

**Devon and Somerset Fire and Rescue Authority**

**FIREFIGHTER PENSION SCHEME DISCRETIONS FOR THE 1992, 2006 AND 2015 SCHEMES, AND THE 2006 FIREFIGHTER COMPENSATION SCHEME**

- The Firefighters' Pension Scheme 1992
- The Firefighters' Pension Scheme 2006 (also known as the NFPS)
- The Firefighters' Compensation Scheme 2006
- The Firefighters' Pension Scheme 2015

To mitigate risk, it is recommended that the function head responsible for pensions consider the application of discretionary powers for the Firefighters' Pension Scheme.

**2015 Scheme Manager Discretions**

The Firefighters' Pension Scheme (England) Regulations 2014 SI 2014/2848

**Regulation 5**

Delegation.

The Scheme Manager must ensure that delegated powers are appropriate and current.

**Devon and Somerset Fire and Rescue Authority will ensure delegated powers are always appropriate and current.**

**Regulation 12 (5)**

Opting into this 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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority 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 on an exceptional basis.**

## **Regulation 16 (2) (b)**

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.

**Devon and Somerset Fire and Rescue Authority's policy is: An optant-out will cease 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, unless the payroll has already been processed for that period, in which case the optant-out will cease to be in pensionable service with effect from the first day of the second pay period following the date on which the option is exercised. Any variation to this will be on an exceptional basis.**

## **Regulation 17 (1) (d) Pensionable Pay.**

The scheme manager has discretion to determine if Continual Professional Development payments are to be treated as pensionable pay.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will treat CPD payments as pensionable.**

## **Regulation 19 (c)**

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. (Linked to Regulation 111 (4) and subject to the member paying the appropriate contributions).

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will allow a person who is on unpaid authorised absence to count the period as active membership subject to the member paying the appropriate contributions.**

## **Regulation 28 (2)**

Establishment of 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.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will maintain pension accounts for scheme members in the most appropriate form considered by the Authority.

*This discretion has, however, been delegated, so that pension accounts for scheme members will be established and maintained in such form as the pension administrator considers appropriate.*

### **Regulation 37 (3), (4) and (5)**

Closure and re-establishment of active member's account.

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. If the member fails to choose, the scheme manager has discretion to choose.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member fails to choose an account to use to aggregate benefits, the Authority will choose the account considered most appropriate by the Authority. This is likely to be the most cost-effective account to the Authority, but each case will be considered on its merits and full details of the circumstances will be required.

*This discretion has, however, been delegated, so that where a member fails to choose which of their active member accounts a closed account should be aggregated with, the pensions administrator will select the active member account most closely aligned to the closed account, or with the longest likely lifespan.*

### **Regulation 49 (3) and (4)**

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member has more than one deferred account and fails to choose which account to close, the Authority will choose the account considered the most appropriate by the Authority. This is likely to be the most cost-effective account to the Authority, but each case will be considered on its merits. Full details of the circumstances will be required.

*This discretion has, however, been delegated, so that where a member fails to choose which of their deferred member accounts should be re-established as an active account, the pensions administrator will select the deferred member account most closely aligned to the new pensionable employment.*

### **Regulation 62 (1) and (2)**

Employer initiated retirement.

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. 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.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not allow immediate payment of retirement pension without early payment reduction for any of its employees unless there is a clear advantage to be gained by the Authority by so doing.*

### **Regulation 63 (5)**

Exercise of partial retirement option.

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.

*Devon and Somerset Fire and Rescue Authority's policy is: Where a member aged at least 55 opts to claim the whole of their accrued pension but continue in pensionable service, the Authority will agree a suitable date with the member.*

### **Regulation 68 (1) and (2)**

Review of ill-health award or early payment of retirement pension.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority will undertake regular ill health pension reviews on individuals who are under the deferred pension age and have been receiving the award for less than 10 years and will review the early payment of deferred pensions on ill-health grounds for so long as the recipient is below deferred pension age.

### **Regulation 69 (3)**

Consequences of review.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** Where a member is receiving a lower tier ill-health pension and becomes capable of performing the duties appropriate to the role from which they retired, the Authority must consider making an offer of re-employment based on the individual circumstances.

### **Regulation 70 (7) and (8)**

Commencement of pensions.

(7) 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.

(8) 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.

**Devon and Somerset Fire and Rescue Authority's policy is:** A request for early payment of deferred benefits will only be considered in circumstances where there are grounds to justify this.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Regulation 72 (3) (b) and (4)**

Allocation election.

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.)

Devon and Somerset Fire and Rescue Authority's policy is: Where a portion of a pension has been allocated to a dependant who is not the spouse, civil partner or cohabiting partner of the member, the Authority will withhold the payment if they cannot be satisfied that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.

### **Regulation 73 (1)**

Making an allocation election.

The scheme manager must be satisfied that that the member is expected to live until normal life expectancy and obtain appropriate proof of this. The scheme manager must decide how this is to be judged, e.g. by the member's GP or the Occupational Health Physician, or by an IQMP's opinion.

Devon and Somerset Fire and Rescue Authority's policy is: Where a request is received from a member wishing to allocate a portion of their pension to a dependant who is not the spouse, civil partner or cohabiting partner of the member, the Authority will request the proof of the member's life expectancy in a manner and format it considers appropriate. Each case will be considered on its merits.

### **Regulation 75 (1) and (2)**

Adjustment of allocated benefit.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where an allocated pension does not qualify as a dependant's scheme pension, the Authority will adjust the amount accordingly.

## **Regulation 76 (1) (b) (v) and (2)**

Meaning of “Surviving Partner”.

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.

**Devon and Somerset Fire and Rescue Authority’s policy is: Where a Surviving Partner has been in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.**

## **Regulation 95**

Person to whom lump sum death benefit payable.

The scheme manager has absolute discretion as to the recipient of any lump sum death benefit payable.

**Devon and Somerset Fire and Rescue Authority’s policy is: The Authority will make the final decision as to who the recipients of any lump sum death benefits should be on a case by case basis and will withhold payment where it is considered appropriate.**

## **Regulation 100 (2)**

Payment of pensions under Part 6 “Death Benefits”.

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.

**Devon and Somerset Fire and Rescue Authority’s policy is: When paying Death Benefits to an eligible child under age 18, the Authority will make considerations on a case by case basis as to whom it should be paid and how the payment should be applied.**

***This discretion has, however, been delegated, so that the pensions administrator will decide who will receive payment of a child’s pension based upon the circumstances of the case and taking into account any guidance provided and having regard to judgements in relevant cases by the courts or the Pensions Ombudsman.***

*The pensions administrators will, where the payment is not being paid directly to the eligible child, direct the recipient as to how the payment should be applied for the eligible child's benefit.*

### **Regulation 101 (2) and (3)**

Surviving partner's pensions and eligible child's pensions: suspension and recovery.

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.)

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will cease payment of a surviving partner's pension and/or eligible child's pension and recover any payment made in respect of a pension where it appears a false declaration had been made or where a material fact has been deliberately suppressed.*

### **Regulation 102 (2) and (3)**

Provisional awards of eligible child's pensions: later adjustments.

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.)

*Devon and Somerset Fire and Rescue Authority's policy is: Where a child is eligible/ineligible to a child's pension, the Authority will adjust the pensions accordingly. Each case will be considered on its merits and full details of the circumstances will be required.*



## **Regulation 104 (1) (a) and (2)**

Adjustment of benefits to comply with FA 2004 where members die over 75.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may adjust benefits payable to individuals who do not qualify as a dependant's scheme pension under the Finance Act 2004. Each case will be considered on its merits and full details of the circumstances will be required.**

## **Regulation 110 (5), (7) (h) Member Contributions.**

(5) 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.

(7) (h) 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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will assess contributions when there is a change to pensionable pay and revise contribution rates accordingly. Members will receive written communication of the change at the time of the change.**

## **Regulation 111 (2), (3) and (4)**

Contributions during absence from work due to illness, injury, trade dispute or authorised absence.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is absent from work due to a trade dispute or unauthorised absence, the Authority will require them to pay the member contributions and the employer contributions for the**

period of absence. All other cases will be considered on an individual basis. However, it is likely that an individual who is absent from work due to illness or injury (or authorised absence) will only be required to pay member contributions for the period of absence; the Authority will pay the employer contributions.

### **Regulation 114 (1), (2) and (3)**

Deduction and payment of contributions.

- (1) 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.
- (2) 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.
- (3) 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.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will ensure that member contributions due under Regulation 110 may be deducted from each instalment of pensionable pay as it becomes due, unless another method of payment has been agreed between the Authority and the member. The Authority will ensure that member contributions due in respect of absence from work on reserve service leave may be deducted from any payment made under Part 5 of the Reserve and Auxiliary Forces (Protection of Civil Interests) Act 1951. The Authority will ensure that member contributions which the member is required to pay, or has elected to pay under Regulations 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 Authority, and agreed on a case by case basis.

### **Regulation 135 (4)**

Statement of entitlement.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority will only extend the date of calculation of transfer value where the information needed to calculate the transfer value cannot be obtained before the end of the three month period, or where there are circumstances beyond their control. The date of extension will not be extended beyond six months of the member's application.

### **Regulation 141 (3)**

Request for acceptance of a transfer payment.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority will extend the 12-month election period providing the request is made within 24 months.

### **Regulation 142 (2)**

Transfer statement.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority may require an active member to ask the Authority 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. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## Regulation 144 (2)

Club transfer value statement.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority may 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. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## Regulation 148 (1)

Appeal concerning entries on the certificate.

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.

**Devon and Somerset Fire and Rescue Authority's policy is:** 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 resolution.

## Regulation 151

Determinations by the scheme manager.

It is the scheme manager that must determine whether a person is entitled to an award or to retain an award.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority will make awards in accordance with the regulations and following guidance from their Pension Administrators.

## **Regulation 152 (1), (7)**

Role of IQMP in determinations by the scheme manager.

(1) 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.

(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.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make a determination based on such medical evidence. If no medical evidence is available, the Authority will make a determination without medical evidence.**

## **Regulation 153 (1), (4) and (5) Review of medical opinion.**

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.

