

REPORT REFERENCE NO.	DSFRA/15/18
MEETING	DEVON & SOMERSET FIRE & RESCUE AUTHORITY
DATE OF MEETING	29 JULY 2015
SUBJECT OF REPORT	FIREFIGHTERS PENSIONS SCHEMES DISCRETIONS
LEAD OFFICER	Joint report of the Chief Fire Officer and the Clerk to the Authority
RECOMMENDATIONS	<p>(a) That the contents of this report be considered with a view to approving:</p> <p>(i) those recommendations as set out at Section 2 and relating to Firefighters Pensions Schemes prior to 1992;</p> <p>(ii) approving the proposed general policy (as indicated) to apply in relation to those discretions from the Firefighters' Pensions Scheme as set out in Schedule 1 to this report</p> <p>(iii) that those discretions of a more Scheme administration or individualised, case-by-case nature as identified in Schedule 2 to this report be exercised either by the full Authority, the Human Resources Management & Development Committee or the Chief Fire Officer be as indicated in that Schedule;</p> <p>(b) that, pending approval at the Authority, the Clerk be authorised to make any consequential changes to Authority constitutional framework documents – notably Committee Terms of Reference, the approved Scheme of Delegations and Financial Regulations – to reflect the decisions taken in relation to (a) above.</p>
EXECUTIVE SUMMARY	<p>This report advises Members of changes over recent years to Firefighters' Pension Schemes and specifically:</p> <ul style="list-style-type: none"> • Identifies discretions available to the Authority under the various Schemes; and • Makes recommendations as to the exercise of those discretions.
RESOURCE IMPLICATIONS	Financial implications will be dependent on the exercise of specific discretions and will be reported to the Authority as and when required.
EQUALITY RISKS AND BENEFITS ANALYSIS (ERBA)	The contents of this report are considered compatible with existing equalities and human rights legislation.

APPENDICES	<p>A. Schedule 1 - Firefighters Pensions Schemes Discretions – Proposed General Policies.</p> <p>B. Schedule 2 - Firefighters Pensions Schemes – Other Discretions</p>
LIST OF BACKGROUND PAPERS	Report DSFRA/15/5 to the Authority budget meeting on 20 February 2015.

1. BACKGROUND AND INTRODUCTION

- 1.1 In recent years there have been a considerable number of changes to public sector pension schemes and specifically, from the perspective of this Authority, various Firefighters' Pension Schemes (FPSs). These changes have included (not exhaustively):
- amendments to the 1992 and 2006 Firefighters' Pensions Schemes, by virtue of the Firefighters' Pension Scheme (England)(Amendment)(No.2) Order 2013;
 - introduction of the Firefighters Compensation Scheme Order 2006; and
 - the introduction of a new Firefighters' Pension Scheme as of April 2015 (by virtue of the Firefighters' Pension Scheme (England) Regulation 2014.
- 1.2 At its budget meeting on 20 February 2015, the Authority considered report DSFRA/15/5 on the establishment, in accordance with the requirements of the Firefighters' Pension Scheme (England) Regulations 2014, of a local pension board by the Authority ("the Scheme Administrator" for Firefighter Pension Schemes) to assist the Authority in securing compliance with the provisions of the various Firefighters' Pension Schemes and ensure effective and efficient governance of the schemes. In this respect, the local pension board is not a decision-making body but rather will exercise a scrutiny-type roll.
- 1.4 The report as submitted to the Authority also highlighted, however, that each of the Firefighters' Pension Schemes provide for a number of instances whereby the Authority can exercise discretion over what action it takes.
- 1.5 Given the considerable changes to these Schemes over recent years, together with the current political and economic climate in which the Authority operates, a review has been undertaken of these Schemes and particularly the discretions afforded with a view to ensuring these discretions are exercised in the most appropriate way. The remainder of this report sets out the outcome of this review and specifically makes recommendations as to the exercise of discretions under the Schemes.

2. FIREFIGHTERS' PENSION SCHEMES PRE-1992

- 2.2 Prior to 1992, there were a number of other Firefighter Pension Schemes in existence, namely:
- The Fire Brigade Pensions Act 1925
 - The Firemen's Pension Scheme 1948
 - The Firemen's Pension Scheme 1952
 - The Firemen's Pension Scheme 1956
 - The Firemen's Pension Scheme 1964
 - The Firemen's Pension Scheme 1966
 - The Firemen's Pension Scheme 1971
 - The Firemen's Pension Scheme 1973
- 2.3 It is highly unlikely that there remains anyone connected with the Devon & Somerset Fire & Rescue Service who is entitled to benefits under any of the above schemes.
- 2.4 Should any individual(s) be so entitled, however, then it is recommended:

- (a) that the Fire & Rescue Authority assess and pay any benefits due in accordance with the relevant Act/Scheme this provisions; and
- (b) In the event that this involves the exercise of a discretionary power, this will be done in accordance with any similar discretionary powers and policies made under the Firefighters' Pension Scheme 1992 (or successor Schemes) or Compensation Scheme 2006 as set out in the Schedules to this report. If there is no such parallel discretionary provision, it will be considered at an appropriate level as informed by the Authority's approved Scheme of Delegations and Financial Regulations, having regard to the circumstances of the case.

3. FIREFIGHTERS' PENSION SCHEMES POST-1992

3.1 As indicated earlier, with effect from 1 April 2015 there are, in essence, three main Firefighters' Pension Schemes:

- the Firefighters' Pension Scheme 1992 (hereafter referred to as "the 92 Scheme");
- the Firefighters' Pension Scheme 2006 (hereafter referred to as "the 06 Scheme"); and
- the Firefighters' Pension Scheme 2015 (hereafter referred to as "the 15 Scheme").

3.2 Additionally, the Firefighters Compensation Scheme Order 2006 (hereafter referred to as "the Compensation Scheme"), made under Section 34 of the Fire & Rescue Services Act 2004, provides a scheme for the payment of pensions, allowances and gratuities to and in respect of persons who die or are permanently disabled as the result of an injury sustained or disease contracted while employed by a fire and rescue authority.

3.3 Each of the Schemes mentioned above contain matters over which the Authority may exercise discretion over how it would wish to act. Broadly speaking, these discretions fall into two areas:

1. discretions of a more generalised nature (e.g. whether or not to treat certain matters as pensionable for the purposes of additional pensionable benefits; discretion to remove or withdraw payments in certain circumstances) in relation to which the Authority may wish to determine a particular policy position; and
2. discretions either of a Scheme administration type or of a more individualised, case-by-case nature where the Authority may wish to determine the appropriate level at which the discretion is exercised.

3.4 The following sections of this report address these in order.

4. FIREFIGHTERS' PENSION SCHEMES – PROPOSED AUTHORITY POLICY DETERMINATION FOR GENERALISED DISCRETIONS

4.1 Schedule 1 to this report sets out those discretions from the Firefighters Pension Schemes and the Compensation Scheme where it is suggested that the Authority may wish to adopt a general policy together with a proposal as to what the policy may be.

4.2 For ease of reference and to ensure consistency of approach, discretions in each Scheme of a similar nature have been grouped together wherever possible.

4.3 In each case, it is proposed that – once the Authority has determined the policy to apply – the actual administration involved be delegated to the Chief Fire Officer.

5. FIREFIGHTERS' PENSION SCHEMES – OTHER DISCRETIONS

5.1 Schedule 2 to this report sets out those discretions from each of the Firefighters' Pension Schemes and the Compensation Scheme which are either:

- of a more routine, Scheme-administration type nature. Where this is the case, then it is recommended that these should be exercised by the Chief Fire Officer
- of a more individualised, case-by-case nature and which could involve additional financial implications for the Authority. Depending on the potential magnitude of these, it is recommended (as indicated in the Schedule) that these discretions are exercised either by the full Authority or by the Human Resources Management & Development Committee, or by the Chief Fire Officer depending upon the quantum of the financial implication and aligned to the thresholds for settling employee claims as set out in the Authority's approved Financial Regulations, namely;
 - for amounts up to £25,000 – Chief Fire Officer;
 - for amounts between £25,000 and £75,000 – Human Resources Management & Development Committee; and
 - for amounts in excess of £75,000 – the full Authority

5.2 It is also intended that, for all cases where the Chief Fire Officer exercises a discretion having a financial implication, this will be reported to the next appropriate meeting of the Human Resources Management & Development Committee for information.

