

WSF&RS FPS 2015, FPS and NFPS Employer Discretions Policy

Aim

The Firefighters' Pension Scheme 2015 (FPS 2015), Firefighters' Pension Scheme (FPS) and New Firefighters' Pension Scheme (NFPS) are statutory schemes. The rules and regulations governing the schemes are laid down by the Government.

There are some provisions of the Schemes that are discretionary. Discretionary powers allow employers such as West Sussex Fire & Rescue Service (WSF&RS) to choose how, or if, they apply certain provisions.

This document aims to summarise the discretions that West Sussex Fire & Rescue Service exercises as an employer in relation to the Firefighters' Pension Schemes and has been updated to reflect the new regulations from 1st April 2015.

Scope

This policy applies to all employees of West Sussex Fire & Rescue Service who are in, or are eligible to join, or have been a member of the Firefighters Pension Scheme 2015, Firefighters' Pension Scheme and/or New Firefighters' Pension Scheme.

Policy Provisions

The discretions have been grouped under the following headings:

- [Joining West Sussex Fire & Rescue Service \(WSF&RS\).](#)
- [During your employment with WSF&RS.](#)
- [Leaving your employment with WSF&RS.](#)
- [Adjustments to your pension rights following ill health.](#)
- [Loss of pension rights as a result of a fraudulent activity, dismissal or conviction of certain offences.](#)
- [Re-employment following retirement.](#)
- [Following your divorce.](#)
- [Following your death.](#)

The pension discretions within this policy were approved by the Governance Committee on 29th June 2015.

All pension discretions will be reviewed at least on a 4-yearly basis, or as and when circumstances change.

Joining West Sussex Fire & Rescue Service

How much will it cost and when will it be deducted?

(Deduction of Pension Contributions - *Regulation 114(1) of the FPS 2015, G2A(3) of the FPS, Part 11, Rule 3, Paragraph 2 of the NFPS*)
(Member contributions – Regulation 110 (5) & (7) of the FPS 2015)

You will pay between 10% and 14.5% (FPS 2015), 11% and 17% (FPS and Retained Special Modified Scheme) or between 8.5% and 12.5% (NFPS) of the monthly pensionable pay you receive. This will be deducted on your regular pay day. The rate you pay depends on the band you fall into.

Assessment of pay bandings takes place on an annual basis each April following the reassessment of the national bandings.

Certain reductions in pensionable pay, as defined in the regulations, during a period of leave (for example but not restricted to, child related leave, reserved forces service leave or sick leave) will be disregarded when making this assessment. A Brigade Manager¹ may consider other circumstances when this may apply, as and when they arise.

Your pension contributions will however be reassessed during the course of the year if you change role, or your role is re-graded. Your contributions will also be reassessed if there is another significant change to your salary during the course of the year. If your contribution rate changes as a result, your contributions will be adjusted at the point at which the change occurs.

If you are a part time or retained firefighter your rate will be based on the whole-time equivalent pay for your role although you will only pay contributions on the pay you actually earn.

1 A Brigade Manager may be the Chief Fire Officer or Deputy Chief Fire Officer

Further information can be found by following the link below

Contributions – how much will it cost?

<https://www.westsussex.gov.uk/about-the-council/pensions/i-am-a-firefighter-contributing-to-your-firefighters-pension-during-201516/>

What elements of my pay are pensionable?

(*Determination of Pensionable pay- Regulation G1 (1)(a) of the FPS, Chapter 1, Rule 1 (1a&b)*)
(*Pensionable Pay – Regulation 17 of the FPS 2015*)

Pension contributions must be paid on all elements of your pay received for the performance of the duties of your role, in line with the regulations, other than any temporary allowances or emoluments. This also includes amounts paid for Continual Professional Development.

Only sums that are liable for income tax may be specified as pensionable. Your payslip will show which elements of your pay are pensionable with the letter (P).

I was a member of another Fire & Rescue Service, without a break in service, can I combine my scheme membership?

(Receipt of a transfer value- Regulation F8 of the FPS, Chapter 4, Rule 12 of the NFPS)

If you have transferred from another Fire & Rescue Service in England and have not had a break in service, meaning you have remained in the same pension scheme, your service should transfer automatically.

If you have benefits in different schemes you can choose to transfer these benefits into the FPS 2015. You will need to obtain a "transfer value" of these benefits and dependent upon the type of former scheme as to whether this would buy you pension or service, details of which would be sent to you after the information has been received.