(4) and (5) Upon receiving the IQMP's response the scheme manager must confirm or revise its original determination and advise the member accordingly.

**Devon and Somerset Fire and Rescue Authority's policy is: Where the Authority receives new evidence from a member within 28 days of the opinion; the Authority will request the IQMP to review the opinion. Upon receiving the IQMP's advice, the Authority will confirm or revise its original determination and advise the member accordingly.**

## **Regulation 155 (2) Notice of appeal.**

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believes it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

### **Regulation 156 (8) to (12)**

(see also Regulation 161)

Reference of appeal to the board.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

### **Regulation 157 (6) to (9)**

Procedure where appeal to be pursued.

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).

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate. The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

### **Regulation 161 (2)**

Expenses of each party.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where the medical appeal board determine that an appeal is frivolous, vexatious or manifestly ill-founded, the Authority will require the appellant to pay it the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 160 (1).

### **Regulation 161 (3) (a)**

Expenses of each party.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws an appeal requesting cancellation, postponement or adjournment, the Authority will require the appellant to pay it the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 160 (1).

### **Regulation 161 (3) (b)**

Expenses of each party.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant's acts or omissions cause the board to cancel, postpone or otherwise adjourn the appeal,

the Authority will require the appellant to pay it the maximum sum allowable not exceeding the total amount of the fees and allowances payable to the board under Regulation 160 (1).

### **Regulation 163**

Appeals on other issues.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where a member disagrees with the Authority'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.

### **Regulation 167**

Commutation of small pensions.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*



## Regulation 168

Payments for persons incapable of managing their affairs.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.**

## Regulation 169

Payments due in respect of deceased persons.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: When paying personal representatives death benefits, the Authority will consider each case on an individual basis.**

*This discretion has, however, been delegated, so that where, in the pensions administrator's opinion, the circumstances of a case are such that the production of probate or letters of administration are not required, this discretion will be exercised.*

## Regulation 171 (1) (2), (3), (4) and (5)

Forfeiture: offences committed by members, surviving partners or eligible children.

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. (4) 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.

**Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.**

### **Regulation 172 (1) to (5)**

Forfeiture of pensions: offences committed by other persons.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.**

### **Regulation 173**

Forfeiture of lump sum death benefit: offences committed by other persons.

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.

Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.

## Regulation 174

Forfeiture: relevant monetary obligations and relevant monetary losses.

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.

Devon and Somerset Fire and Rescue Authority's policy is: When forfeiting a pension, the Authority will consider each case on an individual basis and details of full circumstances will be required to determine whether full restoration is appropriate, and by which means.

## Regulation 175

Set-off.

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.

Devon and Somerset Fire and Rescue Authority's policy is: Where the Authority proposes to withhold benefits, the procedure set out in Regulation 176 will be followed. The Authority will consider each case on an individual basis.

## Regulation 178

Payment on behalf of members of lifetime allowance charge.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may make a lifetime allowance charge payment on behalf of a member. Each case will be considered on an individual basis.**

## Regulation 184 (1) and (2) and (3)

Evidence of entitlement.

(1) and (2) 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.

(3) 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.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual fails to comply with the Authority's requirements regarding evidence of entitlement, the Authority will withhold the whole or part of any amount that is otherwise payable.**

## Schedule 1 Part 1, Paragraph 4

Amount of accrued added pension may not exceed overall limit of extra pension.

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).

**Devon and Somerset Fire and Rescue Authority's policy is: Where it appears that a member who has elected to make periodical contributions will exceed the limit, it is likely that the Authority will cancel the election. Each case will be considered on an individual basis.**

### **Schedule 1 Part 2, Paragraph 7 (3)**

Member's election to make periodical contributions for added pension.

If a scheme member wishes to make periodical payments for added pension, the scheme manager can set a minimum amount which must be paid.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Scheme Member wishes to make periodical payments for added pension, the Authority has set the following minimum amounts which must be paid:**

- (i) Increase of 4%
- (ii) Monthly increase of £100
- (iii) One off lump sum of £1,000

### **Schedule 1 Part 2, Paragraph 8 (3)**

Periodical payments.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a member wishes to make payments for added pension but does not want them to be deducted from pensionable pay, the Authority may agree another method of payment, to be agreed on a case by case basis.**

### **Schedule 1 Part 2, Paragraph 10 (4)**

Periodical payments during periods of assumed pensionable pay.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not extend the period of six months for payments during periods of assumed pensionable pay unless in exceptional circumstances.**

### **Schedule 2 Part 1, Paragraph 3**

Meaning of “tapered protection closing date”.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: Scheme Members were notified of their tapered protection dates at the time the 2015 scheme was introduced.**

**Should any 'out of the ordinary' cases present themselves Devon and Somerset Fire and Rescue Authority will determine the tapered protection closing date based on the merits of the case and following guidance from their Pension Administrators.**

### **New Firefighters Pension Scheme (NFPS) - the 2006 scheme**

#### **Part 2, Rule 1**

Determination of eligibility for membership of NFPS.

**Devon and Somerset Fire and Rescue Authority's policy is: This scheme is now closed and there is no facility for new members to join.**

#### **Part 2, Rule 1, Paragraph 12**

Discretion to pay a cohabiting partner's pension where the duration of the relationship is less than the usual minimum of two years.

Subject to the other requirements having been met, the Fire and Rescue Authority have discretion to accept a Scheme member's nomination of a partner before their relationship has continued for a period of two years.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Surviving Partner has been a in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.**

## **Part 2, Rule 4**

Last day of membership.

Decision, by agreement with firefighter, as to last day of membership where firefighter on unpaid leave or absent without permission on the day on which he/she leaves the Scheme.

**Devon and Somerset Fire and Rescue Authority's policy is: Where the Firefighter is on unpaid leave or absent without permission, the Authority will agree an appropriate date with the firefighter as to the last day of their membership of the scheme.**

## **Part 2, Rule 6**

Optant-out re-joining.

Resolution that an optant-out may not re-join the Scheme unless he/she has undergone a medical examination at his/her own expense and satisfied the Fire and Rescue Authority as to his/her good health.

This allows the consideration of whether to require a medical examination before allowing a firefighter that has opted out of the pension scheme before allowing them to re-join the scheme.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has opted out of the scheme, the Authority may require them to undertake a medical examination before allowing them to re-join the scheme. Each case will be considered on an individual basis.**

## **Part 3, Rule 5**

Early payment of deferred pension.

Discretion to refuse a firefighter's request for early payment of a deferred pension ('member-initiated early retirement') where this is likely to be less than the GMP at State pensionable age.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may refuse a firefighter's request for early payment of a deferred pension where this is likely to be less than the GMP at State pensionable age. Each case will be considered on an individual basis.**

## **Part 3, Rule 6**

Authority-initiated retirement.

Discretion to retire a firefighter aged 55 or over on grounds of economical, effective and efficient management of their functions ('authority-initiated early retirement').

This discretion allows the early payment of a pension to a firefighter aged 55 or over where the retirement is in the interests of the management of the Service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not allow immediate payment of retirement pension without early payment reduction for any of its employees unless there is a clear advantage to be gained by the Authority by so doing.**

### **Part 3, Rule 7B**

Discretion to determine that certain payments, not otherwise pensionable, should be treated as such for the credit of Additional Pension Benefit to the firefighter member.

The Fire and Rescue Authority have discretion to determine that the benefits referred to in Rule 7B(5) can be treated as pensionable for the credit to the firefighter of Additional Pension Benefit.

(But note that in accordance with Part 11, Rule 1(6), where an allowance or supplement paid to a firefighter was being treated as pensionable before 1 July 2013 but is not pensionable pay within the meaning of Part 11, Rule 1(a), it shall continue to be treated as pensionable for so long as the firefighter continues to receive it without any break in payment.)

**Devon and Somerset Fire and Rescue Authority's policy is: No payments, other than pay relating to Continual Professional Development (CPD) are currently considered towards an Additional Pension Benefit (APB). Should other elements of pay be deemed pensionable in the future, then these will also be pensionable as APBs.**

### **Part 3, Rule 10**

Discretion to commute a small pension payable to firefighter.

This discretion allows consideration of a small pension to a single lump sum payment.

**Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*



### **Part 3, Rule 11, Paragraphs 2(b) and 3**

Discretion to permit a firefighter to allocate a portion of pension for a dependant other than a spouse, civil partner, or nominated partner.

This discretion allows consideration of a firefighter allocating a portion of pension for a dependant other than a spouse, civil partner or nominated partner.

**Devon and Somerset Fire and Rescue Authority's policy is: Consideration will be given for a firefighter to allocate a portion of a pension to a dependent who is not a spouse, civil partner or cohabiting partner of the member, the Authority providing that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.**

### **Part 3, Rule 11, Paragraph 6(a)**

Acceptance of good health and normal life expectancy for allocation purposes.

This is similar to the delegation above and allows a firefighter to allocate (give up) part of their pension during their lifetime when they first become eligible to retire to provide, on their death, a pension for a spouse, civil partner or a dependant. There is a requirement that the member has normal life expectancy and this discretion allows consideration of whether this is so.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Firefighter elects to give up part of their pension (as per Part 3, Rule 11, Paragraphs 2(b) and 3), the Authority may require them to undertake a medical examination to ensure they are in good health before permitting them to do so. Each case will be considered on an individual basis.**

### **Part 3, Rule 12**

Pension debit members.

The Fire and Rescue Authority must provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and will take appropriate steps to record and administer Attachment Orders. In the event of a Pension Sharing Order, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Part 3, Rule 12 of the Firefighters' Pension Scheme (England) Order 2006, and the guidance and factors prepared by the Scheme Actuary.

The Authority may determine the charges to be made for administration.

Devon and Somerset Fire and Rescue Authority's policy is: charges to be levied are set by the Pension Administrator as per the Collaboration Agreement.

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

#### **Part 4, Rule 1, Paragraph 3**

Discretion to withhold all or part of a survivor's pension, permanently or temporarily, where the deceased's spouse, civil partner, or nominated partner is convicted of manslaughter of the deceased.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will permanently withhold the survivor's pension where the deceased's spouse, civil partner, or nominated partner is convicted of manslaughter of the deceased.