5.3 As with the generalised discretions, for ease of reference and to ensure consistency of approach, discretions in each Scheme of a similar nature have been grouped together wherever possible.

6. CONCLUSION

6.1 There are now in existence several firefighters pensions schemes, all of which are complex and two of which have undergone considerable changes in recent years. This report seeks to identify the various discretions available to the Authority under each Scheme currently in force and make recommendations as to how these discretions might most appropriately be addressed.

LEE HOWELL
Chief Fire Officer

MIKE PEARSON
Clerk to the Authority

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEDULE 1 TO REPORT DSFRA/15/18

FIREFIGHTERS’ PENSIONS SCHEMES DISCRETIONS – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
K4	Part 9, Rule 3	Part 9, Rule 3	-	discretion to the Authority to withdraw the whole or part of any persons personal pension (not that of a spouse or civil partner) during any period to which the person entitled to the pension is employed by any fire and rescue authority in any capacity. Guidance on abatement (i.e. pension reduction) principles in the event of re-employment exists in both the 92 and 06 Schemes, in Firefighters’ Pension Scheme Circular 10/2009 and in HM Treasury Guidance aimed at ensuring that a person’s income following re-employment plus any pension they are in receipt of should not exceed the level of their final salary prior to initial retirement.	<i>that, in the event of re-employment following retirement, any personal pension payable under either the Firefighters’ Pension Schemes 1992 and 2006, or the Firefighters Compensation Scheme Order 2006, be abated in accordance with the provisions of the relevant Schemes/Order, the Firefighters’ Pension Scheme Circular 10/2009 and in HM Treasury guidance.</i>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Discretions on awards, associated review periods and adjustments</i>					
D5(3) and D5(9)(c) K1(1) and (2) K1(3) K3 (1)	Part 9, Rule 1, para 1 Part 9, Rule 1, paragraph 2 and Rule 2	Part 4, Rule 3, paragraph 5(c) Part 9, Rule 1, paras 1 and 3 Part 9 Rule 2	Reg 68	<p>Rules D5(3) and D5(9)(c) of the 92 Scheme and Part 4, Rule 3, para. 5(c) of the Compensation Scheme provide discretion to determine award of a child’s allowance for a child aged 18 or over who was dependent on a deceased Scheme member by reason of permanent disablement, to review any award so made and to cease payment of the award if the Authority is satisfied that the child is no longer permanently disabled and not entitled to a child’s special allowance under any of the other provisions of the Pensions Schemes.</p> <p>Rule K1 (1) and (2) of the 92 Scheme require the Authority to have policy on reviewing whether a person under age 60 and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds and, in the case of a higher tier ill-health pension, whether that person has become capable of undertaking regular employment.</p> <p>Part 9, Rule 1, para. 1 of the 06 Scheme require the Authority to have a policy for reviewing whether a person under State pensionable age and in receipt of an ill-health pension for less than 10 years has become capable of carrying out any duty appropriate to the role from which he/she retired on health grounds, and of undertaking regular employment.</p>	<p><i>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</i></p> <p><i>(i) nature and level of disablement/injury;</i></p> <p><i>(ii) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</i></p> <p><i>(iii) appropriate level(s) of reduction to apply as recommended either at the commencement of award (in the case of an individual’s contribution to infirmity) or following a review;</i></p> <p><i>and that, for the avoidance of doubt, the Chief Fire Officer be delegated authority to arrange for and undertake the necessary administration linked to the above.</i></p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				<p>Part 9, Rule 1, paras 1 and 3 of the Compensation Scheme require the Authority to have a policy to review, periodically, whether or not a person's degree of disablement that has resulted in the making of an injury award under the Scheme has substantially altered and if so to review the pension payable and discretion to determine, 5 years after an injury pension first becomes payable, that no further review of degree of disablement should take place.</p> <p>Rule K1(3) of the 92 Scheme requires the Authority to have a policy for reviewing whether a person under age 60 who is receiving early payment of a deferred pension on health grounds, has become capable of firefighting and performing any other duties appropriate to his/her former role as a firefighter.</p> <p>Part 9, Rule 1, paragraph 2 and Rule 2 of the 06 Scheme require the Authority to have a policy for reviewing whether a person under normal benefit age (65) who is in receipt of a deferred pension paid early on permanent disablement, has become capable of carrying out any duty appropriate to their former role, and of undertaking regular employment</p>	<p><i>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</i></p> <p><i>(i) nature and level of disablement/injury;</i></p> <p><i>(ii) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</i></p> <p><i>(iii) appropriate level(s) of reduction to apply as recommended either at the commencement of award (in the case of an individual's contribution to infirmity) or following a review;</i></p> <p><i>and that, for the avoidance of doubt, the Chief Fire Officer be delegated authority to arrange for and undertake the necessary administration linked to the above.</i></p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				<p>Reg. 68 of the 15 Scheme requires the Authority to have a a policy for reviewing, 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>Rule K3(1) of the 92 Scheme gives the Authority discretion to reduce the level of an ill-health pension to not less than half of the full amount where firefighter contributed to infirmity by own default. The amount of the reduced pension would be increased to the level of a notional deferred pension when the person attains age 60.</p> <p>Part 9, Rule 2 of the Compensation Scheme gives the Authority discretion to reduce an injury award to not less than half of the full amount where a person who is permanently disabled contributed to the infirmity by his/her own default</p>	<p>Confirm existing policy - determine in accordance with any Scheme restrictions/conditions as applicable and advice obtained by an Independent Qualified Medical Practitioner (IQMP) as relevant to each individual case on:</p> <p>(i) nature and level of disablement/injury;</p> <p>(ii) appropriate review periods to apply in cases of awards relating to permanent disablement, ill-health or injury;</p> <p>(iii) appropriate level(s) of reduction to apply as recommended either at the commencement of award (in the case of an individual’s contribution to infirmity) or following a review;</p> <p>and that, for the avoidance of doubt, the Chief Fire Officer be delegated authority to arrange for and undertake the necessary administration linked to the above.</p>
Additional Pension Benefits					
B5C	Part 3 Rule 7B,	-	-	<p>discretion to determine that the following be treated as pensionable for credit to the person concerned of Additional Pension Benefit:</p> <p>(a.) any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter member’s duties under the contract of employment but are within the wider functions of the job;</p>	<p>That in all cases, the Additional Pension Benefit will not be applied to any allowances or emoluments other than that of Continual Professional Development payments which are the subject of a national collective agreement.</p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				<p>(b.) the difference between the firefighter member’s basic pay in their day to day role and any pay received whilst on temporary promotion or where he is temporarily required to undertake the duties of a higher role;</p> <p>(c.) any performance related payment which is not consolidated into his standard pay.</p> <p>Both Schemes restrict this discretion in respect of where the allowance or supplement paid was being treated as pensionable before 1 July 2013 but was not pensionable pay as defined elsewhere in the Schemes, then the allowance or supplement should continue to be treated as pensionable only for so long as the person continues to receive it without any break in pension.</p>	
<i>Payment of additional contributions to count periods of unpaid absence as pensionable service</i>					
F2(5)	Part 10, Rule 4, para. 3	-	19(c) and 111	Each of the Schemes contains a similar discretion in essence for the Authority to require an employee who has requested to pay contributions to count periods of unpaid absence towards pensionable service to meet both the employee AND employer costs.	<i>That, in all cases where an employee seeks to pay additional pension contributions to cover periods of unpaid absence, in accordance with the relevant Scheme provisions, the employee be required to meet both employee and employer contributions.</i>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Discretion to withhold pension in cases of murder/manslaughter of deceased scheme member</i>					
