


Report to	Fire and Rescue Authority	
Date	18 June 2018	
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Subject	Firefighters Pension' Schemes Discretionary Policy Statement	

PURPOSE OF REPORT

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

EXECUTIVE SUMMARY

- 3 The Authority is required under the Firefighters' Pension Scheme regulations to make decisions on matters relating to the administration of the Schemes. The Authority is required to review and where necessary publish a discretions policy detailing whether discretion will be applied or otherwise.

RECOMMENDATIONS

- 4 Members are requested to approve each discretionary resolution within the Firefighters' Pension Scheme Discretionary Policy Statement and to delegate day-to-day decisions to the Chief Fire Officer and Treasurer.

BACKGROUND

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

INFORMATION

- 6 Following introduction of a new pension scheme in 2015, the current discretions have been reviewed and are set out in Appendix 1, together with the appropriate policy determination as recommended to the Authority.

IMPLICATIONS

Wellbeing Objectives	The Discretionary Policy supports the maintenance of a stable workforce to enable a high quality, responsive and better integrated fire and rescue service so that prevention activity and emergency response can continue to be available when and where required, affordably, equitably and on the basis of risk.
Budget	Certain decisions can impact the budget in terms of increased employer superannuation payments and the impact on future actuarial valuations.
Legal	The regulations governing the administration of the Firefighters' Pension Schemes provide for a number of discretionary powers on the part of the Fire and Rescue Authority.
Staffing	Potential impact on staffing levels if certain discretions impact a member's retirement decision making process. Potential impact on the acceptance of temporary promotions offered.
Equalities/Human Rights/ Welsh Language	None
Risks	Non-compliance with legislation

Firefighters' Pension Scheme Discretionary Policy

Document type: Policy

Version number: 2

Date review due: June 2018

PART A

The firefighters' pension scheme orders require every employer to (i) issue a written policy statement on how it will exercise the various discretions provided by the scheme, (ii) keep it under review and (iii) revise it as necessary. This document confirms the arrangements in place to meet these requirements.

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

PART B

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

PART B(1) – NFPS 2015 SCHEME

NFPS 2015 Scheme Delegation (Regulation 5 (2))

The scheme manager must ensure that delegated powers are appropriate and current

Recommendation

Under the scheme of Delegation the Chief Fire Officer has discretion from the Authority to exercise all matters of day-to-day administration and operational management of the service and functions.

Pensionable pay (Regulation 17). The scheme manager has discretion to determine if continual professional development (CPD) payments are to be treated as pensionable pay. (Regulation 17 (1)(d)).

Previously CPD payments were treated as pensionable and included in benefit awards as Additional Pension Benefits

Recommendation

It is recommended that the discretion be adopted. In the interest of fairness and consistency CPD payments will continue to be pensionable.

Contributions during absence from work due to illness, injury, trade dispute or authorised absence (Regulation 111). Applies to all schemes.

Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions; if they do, the scheme manager may require that they should also pay the employer contributions. (Regulation 111(2), (3) and (4)).

Recommendation

Illness and injury (Regulation 111(2)) – NWFRA agree to delegate the authority to the Chief Fire Officer, in consultation with the Treasurer, to consider each case on an individual basis to determine whether the individual or the employer pay the employer contributions.

Trade dispute (Regulation 111(3)) - Members will be required to pay the employer's contributions in accordance with regulation 117(3) in all cases of active member pension buy-back involving trade dispute(s) (unless exceptionally agreed differently by the Chief Fire Officer).

Authorised unpaid absence (Regulation 111(4)) - NWFRA agree to delegate the authority to the Chief Fire Officer, in consultation with the Treasurer, to consider each case on an individual basis to determine whether the individual or the employer pay the employer contributions.

For all cases where regulations 111 paragraphs 2, 3 or 4 apply, contributions must be paid within 6 months of NWFRA requesting the money and at the rate of pay applicable to the period of time. NWFRA will normally make the request for the monies within 6 months of the absence/dispute ending.

Opting in/out (Regulation 12)

Opting into this scheme (Regulation 12). An optant-in will become an active member of the scheme with effect from the beginning of the first pay period following the date on which the option is exercised. There is an option for the scheme manager to vary the date on which the person becomes an active member, to such other time as the scheme manager considers appropriate. [Regulation 12(5)]

Recommendation

The opting-in date will take effect from the beginning of the first pay period following the date on which the option is exercised. (For information – the pay period is 2 weeks in advance and 2 weeks in arrears of the monthly pay date).

Opting out after the first three months (Regulation 16)

An optant-out ceases to be in pensionable service with effect from the first day of the first pay period following the date on which the option is exercised. If the scheme manager considers that day to be inappropriate, it may vary the date to the first day of any later pay period as the scheme manager does consider appropriate. [Regulation 16(2)(b)]

Recommendation

The opting-out date will be the first day of the first pay period following the date on which the option is exercised.

