

WILTSHIRE & SWINDON FIRE AUTHORITY

REPORT REFERENCE NO.	11
MEETING	Combined Fire Authority
MEETING DATE	24 th September 2015
SUBJECT OF REPORT	Firefighter Pension Scheme 2015 Discretions Policy
LEAD OFFICER	Brigade Manager, People & Development
RECOMMENDATIONS	The Fire Authority is asked to APPROVE: the Discretions Policy as at Appendix A
EXECUTIVE SUMMARY	This report sets out for the Authority the 52 Regulations within the Firefighters' Pension Scheme 2015, some of which are discretions which require a Fire Authority policy/position statement to be agreed. The Fire Authority is required to agree and publish their policy in relation to pension scheme discretions regarding this Pension Scheme
APPENDICES	Discretions Policy FPS 2015

1. Background

- 1.1 As part of the Government's reforms to public service pensions, the Department for Communities and Local Government (DCLG) introduced a new Firefighters' Pension Scheme from 1 April 2015. The 2015 scheme is the only scheme available for firefighters, unless they have full or tapered protection (based on age) from their previous 1992 or 2006 Firefighter' Pension Schemes. The legislation to provide the framework for the new scheme was provided for in the Pension Services Act 2013.
- 1.2 As part of the introduction of the 2015 scheme, fire authorities are required to publish and keep under review their policy on certain discretions which they have the power to exercise in relation to firefighters of the 2015 Scheme. The Scheme sets out 52 Regulations in total, some of which are discretions which require a Fire Authority policy/position statement to be agreed and communicated.

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2. Discretions

2.1 Under the 2015 Scheme, there are 52 regulations and/or discretions (see Appendix A), many of which have been listed within the actual main body of statutory regulation of previous schemes. All have been included within Appendix A of this report for reference purposes (bold italic text has been used to differentiate between regulations and *discretion*.) The following are a summary of the discretions which require a Fire Authority decision:

2.2 Continued Professional Development (CPD) - Regulation 17(1)(D)

2.2.1 CPD payments are considered pensionable under the 1992 and 2006 Firefighter' Pension Schemes, as set out in the Regulations. Under the 2015 Scheme, there is a specific discretion for the Fire Authority to determine whether continued professional payments are pensionable. In order to provide consistency and parity with the previous schemes, it is recommended that continued professional payments continue to remain pensionable under the 2015 Scheme.

2.3 Employer Initiated Retirement - Regulations 62(1) and (2)

2.3.1 An employer can determine that an active member aged 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. As per the 1992 and 2006 Schemes, it is recommended that the Fire Authority reconfirm its position that it 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 that would apply and with the approval of the Chief Fire Officer (or nominated representative).

2.4 Payment of Contributions - Regulation 111(2), (3) and (4)

2.4.1 Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions. If they do, the scheme employer may require that they should also pay employer contributions.

2.4.2 It is recommended that where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or authorised unpaid short-term absence, the scheme member may pay member contributions and the Authority will pay the employer contributions.

2.4.3 For absences because of illness or injury which do not attract pensionable pay, it is recommended that members will only be required to pay the employee contributions, up to a maximum of three years, unless in exceptional circumstances and agreed by the scheme manager.

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2.4.4 It is recommended that for authorised unpaid absences of 30 days or more, members will be required to pay both the employee and employer contributions, unless in exceptional circumstances and agreed by the scheme manager.

2.4.5 In each case of trade dispute, it is recommended that the scheme manager will confirm whether the scheme member will have to pay the employee and employer contributions if the scheme member wishes to buy back the missed service.

2.5 Transfer Request Time Limits - Regulation 141 (3)

2.5.1 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. As per the 1992 and 2006 Schemes, it is recommended that the Fire Authority reconfirm its position that the member must normally make the request within 12 months of becoming an active member. Any requests outside of the 12 month limit should be referred to the HR Manager, and will only be agreed in exceptional circumstances.

3. Policy Implications

3.1 The Discretions Policy must be forwarded to the Authority's Pension Administrators.

4. Risks

4.1 There are no new risks associated with this policy statement, which have not already been mentioned.

5. HR, Equality and Diversity Implications

5.1 Consideration has been given to the impact upon differing groups and a full assessment is not required. DCLG completed an equality assessment of the pension scheme.