If you do have benefits in other schemes you can look into this option by contacting the Capita Pensions Team (see below) who will arrange for you to receive this information.

To ensure that the Pensions Team know which Fire & Rescue Service you have transferred from, you will need to complete the 'New employees – Pension options & information form' found at the link below.

<https://www.westsussex.gov.uk/about-the-council/pensions/i-am-a-firefighter/firefighters-pension-schemes-forms-and-guidance/>

Can I transfer my previous pension into the FPS 2015, FPS or NFPS?

(Acceptance of a transfer value- Regulation 141 of the FPS 2015, F7(1), (2) & (3) of the FPS, Part 12, Rule 10, paragraph 1 of the NFPS) and (Extension of period for a scheme member to elect to transfer previous pension rights- Regulation 141(3) of the FPS 2015, F9(2) of the FPS, Part 12, Rule 9, Paragraph 2 of the NFPS)

The FPS has been a "closed" scheme since April 2006; you cannot therefore transfer your benefits into the FPS.

You are however able to transfer previous pension into the NFPS, if you are a protected or tapered protected member of the scheme or if you are a member of the FPS 2015. Your request to transfer must be made within 12 months of starting scheme membership.

A Brigade Manager will consider an extension on a case by case basis if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

What date is used to calculate a cash equivalent transfer value?

(Selection of 'the guarantee date' for statement of cash equivalent transfer value entitlement – Regulation 135(4) of the FPS 2015, Part 12, Rule 3, paragraphs 1&2 of the NFPS)

The date of calculation (known as 'guarantee date') for the FPS 2015 and NFPS is set out in the Government Actuaries Department (GAD) transfer guidance.

The 'Transfer of Benefits' pack can be found by following the link below:

<https://www.westsussex.gov.uk/about-the-council/pensions/i-am-a-firefighter/firefighters-pension-schemes-forms-and-guidance/>

During your employment with West Sussex Fire & Rescue Service

Can I purchase additional membership?

(Allowing a part-time regular firefighter to purchase pro-rated additional service- Part 11, Rule 5, paragraph 5 of the NFPS), (Allowing a retained or volunteer firefighter to purchase additional service- Part 11, Rule 5, paragraph 6 of the NFPS), (Refusal to accept a firefighter's election to purchase increased benefits without undergoing a satisfactory medical- G6(4)(b) of the FPS).

This is only available to protected and tapered protected members of the FPS and NFPS

If you are a current member of either the FPS or NFPS, and will not be able to accrue 30 years' pensionable service by age 55 in the FPS or 40 years' pensionable service by age 60, in the NFPS, you can purchase additional service by the payment of additional contributions. The additional contributions would be based on factors provided by the Government Actuaries Department (GAD).

To pay additional contributions, you must choose to do so, (called "making an election" at least 2 years before normal pension age (55 in the FPS or 60 in the NFPS)).

The NFPS also allows you to purchase additional membership by lump sum. If you choose to pay by lump sum you must make your election to do so within 12 months of first becoming a member.

You will be required to undergo a satisfactory medical at your own expense.

For further information please see the section relating to purchase of additional membership in the NFPS guide and NFPS retained guide by following the link below:

<https://www.westsussex.gov.uk/about-the-council/pensions/i-am-a-firefighter/firefighters-pension-schemes-forms-and-guidance/>

Can I stop making additional contributions if I can no longer afford it?

(Discontinuance of payment of additional contributions to purchase additional service due to financial circumstances- G7(3) of the FPS, Part 11, Rule 8, paragraph 1 of the NFPS), (Timing of recommencement of payment of additional contributions should be no greater than 6 months from point of discontinuance- Part 11, Rule 9, paragraph 4(c) of the NFPS)

This will only apply to you if you are a protected or tapered protected member of the FPS or NFPS.

You will be expected to complete your contract to purchase additional membership, unless you can provide evidence of financial hardship. A Brigade Manager will consider your circumstances on a case by case basis to decide whether or not you can stop making your additional contributions.

If you are allowed to stop making additional contributions and want to restart paying your additional contributions again, then this must be within 6 months of

originally stopping the payment of additional contributions.

A Brigade Manager will consider each request on a case by case basis.

Can I purchase additional Pension?