Closure of deferred member's account after gap in pensionable service not exceeding five years. (Regulation 49)

If a deferred member re-enters pensionable employment after a gap of five years or less, the scheme manager must close the deferred member's account and re-establish the active member's account, transferring entries from the deferred account. If the person had more than one relevant deferred member's account, they must select – within three months of re-entering scheme employment - which one should close. If they fail to make a selection, the scheme manager must make the choice for them. [Regulation 49(3) and (4)]

Recommendation

Apply this discretion.

Employer initiated retirement (Regulation 62)

An employer can determine that an active member age 55 or over but under age 60 who on the grounds of business efficiency is dismissed or has their employment terminated by mutual consent, can receive immediate payment of retirement pension without the early payment reduction. An employer may only use this discretion if the employer determines that a retirement pension awarded on this basis would assist the economical, effective and efficient management of its functions having taken account of the costs likely to be incurred in the particular case. [Regulation 62(1) and (2)]

Recommendation

NWFRA will not normally grant early payment of benefits for business efficiency purposes or waive any actuarial reduction, except in exceptional circumstances, after considering the business case. Agreement must be given by the Chief Fire Officer, in consultation with the Treasurer.

Exercise of partial retirement option (Regulation 63) (i.e. flexible retirement)

An active 2015 member aged at least 55 who would be entitled to immediate payment of pension if they leave pensionable service and who claims payment of the pension, may opt to claim the whole of their accrued pension but continue in pensionable service. The person concerned must give appropriate notice to the scheme manager and the partial retirement option is taken to be exercised on a date agreed between the member and the scheme manager. [Regulation 63(5)]

Recommendation

Apply this discretion.

Commencement of pensions (Regulation 70)

If a deferred member requests, and is entitled to, the early payment of retirement pension on grounds of ill-health, the scheme manager must determine the date of payment as being the date on which the person became incapable of undertaking regular employment because of infirmity of mind or body or, if that date cannot be ascertained, the date of the member's request for early payment. [Regulation 70(7)]

If a deferred member requests deferral of payment of a deferred pension beyond deferred pension age, or requests early payment with an early payment reduction before deferred pension age, the scheme manager will decide the payment date after the claim for payment has been made. [Regulation 70(8)]

Recommendation

Apply this discretion.

Allocation election (Regulation 72)

The scheme manager must give consent for the allocation of a portion of pension to a dependant who is not the spouse, civil partner or cohabiting partner of an active or deferred member. (Consent can be withheld if the scheme manager is not satisfied that the person nominated is not substantially dependent on the active member). [Reg.72(3)(b) and (4)]

Recommendation

A decision will be made by the Chief Fire Officer, in consultation with the Treasurer. The person nominated must be substantially dependent on the member.

Meaning of "surviving partner" (Regulation 76)

A cohabiting partner may be considered a "surviving partner" and potentially qualify for a pension provided they meet certain conditions, one of which is that they must have been in a "long-term relationship" – a continuous period of at least two years – at the date at which entitlement needs to be considered. The scheme manager has discretion to allow the person to qualify where the period is less than two years. [Regulation 76(1)(b)(v) and (2)]

Recommendation

The Chief Fire Officer, in consultation with the Treasurer, will use his/her discretion in cases where the relationship is less than 2 years.

Person to whom lump sum death benefit payable (Regulation 95)

The scheme manager has absolute discretion as to the recipient of any lump sum death benefit payable. [Regulation 95]

Recommendation

The Scheme Manager will use their discretion on who receives any lump sum death benefit where the matter does not appear straightforward.

Payment of pensions under Part 6 "Death Benefits" (Regulation 100)

If a child's pension is due in respect of an eligible child under age 18, the scheme manager will determine to whom it should be paid and will give directions to that person as to how the payment should be applied for the eligible child's benefit. [Regulation 100(2)]

Recommendation

Apply this discretion.

Provisional awards of eligible child's pensions: later adjustments (Regulation 102)

If children's pensions have been made to certain persons on the basis that they were eligible children and there were no others, and subsequently it appears that any of those children were not eligible, or there was a further eligible child to whom no payment has been made, or that a child born after the member's death is an eligible child, the scheme manager has discretion to adjust the amount of pensions as required in view of the facts as they subsequently appear. The adjustments may be made retrospectively. (This does not affect the scheme manager's right to recover a payment or overpayment under any other provision where the scheme manager considers it appropriate to do so.) [Regulation 102(2) and (3)]

Recommendation

Apply this discretion.

Request for acceptance of a transfer payment (Regulation 141). This applies to all schemes.

There is a time limit of one year from becoming an active member in which a person can request a transfer payment from a non-occupational pension scheme. The scheme manager has the discretion to extend this period. [Regulation 141 (3)]

Recommendation

It is not the policy of the Authority to consider extending the time limit for a transfer in of previous pension rights to proceed after twelve months of joining unless:

(i) the scheme member has requested that investigations commence within the twelve month time limit, or

(ii) if there is reason to believe that the individual would not have known of the need to request an investigation into potential transfer in or previous pension rights within the twelve month time limit, and the HR and/or pension files support this. Only in exceptional circumstances will a longer period be allowed so long as there is no known reason or prospect of the employee having access to their pension rights within the next 12 months.