D5	Part 4 Rule 7		172	<p>Rule D5 of the 92 Scheme and Rule 7, Part 4 of the 06 Scheme give the Authority discretion to withhold all or part of a child’s pension, permanently or temporarily, where the child is convicted of the manslaughter of the deceased Scheme member.</p> <p>Regulation 172 of the 15 Scheme gives the Authority discretion, to withhold the pension, permanently or temporarily, in the event of the surviving partner or eligible child being convicted of manslaughter.</p> <p>For each Scheme, however, where the discretion to withhold pension is exercised, the Authority must revoke this decision in the event of the manslaughter conviction subsequently being quashed and pay arrears of pension accrued from the day after that on which the deceased died.</p>	<i>that, in cases of manslaughter, the discretion to withhold a pension either from a surviving partner or eligible child, as provided for by the relevant Scheme, be exercised subject to the conditions of each relevant Scheme, including reinstatement of pension on subsequent quashing of the conviction.</i>
<i>Discretion to withhold sums in cases of fraud, theft, negligence, other offence or dismissal (for disciplinary offence)</i>					
Rule L5(6) to (9)	Part 14 Rule 6, Paras 4 to 7 of		174 and 175	<p>Rule L5(6) to (9) of the 92 Scheme and Rule 6, Paragraphs 4 to 7 of Part 14 of the 06 Scheme give the Authority discretion to withhold all or part of any sums becoming due to a Scheme member in respect of a pension in cases where there has been a loss of funds to the Authority as a result of fraud, theft or negligence on the part of the Scheme member, subject to certain conditions including the total amount withheld not exceeding the amount of loss.</p>	<i>(a) that in all cases of financial loss to the Authority arising from fraud, theft or negligence on the part of the Scheme member, the Authority will withhold the maximum amount of any award permissible in accordance with the conditions of the relevant schemes</i>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				<p>Regulation 174 of the 15 Scheme gives the Authority discretion to withhold benefits payable under the Scheme to a person, to such extent and for such duration as the Authority considers appropriate, where the person concerned has a relevant monetary obligation or has caused a relevant monetary loss to the Authority. "Relevant monetary obligation" and "relevant monetary loss" are defined in the Regulation and both must feature a criminal, negligent or fraudulent act on the part of the Scheme member concerned.</p> <p>Similarly, Regulation 175 of the 15 Scheme gives the Authority discretion to off-set a monetary obligation against the member's entitlement to benefits under the Scheme. In this instance, however, in addition to the member's criminal, negligent or fraudulent act or omission giving rise to the monetary obligation, there is also a monetary obligation arising from a payment made in error by the Authority to the Scheme member.</p> <p>There are limits to these discretion, e.g. the amount withheld may only be that which exceeds the person's guaranteed minimum pension and the Authority may only act if there is no dispute about the amount or, if there is, there is a court order or the award of an arbitrator.</p>	<p><i>(b) that recovery in cases where a monetary obligation arises from an overpayment error made by the Authority (15 Scheme only) be referred to the Human Resources Management & Development Committee to determine.</i></p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Forfeiture of award on conviction of certain offence</i>					
	Part 9 Rule 6,	Rule 5, Part 9		discretion for the Authority to require such amount of pension as is considered appropriate in the circumstances where a person is convicted of an offence under Section 34(6) of the Fire & Rescue Services Act. Section 34(6) of the Fire & Rescue Services Act 2004 makes it an offence for a person, either by their act or omission, to injure themselves deliberately for the purpose of obtaining either for themselves or another a pension or injury award).	<i>That, in accordance with the relevant Scheme provisions, forfeiture in full be required of any pension, in all cases where the person concerned has been convicted of an offence under Section 34(6) of the Fire & Rescue Services Act 2004.</i>
<i>Discretion to disallow payment of deferred pension following dismissal</i>					
	Part 3, Rule 3, para. 4 and Part 9 Rule 4			<p>discretion to disallow early payment of a deferred pension (i.e payment of a deferred pension to a wholetime firefighter before age 65, or before age 60 in the case of a special retained firefighter) in cases where the firefighter concerned has been dismissed from the Authority's employment.</p> <p>The reason for "dismissal" is not mentioned and as such it is proposed that the Authority differentiates between dismissal because of a disciplinary offence and dismissal because of medical capability (where the person would not be entitled to an ill-health award).</p>	<p><i>(a) That early payment of a deferred pension be not permitted in cases of dismissal arising from disciplinary action;</i></p> <p><i>(b) That the Human Resources Management & Development Committee be delegated authority to determine on a case-by-case basis the early payment of a deferred pension in those cases of dismissal due to medical capability where the person concerned would not be entitled to an ill-health award.</i></p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Discretion to claim medical appeal board expenses</i>					
Sch 9, Part 1, Paras 8(2) and 8(2)(A)	Paras 10(2) and 10(3)	Sch 5, Paras 9(2) and 9(3) of	Regs 160, 161 and 165	<p>Paragraphs 8(2) and 8(2)(A) of Part 1 of Schedule 9 to the 92 Scheme, Paragraphs 10(2) and 10(3) of the 06 Scheme and Regulations 160, 161 and 165 of the 15 Scheme each give discretion for the Authority to require a Scheme member who has submitted an appeal to the Medical Appeal Board to meet expenses incurred by Authority on fees and allowances payable to the Board incurred in dealing with the appeal where:</p> <ul style="list-style-type: none"> the Board decides in favour of the Authority and declares that in its opinion the appeal was frivolous, vexatious or manifestly ill-founded; or the appellant withdraws the appeal or requests cancellation, postponement or adjournment of the date appointed for an interview or medical examination by the Board less than 22 working days before the appointed date or the appellants acts or omissions cause the Board to cancel, postpone or otherwise adjourn less than 22 working days before the appointed date. <p>Paragraphs 9(2) and 9(3) of Schedule 5 of the Compensation Scheme provide similar discretions in relation to frivolous, vexatious or manifestly ill-founded or where the appellant withdraws the appeal within 21 working days of the date of the interview or medical examination.</p>	<p><i>that the Authority require payment in full of any fees an allowances payable to the Medical Appeal Board, as provided for by the relevant Schemes, in cases where the appeal is found by the Board to be frivolous, vexatious or manifestly ill-founded or where the appeal is withdrawn, cancelled, postponed or adjourned by the appellant within less than 22 (21) days, as the case may be depending on the Scheme in question.</i></p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Discretion to require payment for administrative expenses incurred</i>					
Rule G6(4) Rule B9(6) Rule B12 and Part 1A	Part 3, Rule 11, para 6(a) Part 3 Rule 12 Chapter 2, Part 12, Rule 3, para 6		Reg 73	<p>Each of the Schemes provides discretions for the Authority to require payment for certain types of administrative expense incurred. Specifically:</p> <ol style="list-style-type: none"> 1. Rule G6(4) of the 92 Scheme provides discretion not to accept a firefighter's election to purchase increased benefits through the payment of additional contributions unless the firefighter has undergone a medical examination at his/her own expense and satisfied the Authority as to his/her good health; 2. Rule B9(6) of the 92 Scheme, Part 3, Rule 11, paragraph 6(a) of the 06 Scheme and Regulation 73 of the 15 Scheme provide that, if a member of the Scheme in question wishes to allocate a portion of pension in favour of a beneficiary, that member must satisfy the Authority as to his/her normal life expectancy at the time of the request; 3. Rule B12 and Part 1A of the 92 Scheme and Part 3 Rule 12 of the 06 Scheme require the Authority to provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and to take appropriate steps to record and administer any Attachment Orders that may be made by a Court. The Authority may determine a charge payable for the administration costs associated with this; and 	<p>(a) That, in relation to Rule G6(4) of the 92 Scheme (medical examination prior to permitting election to purchase increased benefits), the Authority policy be to require evidence of good health prior to agreeing any such purchase, with the individual concerned required to meet the costs of any medical examination entailed;</p> <p>(b) That for Rule B9(6) of the 92 Scheme, Rule 11, Part 3, paragraph 6(a) of the 06 Scheme and Regulation 73 of the 15 Scheme (allocation of portion of pension in favour of a beneficiary), the Authority policy be to require its Occupational Health provider to confirm normal life expectancy at the time of the request and to require from the applicant payment of any charges associated with this;</p> <p>(c) That, in relation to:</p> <ol style="list-style-type: none"> 1. Rule B12 and Part 1A of the 92 Scheme and Part 3, Rule 12 of the 06 Scheme (administrative charge for providing pension valuations and administering Attachment Orders etc); and 2. Part 12, Chapter 2, Rule 3, paragraph 6 of 06 Scheme (third request for transfer value statement during a twelve-month period)