(Amount of accrued added pension – Regulation Schedule 1 Part 1, Paragraph 4 & 7 (3), Schedule 1 Part 1, Paragraph 8 of the FPS 2015)

The FPS 2015 operates a scheme where you can purchase additional pension for your retirement (but West Sussex Fire and Rescue Service will not share the cost of this). You can pay more in contributions to purchase up to £6,500 of additional pension. Any additional pension you purchase is payable each year in retirement and is payable on top of your normal FPS 2015 benefits. If at any point it appears that you will exceed this limit West Sussex Fire and Rescue Service will cancel your election to pay for additional pension.

Any additional pension contributions that are less than £10 per month would require agreement from a Brigade Manager.

You can also pay for additional pension by lump sum.

Any additional contributions are taken from your pay, which you will receive tax relief on.

Can I pay contributions following an authorised leave of absence on reduced or no pay?

(Extension of period for a scheme member to elect to pay contributions in respect of a period of absence – Regulation Part 11, Rule 9, paragraph 4(c) of the NFPS). (Payment by the Fire & Rescue Service of the employer's pension contributions (otherwise payable by the firefighter) due to a period of unpaid leave of absence- Regulation 111 (2), (3) & (4) of the FPS 2015, F2(5) of the FPS, Part 10, Rule 4, paragraph 3 of the NFPS). (Deduction and Payment of Contributions – Regulation 114 (3) of the FPS 2015).

You can choose to pay contributions for the whole or part of the period of your absence and keep your full benefits in respect of the period you have paid.

For the period to count towards your scheme membership you must pay both the employee and employer contributions that would have been paid if you had been at work. If you choose to do this you must inform West Sussex Fire & Rescue Service, in writing, within 6 months of your return to work. This may be paid by lump sum or deduction from your salary.

If you are a protected or tapered protected member of the NFPS and/or FPS the 6 month time limit may be extended if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

You can request an extension from a Brigade Manager who will consider each request on a case by case basis. If the extension is approved he/she will forward your request together with his/her agreement to pension services.

Can I pay contributions if I have had a period of unpaid additional maternity, paternity, adoption leave or shared parental leave?

(Extension of time limit in which an election to pay pension contributions in respect of unpaid additional maternity or adoption leave must be made- Regulation G2A(3) of the FPS, Part 11,

Rule 4, paragraph 3 of the NFPS), (Deduction and payment of contributions – Regulation 114(3) of the FPS 2015)

If you are a protected or tapered protected member of the NFPS or FPS you can choose to pay contributions for the period of your unpaid additional maternity or adoption leave.

If you are a member of the FPS 2015 you can choose to pay contributions for the period of your unpaid additional maternity, paternity (until April 2016), and adoption and shared parental leave.

For the period to count towards your scheme membership you must choose to do this within 30 days of either a) the day on which you return to work, or b) if you do not return to work, the day you cease to be employed. This may be paid by lump sum or deduction from your salary.

If you are a protected or tapered protected member of the NFPS and/or FPS the 30 day time limit may be extended if it is clear that you were unable to meet the normal time period due to circumstances beyond your control.

You can request an extension from a Brigade Manager who will consider each request on a case by case basis. If the extension is approved he/she will forward your request together with their agreement to pension services.

If I die without giving notice of my decision to pay contributions for my unpaid additional maternity or adoption absence within the time limit can these contributions be deducted from my death grant?

(Deduction of contributions in respect of unpaid additional maternity or adoption leave from the death grant, without giving notice within the election time limit- Regulation Part 11, Rule 4, paragraph 6 of the NFPS)

If this were to happen, the Fire & Rescue Service would deduct the contributions from the death grant, but only in cases where there was a financial gain to a spouse, civil partner, nominated partner or children's beneficiary.

If I am in the reserve forces and on leave of absence, how will contributions be deducted from my reserve forces pay?

(Sums due in respect of reserve forces leave - Regulation I6 & I7 of the FPS, Part 7, Rule 2 of the NFPS). (Deduction and payment of contributions – Regulation 114 (2) of the FPS 2015).

Your membership of the pension scheme continues throughout your reserve forces leave of absence. Contributions will still be paid on your reserve forces pay.

If I opt out of the pension scheme, would I be able to re-join without having to undergo a medical?

