

NEW FIREFIGHTERS' PENSION SCHEME ORDER 2006
Decisions to be made by and discretionary powers of the fire authority

Agreed Delegations as at January 2014 with proposals for new delegations shown as NEW

Key

- A:** Decision/action taken in accordance with determination of Fire Authority in individual cases. Decisions would be made by the Pensions Panel, or the Appeals Committee in cases relating to IDRPs.
- B:** Decision/action taken in accordance with general policy of Fire Authority (once the policy has been made, the administration would be at level "D")
- C:** Decision/delegated to Chief Fire Officer or Deputy Chief Fire Officer after consulting with the Treasurer on budgetary implications and the Legal Adviser on any legal issues.
- D:** Decision/action delegated to the Brigade Manager with responsibility for Human Resources after consulting with the Treasurer on budgetary implications and the Legal Adviser on any legal issues.
- E:** **Decision/action delegated to the Pension Administrator in conjunction with the Fire Authority**

Where a decision has to be taken in respect of the Chief Fire Officer, Deputy Chief Fire Officer or Assistant Chief Fire Officer, the level at which the decision/action is taken should be "A" or "B" in all circumstances.

PROVISION OF NEW FIREFIGHTERS' PENSION SCHEME 2006		LEVEL OF DECISION				
		A	B	C	D	E
1	Determination of eligibility for membership of NFPS. [Part 2, Rule 1] .			X		
2	Discretion to accept the status of "nominated partner" where the firefighter member and partner had been in a relationship for less than 2 years. [Part 2, Rule 1(7)] .			X		
3	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. [Part 2, Rule 4] . <i>To archived post remedy</i>			X		
4	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. [Part 3, Rule 5] .	X				
5	Discretion to retire from the authority's employment with a pension, a firefighter aged 55 but under normal retirement age, on the grounds of economical, effective and efficient management of their functions ("authority-initiated early retirement"). [Part 3, Rule 6] .			X		

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		A	B	C	D	E
6	Discretion to determine that any or all of the following benefits may be treated as pensionable for credit to the firefighter of additional pension benefit: Any allowance or supplement to reward additional skills and responsibilities that are applied and maintained outside the requirements of the firefighter member's duties under the contract of employment but are within the wider functions of the job; the amount (if any) paid in respect of a firefighter member's continual professional development; the difference between the firefighter member's basic pay in their day to day role and any pay received whilst on temporary promotion or where he is temporarily required to undertake the duties of a higher role; any performance related payment which is not consolidated into his standard pay. [Part 3, Rule 7B] <i>Replaced with effect from 1.7.2013 by 2013/1393</i>			NEW		
7	Discretion to commute a small pension payable to firefighter to a trivial commutation lump sum. [Part 3, Rule 10] . Delegate to Pensions Administrator				X	X
8	Discretion to permit a firefighter to allocate a portion of pension for a dependant other than a spouse, civil partner, or nominated partner. [Part 3, Rule 11, paragraphs 2(b) and 3] .	X				
9	Acceptance of good health and normal life expectancy for allocation purposes. [Part 3, Rule 11, paragraph 6(a)] .				X	
10	Pension Debit Members [Part 3, Rule 2] - Delegate to Pensions Administrator					X
11	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. [Part 4, Rule 1, paragraph 3] .			X		
12	Discretion, subject to request of surviving spouse, civil partner or nominated partner of a firefighter member, to commute their pension to a trivial commutation lump sum. [Part 4, Rule 5] . Delegate to Pensions Administrator				X	X
13	Discretion to withhold all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased. [Part 4, Rule 7, paragraph 5] .			X		
14	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. [Part 4, Rule 7, paragraph 9] .	X				
15	Discretion, subject to consent of child's remaining parent, to commute a child's pension to a trivial commutation lump sum. [Part 4, Rule 12] . Delegate to Pensions Administrator				X	X
16	Discretion as to recipient(s) of death grant. [Part 5, Rule 1, paragraph 10] .	X				
17	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. [Part 5, Rule 1, paragraph 12] .				X	
18	Discretion, with the agreement of the pension credit member, to commute whole of pension credit pension to a trivial commutation lump sum. [Part 6, Rule 2] . Delegate to Pensions Administrator				X	X
19	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. [Part 6, Rule 5, paragraph 2] .	X				
20	Determination, in the first instance, of entitlement to and type of award due under the NFPS. [Part 8, Rule 2, paragraph 1] .	X				
21	Requirement to use, but right to select independent qualified medical practitioner for providing a medical opinion. [Part 8, Rule 2, paragraph 2] .				X	

