)]</p>	<p>When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required.</p>

Regulation	Explanation	Recommendation
	<p>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 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. [Regulation 183]</p> <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. 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, negligent or fraudulent act or omission. The procedure is set out in Regulation 186. [Regulation 184]</p>	

Regulation	Explanation	Recommendation
<b>Set-off (Regulation 185)</b>	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 184 (Forfeiture). The procedure is set out in Regulation 186. [Regulation 185]	Where the Authority proposes to withhold benefits, the procedure set out in Regulation 186 will be followed. The Authority will consider each case on an individual basis.
<b>Payment on behalf of members of lifetime allowance charge (Regulation 188)</b>	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 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. [Regulation 188]	A decision will be made on a case by case basis by the Chief Fire Officer, in consultation with the Treasurer.
<b>Added pension Amount of accrued added pension may not exceed overall limit of extra pension (Schedule 1 Part 1, Paragraph 4)</b>	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). [Schedule 1 Part 1, Paragraph 4]	Where it appears that a member who has elected to make periodical contributions will exceed the limit, it is likely that the Authority will cancel the election. Each case will be considered on an individual basis.
<b>Member's election to make periodical contributions for added pension (Schedule 1 Part 1, Paragraph 7)</b>	If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid. [Schedule 1 Part 1, Paragraph 7(3)]	Where a Scheme Member wishes to make periodical payments for added pension, before the method of payment is agreed, the Authority will liaise with the pension administrators to set the minimum amount which must be paid.

Regulation	Explanation	Recommendation
<p><b>Periodical payments (Schedule 1 Part 2, Paragraph 8)</b></p>	<p>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. [Schedule 1 Part 2, Paragraph 8 (3)]</p>	<p>The scheme manager will not allow a member to make periodical payments for added pension except by deduction from pensionable pay.</p>
<p><b>Periodical payments during periods of assumed pensionable pay (Schedule 1 Part 2, Paragraph 10)</b></p>	<p>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. [Schedule 1 Part 2, Paragraph 10(4)]</p>	<p>The Authority will not extend the period of six months for payments during periods of assumed pensionable pay unless in exceptional circumstances.</p>
<p><b>Tapered Protection Meaning of "tapered protection closing date" (Schedule 2 Part 1, Paragraph 3)</b></p>	<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 2007 to whom paragraph 9(5) or 21 applies (members returning to pensionable service) is determined by the scheme manager. [Schedule 2 Part 1, Paragraph 3(3); Schedule 2 Part 2, Paragraph 9(5); and Schedule 2 Part 3, Paragraph 21]</p>	<p>Scheme Members were notified of their tapered protection dates at the time the 2015 scheme was introduced.</p>

**Part 2 applies to all firefighters who are members of 'The Firefighters' Pension Scheme (Wales) Regulations 2007**

Regulation	Explanation	Recommendation
<p><b>Rule 1(6) to (9) - Discretion to accept the status of "nominated partner" where the scheme member and partner had been in a relationship for less than 2 years.</b></p>	<p>Subject to the other requirements of nomination as set out in Part 2, Rule 1 of the Firefighters' Pension Scheme (Wales) Order 2007 having been met, the Fire and Rescue Authority have discretion to accept a scheme member's nomination of a partner before their relationship has continued for a period of two years.</p>	<p>Before giving consent to the allocation, it must be demonstrated to the satisfaction of the Authority that the nominee is a person substantially dependent on the member. Each case will be considered on an individual basis and full details of the circumstances will be required.</p>
<p><b>Pension on member-initiated early retirement. (Rule 5)</b></p>	<p>If a firefighter member, other than a special firefighter member, satisfies an eligibility condition, is awarded a deferred pension, and at age 55 or over but before normal benefit age (65) requests early payment by giving written notice to the Fire and Rescue Authority, the Authority have discretion to refuse the request if the pension as reduced by the appropriate amount of actuarial reduction is likely to be less than the guaranteed minimum pension that would be payable from State pensionable age.</p>	<p>The 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. Each case will be considered on an individual basis.</p>
<p><b>Authority-initiated early retirement. (Rule 6)</b></p>	<p>The Fire and Rescue Authority, having regard to the economical, effective and efficient management of their functions and the costs likely to be incurred in a particular case, can determine that a firefighter – other than a special firefighter member – who is at least age 55 but under normal retirement age (60) should be retired from the Authority's employment with immediate payment of a pension calculated on the same principles as an ordinary pension under Part 3, Rule 1 of the Firefighter's Pension Scheme (Wales) Order 2007.</p>	<p>The Authority will not normally grant early payment of benefits for business efficiency purposes or waive any actuarial reduction, except in exceptional circumstances, after considering the business case; agreement must be given by the Chief Fire Officer, in consultation with the Treasurer.</p>