Role of IQMP in determinations by the scheme manager (Regulation 152)

The scheme manager must select an Independent Qualified Medical Practitioner (IQMP) to provide a written opinion in respect of medical matters which may only be decided by having regard to such an opinion. [Regulation 152(1)]

If a person wilfully or negligently fails to submit to medical examination by the selected IQMP and the IQMP is unable to give an opinion on the basis of the medical evidence available, the scheme manager can make the determination based on such medical evidence as the scheme manager thinks fit, or without medical evidence. [Regulation 152(7)]

Recommendation

Apply this discretion.

Notice of appeal (Regulation 155)

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. [Regulation 155(2)]

Recommendation

Apply this discretion.

Payments due in respect of deceased persons (Regulation 169)

If, when a person dies, the total amount due to that person's personal representatives under the scheme (including anything due at the person's death) does not exceed the limit specified in the Administration of Estates (Small Payments) Act 1965, the scheme manager can pay the whole or part of the amount due to the personal representatives or any person or persons appearing to the scheme manager to be beneficially entitled to the estate, without requiring the production of grant of probate or letters of administration. [Regulation 169]

Recommendation

Apply this discretion.

Payment on behalf of members of lifetime allowance charge (Regulation 178)

At a scheme member's request the scheme manager may pay, on the member's behalf, any amount that is payable by way of the lifetime allowance charge under section 214 of the Finance Act 2004. The scheme manager may only comply with the request if the member pays the amount in question on or before the date on which the event occurs or the member authorises the deduction of the amount from a lump sum becoming payable to the member under the scheme at the same time as the event occurs. [Regulation 178]

Recommendation

A decision will be made on a case by case basis by the Chief Fire Officer, in consultation with the Treasurer.

Periodical payments during periods of assumed pensionable pay (Schedule 1 Part 2, Paragraph 10)

After a period of assumed pensionable pay or a period of reduced pay, the member may give written notice to the scheme manager authorising the employer to deduct the aggregate of payments – which would have been made but for the leave – from the member's pay during the period of six months from the end of the period of reduced pay. The scheme manager can extend this period of six months. [Schedule 1 Part 2, Paragraph 10(4)]

Recommendation

Apply this discretion.

Part B (2) applies to all firefighters who are members of 'The Firefighters' Pension Scheme (Wales) Regulations 2007 or 1992'.

FPS (1992) Temporary Pay

To determine if the difference between the firefighters' basic pay in their day role and any pay received whilst on temporary promotion or where they are temporarily required to undertake the duties of a higher role is to be treated as pensionable pay under Additional Pension Benefit arrangements.

Recommendation

Temporary Promotion to be treated under Additional Pension Benefit arrangements (unless the period meets the protection criteria under the Scheme Order July 2013).

FPS (1992) & (2007) Allowances

To determine if any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of a firefighter's duties under the contract of employment but are within the wider functions of the role are to be treated as pensionable pay under Additional Pension Benefit arrangement.

Recommendation

It is recommended to consider each allowance or supplement on a case by case basis.

FPS (1992) Rule K4 Withdrawal of a pension whilst employed by a fire and rescue authority (abatement)

To amend the 1992 scheme to widen the employers discretion to abate a pension paid to a member who is reemployed in any role by any fire and rescue authority; and to require the employer that is paying the pension to pay into the pension fund the amount of pension that is paid that could have been subject to abatement under the scheme rules. The requirement for the employer to be liable for the costs where they do not exercise the discretion to abate a members' pension would apply to both the 1992 and 2007 schemes.

Amendment Order 2013 requires the employer to reimburse the pension fund in the instance where they do not exercise the discretion to abate a member's pension on re-employment.

Recommendation

It is recommended that the discretion be adopted. The abatement of pension, on a pound for pound basis, will apply where earnings plus pension payments in the new role exceed earnings in the previous role.

FPS 1992 (A) Rule B7 (5a) Increasing of commutation limit

This proposal will allow employers the ability to permit those 1992 scheme members with less than 30 years' service and under age 55 years to commute the maximum of a quarter of their pension for a lump sum on retirement. Under the new provision, the employer would be liable for any additional cost which could be substantial should they exercise this discretion. A full business case would be needed demonstrating the economical, effective and efficient management of its functions with associated costs.

Recommendation

It is recommended that the discretion be adopted, but individual proposals be examined on a case by case basis depending on the needs of the Service and agreed by the Chief Fire Officer on advice from the Treasurer.

FPS 1992 Repayment of Widow's pension C9

Under the 1992 Scheme a person entitled to a widow's pension who marries, remarries, forms a civil partnership or a subsequent civil partnership is not entitled to receive any payment on account of the pension in respect of any subsequent period; but if the marriage or civil partnership is dissolved or the other party to it dies, the fire and rescue authority may pay the whole or any part of the pension for such period after the dissolution or death as they deem reasonable.

Recommendation

NWFRA will determine on a case-by-case basis whether to re-instate a widow's pension upon the subsequent death of the latter spouse / civil partner or dissolution of that latter marriage /civil partnership.