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				<p>4. Chapter 2, Part 12, Rule 3, paragraph 6 of the 06 Scheme provides that, where, in any period of twelve consecutive months, a Scheme member has made and not withdrawn two applications for a statement of transfer value entitlement, the Authority has discretion not to supply a third or subsequent statement during that twelve-month period unless the applicant pays such fee as the Authority may reasonably require.</p> <p>In relation to (1) and (2) above, 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 has discretion to determine the method of proof.</p>	<p><i>the Chief Fire Officer be asked to determine the appropriate charge to apply in each case.</i></p>
<i>Discretion on stage one and stage 2 decision makers under firefighters’ pension internal dispute resolution procedure</i>					
Rule H3	Part 6, Rule 5	Part 6, Rule 3	Reg 163	<p>Rule H3 of the 92 Scheme, Part 6, Rule 5 of the 06 Scheme and Regulation 163 of the 15 Scheme each require certain pensions disagreements not involving medical issues to be dealt with in accordance with the two-stage Internal Dispute Resolution Procedure. The Authority has discretion under the Schemes, however, to determine who the Stage 1 and Stage 2 decision makers will be.</p> <p>Part 6, Rule 3 of the Compensation Scheme requires the Authority to reconsider, at person's request, his/her claim to an award where the Authority does not admit the claim at all, or does not admit it to its full extent.</p>	<p><i>That the existing policy be confirmed i.e. that Stage 1 Internal Dispute Resolution Procedure decisions be taken by the Director of People and Commercial Services with Stage 2 decisions taken by a small Member Panel appointed annually by the Human Resources Management & Development Committee.</i></p>

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SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				<p>The “reconsideration” is under the Internal Dispute Resolution Procedure and again the Authority has discretion to determine who the Stage 1 and Stage 2 decision makers will be. If the person’s grievance lies in the content of the medical opinion upon which the Authority based their decision, the person should use the process set out in Part 6 Rule 2 “Appeal to Medical Appeal Board” of the Order.</p> <p>Existing policy is that Stage 1 decisions are undertaken by the Director of People and Commercial Services; with Stage 2 determinations being considered by a small Panel of Members appointed annually by the Human Resources Management & Development Committee.</p>	
<i>Extensions of time for medical appeals</i>					
H2(4)(c) Sch 9, Part 1, para 1(2)	Part 8, Rule 4, para 4	Sch 5, para 1(2)	155	<p>The 92, 06 and 15 Schemes each provide a period of 28 days for an individual to lodge an appeal against a decision based on a medical opinion. The Schemes also provide discretion for fire and rescue authorities to extend this 28 day period for up to a further six months from the date of issue of those documents prompting the appeal. The 92 Scheme also requires the Authority to be satisfied, prior to granting any extension, that the failure to meet the 28 day deadline was not due to the individual’s own default.</p> <p>The Compensation Scheme contains similar provisions on extension (by up to six months) but only allows an initial 14 days in which to submit the medical appeal.</p>	<p><i>That no extension be allowed to the time limit (28 days) for submitting appeals under the 92, 06 and 15 Schemes but – to seek to secure consistency across each of the Schemes –an automatic 14 day extension be allowed for medical appeals submitted under the Compensation Scheme, subject to establishing that the failure to meet the required 14 day deadline was through no fault of the individual concerned.</i></p>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
				As with the 92 Scheme, the Authority needs to be satisfied, prior to granting any extension, that the failure to meet the 14 day deadline was not due to the individual’s own default.	
<i>Adjustment of Transfer Values</i>					
Rule F6A(6)	Part 12, Ch 5, Rule 14, para 6			discretion in certain circumstances (i.e. under the “mis-selling transfer rules) to adjust the amount of any transfer value accepted by the Authority to ensure that there is no duplication of pensionable service credited.	<i>That any transfer values accepted by adjusted as necessary to avoid duplication of pensionable service credited.</i>
<i>Discretion on deductions for outstanding contributions</i>					
Sch 6, Part 1, para 1(4)	Part 11, Rule 4, paras 6 and 7			Schedule 6, Part 1, paragraph 1(4) of the 92 Scheme provides the Authority with discretion to deduct from a pension award any outstanding balance of payments in respect of previous service. Similarly, Part 11, Rule 4, paragraphs 6 and 7 of the 06 Scheme give the Authority discretion to deduct contributions for unpaid additional maternity, paternity or adoption leave from any death grant payable where the member concerned dies without giving notice within the election period that they wish to pay such contributions.	<i>That, in accordance with the Schemes in question, any outstanding pension contributions be recovered either from any award made under the 92 Scheme, prior to its payment, or from any death grant payable under the 06 Scheme.</i>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Overpayment on death of pensioner</i>					
	Part 14, Rule 3, para 5			discretion to recover all or part of any overpayment arising from the Authority not being informed of the death of a pensioner. The overpayment may be recovered by making an off-set against any other awards payable under the 06 Scheme in respect of the deceased.	<i>that in the event of an overpayment arising from the Authority not being informed of the death of a pensioner, recovery the full amount of any such overpayment, using the most appropriate method including off-set against any other awards payable under the 06 Scheme in respect of the deceased, will be required.</i>
<i>Repayment of Aggregate Pension Contributions</i>					
L3(9)	Part 14, Rule 3, para 6			If a person is entitled to the repayment of aggregate pension contributions, the Authority is not obliged to make the payment until the expiration of a year from the date of retirement if the person does not make an earlier request for payment.	<i>that, where a person is entitled under Part 3, Rule 8 of the Scheme to the repayment of aggregate pension contributions but does not make an earlier request for this repayment, the repayment will only be made following the expiry of one year from the date of retirement.</i>
<i>Requirement for proof of identity and continuing entitlement to award</i>					
	Part 15, Rule 3		Reg 184	discretion to require a person who is, or may be, entitled to a pension or a lump to provide the Authority with supporting evidence as to identity and continuing entitlement to any payment under the Scheme. The Authority also has discretion to withhold the whole or part of any amount due where a person fails to comply with this requirement.	<i>That, should the individual circumstances dictate, a person in receipt of, or potentially entitled to, either a pension or lump sum under either the 06 or 15 Schemes be required to provide evidence as to identity and continuing entitlement to any such award, with the whole of any amount due being withheld where the person fails to comply with this request.</i>

SCHEDULE 1 – FIREFIGHTERS’ PENSIONS SCHEMES – PROPOSED GENERAL POLICIES

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION	PROPOSED POLICY
92	06	COMP.	15		
<i>Suspension/recovery of award for false declaration or suppression of material fact</i>					
			Reg 101	discretion to suspend and recover a pension awarded and paid under the Scheme to a surviving partner and/or eligible child when, after making the award and payment, it later appears to the Authority that the member or person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award.	<i>that, in the event of an award made to a surviving partner and/or eligible child under the 15 Scheme where it later appears to the Authority that the member or person to whom the pension has been paid made a false declaration or deliberately suppressed a material fact in connection with the award, then the Authority will exercise its discretion under Regulation 101 to cease payment and recover all amounts paid under the pension.</i>
<i>Acceptance of Transfer Values</i>					
F6A(3) (b) F7(1) (subject to Rule F7(2) and (3))	Part 12, Ch. 3 Rule 9(1)(c) (ii) Rule 10, para 1 subject to paras 3 and 4 and Part 10, Rule 2 paras 2 and 3 Part 12, Chs. 4 and 5, Rules 14 paras 3 of each Ch.		141	Each of the Schemes gives the Authority discretion on acceptance of transfer values relating to non-occupational pensions. The Schemes also provide various conditions relating to extensions of time limits for individuals to apply to have a transfer value accepted.	<i>That, given that acceptance of a transfer value would ultimately result in increased costs for the Authority upon retirement of the individual concerned, the policy of the Authority be not to accept transfer values and accordingly not to exercise any of the associated discretions relating to extensions of time limits to request transfer values etc.</i>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