Regulation	Explanation	Recommendation
<p><b>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)</b></p>	<p>The Fire and Rescue Authority have discretion to determine that the benefits referred to in Rule 7B(5) can be treated as pensionable for the credit to the firefighter of Additional Pension Benefit.</p> <p>(But note that in accordance with Part 11, Rule 1(6), where an allowance or supplement paid to a firefighter was being treated as pensionable before 1 July 2013 but is not pensionable pay within the meaning of Part 11, Rule 1(a), it shall continue to be treated as pensionable for so long as the firefighter continues to receive it without any break in payment.)</p>	<p>The Authority will treat CPD payments and Temporary Promotions as pensionable APBs.</p>
<p><b>Discretion to commute a small pension to a trivial commutation lump sum. (Rule 10)</b></p>	<p>If the total amount of any pension(s) payable to a member who has attained State pensionable age, under Part 3 and, if relevant, under Part 6, Rule 1 (pension credit pension) of the Firefighters' Pension Scheme (Wales) Order 2007, together with any increase under the Pension (Increase) Act 1971, 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 can, if it is considered appropriate, commute the pension(s) to a lump sum in accordance with the guidance of the Scheme Actuary.</p>	<p>Where appropriate the 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.</p>

Regulation	Explanation	Recommendation
<p><b>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, paragraphs 2(b) and 3)</b></p>	<p>The Fire and Rescue Authority can withhold consent for the allocation of a portion of pension for a person other than the member's spouse, civil partner or nominated partner if they are not satisfied that the person is substantially dependent on the firefighter member.</p>	<p>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 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 an individual basis and full details of the circumstances will be required.</p>
<p><b>Requirement for, and acceptance of, an opinion as to normal life expectancy for allocation purposes. (Rule 11, paragraph 6(a))</b></p>	<p>If a member of the Firefighters' Pension Scheme 2007 wishes to allocate a portion of pension in favour of a beneficiary, 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 detail of how this should be done, e.g. a medical opinion from the firefighters' GP, or the Occupational Health Physician or IQMP, and so the Authority must decide their policy as to the method of proof.</p>	<p>Where a Firefighter elects to give up part of their pension (as per Part 3, Rule 11, Paragraphs 2(b) and 3), the Authority requires them to undertake a medical examination to ensure they are in good health before permitting them to do so. The Authority will refer the individual to the IQMP; costs will be met by the member.</p>
<p><b>Pension debit members. (Rule 12)</b></p>	<p>The Fire and Rescue Authority must provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and will take appropriate steps to record and administer Attachment Orders. In the event of a Pension Sharing Order, the scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Part 3, Rule 12 of the Firefighters' Pension Scheme (Wales) Order 2007, and the guidance and factors prepared by the Scheme Actuary.</p> <p>The Authority may determine the charges to be made for administration.</p>	<p>Apply this discretion; the Authority will determine appropriate charges for this administration.</p>

Regulation	Explanation	Recommendation
<p><b>Part 4 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)</b></p> <p><b>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)</b></p>	<p>If the total amount of any pension payable to a surviving spouse, civil partner or nominated partner under the provisions of the Firefighters' Pension Scheme (Wales) Order 2007, does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 (lump sum death benefit) and if the recipient so requests, the Fire and Rescue Authority may commute the whole of the pension for a lump sum in accordance with factors prepared by the Scheme Actuary and in force at the time when the commutation takes effect.</p> <p>If the total amount of a child's allowance payable under the provisions of the Firefighters' Pension Scheme (Wales) Order 2007 does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 and</p> <p>(a) the Fire and Rescue Authority are satisfied that there are sufficient reasons, and</p> <p>(c) a surviving parent or the child's guardian or – if neither – the child (if not a minor) consents,</p> <p>the Authority have discretion to commute the pension for a lump sum in accordance with the guidance of the Scheme Actuary at the time when the pension first becomes payable.</p>	<p>The 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.</p>