#### **Part 4, Rule 5**

Discretion, subject to the request of a surviving spouse, civil partner or nominated partner of a firefighter member, to commute their pension to a trivial commutation lump sum.

If the total amount of any pension payable to a surviving spouse, civil partner or nominated partner under the provisions of the Firefighters' Pension Scheme (England) Order 2006, does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 (lump sum death benefit) and if the recipient so requests, the Fire and Rescue Authority may commute the whole of the pension for a lump sum in accordance with factors prepared by the Scheme Actuary and in force at the time when the commutation takes effect.

Where appropriate Devon and Somerset Fire and Rescue Authority's policy is: the Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 4, Rule 7, Paragraph 5**

Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will permanently withhold the child's pension where the deceased's child is convicted of manslaughter of the deceased.

#### **Part 4, Rule 7, Paragraph 9**

Child's pension on change of circumstances.

Decision to cease payment of a child's pension where the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled, or the child's pension should not have been awarded.

This discretion allows the Authority to deal with the review of a child's pension on change of circumstances.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority may cease payment of a child's pension following a review of change of circumstances or as a result of new information received.*

#### **Part 4, Rule 12**

Discretion, subject to consent of child's remaining parent, guardian or the child (if not a minor) to commute a child's pension to a trivial commutation lump sum.

If the total amount of a child's allowance payable under the provisions of the Firefighters' Pension Scheme (England) Order 2006 does not exceed the commutation limit for the purposes of paragraph 20 of Schedule 29 to the Finance Act 2004 and

- (a) the Fire and Rescue Authority are satisfied that there are sufficient reasons, and
- (c) a surviving parent or the child's guardian or – if neither – the child (if not a minor) consents,

the Authority have discretion to commute the pension for a lump sum in accordance with the guidance of the Scheme Actuary at the time when the pension first becomes payable.

*Where appropriate Devon and Somerset Fire and Rescue Authority's policy is: the Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 5, Rule 1, Paragraph 10**

Discretion as to recipient of death grant.

This discretion allows the Authority to decide who should receive a death grant.

Devon and Somerset Fire and Rescue Authority's policy is: It is the Authority's decision as to the recipient of a death grant.

### **Part 5, Rule 1, Paragraph 12**

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.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may reinstate all, or part of, any death grant not paid in full to a person whose conviction for murder or manslaughter of the deceased has been quashed. Each case will be considered on an individual basis.

### **Part 6, Rule 2**

Discretion, with the agreement of the pension credit member, to commute whole of pension credit pension.

This discretion allows the commutation of a small pension into a lump sum in the circumstances of divorce if (a) the Authority are satisfied that there are sufficient reasons, and (b) the pension credit member consents. In such cases the Authority can commute the pension for a lump sum calculated in accordance with factors provided by the Government Actuary's Department. A small pension is defined in Paragraph 20 Schedule 29 of the Finance Act 2004.

Devon and Somerset Fire and Rescue Authority's policy is: In the circumstances of divorce, Devon and Somerset Fire and Rescue Authority may allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 6, Rule 5, Paragraph 2**

Discretion to pay a post-retirement death grant in respect of a pension credit member to such person or persons as the Fire and Rescue Authority think fit.

This discretion allows the consideration of who to pay a post retirement death grant.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient for a post retirement death grant as they feel appropriate.

### **Part 8, Rule 2, Paragraph 1**

Determination, in the first instance, of entitlement to and type of award due under the NFPS.

This is the general power to make awards under the NFPS.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make awards in accordance with the regulations and following guidance from their Pension Administrators.**

### **Part 8, Rule 2, Paragraph 2**

IQMP.

Requirement to use, but right to select independent qualified medical practitioner (IQMP) for providing a medical opinion.

The NFPS requires that an IQMP is used to provide a medical opinion. This discretion allows the Authority to appoint such a person.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority shall select an appropriate IQMP in line with the regulations to provide medical opinions as necessary.**

### **Part 8, Rule 2, Paragraph 6**

Failure to attend medical examination.

Discretion to determine award without an independent qualified medical practitioner's opinion if the firefighter wilfully or negligently fails to submit him or herself to medical examination and the medical practitioner is unable to give an opinion on the basis of medical evidence available to him/her.

This discretion allows the Authority to make decisions in the absence of an IQMP opinion if the firefighter wilfully or negligently fails to submit him or herself to a medical examination.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make a determination based on such medical evidence. If no medical evidence is available, the Authority will make a determination without medical evidence.**

### **Part 8, Rule 3, Paragraph 1**

IQMP Review.

Discretion to agree with person concerned that the Independent Qualified Medical Practitioner should be given the opportunity to review his/her medical opinion if new evidence is presented within appropriate timescales.

This discretion allows the opportunity for an IQMP to review a decision where new medical evidence is presented.

Devon and Somerset Fire and Rescue Authority's policy is: Where the Authority receives new evidence from a member within 28 days of the opinion, the Authority will request the IQMP to review the opinion. Upon receiving the IQMP's advice, the Authority will confirm or revise its original determination and advise the member accordingly.

### **Part 8, Rule 3, Paragraphs 4 and 5**

IQMP Reconsideration.

Confirmation or revision of decision following an independent qualified medical practitioner's reconsideration of opinion.

This delegation requires the Authority to confirm the decision after IQMP reconsideration of opinion within specific timescales.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will act within all timescales prescribed by the regulations.

### **Part 8, Rule 4, Paragraph 4**

Appeals.

Discretion to extend time limit for an appeal against the Authority's decision based on medical advice.

This discretion allows the Authority to consider exceptions to the 28-day time limit for a firefighter to submit an appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

## **Part 8, Rule 5**

IDRP.

Requirement to deal with appeals under Internal Disputes Resolution Procedure.

This requirement applies where a person disagrees with the Authority's decision and the question is not of a medical nature.

**Devon and Somerset Fire and Rescue Authority's policy is: In line with the regulations, the Authority will deal with appeals using the Internal Disputes Resolution Procedure.**

## **Part 9, Rule 1, Paragraph 1**

Requirement to review ill-health pensions.

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, 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, in the case of a higher tier illhealth pension, whether that person has become capable of carrying out any regular employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular ill health pension reviews on individuals who are under state pension age and have been in receipt of an ill-health pension for less than 10 years and they become capable of carrying out any duty appropriate to the role from which they retired on health grounds and, in the case of a higher tier illhealth pension, that person has become capable of carrying out any regular employment.**

## **Part 9, Rule 1, Paragraph 2**

Requirement to review deferred pensions paid early on permanent disablement.

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, whether a person under State pensionable age who for less than 10 years has been in receipt of a deferred pension paid early on permanent disablement, has become capable of undertaking any regular employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular reviews of individuals who are receiving deferred pensions paid early on permanent disablement.**

### **Part 9, Rule 3, Paragraph 3(b)**

Offer of re-employment following medical review.

Requirement to decide whether to make to a person whose ill-health pension has been reviewed under Part 9 Rule 1 and who is found to be capable of performing duties appropriate to his/her former role, an offer of employment in that role.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider offering employment to a person whose ill-health pension has been reviewed and who is found to be capable of performing duties appropriate to their former role providing employment opportunities exist at that time. Each case will be considered on an individual basis.

### **Part 9, Rule 3, Paragraphs 1 and 2**

This discretion allows consideration of withdrawing a firefighter pension in payment if the person is re-employed as a regular firefighter.

Discretion to withdraw the whole or part of a Part 3 (personal award) pension paid to a former regular firefighter during any period of re-employment as a regular firefighter, or to an on-call or volunteer firefighter during any period of re-employment as an oncall or volunteer firefighter.

Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.

### **Part 9, Rule 3, Paragraph 3**

Abatement.

Discretion to abate a pension under Part 3 (personal award) for so long as the recipient is employed in any capacity by any Fire and Rescue Authority.

This discretion allows consideration of withdrawing a firefighter pension in payment if the person is re-employed in any capacity by any Fire and Rescue Authority.

Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.



## **Part 9, Rule 4**

Early payment of deferred pension.

Discretion to disallow early payment of a deferred pension under Part 3, Rule 3, Paragraph 4 because of firefighter's dismissal from the Fire and Rescue Authority's employment.

Part 3 Rule 3 Paragraph 4 contains the power to pay a deferred pension early where a person is permanently disabled. This discretion allows consideration of not making such a payment where the firefighter was dismissed.

**Devon and Somerset Fire and Rescue Authority's policy is: Early payment of a deferred pension due to permanent disability may not be made where a Firefighter has been dismissed from the Authority. Each case will be considered on an individual basis.**

## **Part 9, Rule 5, Paragraphs 1 to 3**

Discretion to withdraw pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.

This discretion only applies in the case of an offence committed in connection with his employment by an Authority, which is certified by the Secretary of state – (i) as gravely injurious to the interests of the State; or (ii) as likely to lead to serious loss of confidence in the public service.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is convicted for offences covered in Part 9 Rule 5, it is likely that the Authority will withdraw their pension. However, each case will be considered on an individual basis.**

## **Part 9, Rule 5, Paragraph 4**

This is the discretion to restore a pension withdrawn as in delegation above.

Discretion, at any time and to such extent as the Fire and Rescue Authority think fit, to restore a pension withdrawn under Part 9, Rule 5, or to apply it for the benefit of any dependant of the pensioner.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may restore a pension withdrawn under Part 9, Rule 5 or apply it for the benefit of any dependent of the pensioner. Each case will be considered on an individual basis.**

## **Part 9, Rule 6**

This discretion allows consideration to what extent an award should be forfeited in the circumstances described.

Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 36(6) of the Fire and Rescue Services Act 2004 (acts or omissions for purposes of obtaining awards or other sums). Section 34(6) of the Fire and Rescue Services Act 2004 states that a person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person:

- (a) an award under a scheme brought into operation under this section, or
- (b) a sum in respect of the repayment or application of contributions made under such a scheme.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider to what extent an award should be forfeited in the circumstances described in Part 9, Rule 6. Each case will be considered on an individual basis.**

## **Part 10, Rule 1**

Decision as to the amount of qualifying service which a firefighter may reckon.