APPENDIX B TO REPORT DSFRA/15/18

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES - OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
Rule B7(5A)	-	-	-	<p>Discretion to consent to one quarter pension being 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.</p> <p>Before exercising this discretion, the Authority must have regard to the economical, effective and efficient management of its functions and the costs to the Authority likely to be incurred in any particular case.</p> <p>These costs will include a sum equal to the difference between the lump sum which the Scheme member wishes to receive and the lump sum payable in the absence of the Authority’s consent; such a sum would be transferrable to the Firefighters Pension Fund by the Authority in accordance with Rule LA2(10) of the Firemen’s Pension Scheme Order 1992. There may also be tax charges to be paid by both the firefighter and the Authority which arise from permitting the greater lump sum to be paid.</p>
Rules B8, E5, E6, IA(2) (1)	Part 3, Rule 10 Part 4, Rules 5 and 12 Part 6 Rule 2	Part 2, Rule 4 Part 5, Rules 3 and 4	167	<p>Discretion to commute small pensions/awards for “trivial” lump sum</p> <p>Each of the Schemes contains provision to commute, in certain circumstances as indicated in the Scheme and subject to advice from the Scheme Actuary, a small pension award for a trivial lump sum.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
Rule B9(2)(b)	Part 3, Rule 11 paras 2(b) and 3	-	72	<p>A Scheme member may allocate a portion of pension for a dependant other than a spouse or civil partner.</p> <p>Before giving consent to the allocation, the Authority must be satisfied that the nominee is a person “substantially dependent” on the member. There is no guidance in the Scheme Rules as determining substantial dependency and it is proposed that this should be at the discretion of the Chief Fire Officer to determine on a case by case basis.</p>
Rule C8(6)	-	Part 3, Rule 4, Paras 6 and 7	-	<p>Discretion to increase level of spouse's or civil partner's pension/award for such period as the Authority thinks 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 under the Scheme in question</p>
Rule C8(7)	-	-	-	<p>Discretion to allow a gratuity to be paid, in whole or in part, to the surviving spouse or civil partner where it would otherwise not be payable because husband and wife, or civil partners, were living separately at the date of death.</p>
C9	-	Part 3, Rule 5, paras 1 and 2	-	<p>Discretion to reinstate all or part of a spouse's or civil partner's pension/award or gratuity for such period as the Authority thinks fit if - following termination of the pension or gratuity on marriage, remarriage, formation of a civil partnership or subsequent civil partnership – the subsequent marriage, remarriage or civil partnership is dissolved OR the other party to the subsequent marriage or civil partnership dies.</p> <p>The Authority would have to decide what confirmatory evidence should be provided by the applicant, whether to allow the full award to be reinstated and the date from which reinstatement payment should be made.</p>
E3	-	-	-	<p>Discretion to make an award of dependent relative's gratuity to a dependent relative who is not entitled to any other award under the Firemen’s Pension Scheme Order 1992 in respect of the same firefighter.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
E9(6)	-	-	-	<p>Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive.</p> <p>In the exceptional circumstances that this issue should come up for consideration, the Authority has discretion to make such an award.</p>
F4(3) (c)	-	-	-	<p>Extension of 6-month time limit for election to pay certain sums in order that earlier pensionable service may count on rejoining the Fire & Rescue service.</p> <p>The Authority has discretion to permit the extension of the 6-month time limit for an election to pay certain sums in order that earlier pensionable service may count upon a firefighter rejoining the Fire & Rescue service.</p>
F5(1)	-	-	-	<p>Discretion to extend period in which a firefighter may make a payment to count as pensionable service a period during which an injury award was payable.</p> <p>If a firefighter is entitled under Rule F5 to pay to the Authority the amount required in accordance with Schedule 6, Part I, paragraph 1 of the Firemen’s Pension Scheme Order 1992 in respect of a period during which the firefighter was entitled to receive an injury pension, in order that it may count as pensionable service on re-employment, the Authority has discretion to extend the period in which the election to pay and payment must be made (within six months of resuming service).</p>
F9(2)	-	-	-	<p>Extension of 6 month time limit for a former firefighter, or serving firefighter who has opted out of the Firefighters’ Pension Scheme 1992, to request payment of a transfer value to another pension scheme.</p> <p>If a former firefighter or a serving firefighter who has opted out of the Firefighters’ Pension Scheme 1992 becomes subject to another pension scheme and requests that the Fire & Rescue Authority should pay a transfer value to that other scheme, the written request must be made within 6 months of becoming subject to the other scheme. However, the Authority has discretion to extend this time limit.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
F9(5)	-	-	-	<p>Extension of 12-month time limit after leaving in which a former firefighter must be subject to a new scheme if a transfer value based upon a returned refund of pension contributions or gratuity is to be permitted.</p> <p>If a former firefighter has received a refund of pension contributions or a gratuity under Part B of the Firemen’s Pension Scheme Order 1992 and wishes to return the contributions/gratuity to reinstate pensionable service for the purposes of a transfer value to a new scheme, he/she must have become subject to that scheme within 12 months of ceasing to serve as a regular firefighter. The Authority has discretion to extend this 12-month time limit.</p>
G2(2)	Part 11, Rule 3, Para 6	-	114	<p>Discretion to deduct pension contributions from instalments of pensionable pay.</p> <p>The Authority’s pensions provider will normally administer all Scheme aspects, including collection of pension contributions and payment of pension in instalments.</p> <p>Contributions are normally deducted from instalments of pay but the Authority has discretion to collect the contributions due by other means should the need arise (for example, an individual may wish to pay by way of a lump sum an amount equating to payment of additional contributions to enable periods of unpaid leave to count towards pensionable service).</p>
G2A(3)	Part 11, Rule 4, Para 3	-	-	<p>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.</p>
G7(3)	-	-	-	<p>Discretion to agree to discontinuance of payment of periodical contributions for increased benefits where the payment is causing, or likely to cause, the firefighter financial hardship.</p>
K5(1)	Part 9 Rule 5, Paras 1 to 3	-	171	<p>Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.</p> <p>The Authority has discretion to withdraw a pensioner’s pension under the Scheme (or any pension payable under the Scheme to a spouse or civil partner where the offence is committed <u>after</u> the death of the pensioner) in whole or in part where the pensioner has been convicted of:</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
				<ul style="list-style-type: none"> • the offence of treason; or • one or more offences under the Official Secrets Act where the person has received either a single or consecutive sentences of at least 10 years; or • an offence committed in connection with the member’s scheme employment and which is certified by the Secretary of State as being gravely injurious to the interests of the State or likely to lead to serious loss of confidence in the public service.
Rule K5(5)	Part 9 Rule 5, Para 4	-	-	Discretion to restore, at any time and to such extent as the Authority think fit, a pension withdrawn under either Rules K5(1) of the 92 Scheme or Part 9, Rule 5 paras 1 – 3 of the 06 Scheme to the pensioner or to apply it for the benefit of any dependant of the pensioner.
L3(1)	Part 14, Rule 3 para 2(b)	Part 10, Rule 2, Para. 1	-	<p>Determination of intervals at which instalments of pension, allowance or award shall be paid.</p> <p>In practice, this is a Scheme administration-type matter and would in the main be undertaken by the Authority’s pensions provider (currently Peninsula Pensions), with payments made monthly in arrears for pensions (but in advance for injury awards under the Compensation Scheme).</p> <p>The Fire & Rescue Authority has discretion, however, to determine the intervals at which instalments of pension or allowance should be paid.</p>
Rule L3(1)	Part 14, Rule 3 para 2(a)	Part 10, Rule 2, Para. 1	-	Discretion to delay payment of an award to the extent necessary for determining any question as to the Fire & Rescue Authority’s liability.
Rule L3(7) and (8)	-	-	-	Discretion to decide an earlier payment date for survivors’ benefits than the date prescribed (the first anniversary of the date of death) where the deceased received a gratuity or lump sum, and an option to pay a gratuity in instalments rather than as a single lump sum.