Regulation	Explanation	Recommendation
<p><b>Part 5: Awards on death</b></p> <p><b>66. Discretion as to recipient of death grant and post-retirement death grant. (Rules 1 and 2)</b></p>	<p>Upon the death of a firefighter member or pensioner member, the Fire and Rescue Authority may pay a death grant assessed in accordance with Part 5, Rules 1 and 2 of the Firefighters' Pension Scheme (Wales) Order 2007 to such person or persons as the Authority think fit, in accordance with Part 5, Rule 1, paragraph 10 of the Order.</p>	<p>The Authority will make the final decision as to the recipient for a post retirement death grant as they feel appropriate.</p>
<p><b>Part 6: Pension sharing on divorce</b></p> <p><b>68. 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)</b></p>	<p>In the circumstances described in regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000, if the total amount of a pension credit pension payable under the provisions of the Firefighters' Pension Scheme (Wales) Order 2007 does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 and</p> <p>a) the Fire and Rescue Authority are satisfied that there are sufficient reasons, and</p> <p>b) the pension credit member consents,</p> <p>the Authority can commute the pension for a lump sum calculated in accordance with factors provided by the Scheme Actuary current at the time of the commutation.</p>	<p>In the circumstances of divorce, the 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.</p>

Regulation	Explanation	Recommendation
<p><b>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)</b></p>	<p>If a pension credit member dies within five years of their entitlement to a pension credit pension coming into payment and before their 75th birthday and there is a difference between</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> the amount that is five times the pension, calculated at the annual rate effective on the day that it came into payment, and</li> <li><input type="checkbox"/> the instalments of pension that have been paid</li> </ul> <p>the Fire and Rescue Authority can pay a post-retirement death grant of the amount of the difference to such person or persons as the Authority think fit.</p>	<p>The Authority will make the final decision as to the recipient for a post retirement death grant as they feel appropriate.</p>
<p><b>Part 8: Determination of questions and appeals 70. Discretion to extend time limit for an appeal against the Fire and Rescue Authority's decision based on medical advice. (Rule 4, paragraph 4)</b></p>	<p>If a person who wishes to appeal under Part 8, Rule 4 of the Firefighters' Pension Scheme (Wales) Order 2007 against a decision based on medical advice, fails to submit the appeal notice and any supporting documents within the 28 days permitted for lodging such an appeal, the Fire and Rescue Authority has discretion to extend the 28 day time limit.</p>	<p>Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of one month from the date of the original appeal deadline.</p>

Regulation	Explanation	Recommendation
<p><b>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)</b></p>	<p>The withdrawal of pension on re-employment is at the discretion of the Fire and Rescue Authority, however an Authority will normally have regard to the terms of Part 9, Rule 3, to the abatement principles set out in Firefighters' Pension Scheme Circular 10/2009, and to HM Treasury guidance, i.e. the pension due under the Firefighters' Pension Scheme 2007 plus remuneration from the new employment should not exceed the pensionable pay upon which the Firefighters' Pension Scheme 2007 pension was calculated (taking account of cost-of-living increases). To the extent that it does, so shall the Firefighters' Pension Scheme 2007 pension be reduced for the duration of the employment.</p>	<p>Where a firefighter has retired and been re-employed as a firefighter, their pension will be subject to abatement.</p>
<p><b>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)</b></p>	<p>The Fire and Rescue Authority have discretion to disallow payment of a deferred pension before age 65, or before age 60 in the case of a special retained member, to a firefighter who is dismissed from the Authority's employment if this is felt to be appropriate in a particular case.</p> <p>The reason for "dismissal" is not mentioned. The Authority may wish to consider a difference in treatment between dismissal because of an offence and dismissal because of medical capability (where the person would not be entitled to an ill-health award).</p>	<p>Early payment of a deferred pension due to permanent disability may not be made where a Firefighter has been dismissed from the Authority. Each case will be considered on an individual basis.</p>

Regulation	Explanation	Recommendation
<p><b>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)</b></p>	<p>The Fire and Rescue Authority have discretion to use the powers contained in Part 9, Rule 5, paragraphs 1 to 3 of the Firefighters' Pension Scheme (Wales) Order 2007 to withdraw a pension in whole or in part, permanently or temporarily where a pensioner has been convicted of an offence if the Authority decide it would be appropriate according to the circumstances of any case which falls within the terms of Part 9, Rule 5 of the Order and subject to the certification of the Secretary of State where required.</p>	<p>Where an individual is convicted for offences covered in Part 9 Rule 5, each case will be considered on an individual basis.</p>
<p><b>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)</b></p>	<p>If the Fire and Rescue Authority withdraw a pension under Part 9, Rule 5, paragraphs 1 to 3 of the Firefighters' Pension Scheme (Wales) Order 2007, subject to the circumstances of the case they may consider applying it for the benefit of any dependant of the pensioner or restoring it to the pensioner.</p>	<p>The 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.</p>
<p><b>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)</b></p>	<p>If a person 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) the Fire and Rescue Authority have discretion to require such amount of the pension to be forfeited as they think appropriate to the circumstances of the case.</p>	<p>The Authority will consider to what extent an award should be forfeited in the circumstances described in Part 9, Rule 6. Each case will be considered on an individual basis.</p>