Power to determine qualifying service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine qualifying service in line with the regulations and advice from our Pension Administrators.**

## **Part 10, Rules 2 and 3**

Decision as to the amount of pensionable service a firefighter may reckon.

Power to determine pensionable service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine pensionable service in line with the regulations and advice from our Pension Administrators.**

## **Part 10, Rule 4, Paragraph 3**

Discretion for a Fire and Rescue Authority to pay the employer's pension contributions (otherwise payable by the firefighter) due for a firefighter's unpaid period of absence

where the firefighter gives notice that he/she wishes to pay contributions in order that the period may count as pensionable service or special pensionable service.

The Fire and Rescue Authority have discretion to meet the cost of employer's contributions during a period of unpaid leave.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine each case on its merits and full details of the circumstances will be required.**

### **Part 11, Rule 1**

Determination of pensionable pay.

This delegation allows the Authority to determine what is pensionable pay.

**Devon and Somerset Fire and Rescue Authority's policy is: Details are held in the Payroll Department at SHQ on which elements of pay are pensionable.**

### **Part 11, Rule 3, Paragraph 2**

Discretion to deduct pension contributions from each instalment of pensionable pay as it becomes due (or by any other method of payment that may be agreed between a Fire and Rescue Authority and the member).

Contributions are normally deducted from instalments of pay but the Fire and Rescue Authority have discretion to collect the contributions due by other means should the need arise.

**Devon and Somerset Fire and Rescue Authority's policy is: Contributions will only be deducted from instalments of pay.**

### **Part 11, Rule 4, Paragraph 3**

Discretion to extend the time limit in which an election to pay pension contributions in respect of unpaid additional maternity or adoption leave must be made.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine each case on its merits. It is expected that such cases will be rare.**

### **Part 11, Rule 4, Paragraph 6**

Discretion to deduct contributions in respect of unpaid additional maternity or adoption leave from the death grant payable under Part 5 if the member dies without giving notice within the election time limit that he/she wishes to pay such contribution.

This discretion allows the Authority to consider whether to treat as pensionable service a period of unpaid leave where the member dies without giving notice within the election time limit that they wish to pay such contributions.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may treat a period of unpaid leave as pensionable where the member has died without giving notice of their election. Each case will be considered on an individual basis.**

#### **Part 11, Rule 5, Paragraph 5**

Discretion to allow a part-time regular firefighter to purchase pro-rated additional service.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may allow a part-time regular firefighter to purchase pro-rated additional service. Each case will be considered on an individual basis.**

#### **Part 11, Rule 5, Paragraph 6**

Discretion to allow an on-call or volunteer firefighter to purchase additional service by periodical contributions.

If an on-call or volunteer firefighter member wishes to purchase additional service by periodical contributions the Fire and Rescue Authority have discretion to permit this, in which case the contributions are based on the firefighter's reference pay.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will permit such requests, subject to the member paying the appropriate extra contributions as determined by the Pension Administrator.**

#### **Part 11, Rule 8, Paragraph 1**

This discretion is to allow a firefighter to cease making additional contribution.

Discretion to agree to a firefighter member's request to discontinue payment of additional contributions to purchase service provide this is solely on the grounds of the member's financial circumstances.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will agree to discontinuance of payment of additional contributions for increased benefits where the member is able to provide evidence of financial hardship.**

#### **Part 11, Rule 8, Paragraph 2**

Additional Contributions.

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.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will decide the timing of recommencement of payment of additional contributions where it has been agreed that discontinuance shall be no greater than six months.

#### **Part 11, Rule 9, Paragraph 4(c)**

Discretion to extend time limit for the payment of contributions in respect of periods of unpaid service or absence.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may extend the time limit for payment of contributions in respect of periods of unpaid service or absence. Each case will be considered on an individual basis.

#### **Part 12, Rule 3, Paragraphs 1 and 2**

This discretion allows the determination of a guarantee date for the calculation of a transfer value from the New Firefighter Pension.

Selection of 'the guarantee date' statement of cash equivalent transfer value entitlement.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will select the 'guarantee date' statement of cash equivalent transfer value entitlement in line with the regulations and advice from our Pension Administrators.

#### **Part 12, Rule 3, Paragraph 6**

Discretion to charge member for third or subsequent statement of cash equivalent transfer value entitlement requested within any 12-month period.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may charge a member for third or subsequent statements of cash equivalent transfer values requested in any 12-month period. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

## **Part 12, Rule 9, Paragraph 2**

Discretion to extend the one-year time limit for an application for a transfer payment into the NFPS from another pension arrangement.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not extend the one-year time limit unless in extenuating circumstances, eg the Pension Administrator has not actioned the member's request. *This will be rare due to the NFPS now being closed***

## **Part 12, Rule 10, Paragraph 1, subject to Paragraph 3**

Discretion to accept a transfer value.

**Devon and Somerset Fire and Rescue Authority's policy is: Where there is discretion to accept a transfer value, advice will be sought from Devon and Somerset Fire and Rescue Authority's Pension Administrators regarding the appropriate value.**

## **Part 12, Rule 12, Paragraphs 3 to 5**

Discretion to determine pensionable service via IDRPs.

Determination, if so required by the firefighter, of accuracy of information contained in certificate of pensionable service to be supplied on firefighter's transfer to another English Fire and Rescue Authority – the determination to be decided via Internal Dispute Resolution Procedures (IDRP) set up by Authority.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine the outcome using the IDRPs.**

## **Part 12, Rule 14, Paragraph 3**

Discretion to extend 12-month time limit for acceptance of 'mis-selling' transfer value payment.

**Devon and Somerset Fire and Rescue Authority's policy is: it is unlikely that there will be further cases.**

## **Part 12, Rule 14, Paragraph 6**

Discretion to adjust 'mis-selling' transfer value to take account of any earlier service credit.

Devon and Somerset Fire and Rescue Authority's policy is: it is unlikely that there will be further cases.

#### **Part 13, Rule 4, Paragraphs 3 and 4**

Requirement to estimate amounts payable to, and out of, the Firefighters' Pension Fund for each financial year and discretion to submit revised information to Secretary of State.

This requirement should be delegated to the function head responsible for pensions. See also Rule LA4.

Devon and Somerset Fire and Rescue Authority's policy is: This discretion is delegated to the function head responsible for pensions.

#### **Part 14, Rule 3, Paragraph 2(a)**

Discretion to delay payment of an award to the extent necessary for determining any question as to the Fire and Rescue Authority's liability.

The Fire authority need not pay the sum until they are satisfied as to the eligibility of an award.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.

#### **Part 14, Rule 3, Paragraph 2(b)**

Discretion to pay an award at other reasonable intervals if impracticable to pay at the standard monthly periods.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may pay an award at reasonable intervals if it is impracticable to pay at the standard monthly periods.

#### **Part 14, Rule 3, Paragraph 5**

Overpayments after death.

Discretion to recover all or part of an overpayment following a pensioner's death of which the Fire and Rescue Authority were not informed (possibly by making an offset against any other awards payable under the NFPS in respect of the deceased).

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will recover any overpayments made following a pensioner's death in line with the 'Managing Public Money' guidance.

### **Part 14, Rule 3, Paragraph 6**

Repayment of aggregate contributions.

If a person is entitled under Part 3, Rule 8 of the Firefighters' Pension Scheme (England) Order 2006 to the repayment of aggregate pension contributions, the Fire and Rescue Authority are 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. They may wish to make a policy statement regarding this option.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make payment at the earliest opportunity in each case.

### **Part 14, Rule 5, Paragraph 1**

Discretion as to recipient of any sum payable to a minor.

This discretion allows the payment of sums due to a minor to an appropriate person.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a minor.

*This discretion has, however, been delegated so that where a sum is payable to a minor, the pensions administrator will, where they think fit, pay the sum to such other person as is considered appropriate, and subject to the other person agreeing.*

### **Part 14, Rule 5, Paragraph 2**

Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.

This discretion allows the consideration of payment of an award to an appropriate person where the recipient is deemed incapable of managing their affairs.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.



### **Part 14, Rule 6, Paragraph 1**

Discretion, following the death of a person, as to recipient(s) of sums less than the amount specified in the Administration of Estates (Small Payments) Act 1965.

This discretion deals with awards less than £5,000 and allows decisions to be made of who should receive this amount.

*Devon and Somerset Fire and Rescue Authority's policy is: Following the death of a person, the Authority's decision as to who the recipient should be of any awards less than £5,000.*

*This discretion has, however, been delegated so that where, in the pensions administrator's opinion, the circumstances of a case are such that the production of probate or letters of administration are not required, this discretion will be exercised.*

### **Part 14, Rule 6, Paragraphs 4 to 6**

Reclaim sums lost as a result of fraud.

Discretion to withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.

This discretion allows the authority to reclaim sums lost as a result of fraud, theft or negligence on the part of that person in connection with their employment.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of Devon and Somerset Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.*

### **Part 15, Rule 3**

Confirmation of identity when making an award.

Discretion to require a person who is or may be entitled to a pension or a lump sum under the NFPS to provide the Fire and Rescue Authority with supporting evidence as to identity and to continuing entitlement to any payment under the Scheme, and discretion to withhold the whole or part of any amount due where a person fails to comply with this requirement.

This discretion gives the Authority the ability to require confirmation of identity when making an award.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual fails to comply with the Authority's requirements regarding evidence of entitlement, the Authority will withhold the whole or part of any amount that is otherwise payable.

#### **Part 15, Rule 4**

Decision as to date of issue of annual benefit statements and relevant date for the pension illustration.

Devon and Somerset Fire and Rescue Authority's policy is: Annual Benefit Statements will be issued before the end of August each year in line with the regulations.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Annex 2, Paragraph 1(2)**

Medical appeals.

Discretion to extend 28 day time limit in which a person must lodge a medical appeal to a period not exceeding 6 months from the date of issue of the documents under part 8, Rule 4, Paragraph 4, provided the Authority are of the opinion that the person's failure to lodge the appeal within the 28 days was not due to his/her own default.