6. Environmental Implications

6.1 There are no new implications arising from this statement

7. Financial and Legal Implications

7.1 There will be financial implications arising from the discretions, but these will be addressed on a case by case basis.

8. Combination Implications

8.1 The Discretions Policy at Appendix A is the same as the Policy agreed by Dorset Fire Authority.

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9. Recommendations

The Fire Authority is asked to:

9.1 Approve the Discretions Policy as at Appendix A

Barbara Owen
Brigade Manager, People & Development

Unpublished documents used in the preparation of this report:

None

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WILTSHIRE AND SWINDON FIRE AUTHORITY

Draft Discretions Policy - Firefighters 2015 Scheme

Discretion and Regulation	Policy on Individual Regulations and Discretions
<p>1. <i>Reg 5(2)</i> Delegation: The scheme manager must ensure that delegated powers are appropriate and current.</p>	<p>The scheme manager will ensure delegated powers are appropriate and current at all times.</p>
<p>2. <i>Reg 12(5)</i> Opting into the Scheme: 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.</p>	<p><i>The scheme manager will make a reasonable decision as to the optant-in date for an active member. If the optant-in date is unclear, it will take effect from the beginning of the first pay period following the date on which the option is exercised. Any variation to this will be with the approval of the scheme manager on an exceptional basis.</i></p>
<p>3. <i>Reg 16(2)(b)</i> Opting out after the first three months: 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.</p>	<p><i>The scheme manager will normally agree that an optant-out ceases pensionable service from the first day of the first pay period following the date on which the option is exercised. Any variation will be with the approval of the scheme manager on an exceptional basis.</i></p>
<p>4. <i>Reg 17(1)(d)</i> CPD Payments: The scheme manager has discretion to determine if continual professional development payments are to be treated as pensionable pay.</p>	<p><i>The scheme manager agrees that continual professional development payments are to be treated as pensionable pay.</i></p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>5. <i>Reg 19(c)</i> Active membership: A person who is on unpaid authorised absence can count the period as active membership if the scheme manager permits them to be treated as an active member during that period. (Presumably this would be linked to Regulation 111(4) and subject to the member paying the appropriate contributions.)</p>	<p>Refer to Discretion 23.</p>
<p>6. <i>Reg 28(2)</i> Pension accounts: 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.</p>	<p>The scheme manager will ensure that appropriate pension accounts are established and maintained for scheme members.</p>
<p>7. <i>Reg 37(3), (4) and (5)</i> Closure and re-establishment of active member's account: 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.</p>	<p>The scheme manager will ensure that if a member has more than two active member's accounts 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. <i>If the member fails to choose, the scheme manager has discretion to choose.</i></p>
<p>8. <i>Reg 49(3) and (4)</i> Closure of deferred member's account after gap in pensionable service not exceeding five years: 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.</p>	<p>The scheme manager will ensure that 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. <i>If they fail to make a selection, the scheme manager will make the choice for them.</i></p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>9. <i>Reg 62(1) and (2)</i> Employer initiated retirement: 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.</p>	<p><i>The scheme manager 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 that would apply and with the approval of the Chief Fire Officer (or nominated representative).</i></p>
<p>10. <i>Reg 63(5)</i> Partial retirement: An active member aged at least 55 who would be entitled to immediate payment of pension if they leave pensionable service and who claims payment of the pension, may opt to claim the whole of their accrued pension but continue in pensionable service. The person concerned must give appropriate notice to the scheme manager and the partial retirement option is taken to be exercised on a date agreed between the member and the scheme manager.</p>	<p>The scheme manager will allow an active member aged at least 55 who would be entitled to immediate payment of their 2015 pension if they leave pensionable service and who claims payment of the pension, to opt to claim the whole of their accrued 2015 pension but continue in pensionable service. <i>The person concerned must give appropriate notice to the scheme manager and the partial retirement option is exercised on a date agreed between the member and the scheme manager.</i></p>
<p>11. <i>Reg 68(1) and (2)</i> Review of ill-health awards and pensions: 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.</p>	<p>The scheme manager has 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.</p>