Regulation	Explanation	Recommendation
<p><b>Part 11 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)</b></p>	<p>Contributions are normally deducted from instalments of pay but the Fire and Rescue Authority have discretion to collect the contributions due by other means should the need arise.</p>	<p>Each case will be considered on an individual basis.</p>
<p><b>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))</b></p>	<p>The Fire and Rescue Authority have discretion to accept a scheme member's application for a transfer value payment from a non-occupational pension scheme where the application is made more than one year after the member first became eligible to be a firefighter member.</p>	<p>The Authority will not extend the one year time limit unless in extenuating circumstances, e.g. the Pension Administrator has not actioned the member's request.</p>
<p><b>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 2007 in respect of the deceased). (Rule 3, paragraph 5)</b></p>	<p>Where the Fire and Rescue Authority are not informed of the death of a pensioner and, as a result, the pension has continued in payment, the Authority have discretion to recover all or part of the overpayment as they think fit and may recover it by off-set against any other award payable under the Firefighters' Pension Scheme (Wales) Order 2007 in respect of the deceased.</p>	<p>The Authority will recover any overpayments made following a pensioner's death in line with HM Treasury's 'Managing Public Money' guidance.</p>
<p><b>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)</b></p>	<p>Upon the death of a person to whom there was due, in respect of an award, a sum not exceeding (currently) £5,000, the Fire and Rescue Authority may pay the sum due to the person or persons as the Authority think fit without requiring production of Grant of Probate or any other proof of entitlement.</p>	<p>Apply this discretion.</p>

Regulation	Explanation	Recommendation
<p><b>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)</b></p>	<p>If 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 a firefighter in connection with his/her employment, the Authority can consider using the powers contained in Part 14, Rule 6 of the Firefighters' Pension Scheme (England) Order 2006 to withhold all or part of any sums becoming due to him/her from the Authority in respect of an award. The total amount withheld must not exceed the amount of the loss nor any part of a sum due that is not attributable to service as an employee of a Fire and Rescue Authority. In the event of any dispute as to the amount of the loss, nothing must be withheld unless the loss has become recoverable from the person entitled to the award under the order of a competent court. The Authority must provide the person entitled to the award with a certificate showing the amount withheld.</p>	<p>The Authority will withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of NW FRA as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.</p>
<p><b>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))</b></p>	<p>The Fire and Rescue Authority has discretion to permit the extension of the 28-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 documents under Part 8, Rule 4, paragraph 4 of the Firefighters' Pension Scheme (Wales) Order 2007.</p>	<p>Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of one month from the date of the original appeal deadline.</p>

Regulation	Explanation	Recommendation
<p><b>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))</b></p>	<p>If the Medical Appeal Board decides an appeal in favour of the Fire and Rescue Authority and reports that in its opinion the appeal lodged by the appellant was frivolous, vexatious or manifestly ill-founded, the Authority can require the appellant to pay the Authority such sum as is equal to, but not greater than, the total amount of fees and allowances payable to the Board as determined by the Secretary of State. (See requirement to inform person of this possibility under Annex 2, paragraph 4(5)(i)).</p>	<p>Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they deem fit subject to capping as per the regulations.</p>
<p><b>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))</b></p>	<p>If the appellant withdraws an appeal or requests cancellation of, postponement of, or adjournment of the date appointed for an interview or medical examination by the Medical Appeal Board 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 the date appointed, the Fire and Rescue Authority has discretion to require the appellant to pay the Authority such sum as is equal to, but not greater than, the total amount of fees and allowances payable to the Board under Annex 2, paragraph 9(1) of the Firefighters' Pension Scheme (Wales) Order 2007.</p>	<p>Where an appellant withdraws their appeal less than 22 working days before the date appointed for interview or medical examination, the Authority will require the appellant to pay any sum they deem fit subject to capping as per the regulations.</p>