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
L5(1)	Part 14, Rule 5 para 1	-	Reg. 100	<p>Payment of awards – minors.</p> <p>The Authority may, at its discretion and as it thinks fit, pay a minor's pension to such other person as it may determine. The Authority may give directions to that person as to the application of the pension for the minor's benefits.</p>
Rule L5(2)	Part 14, Rule 5, Para 2.	-	Reg. 168	<p>Payment of awards – discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.</p> <p>If it appears to the Authority that a person entitled to the payment of an award is, by reason of mental disorder or otherwise, incapable of managing his/her affairs, the Authority may use their discretion to</p> <p>(a) pay the benefits or any part of them to a person having care of the person entitled, or such other person as the Authority may determine, or</p> <p>(b) apply the benefits in such manner as the Authority may determine for the benefit of the person entitled, or his/her dependants.</p>
Rule L5(3)	Part 14, Rule 6, Para 1.	-	Reg. 169	<p>Payment of awards – discretion, following death of a person, as to recipient(s) of sums less than amount specified in the Administration of Estates (Small Payments) Act 1965.</p> <p>Upon the death of a person to whom there was due an award not exceeding (currently) £5,000, then the Authority may pay the sum due to the person or persons as the Authority thinks fit without requiring Grant of Probate or any other proof of entitlement.</p>
Sch. 9, Part 1, para. 4(5)	Annex 2, para. 6(5)	Sch. 5, Para. 5(5)	Reg. 157	<p>Discretion to decide the Fire & Rescue Authority's representation at a Medical Appeal Board interview.</p>
Sch. 9, Part 1, para. 5	Annex 2, para. 7(1)	Sch. 5, Para. 6(1)	Reg. 157	<p>Discretion to decide whether or not to submit written evidence or a written statement to a Medical Appeal Board.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	Part 2, Rule 1(6) to (9)	Part 2, Rule 3, para. 10	Reg. 76	Discretion, subject to other Scheme qualifications as appropriate, to accept the status of “nominated partner” or “surviving partner” where the Scheme member and partner had been in a relationship for less than 2 years.
-	Part 3, Rule 5	-	-	<p>Pension on member-initiated early retirement.</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 & Rescue Authority, the Authority has 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>
-	Part 3, Rule 6	-	Reg. 62	<p>Authority-initiated early retirement.</p> <p>The Fire & 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 for the 06 Scheme) who is at least age 55 but under normal pension age (60):</p> <ul style="list-style-type: none"> • 06 Scheme - 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 (England) Order 2006. <p>If the Authority is considering making a determination under the comparable provision in the Firefighters’ Pension Scheme 2015, it must also consider making a determination under this provision.</p> <ul style="list-style-type: none"> • 15 Scheme - and who is dismissed from scheme employment by reason of business efficiency or whose employment is terminated by mutual consent on the grounds of business efficiency, should receive immediate payment of retirement pension without the early retirement reduction. In accordance with Regulation 120 of the 15 Scheme, if the Authority uses this discretion to make an early payment of retirement pension, it will have responsibility for payment of an employer initiated retirement additional contribution calculated in accordance with Regulation 120(2). This would be paid into the Firefighters’ Pension Fund as required by Regulation 123.

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
				If the Authority is considering making an award under Regulation 62 for a connected member of the Firefighters' Pension Scheme 2006, it must also consider employer initiated retirement under Part 3, Rule 6 of the Firefighters' Pension Scheme (England) Order 2006.
-	Part 5, Rules 1 and 2	-	-	<p>Discretion as to recipient of death grant and post-retirement death grant.</p> <p>Upon the death of a firefighter member or pensioner member, the Fire & Rescue Authority may pay a death grant assessed in accordance with Part 5, Rules 1 and 2 of the 06 Scheme to such person or persons as the Authority think fit, in accordance with Part 5, Rule 1, paragraph 10 of the Order.</p>
-	Part 5, Rule 1, para. 12	-	-	<p>Discretion to pay part of any death grant not paid in full, to a person whose conviction for murder or manslaughter of the deceased has been quashed.</p> <p>If a person's conviction for murder or manslaughter is quashed on appeal the Authority may, if the death grant has not at that time been paid in full and having regard to the circumstances of the case, pay part of it to the person whose conviction has been quashed.</p>
-	Part 6, Rule 5, para. 2	-	-	<p>Discretion to pay a post-retirement death grant in respect of a pension credit member to such person or persons as the Fire & Rescue Authority think fit.</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"> • the amount that is five times the pension, calculated at the annual rate effective on the day that it came into payment, and • the instalments of pension that have been paid <p>the 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>
-	Part 11, Rule 5, para. 5	-	-	<p>Discretion to allow a part-time regular firefighter to pay contributions at a part-time rate to purchase additional service.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	Part 11, Rule 5, para. 6	-	-	Discretion to allow a retained or volunteer firefighter to purchase additional service by periodical contributions based on the firefighters reference pay.
-	Part 11, Rule 5A	-	-	Purchase of service during the limited period. Discretions for estimation of service for duration of special retained firefighter exercise only.
-	Part 11, Rule 8	-	-	Discretion to agree to a firefighter member's request to discontinue payment of additional contributions to purchase service provided this is solely on the grounds of the member's financial circumstances, and decision as regards timing of recommencement of payment of additional contributions to purchase service where agreed with member that discontinuance should be no greater than 6 months.
-	Part 11, Rule 9, para. 4(c)	-	-	The payment of contributions in respect of periods of unpaid service or absence, and discretion to extend the time limit in which the firefighter must pay. If a firefighter member who elected to pay additional contributions to “purchase” additional service has a period of unpaid service or unpaid leave (i.e. maternity, paternity, adoption leave or other absence without pay) and consequently there is no pay from which the additional contributions can be deducted, he/she can apply to the Fire & Rescue Authority to pay the contributions. The application must be made no later than one month after the end of the period of unpaid absence. The additional contributions may be paid directly to the Authority during the unpaid leave, or collected within 6 months of the firefighter’s return to duty after the absence. The Authority has discretion to extend this time limit.
-	Part 15, Rule 4	-	-	Decision as to date of issue of annual benefit statements and relevant date for the pension illustration. The Fire & Rescue Authority can determine the timing of the issue of annual benefit statements. The Authority may also decide the relevant date for the pension illustration (except in the case of pension credit members). In practice, this is a Scheme administration matter dealt with by the Authority’s pensions provider (currently Peninsula Pensions).