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<p>12. <i>Reg 69(3)</i>: If, following the review of a lower tier ill-health pension under Regulation 68, 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.</p>	<p>The scheme manager, following the review of a lower tier ill-health pension where it is determined that the recipient is capable of performing the duties appropriate to the role from which the person retired on grounds of ill-health, will consider future recruitment applications following the usual recruitment processes. An offer of employment will mean that the pension will cease.</p>
<p>13. <i>Reg 70(7)</i> Deferred pension requests: 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. <i>Reg 70(8)</i>: 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.</p>	<p>If a deferred member is entitled to early payment of retirement pension on grounds of ill-health, the scheme manager will determine the date of payment as being the date on which the person became incapable of undertaking regular employment because of infirmity of mind or body or, if that date cannot be ascertained, the date of the member's request for early payment.</p> <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.</p>
<p>14. <i>Reg 72(3)(b) and (4)</i> Allocation: The scheme manager must give consent for the allocation of a portion of pension to a dependant who is not the spouse, civil partner or cohabiting partner of an active or deferred member. (Consent can be withheld if the scheme manager is not satisfied that the person nominated is not substantially dependent of the active member.)</p>	<p>If a member has given such an allocation, the Chief Fire Officer (or nominated representative) will consider the matter on a case by case basis (to include the test of financial dependency).</p>
<p>15. <i>Reg 75(1) and (2)</i>: If a member who has made an allocation election dies after reaching age 75, and the amount of allocated pension does not qualify as a dependant's scheme pension under section 167 of the Finance Act 2004 (pension death benefit rules), the amount may be adjusted in a manner determined by the scheme manager.</p>	<p>The scheme manager will ensure that if a member who has made an allocation election dies after reaching age 75, and the amount of allocated pension does not qualify as a dependant's scheme pension under section 167 of the Finance Act 2004 (pension death benefit rules), the amount may be adjusted in a manner determined by the scheme manager.</p>

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<p>16. <i>Reg 76(1)(b)(v) and (2)</i>: 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.</p>	<p><i>The scheme manager will only waive the two year qualifying period in exceptional circumstances, following approval of the Chief Fire Officer (or nominated representative).</i></p>
<p>17. <i>Reg 95</i>: The scheme manager has absolute discretion as to the recipient of any lump sum death benefit payable.</p>	<p>The scheme manager has absolute discretion as to the recipient of any lump sum death benefit payable.</p>
<p>18. <i>Reg 100(2)</i> Child's pension: 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.</p>	<p>The scheme manager will ensure that 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.</p>
<p>19. <i>Reg 101(2) and (3)</i>: 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.)</p>	<p>The 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.)</p>

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<p>20. <i>Reg 102(2) and (3)</i>: 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.)</p>	<p>The scheme manager will ensure that 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.)</p>
<p>21. <i>Reg 104(1)(a) and (2)</i>: If a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules), the scheme manager has discretion to adjust the benefit payable to the person so that it would qualify under that section of the Act.</p>	<p>The scheme manager will ensure that if a member dies after reaching age 75 and any part of a pension to which a person becomes entitled on the death would not qualify as a dependant's scheme pension for the purposes of section 167 of the Finance Act 2004 (the pension death benefit rules), the scheme manager has discretion to adjust the benefit payable to the person so that it would qualify under that section of the Act.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>22. <i>Reg 110(5)</i> CONTRIBUTION RATE CHANGES: Where there is a change in scheme employment or a material change which affects the member's pensionable pay in the course of a financial year and the revised amount falls into a different contribution rate band, the scheme manager must determine that this rate should be applied and inform the member of the new contribution rate and the date from which it is to be applied.</p> <p><i>Reg 110(7)(h)</i>: When identifying the appropriate contribution rate, a reduction in pay in certain circumstances as listed in Regulation 110 are to be disregarded. In addition, the scheme manager can specify the circumstances in a particular case where a reduction in pensionable pay will be disregarded.</p>	<p><i>The scheme manager will re-determine contribution rates during the course of the year on a monthly basis, to take account of changes in scheme employment and material changes that affect pensionable pay.</i></p>
<p>23. <i>Reg 111(2), (3) and (4)</i> Payment of contributions: Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions; if they do, the scheme employer may require that they should also pay employer contributions.</p> <p>* (Authorised unpaid absence of less than 30 days)</p>	<p><i>Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or authorised unpaid short-term* absence, the scheme member may pay member contributions and the scheme manager will pay the employer contributions. For absences because of illness or injury which do not attract pensionable pay, members will only be required to pay the employee contributions, up to a maximum of three years, unless in exceptional circumstances and agreed by the scheme manager. For authorised unpaid absences of 30 days or more, members will be required to pay both the employee and employer contributions, unless in exceptional circumstances and agreed by the scheme manager. In each case of trade dispute, the scheme manager will confirm whether the scheme member will have to pay the employee and employer contributions if the scheme member wishes to buy back the missed service.</i></p>