**Part 3 applies to all firefighters who are members of 'The Firefighters' Pension Scheme (Wales) Regulations 1992'.**

<b>Regulation</b>	<b>Explanation</b>	<b>Recommendation</b>
<b>FPS (1992) Temporary Pay</b>	To determine if the difference between the firefighters' basic pay in their day role and any pay received whilst on temporary promotion or where they are temporarily required to undertake the duties of a higher role is to be treated as pensionable pay under Additional Pension Benefit arrangements.	Temporary Promotion to be treated under Additional Pension Benefit arrangements (unless the period meets the protection criteria under the Scheme Order July 2013).
<b>FPS (1992) Rule B5C – Temporary Allowances.</b>	To determine if any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of a firefighter's duties under the contract of employment but are within the wider functions of the role are to be treated as pensionable pay under Additional Pension Benefit arrangement.	It is recommended to consider each allowance or supplement on a case by case basis.  (In accordance with Rule G1 (9), where an allowance or supplement paid to a firefighter was being treated as pensionable before 1 July 2013 but is not pensionable pay within the meaning of Rule G1 (1)(a), it should continue to be treated as pensionable for so long as the firefighter continues to receive it without any break in payment.)

Regulation	Explanation	Recommendation
<p><b>FPS 1992 Rule B7 (5a) 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</b></p>	<p>This proposal will allow employers the ability to permit those 1992 scheme members with less than 30 years' service and under age 55 years to commute the maximum of a quarter of their pension for a lump sum on retirement. Under the new provision, the employer would be liable for any additional cost which could be substantial should they exercise this discretion. A full business case would be needed demonstrating the economical, effective and efficient management of its functions with associated costs.</p>	<p>The Authority will not normally consent to such requests, except in exceptional circumstances, after considering a fully documented business case; agreement must be given by the Chief Fire Officer, in consultation with the Treasurer.</p>
<p><b>FPS 1992 Rule B9 (2b) Allocation of a portion of pension for a dependant other than a spouse or civil partner</b></p>	<p>Rule B9 allows a member of FPS to allocate (give up) part of their pension during their lifetime, when they first become eligible to retire, to provide, on their death, a pension for a spouse, civil partner or a dependant.</p>	<p>Before giving consent to the allocation, it must be demonstrated to the satisfaction of the Authority that the nominee is a person substantially dependent on the member. The Authority will consider financial evidence over a period of two years.</p>
<p><b>FPS 1992 Rule B9(6) Requirement for, and acceptance of, an opinion as to normal life expectancy for allocation purposes</b></p>	<p>Where a Firefighter elects to give up part of their pension (under Rule B9), the Authority may require them to undertake a medical examination to ensure they are in good health before permitting them to do so.</p>	<p>Where a Firefighter elects to give up part of their pension, the Authority requires them to undertake a medical examination to ensure they are in good health before permitting them to do so. The Authority will refer the individual to the IQMP; costs will be met by the member.</p>

Regulation	Explanation	Recommendation
<p><b>FPS 1992 Rule B12 Pension debit members</b></p>	<p>The Fire and Rescue Authority must provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and take appropriate steps to record and administer Attachment Orders. In the event of a Pension Sharing Order, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Rule B12 of the Firemen's Pension Scheme Order 1992, and factors prepared by the Scheme Actuary.</p>	<p>Apply this discretion; the Authority will determine appropriate charges for this administration.</p>
<p><b>Part 2 – awards on death – spouses and civil partners</b></p> <p><b>FPS 1992 Rule C8(6) - Discretion to increase level of spouse's or civil partner's award for such period as the Fire and Rescue Authority think fit where the firefighter and spouse or civil partner were living separately at the date of death and where the normal level of benefit is reduced accordingly under the rules of the Firemen's Pension Scheme Order 1992.</b></p> <p><b>FPS 1992 Rule C8(7) -Discretion to allow a gratuity to be paid, in whole or in part, in circumstances where beneficiary and member were living separately at the time of death</b></p>	<p>The Fire and Rescue Authority have discretion to permit the increase of a surviving spouse or civil partner's award or allow a pension gratuity to be paid in whole or in part where a benefit is reduced under the Firemen's Pension Scheme Order 1992 because the firefighter and spouse or civil partner were living separately at the date of death.</p>	<p>Apply this discretion on a case-by-case basis.</p>