(Requirement that an optant-out must undergo a satisfactory medical in order to re-join the scheme- Regulation G3 (6) of the FPS, Part 2, Rule 6 of the NFPS). (Opting out after the first three months – Regulation 16 (2) (b) of the FPS 2015). (Opting into the scheme – Regulation 12 (5) of the FPS 2015)

Should you choose to opt out of the FPS, as this is now a closed scheme, there is no option for you to re-join, however if you are a protected or taper protected

member you would have the option to join the NFPS. If you do not have protection, then you would have the option to join the FPS 2015.

If you opt out of the NFPS and are a protected or taper protected member and wish to re-join this option is available. If you do not have protection, then you would have the option to join the FPS 2015.

If you chose to opt out of the pension scheme after the first three months, you will be taken out with effect from the first day of the first pay period following the date on which your option to opt out is exercised, unless a later pay period is considered appropriate.

When re-joining the NFPS or FPS 2015 it is deemed that if you are fit for service then you are fit to join the pension scheme and there will be no requirement for you to undergo a medical.

You will be opted into the scheme with effect from the beginning of the first pay period following the date of your option, unless a later date is considered appropriate.

Should you be thinking of opting out of the pension scheme(s), you may wish to seek independent financial advice before making a decision.

Can I allocate part of my pension to provide for a dependant?

(Allocation of pension for a dependant other than a spouse, civil partner or nominated partner- Regulation Part 3, Rule 11, paragraphs 2(b) and 3 of the NFPS). (Allocation election – Regulation 72 (3)(b) & (4) of the FPS 2015)

Subject to a satisfactory medical, at your own expense, you may allocate up to one third of your pension entitlement to a spouse, civil partner or nominated partner in the NFPS.

Or,

You may ask a Brigade Manager to allocate up to one third of your pension entitlement to any other person who is substantially dependant on you. A Brigade Manager will consider each request on a case by case basis.

For further information and the relevant Allocation form please see the link below:

<https://www.westsussex.gov.uk/about-the-council/pensions/i-am-a-firefighter/firefighters-pension-schemes-forms-and-guidance/>

Will I receive an annual benefit statement each year?

(Date of issue of annual benefits statements and relevant date for the pension illustration- Regulation 183 (3) of the FPS 2015, Part 15, Rule 4 of the NFPS)

During your employment you will receive an annual benefit statement (ABS) setting out your estimated projected pension benefits as at the 31st March of each year. This will be sent out by September of 2015, and will change to August from 2016 onwards.

It is the intention that the annual benefit statements will be sent electronically via the Hartlink employee pension's portal. Although it is not a requirement for each member to register on the pension's portal, we would encourage you to do so as this allows you to do your own pension projections, have access to your ABS, and update your personal addresses amongst other things.

For more information and to register please see the attached link:

<https://www.westsussex.gov.uk/about-the-council/pensions/i-am-a-firefighter/>

Leaving your employment with West Sussex Fire & Rescue Service

If I have had a period of unpaid leave and do not return to work, what date is used as my last day of service?

(Last day of service following unpaid leave- Regulation Part 2, Rule 4 of the NFPS)

Should you decide to not return to work following a period of unpaid leave, your last day for pension purposes will be the same as your official date of leaving West Sussex Fire & Rescue Service.

If I leave employment, can I transfer my pension to another pension provider? If so is there a time limit to do so and will there be a cost?

(Extension to 12 month time limit after leaving to transfer to another pension provider- Regulation F9(5) of the FPS) (Charging a member for a 3rd or more cash equivalent transfer value in a 12 month period- Regulation Part 12, Rule 3, paragraph 6 of the NFPS).

If you leave your employment with the Fire & Rescue Service with 3 or more months service, but are not eligible for immediate payment of a pension because you are not old enough, as an alternative to deferring the payment of your pension benefits you can ask for your pension rights be transferred to another pension provider. You cannot however transfer to a pension scheme that provides flexible benefits under Freedom of Choice.

The Fire & Rescue Service has chosen not to set a time limit by which you must ask for a transfer, and there will be no cost to you for the Capita Pensions Team to provide this information to your new provider.

It should be noted that you are under no obligation to transfer once you have requested to investigate a transfer out of the scheme. It is recommended that if you are not sure of your options that you seek independent financial advice.

What happens if I leave or retire before I have completed repayments for previous service?