This discretion allows consideration of an extension to the time limit to make a medical appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

#### **Annex 2, Paragraph 6(5)**

Discretion to decide Fire and Rescue Authority's representative at Medical Appeal Board interview.

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate.

### **Annex 2, Paragraph 7(1)**

Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.**

### **Annex 2, Paragraph 10(2)**

Vexatious appeals.

Discretion, where Medical Appeal Board decide that a person's appeal was

'frivolous, vexatious or manifestly ill-founded', to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit, not exceeding the total amount of fees and allowances payable by the Authority to the Board under Annex 2, Paragraph 9(1).

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appeal board decide that the appeal was frivolous, vexatious, or manifestly ill-founded.

**Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.**

### **Annex 2, Paragraph 10(3)**

Withdrawn appeals.

Discretion, where appellant withdraws appeal less than 22 working days before the date appointed for interview or medical examination, to require the appellant to pay to the Fire and Rescue Authority such sum as they think fit, not exceeding the Medical Appeal Board's total amount of fees and allowances payable to the Board by the Authority under Annex 2, paragraph 9(1).

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appellant withdraws their appeal at short notice.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws their appeal less than 22 working days before the date appointed for interview or medical examination, the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.**

DRAFT

## **Firefighters' Compensation Scheme 2006**

### **Part 1, Rule 11, Paragraphs 6 and 6**

Determining pensionable pay in certain cases (retained firefighters).

Where the Fire and Rescue Authority are 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 they hold 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.

**Devon and Somerset Fire and Rescue Authority's policy is: Where pensionable pay cannot be determined, the Authority will estimate the pensionable pay based on 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.**

### **Part 2, Rule 3, Paragraph 6**

Reduction of compensation where misconduct contributed to injury.

Discretion to reduce compensation for death or permanent incapacity while on duty if the firefighter's serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained; the reduction may be of such amount as the Fire and Rescue Authority consider appropriate.

This discretion allows consideration of the reduction of compensation where serious and culpable negligence or misconduct contributed in any material respect to the circumstances in which the injury was sustained.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual has contributed to an infirmity by their serious and culpable negligence or misconduct, it is likely that the Authority will reduce their compensation to not less than half the amount due. However, each case will be considered on an individual basis by the Authority.**

### **Part 2, Rule 3, Paragraph 10**

Discretion to accept the status of an unmarried partner (other than a civil partner) where the firefighter and partner had been in a relationship for less than two years.

Although eligibility normally depends upon a relationship having continued for at least two years, the Fire and Rescue Authority has discretion to make a payment in the event of a shorter period.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Surviving Partner has been a in a long-term relationship for a continuous period of less than two years, the Authority will not consider that person to qualify unless in exceptional circumstances. Each case will be considered on its merits and full details of the circumstances will be required.

#### **Part 2, Rule 4**

Discretion to commute small compensatory pension for a lump sum.

Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small compensatory pension to a single lump sum in accordance with the financial limits set.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

#### **Part 3, Rule 2, Paragraph 2(b) and (c)**

Discretion to pay augmented award to spouse or civil partner where specific conditions of eligibility are not met.

This discretion allows some flexibility on whether to pay an award if it would be considered inequitable to do so.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may pay an augmented award to a spouse or civil partner where specific conditions of eligibility are not met. Each case will be considered on an individual basis.

#### **Part 3, Rule 4, Paragraphs 6 and 7**

Increase of spouse's or civil partner's augmented award.

Discretion to increase, for such period as the Fire and Authority think fit, the level of spouse's or civil partner's special or augmented award where firefighter and spouse or civil partner were living apart at the date of death and the normal level of benefit is reduced under FCS rules.

This discretion allows consideration of payment of such an award. This does not apply to members of the NFPS 2006, nor to firefighters appointed on or after 6.4.2006 who

have opted out of the NFPS – because the ‘living apart’ limitation would not apply. No payment would normally be due for all other firefighters.

Devon and Somerset Fire and Rescue Authority’s policy is: The Authority may increase, for a period decided by the Authority, the level of spouse’s or civil partner’s special or augmented award. Each case will be considered on an individual basis by the Authority.

### **Part 3, Rule 5, Paragraphs 1 and 2**

Reinstatement of spouse’s or civil partner’s augmented award.

Discretion to reinstate all or part of a spouse’s or civil partner’s special or augmented award for such period as the Authority think fit following the termination of award on marriage, remarriage, formation of a civil partnership or subsequent civil partnership.

This discretion allows consideration of payment of such an award. This does not apply to members of the NFPS 2006, nor to firefighters appointed on or after 6.4.2006 who have opted out of the NFPS – because the post-retirement marriage/civil partnership limitation would not apply. No payment would normally be due for all other firefighters.

Devon and Somerset Fire and Rescue Authority’s policy is: It is unlikely that the Authority will reinstate an ex-spouses’ pension at the end of a new remarriage or civil partnership or cohabitation. However, each case will be considered on an individual basis by the Authority.

### **Part 4, Rule 3, Paragraph 5(c)**

This discretion allows the review of a child’s pension on change of circumstances.

Decision to cease payment of a child’s pension where the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled, or the child’s pension should not have been awarded.

Devon and Somerset Fire and Rescue Authority’s policy is: The Authority may cease payment of a child’s pension following a review of change of circumstances or as a result of new information received.

### **Part 5, Rule 1**

Discretion to award an adult dependent relative’s special pension for such period(s) as the Fire and Rescue Authority may determine.

Devon and Somerset Fire and Rescue Authority’s policy is: The Authority may award an adult dependant relative’s special pension for a period determined by the Authority where an individual can prove they were dependant on the member. Each case will be considered on an individual basis.

### **Part 5, Rule 2, Paragraph 3**

Discretion to award a dependent relative's gratuity.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may award a dependent relatives' gratuity where an individual can prove they were dependant on the member. Each case will be considered on an individual basis.**

### **Part 5, Rule 3**

This discretion allows the consideration of substitution of a lump sum for a small pension.

Discretion, with the consent of the person entitled to the award, to commute for a lump sum a small pension awarded to a surviving spouse or civil partner.

If the total amount of any pension payable to a surviving spouse or civil partner under Part 3 of the Firefighters' Compensation Scheme (England) Order 2006, together with any increase under the Pensions (Increase) Act 1971, does not exceed the commutation limit for the purpose of Part 2 of schedule 29 to the Finance Act 2004 (lump sum death benefit rule), and (a) the firefighter died before age 75, and (b) the Authority are satisfied that there are sufficient reasons, and (c) the surviving spouse or civil partner consents, the Authority may commute the whole of the pension for a lump sum in accordance with the guidance of the Government Actuary's Department at the time when the pension first becomes payable.

**Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum will be given in exceptional circumstances where financial hardship can be demonstrated.**

***This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.***

### **Part 5, Rule 4**

This discretion allows the consideration of substitution of a lump sum for a small pension.

Discretion, with the consent of the child, surviving parent or guardian, to commute for a lump sum a small pension awarded to a child.

If a child is entitled to a special allowance under Part 4, Rule 1 of the Firefighters' Compensation Scheme (England) Order 2006 and (a) the Authority are satisfied that



there are sufficient reasons, and (b) the surviving parent or the child's guardian or – if neither – the child him or herself consents, the Authority may commute the whole of the pension for a lump sum in accordance with Part 2 of Schedule 4 and the guidance of the Government Actuary's Department at the time when the pension first becomes payable.

*Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a child's pension into a lump sum will be given in exceptional circumstances.*

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 6, Rule 1**

Determination, in the first instance, of entitlement to, and type of, award under FCS.

This is the general power to determine payments under the scheme.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make awards in accordance with the regulations and following guidance from their Pension Administrators.*

### **Part 6, Rule 1**

Requirement to use, but right to select independent qualified medical practitioner for providing a medical opinion.

This is the general provision to obtain medical evidence so injury compensation can be determined.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority shall select an appropriate IQMP in accordance with the regulations to provide medical opinions as necessary.*

### **Part 6, Rule 1**

Discretion to decide award without an independent qualified medical practitioner's opinion if a person wilfully or negligently refused to submit to medical examination.

*Devon and Somerset Fire and Rescue Authority's policy is: Where an individual negligently fails to submit to medical examination by the IQMP and the IQMP is unable to provide an opinion on the basis of the medical evidence available, the Authority will make a determination based on such medical evidence. If no medical evidence is available, the Authority will make a determination without medical evidence.*

### **Part 6, Rule 3**

Requirement to reconsider an award IDRP is appropriate.

Requirement to reconsider, at person's request, his/her claim to an award where the Fire and Rescue Authority do not admit the claim at all, or to its full extent.

**Devon and Somerset Fire and Rescue Authority's policy is: In accordance with the regulations, the Authority will deal with disagreements using the Internal Disputes Resolution Procedure.**

### **Part 7, Rule 2**

This discretion allows the consideration of increasing the award for a serviceman injured during his/her forces period.

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.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase an award for a serviceman who is injured and permanently disabled during their forces period. The Authority will consider each case on an individual basis.**

### **Part 7, Rule 3**

Death of Serviceman.

Discretion to increase dependants' benefits under the FPS 1992 to the level of a flat rate award if a serviceman dies from the effects of an injury received during his/her forces period or a qualifying injury.

This applies in respect of those covered by the FPS 1992.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase dependants' benefits to the level of a flat-rate award if a serviceman dies from the effects of an injury received during their forces period. Each case will be considered by the Authority on an individual basis.**

### **Part 7A, Rule 2**

Injured Reservist.

Discretion to increase an award to a reservist who is permanently disabled as a result of an injury received during his/her forces period or a qualifying injury. This applies in respect of those covered by the NFPS 2006.

This discretion allows the consideration of increasing the award for a reservist injured during his/her forces period.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase an award to a reservist who is permanently disabled as a result of an injury received during their forces period. Each case will be considered by the Authority on an individual basis.**

### **Part 7A, Rule 3**

Death of Reservist.