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		A	B	C	D	E
22	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. (The award to be based on such evidence as the authority think fit, or without medical evidence. [Part 8, Rule 2, paragraph 6]).	X				
23	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 time-scales. [Part 8, Rule 3, paragraph 1] .				X	
24	Confirmation or revision of decision following an independent qualified medical practitioner's reconsideration of opinion. [Part 8, Rule 3, paragraphs 4 and 5] .			X		
25	Discretion to extend time limit for an appeal against the authority's decision based on medical advice. [Part 8, Rule 4, paragraph 4] .			X		
26	Requirement to deal with appeals under Internal Dispute Resolution Procedures. [Part 8, Rule 5] . <i>Mentioned here because a fire and rescue authority has certain discretions regarding those procedures.</i>	X				
27	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 of undertaking regular employment. [Part 9, Rule 1, paragraph 1] .				X	
28	Requirement to decide, at such intervals as the fire and rescue authority think proper, whether a person under State pensionable who for less than 10 years has been in receipt of a deferred pension paid early on permanent disablement, has become capable of carrying out any duty appropriate to their former role, and of undertaking regular employment undertaking regular employment. [Part 9, Rule 1, paragraph 2] .				X	
29	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. [Part 9, Rule 2, paragraph 3(b)] .			X		
30	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 a retained or volunteer firefighter during any period of re-employment as a retained or volunteer firefighter. Cases will be managed on a case-by-case basis and consideration given to whether any exceptional circumstance exists and whether abatement applies. If this discretion is not used and the pension is not withdrawn or abated, the authority must pay into the Firefighters' Pension Fund an amount equal to the amount which could have been withdrawn or abated (in accordance with Part 13, Rule 2, paragraph 11) [Part 9, Rule 3, paragraphs 1 and 2] . <i>Amended with effect from 1.7.2003 by SI 2013/1393.</i>		X			
31	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. Cases will be managed on a case-by-case basis and consideration given to whether any exceptional circumstance exists and whether abatement applies. If this discretion is not used and the pension is not withdrawn or abated, the authority must pay into the Firefighters' Pension Fund an amount equal to the amount which could have been withdrawn or abated (in accordance with Part 13, Rule 2, paragraph 11) [Part 9, Rule 3, paragraph 3] . <i>Amended with effect from 1.7.2003 by SI 2013/1393.</i>		NEW			

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		A	B	C	D	E
32	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 9, Rule 4] .	X				
33	Discretion to withdraw pension in whole or in part, permanently or temporarily, on a person's conviction of certain offences. [Part 9, Rule 5, paragraphs 1 to 3] .	X				
34	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. [Part 9, Rule 5, paragraph 4] .	X				
35	Discretion to decide to what extent an award should be forfeited by a person who has been convicted of an offence under section 34(6) of the Fire and Rescue Services Act 2004 (acts or omissions for purposes of obtaining awards or other sums). [Part 9, Rule 6] .			X		
36	Decision as to the amount of qualifying service which a firefighter may reckon. [Part 10, Rule 1]			X		
37	Decision as to the amount of pensionable service a firefighter may reckon. [Part 10, Rules 2 and 3] .			X		
38	Discretion that the fire and rescue authority should 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. [Part 10, Rule 4, paragraph 3] .			X		
39	Determination of pensionable pay. [Part 11, Rule 1] See also Part 3, Rule 7B replaced with effect from 1.7.2013 by 2013/1393.				X	
40	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 the fire and rescue authority and the member). [Part 11, Rule 3, paragraph 2] .		X			
41	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. [Part 11, Rule 4, paragraph 3] . <i>This should also include paternity leave but this has not yet been written into the Scheme rules.</i>			X		
42	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 contributions. [Part 11, Rule 4, paragraph 6] . <i>This should also include paternity leave but this has not yet been written into the Scheme rules.</i>			X		
43	Discretion to allow a part-time regular firefighter to purchase pro rated additional service. [Part 11, Rule 5, paragraph 5] .				X	
44	Discretion to allow a retained or volunteer firefighter to purchase additional service. [Part 11, Rule 5, paragraph 6] .				X	
45	Discretion to agree to a firefighter member's request to discontinue payment of additional contributions to purchase service provided this is solely on the grounds of the member's financial circumstances. [Part 11, Rule 8, paragraph 1] .				X	
46	Decision as regards timing of recommencement of payment of additional contributions to purchase service where agreed with member that discontinuance should be no greater than 6 months. [Part 11, Rule 8, paragraph 2] .				X	
47	Discretion to extend time limit for the payment of contributions in respect of periods of unpaid service or absence. [Part 11, Rule 9, paragraph 4(c)] .				X	
48	Selection of "the guarantee date" for statement of cash equivalent transfer value entitlement. [Part 12, Rule 3, paragraphs 1 and 2] .				X	