Regulation	Explanation	Recommendation
<b>FPS 1992 Rule C9 - Reinstatement of Widow's pension</b>	Under the 1992 Scheme a person entitled to a widow's pension who marries, remarries, forms a civil partnership or a subsequent civil partnership is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or the other party to it dies, the Fire and Rescue Authority may pay the whole or any part of the pension for such period after the dissolution or death as they deem reasonable.	It is unlikely that the Authority will reinstate an ex-spouses pension at the end of a new remarriage or civil partnership or cohabitation; however each case will be considered on an individual basis by the Authority.
<b>FPS 1992 Rule D5 – child benefits</b>	Award of benefit to a child aged 17 or over who has had an interruption in whole-time education or vocational training.  The FPS allows the payment of a child's pension when the child is in full time education. This provision allows the consideration of reinstatement of the pension when there has been an interruption in whole-time education or vocational training.	Reinstate benefits accordingly.
<b>FPS 1992 Rule E5 and E6 subject to limitations in Rule E7 – Discretion for commutation of dependant's pension</b>	Decision to commute for a lump sum, part or all of a spouse's, civil partner's or child's pension which is of limited amount.  This discretion allows consideration of commutation of a limited amount of a spouse, civil partner or child's pension into a lump sum.	Consideration of commutation of a limited amount of a spouse, civil partner or child's pension into a lump sum will be given in exceptional circumstances where financial hardship can be demonstrated. Each case will be considered on an individual basis.

Regulation	Explanation	Recommendation
<p><b>FPS 1992 Rule G2A (3) - Discretion to extend 30-day time limit in which an election to pay contributions in respect of unpaid additional maternity, paternity or adoption leave must be made.</b></p>	<p>The Fire and Rescue Authority have discretion to permit the extension of the 30-day time limit (counting from the day on which the person returns to work or, if he/she does not return to work, from the last day of employment with the Authority) for an election to pay contributions in respect of maternity, paternity or adoption leave which would not otherwise count as pensionable service.</p>	<p>Late applications will be considered up to a maximum of 90 days.</p>
<p><b>FPS 1992 Rule H2 Schedule 9, Part 1 Paragraph 1 (2)(B) – Time Limit for Appeals against decisions of a medical nature</b></p>	<p>The Fire and Rescue Authority have discretion to extend the time limit of 28 days (to a maximum of 6 months) for the giving of notice of appeal against a decision of a medical nature where the Authority are of the opinion that failure to give notice within the 28 day period was not due to the default of the appellant.</p>	<p>The Authority will consider each case on an individual basis.</p>
<p><b>FPS 1992 Rule H2 Schedule 9, Part 1 Paragraph 8 (2) (2A) – Recovery of fees in appeal cases</b></p>	<p>The Fire and Rescue Authority have discretion to require the appellant to pay all or part of the fees and allowances of a medical appeal if it is found that the appeal was frivolous, vexatious or manifestly ill-founded.</p> <p>The Authority has the discretion to require the appellant pay all or part of the fees and allowances of a medical appeal if the appellant withdraws the appeal within 21 working days prior to the date fixed for an interview or medical examination by the board of medical referees hearing the appeal.</p>	<p>The Authority will normally seek to do this, but will have regard to the facts of each case.</p>
<p><b>FPS 1992 Rule IA2 (1) – Commutation of pension credit benefits</b></p>	<p>To commute the whole of a pension to which a pension credit member is entitled for a lump sum.</p>	<p>The Authority will consider each case on an individual basis.</p>

Regulation	Explanation	Recommendation
<b>FPS 1992 Rule K3(1) – Reduction of ill-health award in case of default</b>	To reduce, by not less than half its amount, an ill-health award in a case where someone is permanently disabled and has contributed to their permanent disability by their own default.	The Authority will consider each case on an individual basis.
<b>FPS 1992 Rule K4 Withdrawal of a pension whilst employed by a fire and rescue authority (abatement)</b>	<p>To amend the 1992 scheme to widen the employers discretion to abate a pension paid to a member who is reemployed in any role by any fire and rescue authority; and to require the employer that is paying the pension to pay into the pension fund the amount of pension that is paid that could have been subject to abatement under the scheme rules. The requirement for the employer to be liable for the costs where they do not exercise the discretion to abate a members' pension would apply to both the 1992 and 2007 schemes.</p> <p>Amendment Order 2013 requires the employer to reimburse the pension fund in the instance where they do not exercise the discretion to abate a member's pension on re-employment.</p>	The abatement of pension, on a £ for £ basis, will apply where earnings plus pension payments in the new role exceed earnings in the previous role.
<b>FPS 1992 Rule L5 (6) – Withholding of pension in cases of fraud, theft or negligence</b>	To withhold all or part of any payments due to a firefighter in respect of pension where there has been fraud, theft or negligence on the part of the firefighter in connection with their employment resulting in loss to the funds of the Authority.	The Authority will consider each case on an individual basis.