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. This applies in respect of those covered by the NFPS 2006.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may increase dependants' benefits if a reservist dies from the effects of an injury received during their forces period. Each case will be considered on an individual basis.**

### **Part 8, Rule 1**

This discretion is the general discretion to pay an award to an employee of the Fire Authority who is injured while in attendance at a fire.

Discretion to pay an award to or in respect of an employee of a Fire and Rescue

Authority who is not a firefighter but who has to retire, or dies, as a result of an injury received without his/her own default while in attendance at a fire in the execution of duties as an employee of the Authority.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will pay an award to, or in respect of, an employee 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 their duties as an employee of the Authority. The amount of the award will be decided by the Authority and each case will be considered on an individual basis.**

### **Part 9, Rule 1, Paragraph 1**

This discretion allows the Authority to set timescales for review of payments under the scheme.

Discretion to decide intervals at which a person's degree of disablement should be reviewed.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is below state pension age, the Authority will undertake regular reviews of their degree of disablement and, where relevant, will adjust their payment accordingly.**

### **Part 9, Rule 1, Paragraph 3**

This discretion allows the Authority to decide to make no further reviews of degree of disablement.

Discretion to resolve that no further review of degree of disablement should take place 5 years after an injury pension first becomes payable.

**Devon and Somerset Fire and Rescue Authority's policy is: Five years after an injury pension becomes payable, the Authority may decide to make no further reviews of degree of disablement. Each case will be considered on an individual basis.**

### **Part 9, Rule 2**

This discretion allows the Authority to reduce an award where a person contributed to the infirmity by his/her own default.

Discretion to reduce the level of an injury award to not less than half of the full amount where a person contributed to the infirmity by his/her own default.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual has contributed to an infirmity by their default, it is likely that the Authority will reduce their injury award to not less than half the amount due. However, each case will be considered on an individual basis by the Authority.**

### **Part 9, Rule 3**

Abatement.

Discretion to withdraw the whole or part of a person's pension (other than a spouse's or civil partner's award) during any period of re-employment as a firefighter with a Fire and Rescue Authority.

This discretion allows the Authority to withdraw a pension if the person is reemployed as a firefighter.

Devon and Somerset Fire and Rescue Authority's policy is: Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.

### **Part 9, Rule 4, Paragraphs 1 to 3**

Withdrawal of pension.

Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.

This discretion allows the withdrawal of a pension if the pensioner is convicted of an act of treason, or a serious offence under the Official Secrets Act.

Devon and Somerset Fire and Rescue Authority's policy is: Where an individual is convicted for treason or for a serious offence under the Official Secrets Act, it is likely that the Authority will withdraw their pension. However, each case will be considered on an individual basis.

### **Part 9, Rule 4, Paragraph 4**

Reinstatement of pension.

Discretion to restore at any time and to such extent as the Fire and Rescue authority think fit, a pension withdrawn under Part 9, Rule 4, Paragraphs 1 to 3, to the pensioner or to apply it for the benefit of any dependant of the pensioner.

This discretion allows the consideration of reinstatement of a pension withdrawn at as above.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority may restore a pension withdrawn under Part 9, Rule 4, Paragraphs 1 to 3 or apply it for the benefit of any dependant of the pensioner. Each case will be considered on an individual basis.

### **Part 9, Rule 5**

Forfeiture of pension.

Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 34(6) of the Fire and Rescue Services Act 2004 (acts or omissions for the purposes of obtaining awards or other sums). Section 34(6) of the Fire and Rescue Services Act 2004 states that a person commits an offence if he does an act or makes an omission as a result of which he is injured or becomes ill, for the purpose of obtaining, for himself or another person:

- a) an award under a scheme brought into operation under this section, or
- b) a sum in respect of the repayment or application of contributions made under such a scheme.

This discretion allows consideration to what extent an award should be forfeited in the circumstances described.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider to what extent an award should be forfeited in the circumstances described in Part 9, Rule 5. Each case will be considered on an individual basis.**

### **Part 10, Rule 1 and Rule 3**

This discretion allows the concept of split liability for payment of an award.

Decision as to responsibility for payment of awards in respect of a qualifying injury where person employed by more than one Fire and Rescue Authority and injury relates to more than one employment.

**Devon and Somerset Fire and Rescue Authority's policy is: Where the person is employed by more than one Fire and Rescue Authority and the injury relates to more than one employment, the injury award will be paid by the Authority who the individual was working for at the time of the injury.**

### **Part 10, Rule 2, Paragraph 1**

Determination of intervals at which instalments of injury pension should be paid.

This requirement is to determine the frequency of pension payments.

**Devon and Somerset Fire and Rescue Authority's policy is: Pensions will be paid to individuals on a monthly basis.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Part 10, Rule 2, Paragraph 1**

Discretion to delay payment of an award to the extent necessary for determining any questions of the Fire and Rescue Authority's liability.

This discretion allows the Authority to delay payment of the sum until satisfied as to the eligibility for an award.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.**

### **Part 10, Rule 2, Paragraph 7**

This discretion allows the consideration of paying regular payments instead of a lump sum gratuity.

Discretion to pay a gratuity in instalments, rather than as a lump sum, of such reasonable amounts and over such reasonable period as the Fire and Rescue Authority think fit.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority may consider paying a gratuity in instalments rather than as a lump sum. Each case will be considered on an individual basis.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Schedule 5, Paragraph 1(2)**

Medical appeals.

Discretion to extend the 14-day time limit in which a person must lodge a medical appeal, to a period not exceeding 6 months from the date of issue of the medical opinion to the person, provided the fire and rescue authority are of the opinion that the person's failure to lodge the appeal within 14 days was not due to his/her own default.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).**

### **Schedule 5, Paragraph 5(5)**

Discretion to decide Fire and Rescue Authority's representation at Medical Appeal Board interview.

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate.

### **Schedule 5, Paragraph 6(1)**

Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

### **Schedule 5, Paragraph 9**

Vexatious appeals.

Discretion, where Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' to require the appellant to pay the Fire and Rescue authority such sum as the Authority think fit, not exceeding the fees and allowances of the specialist member of the Board.

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appeal board decide that the appeal was frivolous, vexatious, or manifestly ill-founded.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

### **Schedule 5, Paragraph 9(3)**

Withdrawal of appeal.

Discretion, where appellant withdraws appeal within 21 working days before the date appointed for interview or medical examination, to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit, not exceeding the Board's total fees and allowances.

This discretion allows the Authority to require the appellant to pay a sum to the Authority where the appellant withdraws their appeal at short notice.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws their appeal within 21 working days before the date appointed for interview



or medical examination, the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

DRAFT

## **Discretions Firefighter Pension Scheme 1992**

### **Rule A3**

Determination of eligibility for membership of the FPS.

Devon and Somerset Fire and Rescue Authority's policy is: The 1992 scheme is now closed and there is no facility for new members to join.

### **Rule B1 (2) (b)**

Permission for a Chief Fire Officer, appointed on or before 1.7.2013, to retire before attaining age 55.

This discretion introduces powers for the Authority to grant permission for the immediate payment of retirement benefits under Rule B1 of the Firemen's Pension Scheme Order 1992 where the Authority's Chief Fire Officer, appointed on or before 1.7.2013, wishes to retire before attaining age 55.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider granting permission to retirement before age 55 in such cases, where it is reasonable to do so.

### **Rule B5C**

Temporary Allowances and Emoluments.

This discretion introduces powers for the Authority to make certain temporary allowances, which satisfy the prescribed requirements, pensionable under the additional pension benefit arrangements.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will treat CPD payments as pensionable. Payments for Temporary Promotion will be treated as non-pensionable.

### **Rule B7 (5A)**

Increased Commutation Limit.

This discretion provides employers with the ability to permit those 1992 scheme members with less than 30 years' service and under age 55 to commute the maximum of a quarter of their pension for a lump sum on retirement. Under this new provision,

the employer would be liable for any additional cost should they exercise this discretion.

Devon and Somerset Fire and Rescue Authority's policy is: Each case will be considered on an individual basis depending on the needs of the Service. A full business case would be needed demonstrating the economical, effective and efficient management of its functions with associated costs.

### **Rule B8**

Commutation of trivial pension.

This discretion allows the consideration of conversion of a small pension to a single lump sum payment and is governed by financial limits set by legislation.

Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set. Each case will be considered on an individual basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Rule B9(2)(b)**

A Scheme member may allocate a portion of pension for a dependant other than a spouse or civil partner.

Before giving consent to the allocation, it must be demonstrated to the satisfaction of the Fire and Rescue Authority that the nominee is a person substantially dependent on the member. There is no guidance in the Scheme Rules as to the method of demonstration and so the Authority must determine their own test.

Devon and Somerset Fire and Rescue Authority's policy is: Where a portion of a pension has been allocated to a dependant who is not the spouse, civil partner or cohabiting partner of the member, the Authority will withhold the payment if they cannot be satisfied that the person nominated is substantially dependent on the member. Each case will be considered on its merits and full details of the circumstances will be required.

## Rule B9(6)

Acceptance of conditions of normal life expectancy for allocation purposes.

Rule B9 allows a member of FPS to allocate (give up) part of their pension during their lifetime, when they first become eligible to retire, to provide, on their death, a pension for a spouse, civil partner or a dependant.

*Devon and Somerset Fire and Rescue Authority's policy is: Where a Firefighter elects to give up part of their pension (under Rule B9), the Authority may require them to undertake a medical examination to ensure they are in good health before permitting them to do so. Each case will be considered on an individual basis.*

## Rule B12

Pension debit members.

The Fire and Rescue Authority must provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and take appropriate steps to record and administer Attachment Orders. In the event of a Pension Sharing Order, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Rule B12 of the Firemen's Pension Scheme Order 1992, and factors prepared by the Scheme Actuary.

It is for the Authority to determine appropriate charges for this administration.

*Devon and Somerset Fire and Rescue Authority's policy is: charges to be levied are set by the Pension Administrator as per the Collaboration Agreement.*

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

## Rule C8(6)

Discretion to increase level of spouse's or civil partner's award for such period as the Fire and Rescue Authority think fit where the firefighter and spouse or civil partner were living separately at the date of death and where the normal level of benefit is reduced accordingly under the rules of the Firemen's Pension Scheme Order 1992.