(Deduction from an award any outstanding balance of payments in respect of previous service- Regulation Schedule 6, Part 1, paragraph 1(4) of the FPS)

If you are repaying by regular instalments, an amount for previous service and subsequently leave or retire the Fire & Rescue Service will ask you to pay any outstanding monies. If you are retiring, this amount will be deducted from your commuted lump sum (This is called commutation).

If I leave can I request early payment of my deferred pension benefits?

(Refusal of a firefighter's request for early payment of a deferred pension where it is likely to be less than the GMP at State Pension Age (SPA)- Regulation Part 3, Rule 5 of the NFPS)

FPS

There is no option under the FPS to apply for early payment of your deferred pension benefits.

NFPS

The Fire & Rescue Service would not normally approve early access to your deferred benefits, unless through the grounds of ill health.

However there may be exceptional or compassionate grounds where this may be considered and each case will be considered on a case by case basis and depending on the circumstances of the case by a Brigade Manager.

FPS 2015

If you wish, you can give written notice to the Fire & Rescue Service, via the pensions team, that you would like to receive your deferred pension at or after age 55 and before deferred pension age (which is the same as your state pension age, with a minimum of 65). In these circumstances, however, the pension would be subject to an early retirement reduction based on factors provided by the Scheme actuary.

Can I take partial retirement?

(Partial Retirement Option – Regulation 63 (5) of the FPS 2015)

Under the FPS 2015 there is an option for "partial retirement" once you have reached age 55 if you wish to draw your pension but continue your employment as a firefighter without a break and build up additional pension.

Your FPS 2015 pension would be paid (subject to an early payment reduction if you have not reached age 60). A new pension record would be set up and you will build up a pension based on your continuing membership. This second pension will become payable, on similar terms to your first pension, when you retire.

The date on which you take "partial retirement" is subject to appropriate notice to the Fire & Rescue Service and agreement by a Brigade Manager.

Full details can be found by following the link below.

[Operational Retirement Policy to be amended]

Can I commute (known as giving up) more than two and a quarter times my pension for a lump sum?

(Commutation general provision – Regulation B7 2(i) of the FPS)

In the FPS to be eligible to commute (give up) for a lump sum more than two and a quarter times your pension, you must;

- Have retired with 30 years' service;
- Have been awarded an ill health retirement;
- Have retired at normal retirement age

The Fire & Rescue Service will not automatically allow you to commute for a lump sum more than two and a quarter times your pension in other circumstances.

However this may be considered and each case will be considered on a case by case basis depending on the circumstances of the case and must be supported by a business case and would be subject to approval by a Brigade Manager and the relevant Cabinet member.

If my employer initiates my retirement under business efficiency, will I be entitled to payment of my pension?

(Employer initiated retirement – Regulation 62 (1) & (2) of the FPS 2015, Part 3, Rule 6 of the NFPS)

If you are retired on the grounds of business efficiency and are aged between 55 and 60 in the NFPS (if you are a protected or taper protected member) or FPS 2015, you will receive unreduced pension benefits.

A retirement under business efficiency may have a cost attached to it and therefore must be supported by a business case and would be subject to approval by a brigade manager and the relevant Cabinet member.

Full details can be found by following the link below.

[Operational Retirement Policy to be amended]

If I am referred to the Independent Qualified Medical Practitioner (IQMP) but choose not to submit myself to an examination can I still be certified as being permanently disabled?

(Determination of award without an IQMP opinion if the firefighter wilfully or neglectfully fails to submit themselves to medical examination- Regulation 152 (7) of the FPS 2015, H1(3) of the FPS, Part 8, Rule 2, Paragraph 6 of the NFPS).

If you have been referred to the IQMP through the sickness absence policy, but you 'wilfully' or 'neglectfully' fail to attend for examination where applicable, the Fire & Rescue Service would not grant access to your pension on the grounds of ill health, as there would not be sufficient evidence of permanent disablement.

You must note however that your contract of employment may still be terminated.

Will my pension be reduced if I contributed to my condition by my own default?

(Reduction to the level of ill-health pension where a firefighter contributed to infirmity by own default- Regulation K3(1) of the FPS)

The Fire & Rescue Service have the right to reduce the level of an ill-health pension to not less than half of the full amount where a firefighter has contributed to their condition by their own default.

A Brigade Manager will consider each ill health retirement where this has been considered to be the case, on a case by case basis.

If I am in the reserve forces and I am on leave of absence and I am permanently disabled during my forces period, will I be entitled to my firefighter's pension?