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<p>24. <i>Reg 114(1) DEDUCTIONS:</i> Member contributions due under Regulation 110 may be deducted by the scheme employer from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the scheme manager and the member.</p> <p><i>Reg 114(2):</i> 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.</p> <p><i>Reg 114(3):</i> 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.</p>	<p>The scheme manager will ensure that member contributions due under Regulation 110 may be deducted by the scheme employer from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the scheme manager and the member.</p> <p>The scheme manager will ensure that member 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.</p> <p>The scheme manager will ensure that member 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, and agreed on a case by case basis.</p>
<p>25. <i>Reg 135(4):</i> 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.</p>	<p>The scheme manager will ensure that cash equivalent or club transfer values are calculated within three months beginning with the date of the member's application and within ten days ending with the date on which the member is provided with the statement. The scheme manager has discretion, on a case by case basis, if it believes reasonable, to extend this date to within six months of the date of the member's application if, for reasons beyond the scheme manager's control, the information needed to calculate the transfer value cannot be obtained before the end of the three month period.</p>

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<p>26. <i>Reg 141(3)</i> Transfer request time limits: There is a time limit of one year from becoming an active member in which a person can request a transfer payment from a non-occupational pension scheme. The scheme manager has the discretion to extend this period.</p>	<p><i>The scheme manager has resolved that where an active member requests to transfer payment from another pension scheme, the member must normally make the request within 12 months of becoming an active member. Any requests outside of the 12 month limit should be referred to the Head of HR, and will only be agreed in exceptional circumstances. This is in line with the other pension schemes provided to staff in Wiltshire FRS.</i></p>
<p>27. <i>Reg 142(2)</i>: 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.</p>	<p>The scheme manager can require an active member to ask the scheme manager of a previous <i>non-club</i> 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.</p>
<p>28. <i>Reg 144(2)</i>: 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.</p>	<p>The scheme manager can require an active member to ask the scheme manager of a previous <i>club</i> 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.</p>
<p>29. <i>Reg 148(1)</i> Disagreements: If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, they can require the scheme manager to deal with their disagreement under arrangements implemented by the scheme manager in accordance with the requirements of section 50 of the Pensions Act 1995 (resolution of disputes) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. The scheme manager must have these arrangements in place.</p>	<p>If a member is not satisfied with a certificate setting out the details in their pension account(s) as required under Regulation 146, the member can follow the Internal Dispute Resolution Procedure (IDRP) to seek a resolution.</p>