The Fire and Rescue Authority have discretion to permit the increase of a surviving spouse or civil partner's award where a benefit is reduced under the Firemen's Pension Scheme Order 1992 because the firefighter and spouse or civil partner were living separately at the date of death.

*Devon and Somerset Fire and Rescue Authority's policy is: The Authority's policy is to consider each case on an individual basis.*

## **Rule C9**

Discretion to reinstate all or part of a spouse's or civil partner's pension or gratuity for such period as the Fire and Rescue Authority think fit following termination on marriage, remarriage, formation of a civil partnership or subsequent civil partnership.

Discretion to allow reinstatement of all or part of a widow(er)'s pension which had ceased on remarriage of the widow(er). This provision comes into effect only should the widow(er)'s new spouse/civil partner die or the marriage or civil partnership be dissolved.

**Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that the Authority will reinstate an ex-spouses' pension at the end of a new remarriage or civil partnership or cohabitation. However, each case will be considered on an individual basis by the Authority.**

## **Rule D5(3) and (9)(c)**

Determination of entitlement to a child's allowance for a child aged 18 or over who was dependent on the deceased by reason of permanent disablement; review of that award, and the action taken if the Fire and Rescue Authority are satisfied that the child is no longer permanently disabled.

There is no direction here as to how the child's disablement should be established and so the Fire and Rescue Authority will have to determine an appropriate policy, e.g. an opinion from an IQMP. The policy should also set out how and when the disablement should be reviewed.

The award will cease to be payable if the Authority are satisfied that the child is no longer permanently disabled and not entitled to a child's allowance under any other terms of eligibility.

**Devon and Somerset Fire and Rescue Authority's policy is: Such awards will be reviewed at the child's 18<sup>th</sup> birthday, and every 10 years thereafter. If the disablement is no longer deemed permanent (according to the opinion of an IQMP), the child's pension will cease if they are not eligible under any other terms of eligibility.**

## **Rule D5(5) to (8)**

Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased.

The Fire and Rescue Authority may permanently withhold all of a child's pension where the child is convicted of the manslaughter of the deceased until and unless the conviction is quashed on appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where a child is convicted of the manslaughter of the deceased, Devon and Somerset Fire and Rescue Authority will permanently withhold all of the child's pension until and unless the conviction is quashed on appeal.

### **Rule E3**

Award of dependent relative's gratuity to a dependent relative.

Devon and Somerset Fire and Rescue Authority's policy is: Having regard to the conditions of Rule E3, Devon and Somerset Fire and Rescue Authority will consider the payment of a dependent relative's gratuity to a dependent relative not entitled to any other award.

### **Rule E5 subject to limitations in Rule E7**

Decision to commute for a lump sum, part or all of a spouse's civil partner's pension which is of limited amount.

This discretion allows consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum.

Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a spouse or civil partner's pension into a lump sum will be given in exceptional circumstances where financial hardship can be demonstrated. Each case will be considered on an individual basis.

### **Rule E6 subject to limitations in Rule E7**

Decision to commute for a lump sum part or all of a child's pension.

This discretion allows consideration of commutation of a limited amount of a child's pension into a lump sum.

Devon and Somerset Fire and Rescue Authority's policy is: Consideration of commutation of a limited amount of a child's pension into a lump sum will be given in exceptional circumstances. Each case will be considered on an individual basis.

### **Rule E9(6)**

Decision to substitute a higher amount of child's flat rate award where neither of the child's parents is alive.

This discretion allows consideration of substitution of a higher amount than the child's flat rate when neither of the child's parents are alive.

**Devon and Somerset Fire and Rescue Authority's policy is: Consideration of a higher pension than the child's flat rate when neither of the child's parents are alive will be given. Each case will be considered on an individual basis.**

## **Rule F1**

Decision as to amount of pensionable service to be set out in Certificate of Pensionable Service with notice of right of appeal.

This discretion allows a decision to be made on the amount of pensionable service and notification of appeal rights to the secretary of state.

**Devon and Somerset Fire and Rescue Authority's policy is: A decision will be made on the amount of pensionable service and notification of appeal rights to the secretary of state as required.**

## **Rule F2(5)**

Discretion that the Fire and Rescue Authority should pay the employer's pension contributions (otherwise payable by the firefighter) due for a firefighter's period of absence without pay where the firefighter gives notice that he/she wishes to pay contributions in order that the period may count as pensionable service.

If the firefighter has given notice under Rule F2(3) that he/she wishes to pay contributions in order that a period of unpaid leave may count as pensionable service, the Fire and Rescue Authority can use their discretion under Rule F2(5) to pay the employer's contributions otherwise payable by the firefighter in addition to member contributions in these circumstances.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will determine each case on its merits and full details of the circumstances will be required.**

## **Rule F4(1)(c), (3)(c), 4(d) and Rule F5(1)(c)**

Extension of 6-month time limit for election to pay certain sums in order that earlier pensionable service may count on re-joining the Fire and Rescue Service.

This discretion allows consideration of an extension of the time limit for an election to pay for previous service where a firefighter commences work with another Fire Authority after retiring without a pension.

**Devon and Somerset Fire and Rescue Authority's policy is: An extension will not be granted to the six-month time limit for an election to pay for previous service where a firefighter commences work with another fire Authority after retiring without a pension.**

### **Rule F6A(3)(b)**

Extension of 12-month time limit for acceptance of 'mis-selling' transfer value payment.

Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that there will be further cases.

### **Rule F6A(6)**

Discretion to adjust 'mis-selling' transfer value to take account of any earlier service credit.

Devon and Somerset Fire and Rescue Authority's policy is: It is unlikely that there will be further cases.

### **Rule F7(1) subject to Rule F7(2) and (3)**

Discretion to accept a transfer value.

Devon and Somerset Fire and Rescue Authority's policy is: Where there is discretion to accept a transfer value, advice will be sought from Devon and Somerset Fire and Rescue Authority's Pension Administrators regarding the appropriate value.

### **Rule F9(2)**

Extension of 6-month time limit for a former firefighter to request payment of a transfer value to another pension scheme.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider extending the six-month time limit for a former firefighter to request payment of a transfer value to another pension scheme.

### **Rule F9(5)**

Extension of 12-month time limit after leaving in which a former firefighter must be subject to a new scheme and may request a transfer value after having previously received a gratuity or repayment of pension contributions.

This discretion allows consideration of the situation of a firefighter who has received a gratuity or a refund of contributions requesting a transfer value instead. The refund of contributions or gratuity must also be paid back.



Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not extend the 12-month time limit unless in extenuating circumstances, eg the Pension Administrator has not actioned the member's request. ***This will be rare due to the FPS now being closed***

### **Rule G1(1)**

Determination of pensionable pay.

This discretion allows consideration of which elements of pay are pensionable.

Devon and Somerset Fire and Rescue Authority's policy is: Details are held in the Payroll Department at SHQ on which elements of pay are pensionable.

### **Rule G2(2)**

Discretion to deduct pension contributions from instalments of pay.

Devon and Somerset Fire and Rescue Authority's policy is: Contributions will be deducted from instalments of pay where the pay is pensionable.

### **Rule G2A(3)**

Discretion to extend 30-day time limit in which an election to pay contributions in respect of unpaid additional maternity or adoption leave must be made.

Devon and Somerset Fire and Rescue Authority's policy is: Late applications will be considered up to a maximum of 90 days.

### **Rule G6(4)(b)**

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 own expense and satisfied the Fire and Rescue Authority as to his/her good health.

This discretion allows the Authority to require that the Firefighter is in good health before accepting additional contributions.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will require the firefighter to undergo a medical examination at their own expense to provide evidence of good health before accepting additional contributions.

### **Rule G7(3)**

Discretion of Fire and Rescue Authority to agree to discontinuance of payment of periodical contributions for increased benefits where satisfied that payment is causing, or likely to cause, financial hardship.

This discretion is to allow a firefighter to cease making additional contributions.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will agree to discontinuance of payment of periodical contributions for increased benefits where the member is able to provide evidence of financial hardship.**

### **Rule H2(4)**

Discretion to extend the time limit for appeal against a Fire and Rescue Authority's decision based on a medical opinion.

If a person, who wishes to appeal under Rule H2 of the Firemen's Pension Scheme Order 1992 against a decision based on a medical opinion, fails to submit the appeal notice and any supporting documents within the 28 days permitted for lodging such an appeal, the Fire and Rescue Authority have discretion to extend the 28 days.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).**

### **Rule H3**

Requirement to deal with a person's disagreement by Internal Dispute Resolution Procedure arrangements set up by the Fire and Rescue Authority in accordance with the requirements of section 50 of the Pensions Act 1995, where the disagreement is in respect of the Authority's determination under Rule H1 and the disagreement does not involve an issue of a medical nature.

The Fire and Rescue Authority must apply the requirements of Rule H3 of the Firemen's Pension Scheme Order 1992 and Section 50 of the Pensions Act 1995 with two-stage Internal Dispute Resolution Procedures. However, they have discretion to decide who the Stage One and Stage Two decision makers will be.

**Devon and Somerset Fire and Rescue Authority's policy is: The Chief Fire Officer will be the Stage 1 decision maker and Stage 2 appeals will be sent to the Chief Executive of the Office of the Police, Fire & Crime Commissioner and a panel of independent members convened.**

## Rule IA

Pension credit members.

The Fire and Rescue Authority shall provide pension valuations and such information as may be required in relation to divorce or dissolution of civil partnership proceedings and will take appropriate steps to record and administer Attachment Orders. In the event of Pension Sharing Orders, the Scheme member's pension rights will be apportioned in accordance with the directions of the Court, divorce/dissolution legislation, Rule B12 of the Firemen's Pension Scheme Order 1992, and factors provided by the Scheme Actuary; a pension credit member's pension entitlement will be administered in accordance with Part 1A of the Order.

At the time that the pension credit pension becomes payable, the pension credit member will be informed of the commutation option and rights of appeal.

The Authority can determine the charges to be made for administration.