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	-	Reg. 5	<p>Delegation.</p> <p>In accordance with Regulation 5(2), the Fire & Rescue Authority may delegate any of their functions including the power to delegate.</p>
-	-	-	Reg. 12(5)	<p>Opting into the Scheme. Discretion to vary date at which pensionable service commences.</p> <p>The Fire & Rescue Authority has discretion to determine the date at which a person's pensionable service will commence if the person opts into the Scheme and the Authority considers that beginning of the first pay period after the option is exercised would be inappropriate.</p>
-	-	-	Reg. 16(2)(b)	<p>Opting out of the Scheme. Discretion to determine date at which pensionable service ceases.</p> <p>The Fire & Rescue Authority has discretion to determine the date at which a person's pensionable service will cease if the person opts out of the Scheme and the Authority consider that the first day of the first pay period beginning on or after the date on which the option is exercised would be inappropriate.</p>
-	-	-	Reg. 28(2)	<p>Establishment of pension accounts: general. Discretion to keep in such form as the Fire & Rescue Authority consider appropriate.</p> <p>The Fire & Rescue Authority must establish and maintain pension accounts for members in accordance with the Regulations but may be kept in the form it considers appropriate.</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority’s pensions provider (currently Peninsula Pensions).</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	-	Reg. 37	<p>Closure and re-establishment of active member's account. Fire & Rescue Authority's discretion to select appropriate account where more than one account held.</p> <p>In accordance with Regulation 37(3) and (4), if a member has more than two active member's accounts with the Authority and ceases pensionable service with less than three months' qualifying service in respect of one account, the Authority shall close that account and aggregate benefits with one of the others; the member may select which one. In accordance with Regulation 37(5), if the member fails to make a choice, the Authority may make a decision on the member's behalf, selecting whichever appears to be the most appropriate account in the circumstances.</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority's pensions provider (currently Peninsula Pensions).</p>
-	-	-	Reg. 49	<p>Closure of deferred member's account after gap in pensionable service not exceeding 5 years. Discretion to select which account is to be closed where more than one account is held.</p> <p>If a deferred member re-enters pensionable service under the Scheme after a gap in pensionable service not exceeding 5 years, the Fire & Rescue Authority shall close the deferred member's account and re-establish the person's active member's account with the appropriate entries in accordance with Regulation 49.</p> <p>If the person had more than one relevant deferred member's account, he/she must select – within three months of re-entering Scheme employment - which one should close. If the person fails to make a selection, the Fire & Rescue Authority may make the choice for them in accordance with Regulation 49(4).</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority's pensions provider (currently Peninsula Pensions).</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	-	Reg. 63	<p>Exercise of partial retirement option - Discretion as to form in which notice must be given.</p> <p>Agreement of the Fire & Authority with member concerned as to date on which the partial retirement option in accordance with Regulation 63 is to be exercised. Regulation 63 allows a member aged at least 55 and who would be entitled, if s/he left, to immediate payment of a retirement pension in relation to a continuous period of pensionable service to opt to continue in pensionable service under the Scheme and claim the whole of the pension accrued prior to exercise of the option. The member concerned must give prior notice to the Authority of the wish to exercise this option.</p> <p>In practice, this is a Scheme administration matter dealt with by the Authority’s pensions provider (currently Peninsula Pensions).</p>
-	-	-	Reg. 70	<p>Commencement of pensions. Discretion to determine date of commencement of payments.</p> <p>In accordance with Regulation 70(1) and (2), where an active member has not claimed payment of the retirement pension before the date on which they retire, the Fire & Rescue Authority shall, determine the date on which payment will commence and will notify the member accordingly.</p> <p>In accordance with Regulation 70(8), if a member requests deferral of payment of a deferred pension beyond deferred pension age (Regulation 70(5)(a)), or requests early payment with an early payment reduction before deferred pension age (Regulation 70(5)(b)), the Authority shall decide the payment date after the claim for payment has been made.</p>
-	-	-	Reg. 75	<p>Adjustment of allocated benefit. Discretion to adjust allocated benefit if member dies after reaching age 75.</p> <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 Fire & Rescue Authority has discretion to adjust it in such manner as they may determine.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	-	Reg. 95	<p>Person to whom lump sum death benefit payable. Discretion of Fire & Rescue Authority to select recipients.</p> <p>Regulation 95 gives the Fire & Rescue Authority absolute discretion to pay any lump sum death benefit to or for the benefit of the member's nominee, personal representative or any person appearing to have been a relative or dependent of the member.</p>
-	-	-	Reg. 102	<p>Provisional awards of eligible child’s pensions: Discretion for later adjustments.</p> <p>If the Fire & Rescue Authority has paid children's pensions under the Scheme to certain persons on the basis that they were eligible children at the date of the member's death 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 Authority 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.</p>
-	-	-	Reg. 104	<p>Discretion to adjust benefits to comply with Finance Act 2004 where members die over age 75.</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 Fire & Rescue Authority has discretion to adjust the benefit payable to the person so that it would qualify as a dependant's scheme pension in accordance with that section of the Act.</p>
-	-	-	Reg. 110	<p>Member contributions. Discretion to specify circumstances where a reduction in pensionable pay shall be disregarded for purposes of determining member contributions.</p> <p>Regulation 110(7)(h) give the Authority discretion to specify the circumstances in a particular case where a reduction in pensionable pay will be disregarded.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	-	Reg. 135	<p>Statement of transfer value entitlement. Discretion to extend period in which guarantee date falls.</p> <p>In accordance with Regulation 135 (statement of entitlement) of the Regulations 2014, the Authority must specify in a statement of entitlement the "guarantee date" date by reference to which the cash equivalent or club transfer value is calculated; this date must fall within the three months beginning with the date of the member's application for the statement of entitlement and within ten days ending with the date on which the member is provided with the statement.</p> <p>The Authority also has discretion to extend this date to within six months of the date of the member's application if, for reasons beyond the Authority's control, the information needed to calculate the transfer value cannot be obtained before the end of the three month period.</p>
-	-	-	Regs 142 and 144	<p>Transfer statement and club transfer value statement. Discretion to require member to request manager of other pension scheme to provide statement of transfer value.</p> <p>In accordance with Regulations 142(2) and 144(2) the Authority may require that, before making a transfer payment request, the member must ask the scheme manager of the other scheme to provide a statement of the amount of transferred pension that the person would be entitled to count if the transfer were to proceed.</p>
-	-	-	Reg. 165	<p>Recovery of overpayment of benefits. Discretion to decide means of recovery of overpayment resulting from a percentage decrease in earnings in a revaluation order.</p> <p>In accordance with Regulation 165 of the Firefighters' Pension Scheme (England) Regulations 2014 if, in a financial year, a percentage decrease in earnings is specified in an order made under section 9 of the Public Service Pensions Act 2013 ("revaluation"), the Authority must recover any overpayment of benefits that has occurred as a result of the application of the retirement index adjustment for that year. The Authority can determine, however, the method of recovery e.g. by reducing the amount of each instalment of pension until recovery is completed, or omitting to pay any increase in the amount of any pension due until the amount of overpayment is recovered.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	-	Reg. 173	<p>Forfeiture of lump sum death benefit: offences committed by other persons: discretion to restore any benefit withheld</p> <p>If a person is convicted of a relevant offence (i.e. the murder, manslaughter or any other offence of unlawful killing of a Scheme member), the Fire & Rescue Authority must withhold all of any lump sum death benefit payable to that person. If the conviction is subsequently quashed on appeal, however, the Authority has discretion, on appeal by the person and to such extent and to such duration as it thinks fit, restore to the person the amount of benefit withheld. Any such restoration is, however, cancelled in the event of the person subsequently being convicted of a relevant offence.</p>
-	-	-	Reg. 178	<p>Payment by the Fire & Rescue Authority, on behalf of a Scheme member, of a “lifetime allowance” charge</p> <p>The Authority may, at the request of a Scheme member, pay on behalf of the member any amount payable by way of a “lifetime allowance” charge under Section 214 of the Finance Act 2004, subject to the member either:</p> <ul style="list-style-type: none"> (a) paying to the Authority the amount in question prior to the “lifetime allowance” charge becoming payable; or (b) authorising the Authority to deduct the amount from a lump sum becoming payable to the Member under the Scheme at the time the “lifetime allowance” charge becomes payable.
-	-	-	Sch. 1	<p>Payments for Added Pension</p> <p>In accordance with this Schedule, the Authority has discretion to:</p> <ul style="list-style-type: none"> • cancel, upon written notice, any election by a Scheme member to pay periodical payments for added pension where it appears to the Authority that the overall limit for extra pension will be exceeded if the member continues to make periodical payments (paragraph 4(2)); • determine the minimum periodical payment for added pension (paragraph 7(3)); • agree with Scheme member method of payment for additional pension other than periodical payments deducted from pensionable pay; and