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<p>30. <i>Reg 151</i>: It is the scheme manager that must determine whether a person is entitled to an award or to retain an award.</p>	<p>It is the scheme manager that must determine whether a person is entitled to an award or to retain an award.</p>
<p>31. <i>Reg 152(1)</i> IQMP: The scheme manager must 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. <i>Reg 152(7): 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.</i></p>	<p>The scheme manager 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. 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.</p>
<p>32. <i>Reg 153(1)</i>: 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. <i>Reg 153(4) and (5)</i>: Upon receiving the IQMP's response the scheme manager must confirm or revise its original determination and advise the member accordingly.</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. Upon receiving the IQMP's response the scheme manager must confirm or revise its original determination and advise the member accordingly.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>33. <i>Reg 155(2)</i> Medical Appeals: If a member wishes to appeal against a determination made by the scheme manager and their grievance lies in the medical opinion upon which the determination was based, they can appeal to a board of medical referees. The appeal must be made within 28 days of the date on which the member receives the relevant documents under Regulation 154(4). If the appeal is not made within this time limit and the scheme manager is of the opinion that the person's failure to give notice within the required period was not due to the person's own default, the scheme manager has a discretion to extend the time limit for such period as the scheme manager considers appropriate, not exceeding six months from the date the Regulation 154(4) documents were supplied.</p>	<p>If a member wishes to appeal against a determination made by the scheme manager and their grievance lies in the medical opinion upon which the determination was based, they can appeal to a board of medical referees. The appeal must be made within 28 days of the date on which the member receives the relevant documents under Regulation 154(4). If the appeal is not made within this time limit and the scheme manager is of the opinion that the person's failure to give notice within the required period was not due to the person's own default, the scheme manager has a discretion to extend the time limit for such period as the scheme manager considers appropriate, not exceeding six months from the date the Regulation 154(4) documents were supplied.</p>
<p>34. <i>Reg 156(8) to (12)</i>: Where a member has given notice of appeal to a board of medical referees, before the board arranges a time and place for the interview and medical examination a member of the board will review the documents supplied to the board in accordance with Regulation 156. If the board member is of the opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded the board member will notify the Secretary of State accordingly. This will be copied to the scheme manager who must, in turn, send a copy of it to the scheme member advising that if their appeal is unsuccessful, the member may be required to pay the scheme manager's costs and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal.</p>	<p>Where a member has given notice of appeal to a board of medical referees, before the board arranges a time and place for the interview and medical examination a member of the board will review the documents supplied to the board in accordance with Regulation 156. If the board member is of the opinion that the board may regard the appeal as frivolous, vexatious or manifestly ill-founded the board member will notify the Secretary of State accordingly. This will be copied to the scheme manager who must, in turn, send a copy of it to the scheme member advising that if their appeal is unsuccessful, the member may be required to pay the scheme manager's costs and requesting notification from the member as to whether, in the circumstances, they wish to continue with, or withdraw, the appeal.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>35. <i>Reg 157(6) to (9)</i>: The scheme manager must decide which persons will attend the interview as its representatives. The scheme manager must also decide whether or not to submit written evidence or a written statement (and must decide a response to any written evidence or written statement from the appellant).</p>	<p>The scheme manager will decide which persons will attend the interview as its representatives. The scheme manager must also decide whether or not to submit written evidence or a written statement (and must decide a response to any written evidence or written statement from the appellant).</p>
<p>36. <i>Reg 161(2)</i>: If the medical appeal board determines in favour of the scheme manager and states that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded, the scheme manager can require the appellant to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p> <p><i>Reg 161(3)(a)</i>: If the appellant withdraws the appeal requesting cancellation, postponement or adjournment of the date appointed for interview and/or medical examination less than 22 working days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p> <p><i>Reg 161(3)(b)</i>: If the appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed or interview and/or medical examination less than 22 days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p>	<p>If the medical appeal board determines in favour of the scheme manager and states that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded, the scheme manager can require the appellant to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p> <p>If the appellant withdraws the appeal requesting cancellation, postponement or adjournment of the date appointed for interview and/or medical examination less than 22 working days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p> <p>If the appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the date appointed or interview and/or medical examination less than 22 days before the date appointed, the scheme manager can require the member to pay it such sum not exceeding the total amount of the fees and allowances payable to the board under Regulation 160(1) as the scheme manager considers appropriate.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>37. <i>Reg 163</i>: If a member disagrees with a scheme manager's determination of award under Regulation 151 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.</p>	<p>Where a member disagrees with a scheme manager's determination of award under Regulation 151 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.</p>
<p>38. <i>Reg 167(3)</i>: If the pension entitlement of a member of the scheme, or the pension entitlement of a member's beneficiary, does not exceed the small pensions commutation maximum the scheme manager may pay the entitlement as a lump sum. This would, however, be subject to the consent of the recipient and must comply with the commutation provisions that apply in the circumstances.</p>	<p>Where the pension entitlement of a member of the scheme, or the pension entitlement of a member's beneficiary, does not exceed the small pensions commutation maximum the scheme manager may pay the entitlement as a lump sum. This would, however, be subject to the consent of the recipient and must comply with the commutation provisions that apply in the circumstances.</p>
<p>39. <i>Reg 168</i>: 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.</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.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>40. <i>Reg 169</i>: If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager can pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration.</p>	<p>If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager can pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration.</p>
<p>41. <i>Reg 171(1),(2),(3) and (5)</i>: If a member, surviving partner or eligible child is convicted of a relevant offence, the scheme manager can withhold pensions payable under the scheme to a member, any person in respect of the member, a surviving partner or an eligible child, to such extent and for such duration as it considers appropriate. "Relevant offence" is defined in this Regulation. The definition includes offences injurious to the State (including treason) or likely to lead to a serious loss of confidence in the public service. There are certain conditions set out in the Regulation, e.g. it is only the part of the pension that exceeds any guaranteed minimum pension that can be withheld.</p> <p><i>Reg 171(4)</i>: 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.</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. "Relevant offence" is defined in this Regulation. The definition includes offences injurious to the State (including treason) or likely to lead to a serious loss of confidence in the public service. There are certain conditions set out in the Regulation, e.g. it is only the part of the pension that exceeds any guaranteed minimum pension that can be withheld.</p> <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.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>42. <i>Reg 172(1) to (5)</i>: 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.</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.</p>
<p>43. <i>Reg 173</i>: 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.</p>	<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.</p>