(Payment of a pension, for a serviceman injured during his forces period- Regulation I2(3) & 3 of the FPS)

Should you be certified as being permanently disabled at the end of your reserve forces period an ill-health award would be payable.

To be eligible to an ill health pension, you must have at least 2 years' pensionable service.

In all other cases, an ill health gratuity would be payable.

In a case where the permanent disablement was caused by an injury received during your forces period, the Fire & Rescue Service, may in exceptional circumstances, if the armed forces are making payment of an injury pension, choose to pay you a pension at the rate of 1/12th of your average pensionable pay, rather than an injury gratuity.

Each case will be considered on a case by case basis.

If my pension is small, can I take it as a lump sum?

(Commutation of a small pension- Regulation 167 (3) of the FPS 2015, B8, E5 and E7 of the FPS, Part 3, Rule 10 of the NFPS)

If upon retirement your pension is deemed to be small under the HM Revenue and Customs limits (less than £30,000 of your Life Time Allowance (LTA)), the Fire & Rescue Service would look to pay your pension in full (this is known as "commutation") and make payment as a one off lump sum. No further payments would then be made under the pension scheme for you or your spouse.

The Pensions Team would automatically provide you with further details upon retirement if this was applicable to you. Please note that consideration would be taken of any other pensions payable to you.

When and how is my pension payable?

(Payment of an award at other reasonable intervals if impracticable to pay at the standard monthly periods- Regulation L3(1) of the FPS, Part 14, Rule 3, paragraph 2(b) of the NFPS)

(Delay to payment of an award to the extent necessary for determining any question as to the F&RS liability- Regulation L3(1) of the FPS, Part 14, Rule 3, paragraph 2(a) of the NFPS).

Your pension is payable monthly, in advance if you are a member of the FPS, or, in arrears if you are a member of the NFPS and FPS 2015, in accordance with the pension regulations.

If your pension is less than £100 per annum, your pension will be payable in advance each year. The first payment will be made at the point of retirement, followed by subsequent payments each April following pension increase, where applicable.

The Fire & Rescue Service have the right to delay or suspend payment, should they ever require confirmation that you continue to be eligible for payment.

What supporting documents are needed, before payment of mine or my dependant's pension benefit is made?

(Requiring a person who is or may be entitled to a pension or lump sum under the scheme to provide the F&RS with supporting evidence as to identify and continuing entitlement to any payment under the scheme- Regulation 184 of the FPS 2015, Part 15, Rule 3 of the NFPS)

If a payment is due to you or your dependant , under either the FPS, NFPS or FPS 2015, a request will be made to see any certificates or legal documents (for example, Birth, Marriage or Death Certificate) to support making payment.

What happens if I become incapable of managing my own affairs?

(Payment of award to a person incapable of managing his/her own affairs- Regulation 168 of the FPS 2015, L5(2) of the FPS, Part 14, Rule 5, Paragraph 2 of the NFPS).

Should you become incapable of managing your own affairs, in the first instance the Pensions Team would ask to see Power of Attorney documents. Should this document not be available then consent would need to be sought from a Brigade Manager to make payment of your benefits to the person providing your care, or such other person as they may determine.

Adjustments to your pension following ill health

The FPS, NFPS and FPS 2015 has two tiers of ill-health provision.

- The Lower Tier pension is payable where you are certified as being permanently disabled for the performance of the duties of your role as a firefighter.
- The Higher Tier pension is payable where, additionally, you are also certified as being permanently disabled from duties for any other 'regular employment'.

'Regular employment' means employment over 30 hours a week on average over a 12 month period.

A 'Lower Tier' ill health pension is only payable if you have at least 3 months service.

A 'Higher Tier' ill health pension is only payable if you have at least 5 years' service.

If new medical evidence is presented will my entitlement be reassessed?

(Discretion to agree with person concerned that the IQMP should be given the opportunity to review their medical opinion if new evidence is presented within appropriate timescales- Regulation 153 (1), (4) & (5) of the FPS 2015, Part 8, Rule 3, paragraph 1 of the NFPS)

Should any further medical evidence be presented, whether that be to show improvement or worsening of a condition, the Fire & Rescue Service reserve the right to reassess your entitlement to an ill health pension.

Can I appeal against the decision made by the Fire & Rescue Service on an issue of a medical nature?