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
				<ul style="list-style-type: none"> extend the period of notice (6 months from the end of any period of assumed pensionable pay or period of reduced pay) for a Scheme member to authorise deduction of aggregated payments which would have been made during any period of assumed pensionable pay or period of reduced pay.
-	-	-	Sch 2: Part 1, Para. 3(3).	<p>Discretion to determine tapered protection date in some cases.</p> <p>In accordance with Paragraph 3(3), the Authority can use its discretion to determine a tapered protection closing date for a tapered protection member of the Firefighters' Pension Scheme 2006 to whom Paragraphs 9(5) or 21 apply (members returning to pensionable service) according to the circumstances of the case.</p>
-	-	Part 1, Rule 11, paras. (5) and (6):	-	<p>Determining pensionable pay in certain cases (retained firefighters).</p> <p>Where the Authority is unable to determine the period of a person's service from their records and do not hold records of that person's pay for any period and the necessary documents cannot be obtained from the person, the Authority may estimate the person's pensionable pay from records it holds and may in particular estimate this on the basis of the average of recent pay data for retained firefighters at the same station or stations as that at which the person was based for the relevant period.</p>
-	-	Part 2, Rule 3, para. 6	-	<p>Discretion to reduce compensation for death or permanent incapacity while on duty if the firefighter's serious and culpable negligence or misconduct contributed to the circumstances in which the injury was sustained.</p> <p>The Authority has discretion to reduce the amount or sum referred to in paragraph 2 or 4 of Rule 3 by such amount as it considers appropriate where the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained, if it is felt appropriate according to the circumstances of any case which falls within the terms of Part 2, Rule 3.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	Part 3, Rule 2, paras. 2 (b) and (c):	-	<p>Discretion to pay augmented award to spouse or civil partner where specific conditions of eligibility are not met.</p> <p>Where a person who is or has been a firefighter dies from the effects of a qualifying injury or infirmity of mind or body occasioned by a qualifying injury where the injury was received in the execution of duties performed in circumstances where there was an intrinsic likelihood of the firefighter receiving a fatal injury, for the immediate purpose of saving the life of another person or of preventing loss of human life, an augmented award would be paid to the surviving spouse or civil partner.</p> <p>According to the circumstances of an individual case, if the Authority is of the opinion that the above conditions <u>may</u> have been satisfied and that this Rule should apply, or that it would be inequitable if this Rule were not to apply, it can consider paying an augmented award.</p>
-	-	Part 5, Rule 1	-	<p>Discretion to award an adult dependent relative's special pension for such period(s) as the Fire & Rescue Authority may determine.</p> <p>Discretion for the Authority to consider, according to the circumstances of an individual case, the payment of a dependent relative’s special pension to an adult dependent relative not entitled to any other award in respect of the same firefighter. It would be calculated in accordance with Schedule 4, Part 1 of the Order.</p>
-	-	Part 5, Rule 2, para. 3	-	<p>Discretion to award a dependent relative's gratuity.</p> <p>The Authority has discretion to pay a dependent relative’s gratuity to a dependent relative not entitled to any other award in respect of the same firefighter according to the circumstances of an individual case. The gratuity or gratuities payable must not exceed the amount of the deceased’s contributions.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
-	-	Part 7, Rule 2 and Rule 4	-	<p>Discretion to increase an award for a serviceman who, at the end of his/her forces period, is permanently disabled by a qualifying injury or injury received during his/her forces period.</p> <p>Should a serviceman be permanently disabled at the end of his/her forces period and the infirmity that occasioned his/her incapacity for the performance of duty was occasioned by an injury received during his/her forces period or by a qualifying injury, the Authority may consider paying or increasing any pension payable under the Firemen’s Pension Scheme Order 1992, the Firefighters’ Pension Scheme (England) Order 2006 and the Firefighters’ Pension Scheme (England) Regulations 2014 in accordance with Part 7, Rule 2 and Rule 4 of the Firefighters’ Compensation Scheme (England) Order 2006, having regard to the limitations in Schedule 6.</p>
-	-	Part 7, Rule 3 and Rule 4	-	<p>Discretion to increase dependants’ benefits under the Firefighters’ Pension Scheme 1992 to the level of a flat-rate award if a serviceman dies from the effects of an injury received during his/her forces period or a qualifying injury.</p> <p>Should a serviceman –</p> <ul style="list-style-type: none"> (a) die during his/her forces period, or (b) be permanently disabled at the end of that period, not since have been a firefighter, and die from the effects of an injury that occasioned his/her incapacity for the performance of duty or while in receipt of a pension, <p>the may consider increasing any dependants’ benefits as allowed under Part 7, Rule 3 and Rule 4 of the Firefighters’ Compensation Scheme (England) Order 2006, having regard to the limitations in Schedule 6.</p>
-	-	Part 7A, Rules 2 and 4	-	<p>Discretion to increase an award to a reservist who is permanently disabled as a result of an injury received during his/her forces period or as a result of a qualifying injury.</p> <p>If a person takes up employment with the Authority on or after 6 April 2006 or, having been employed before that date, becomes a member of the Firefighters’ Pension Scheme 2006 or the Firefighters’ Pension Scheme 2015 and becomes a reservist, for the purposes of the Firefighters’ Compensation Scheme 2006 he/she shall be treated as if they had continued to be a firefighter during the period of relevant service in the armed forces (the “forces period”).</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
				<p>If at the end of the forces period or subsequently after resuming service as a firefighter the person is permanently disabled and the infirmity that occasioned his/her incapacity for the performance of duty was occasioned by an injury received during the forces period or by a qualifying injury, the Fire & Rescue Authority may, according to the circumstances of the case, consider increasing the amount of pension payable under the Firefighters’ Pension Scheme 2006 or the Firefighters’ Pension Scheme 2015, subject to the limitations of Schedule 7 of the 2006 Order.</p>
		Part 7A, Rules 3 and 4		<p>Discretion to increase dependants' benefits if a reservist dies from the effects of an injury received during his/her forces period or a qualifying injury.</p> <p>If a person takes up employment with the Authority on or after 6 April 2006 or, having been employed before that date becomes a member of the Firefighters’ Pension Scheme 2006 and becomes a reservist, for the purposes of the Firefighters’ Compensation Scheme 2006 he/she shall be treated as if they had continued to be a firefighter during the period of relevant service in the armed forces (the “forces period”).</p> <p>If the person dies during the forces period or is permanently disabled at the end of the forces period and dies from the effect of an injury that occasions incapacity for the performance of duty the Fire & Rescue Authority may, according to the circumstances of the case, consider increasing the amount of pension payable under the Firefighters’ Pension Scheme 2006 or the Firefighters’ Pension Scheme 2015, subject to the limitations of Schedule 7 of the Firefighters’ Compensation Scheme (England) Order 2006.</p>
-	-	Part 8, Rule 1	-	<p>Discretion to pay an injury award to or in respect of an employee of a Fire & Rescue Authority who is not a firefighter but who has to retire, or dies, as a result of an injury received without his/her own default while in attendance at a fire in the execution of duties as an employee of the Authority.</p> <p>If an employee who is not a firefighter suffers an injury without their own default –</p> <ul style="list-style-type: none"> (a) while in attendance at a fire, and (b) in the execution of their duties as an employee of the Fire & Rescue Authority, and (c) has to retire in consequence of the injury <p>the Authority, having regard to the circumstances of the case, may grant such pension or gratuity under the Firefighters’ Compensation Scheme (England) Order 2006 as the Authority think fit.</p>

SCHEDULE 2 – FIREFIGHTERS’ PENSIONS SCHEMES – OTHER DISCRETIONS

SCHEME/RULE REF.				NARRATIVE/DESCRIPTION
92	06	COMP	15	
				<p>If in the circumstances outlined in (a) and (b) above, the person dies from the effect of the injury, either before or after retiring from the employment, the Authority, having regard to the circumstances of the case, may grant such pension, gratuity or allowance as they think fit to a surviving spouse, civil partner and/or child.</p> <p>If granted, such awards would be subject to the terms and limits of Part 8, Rule 1 of the Firefighters’ Compensation Scheme (England) Order 2006.</p>
-	-	Part 9, Rule 4, para. 4	-	<p>Discretion to restore at any time and to such extent as the Fire & Rescue Authority think fit, a pension withdrawn under Part 9, Rule 4, paragraphs 1 to 3, to the pensioner or to apply it for the benefit of any dependant of the pensioner.</p> <p>If the Authority withhold a pension in whole or in part, under Part 9, Rule 4, paragraphs 1 to 3 of the Firefighters’ Compensation Scheme (England) Order 2006, according to the circumstances of the case they may determine, at such time as they think fit, to restore it to the pensioner or to apply it for the benefit of any dependant of the pensioner.</p>
		Part 10, Rule 2, para. 7		<p>Discretion to pay a gratuity in instalments, rather than as a lump sum, of such reasonable amounts and over such reasonable period as the Authority thinks fit.</p>