**Devon and Somerset Fire and Rescue Authority's policy is: charges to be levied are set by the Pension Administrator as per the Collaboration Agreement.**

*This discretion has, however, been delegated, so that the pensions administrator will determine the charges in accordance with their policies and procedures.*

## Rule IA2(1)

Discretion to commute a small pension due to a pension credit member.

If permissible under the Finance Act 2004 and Regulation 3(2)(b) of the Pension Sharing (Pension Credit Benefit) Regulations 2000 (commutation of pension credit benefit: small pensions) the Fire and Rescue Authority may commute the whole of a small pension credit pension to a lump sum in accordance with the guidance of the Scheme Actuary.

**Devon and Somerset Fire and Rescue Authority's policy is: Where appropriate Devon and Somerset Fire and Rescue Authority will allow the conversion of a small pension to a single lump sum in accordance with the financial limits set.**

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

## Rule K1(1) and (2)

Requirement to review ill health pensions.

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, 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 carrying out any regular employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular ill health pension reviews on individuals who are under age 60 and have been in receipt of an ill-health pension for less than 10 years.**

### **Rule K1(3)**

Requirement to decide, at such intervals as the Fire and Rescue Authority think proper, whether a person under age 60 and in receipt of a deferred pension has become capable of firefighting and performing any other duties appropriate to his former role as a firefighter.

Requirement to review deferred pensions paid early on permanent disablement.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will undertake regular reviews, at intervals based on IQMP advice, of individuals who are receiving deferred pensions paid early on permanent disablement.**

### **Rule K1A(2)**

Requirement to decide whether to offer a person, whose ill-health pension has been reviewed under Rule K1 and who is found to be capable of performing duties appropriate to his/her former role, an offer of employment in that role.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider offering employment to a person whose ill-health pension has been reviewed and who is found to be capable of performing duties appropriate to their former role providing employment opportunities exist at that time. Each case will be considered on an individual basis.**

### **Rule K3(1)**

The 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.

This discretion permits the reduction of a firefighter pension to not less than half the amount due where it is considered that they have contributed to an infirmity by their default.

**Devon and Somerset Fire and Rescue Authority's policy is: Where an individual has contributed to an infirmity by their default, it is likely that the Authority will reduce their pension to not less than half the amount due. However, each case will be considered on an individual basis by the Authority.**

#### **Rule K4**

Discretion to withdraw whole or part of a person's pension (other than a spouse's or civil partner's award under FPS) during any period of his/her re-employment in any capacity with any Fire and Rescue Authority.

This discretion allows abatement of a firefighter pension where the employee has been re-employed in any capacity.

**Devon and Somerset Fire and Rescue Authority's policy is:** Where a firefighter has retired and been re-employed in any role by any authority, including non-operational and retained firefighter roles, their pension may be subject to abatement. Each case will be considered on an individual basis, in line with the abatement policy.

#### **Rule K5(1)**

Discretion to withdraw a pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences.

This discretion only applies in the case of treason or a serious offence under the Official Secrets Act.

**Devon and Somerset Fire and Rescue Authority's policy is:** Where an individual is convicted for treason or for a serious offence under the Official Secrets Act, it is likely that the Authority will withdraw their pension. However, each case will be considered on an individual basis.

#### **Rule K5(5)**

Discretion to restore, at any time and to such extent as the Fire and Rescue Authority think fit, a pension withdrawn under Rule K5(1) to the pensioner or to apply it for the benefit of any dependant of the pension.

This discretion allows consideration of the reinstatement of the pension withdrawn as a result of a decision made regarding the above discretion.

**Devon and Somerset Fire and Rescue Authority's policy is:** The Authority may restore a pension withdrawn under Rule K5 (1) or apply it for the benefit of any dependant of the pensioner. Each case will be considered on an individual basis.

#### **Rule L3(1)**

Determination of intervals at which instalments of pension shall be paid.

This discretion allows the arrangement of normal monthly payments of annual pension.

Devon and Somerset Fire and Rescue Authority's policy is: Pensions will be paid to individuals on a monthly basis.

*This discretion has, however, been delegated, so that the pensions administrator will deal with this in accordance with their policies and procedures, in line with regulatory requirements.*

### **Rule L3(1)**

Discretion to delay payment of an award to the extent necessary for determining any question as to the Fire and Rescue Authority's liability.

This discretion allows the Fire Authority to delay the payment of an award sum until they are satisfied as to the eligibility of an award.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will delay the payment of an award until they are satisfied as to the eligibility of an award.

### **Rule L3(7) and (8)**

Discretion to decide an earlier payment date for survivors' benefits than the date prescribed where the deceased received a gratuity, and an option to pay a gratuity in instalments rather than as a single lump sum.

This discretion allows consideration of earlier payment of survivor benefits which are normally paid one year after the date the member deceased. There is also the option to pay a smaller amount in regular instalments where this would be of advantage to the person entitled.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will consider earlier payment of survivor benefits and/or a smaller amount in regular instalments where this would be of advantage to the person entitled. Each case will be considered on an individual basis.

### **Rule L3(9)**

Repayment of aggregate pension contributions.

If a person is entitled under Rule B6 of the Firemen's Pension Scheme Order 1992 to the repayment of aggregate pension contributions, the Fire and Rescue Authority are not obliged to make the payment until one year from the date of the person's retirement unless the person makes an earlier request for payment or the Authority use their discretion to make an earlier payment.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make payment at the earliest opportunity in each case.

### **Rule L5(1)**

Discretion as to the recipient of any sum payable to a minor.

This discretion allows the payment of any sum due to a minor to any appropriate person.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a minor.**

*This discretion has, however, been delegated so that where a sum is payable to a minor, the pensions administrator will, where they think fit, pay the sum to such other person as is considered appropriate, and subject to the other person agreeing and confirming that the sum will be applied for the minor's benefit.*

### **Rule L5(2)**

Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs.

This discretion allows the consideration of payment of an award to an appropriate person where the recipient is deemed to be incapable of managing their affairs.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will make the final decision as to the recipient to receive any sum payable to a person incapable of managing their own affairs.**

### **Rule L5(3)**

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.

This discretion deals with awards less than £5,000 and allows decision to be made of who should receive this amount.

**Devon and Somerset Fire and Rescue Authority's policy is: Following the death of a person, it is the Authority's decision as to who the recipient should be of any awards less than £5,000.**

*This discretion has, however, been delegated so that where, in the pensions administrator's opinion, the circumstances of a case are such that the production of probate or letters of administration are not required, this discretion will be exercised.*

## **Rule L5(6)**

Discretion to withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of the Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.

This discretion allows the Authority to reclaim sums lost as a result of fraud, theft or negligence on the part of that person in connection with their employment.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will withhold sums due in respect of an award to a firefighter where there has been a loss to the funds of Devon and Somerset Fire and Rescue Authority as a result of fraud, theft or negligence on the part of that person in connection with his/her employment.**

## **Rule LA4**

Retirement to estimate amounts payable to, and out of, the Firefighters' Pension Fund for each financial year and discretion to submit revised information to Secretary of State.

This requirement should be delegated to the function head responsible for pensions.

**Devon and Somerset Fire and Rescue Authority's policy is: This discretion is delegated to the function head responsible for pensions.**

## **Schedule 6, Part 1, Paragraph 1(4)**

Discretion to deduct from an award any outstanding balance of payments in respect of previous service.

This discretion relates to where a member has elected to pay additional sums in respect of previous pension service and then retires before completing the payments. The scheme provides that they will receive a pension as if they have completed the payments. This discretion allows the recovery of the payments not made.

**Devon and Somerset Fire and Rescue Authority's policy is: The Authority will not put any pension into payment until any outstanding payments have been recovered.**

## **Schedule 7**

Discretions in respect of elections to count War Service.

**Devon and Somerset Fire and Rescue Authority's policy is: No new cases are likely.**



### **Schedule 9, Part 1, Paragraph 1(2)**

Discretion to extend 14-day time limit in which a person must lodge a medical appeal, to a period not exceeding 6 months from the date of issue of the medical opinion to that person, provided the Fire and Rescue Authority are of the opinion that the person's failure to lodge the appeal within 14 days was not due to his/her own default.

This discretion allows consideration of extending the time limit for an appeal.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appeal is not made within the specified time limit and the Authority believe it is not due to the person's own default, the Authority will extend the time limit for appeal by a maximum of six months from the date of the original appeal deadline (or such other timescale the Authority considers appropriate).

### **Schedule 9, Part 1, Paragraph 4(5)**

Discretion to decide the Fire and Rescue Authority's representation at Medical Appeal Board interview.

This discretion deals with the arrangements for representation at a medical appeal board.

Devon and Somerset Fire and Rescue Authority's policy is: It is likely that Devon and Somerset Fire and Rescue Authority's representation at a Medical Appeal Board will be the Human Resources Manager and any other individual they consider appropriate.

### **Schedule 9, Part 1, Paragraph 5**

Discretion to decide whether or not to submit written evidence or a written statement to a Medical Appeal Board.

This discretion allows consideration of whether to present written evidence to a medical appeal board. In practice this is always done.

Devon and Somerset Fire and Rescue Authority's policy is: The Authority will submit written evidence to a Medical Appeal Board in accordance with the regulations.

### **Schedule 9, Part 1, Paragraph 8(2)**

Discretion, where Medical Appeal Board decide that a person's appeal was

'frivolous, vexatious or manifestly ill-founded' to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit, not exceeding the fees and allowances of the specialist member of the Board.

Devon and Somerset Fire and Rescue Authority's policy is: Where a Medical Appeal Board decide that a person's appeal was 'frivolous, vexatious or manifestly ill-founded' the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

**Schedule 9, Part 1, Paragraph 8(2A)**

Discretion, where appellant withdraws appeal within 21 working days before the date appointed for interview or medical examination, to require the appellant to pay to the Fire and Rescue Authority such sum as the Authority think fit not exceeding the Medical Appeal Board's total fees and allowances payable to the Board by the Authority.

Devon and Somerset Fire and Rescue Authority's policy is: Where an appellant withdraws their appeal within 21 working days before the date appointed for interview or medical examination, the Authority will require the appellant to pay any sum they think fit subject to capping as per the regulations.

DRAFT