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Discretion and Regulation	Policy on Individual Regulations and <i>Discretions</i>
<p>44. <i>Reg 174:</i> 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 176.</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 176.</p>
<p>45. <i>Reg 175:</i> A scheme manager has a discretion to set off a "relevant monetary obligation" against a member's entitlement to benefits under the scheme, subject to certain conditions which are similar to those contained in Regulation 174 (Forfeiture). The procedure is set out in Regulation 176.</p>	<p>The scheme manager has a discretion to set off a "relevant monetary obligation" against a member's entitlement to benefits under the scheme, subject to certain conditions which are similar to those contained in Regulation 174 (Forfeiture). The procedure is set out in Regulation 176.</p>
<p>46. <i>Reg 178:</i> At a scheme member's request, the scheme manager may pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager may only comply with the request if the member pays it the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs.</p>	<p>At a scheme member's request, the scheme manager may pay on the member's behalf any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager may only comply with the request if the member pays it the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs.</p>

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Discretion and Regulation	Policy on Individual Regulations and Discretions
<p>47. <i>Reg 184(1) and (2)</i>: The scheme manager can require any person who is in receipt of a pension or may have entitlement to a pension or lump sum under the scheme to provide such supporting evidence as the scheme manager may reasonably require so as to establish the person's identity and their continuing or future entitlement to the payment of any amount under the scheme.</p> <p><i>Reg 184(3)</i>: If a person fails to comply with the scheme manager's requirements in this respect, the scheme manager can withhold the whole or part of any amount that it otherwise considers to be payable under the scheme.</p>	<p>The scheme manager may require any person who is in receipt of a pension or may have entitlement to a pension or lump sum under the scheme to provide such supporting evidence as the scheme manager may reasonably require so as to establish the person's identity and their continuing or future entitlement to the payment of any amount under the scheme.</p> <p>If a person fails to comply with the scheme manager's requirements in this respect, the scheme manager can withhold the whole or part of any amount that it otherwise considers to be payable under the scheme.</p>
<p>48. <i>Schedule, 1 Part 1, Paragraph 4</i>: 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).</p>	<p>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).</p>
<p>49. <i>Schedule 1, Part 1, Paragraph 7(3)</i>: If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid.</p>	<p>There is no minimum limit for scheme members who wish to make periodical payments for added pension.</p>
<p>50. <i>Schedule 1, Part 2, Paragraph 8 (3)</i>: 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.</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, to be agreed on a case by case basis.</p>

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Discretion and Regulation	Policy on Individual Regulations and Discretions
<p>51. <i>Schedule 1, Part 2, Paragraph 10(4):</i> 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.</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.</p>
<p>52. <i>Schedule 2, Part 1, Paragraph 3(3); Schedule 2, Part 2, Paragraph 9(5); and Schedule 2, Part 3, Paragraph 21:</i> The tapered protection closing dates for tapered protection members are given in the 1992 scheme tables in Schedule 2 Part 4. In most cases the appropriate closing date can be ascertained by reference to the band of dates in which the firefighter's birthday falls. The tapered protection date for a tapered protection member of FPS 2006 to whom paragraph 9(5) or 21 applies (members returning to pensionable service) is determined by the scheme manager.</p>	<p>Where a firefighter transfers from another service, or returns to employment after a gap in service, their previous taper protection will remain. Taper protection will also apply to those who were <u>eligible to be a member</u> of the scheme at 1 April 2012 and was older than 46, but not in a scheme. This applies to those employed in a relevant role in a fire service, or if they had service in an existing public body where they were eligible to be a member of a public pension scheme.</p>