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		A	B	C	D	E
49	Discretion to charge member for third or subsequent statement of cash equivalent transfer value entitlement requested within any 12 month period. [Part 12, Rule 3, paragraph 6].				X	
50	Discretion to extend the one-year time limit for an application for a transfer payment into the NFPS from another pension arrangement. [Part 12, Rule 9, paragraph 1].		X			
51	Discretion to accept a transfer value. [Part 12, Rule 10, paragraph 1, subject to paragraph 3].				X	
52	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 set up by authority. [Part 12, Rule 12, paragraphs 3 to 5].	X				
53	Discretion to extend 12-month time limit for acceptance of "mis-selling" transfer value payment. [Part 12, Rule 14, paragraph 3].				X	
54	Discretion to adjust "mis-selling" transfer value to take account of any earlier service credit. [Part 12, Rule 14, paragraph 6].		X			
55	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. [Part 13, Rule 4, paragraph 4].			X		
56	Discretion to delay payment of an award to the extent necessary for determining any question as to the fire and rescue authority's liability. [Part 14, Rule 3, paragraph 2(a)].	X				
57	Discretion to pay an award at other reasonable intervals if impracticable to pay at the standard monthly periods. [Part 14, Rule 3, paragraph 2(b)].	X				
58	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 off-set against any other awards payable under the NFPS in respect of the deceased). [Part 14, Rule 3, paragraph 5].				X	
59	Discretion as to recipient of any sum payable to a minor and directions as to application for the minor's benefit. [Part 14, Rule 5, paragraph 1].				X	
60	Discretion as to recipient, or application, of payments due to a person incapable of managing his/her own affairs. [Part 14, Rule 5, paragraph 2].				X	
61	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. [Part 14, Rule 6, paragraph 1].	X				
62	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. [Part 14, Rule 6, paragraphs 4 to 6].	X				
63	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. [Part 15, Rule 3].				X	
64	Decision as to date of issue of annual benefit statements and relevant date for the pension illustration. [Part 15, Rule 4].				X	
65	Decision as to contribution rate payable by firefighter by reference to pensionable pay. [Annex A1].				X	

PROVISION OF NEW FIREFIGHTERS' PENSION SCHEME 2006		LEVEL OF DECISION				
		A	B	C	D	E
66	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. [Annex 2, paragraph 1(2)].	X				
67	Discretion to decide fire and rescue authority's representative at Medical Appeal Board interview. [Annex 2, paragraph 6(5)].				X	
68	Discretion to decide whether or not to submit written evidence or a written statement to Medical Appeal Board. [Annex 2, paragraph 7(1)].			X		
69	Discretion, where Medical Appeal Board determines an appeal in favour of the fire and rescue authority and states that, in its opinion, the appellant's appeal was "frivolous, vexatious or manifestly ill-founded", to require the appellant to pay to the fire and rescue authority such sum as the authority think fit, not exceeding the total amount of fees and allowances payable by the authority to the Board under Annex 2, paragraph 9(1). [Annex 2 paragraph 10(2)].		X			
70	Discretion, where appellant gives notice to the Medical Appeal Board, withdrawing the appeal or requesting cancellation of, postponement of, or adjournment of, the date appointed for the medical examination, less than 22 working days before the appointed date, 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). [Annex 2, paragraph 10(3)] <i>Amended with effect from 1.7.2013 by SI 2013/1393.</i>		NEW			

GENERAL POLICY OF FIRE AUTHORITY

Where "B" has been suggested in the chart, i.e. that the decision/action should be taken in accordance with a general policy statement of the Fire Authority, the Fire Authority will need to consider the terms of the policy. At present no policy statement exists. The following are suggestions as to how the Fire Authority may wish to decide their policy (the numbers of each item correspond with the numbers in the chart). Once the policy has been made the delegation would be to level "D".

CHART ITEM NUMBER	AGREED/NEW SUGGESTED POLICY
29	Require withdrawal of pension in all cases (agreed June 2010)
30	Require abatement in all cases (NEW)
39	Require in all cases (standard practice) (agreed June 2010)
49	Shall not extend the one-year time limit (parity with LGPS) (NEW)
53	Adjust in all cases (to avoid excess service credit) (agreed June 2010)
69	Require appellant to pay under the terms stated in the Order (agreed June 2010)
70	Require appellant to pay under the terms stated in the Order (NEW)