(Notice of Appeal – Regulation 155 (2) of the FPS 2015)

(Extension to time limit for an appeal against the authority's decision based on medical advice- Regulation Part 8, Rule 4, paragraph 4 of the NFPS)

(Extension to 28-day time limit (14 days in the FPS), not exceeding 6 months from the date of issue of documents at date of notification- Regulation Schedule 9, Part 1, paragraph 1(2) of the FPS, Annex 2, paragraph 1(2))

You must appeal any decision made by the Fire & Rescue Service of permanent disablement within:

- 14 days of notification if you are a member of the FPS
- 28 days of notification if you are a member of the NFPS and FPS 2015

The Fire & Rescue Service does not normally agree to an extension to the time limit for an appeal against their decision.

However, there may be exceptional or compassionate grounds where this may be considered by a Brigade Manager and if so each case would be considered on a case by case basis depending on the circumstances.

If it is agreed that the time limit will be extended, this will be by no more than 6 months from the date of notification.

If I am certified as being permanently disabled, will my entitlement be reassessed?

(Review of ill-health award or early payment of retirement pension – Regulation 68 (1) & (2) of the FPS 2015)

(Intervals as the F&RS think proper to reassess as to whether a retired member has become capable of carrying out any duty appropriate to the role from which they were retired on health grounds or any other regular employment- Regulation K1(1), (2) & (3) of the FPS, Part 9, Rule 1, paragraph 1 & 2 of the NFPS)

An ill health award payable before State Pensionable Age (SPA) and for less than 10 years must be subject to review as set out by recommendation of the Independent Qualified Medical Practitioner (IQMP).

As part of the review the IQMP will assess:

For those retired from active service:

- Whether you have become capable of carrying out any duty appropriate to the role from which you were certified as being permanently disabled; or
- In cases of a higher tier ill health, whether you have become capable of carrying out any regular employment.

For those who had their deferred benefits brought into pay early:

- Whether you have become capable of undertaking any regular employment.

Careful consideration will be taken of the IQMP's recommendation and depending on the outcome of this review the Fire & Rescue Service will adjust your entitlement accordingly, and will look to seek recovery of any overpayment.

Following a review if I am found to be capable of carrying out the duties appropriate to the role I was found to be permanently disabled from, would I be offered employment in that role?

(Consequences of an ill health review – Regulation 69 (3) of the FPS 2015)

(Requirement to decide whether to make an offer of employment, if a person is found capable of the duties of their formal role- Regulation K1A(2) of the FPS, Part 9, Rule 3, paragraph 3(b).

If the IQMP recommends that you are now capable of carrying out the duties of your previous role, there is no automatic entitlement to be offered employment by the Fire & Rescue Service.

Each case will be referred to a Brigade Manager for consideration and will depend on the circumstances at the time.

If my appeal goes to the Medical Appeal Board, does the Fire & Rescue Service pay for this?

(Payment to the Fire & Rescue Service such sum as they think fit where a person's appeal was found to be 'frivolous, vexatious or manifestly ill-founded Or where the appellant withdraws appeal within days before the date appointed for interview or medical examination - Regulation 156 (8) to (12), 161 (2), 3 (a) & 3 (b), Schedule 9, Part 1, paragraph 8(2&2A) of the FPS, Annex 2, paragraph 10(2&3) of the NFPS).

The Fire & Rescue' Service would not expect you to pay the cost for referral to the Medical Appeal Board.

However, if your claim is found to be "frivolous, vexatious or manifestly ill-founded", or if you withdraw your appeal within days of the interview, or medical examination, and a cost is incurred the Fire & Rescue Service would look to seek to recover this cost from you.

Loss of pension rights as a result of fraudulent activity, dismissal or conviction of certain offences.

If I am dismissed from the Fire & Rescue Service, can I request early payment of my deferred pension benefits?

(Disallowing early payment of a deferred pension because of a firefighter's dismissal-Regulation Part 9, Rule 4 of the NFPS)

If you are dismissed from the Fire & Rescue Service you will be entitled to a deferred pension payable:

- at age 60, if you are a member of the FPS
- at age 65, if you are a member of the NFPS
- State Pension Age, with a minimum of 65 , if you are a member of the FPS 2015

You will not be entitled to early payment of your benefits.

However, there may be exceptional or compassionate grounds where this may be considered by a Brigade Manager. Any such case would be considered on a

case by case basis and would depend on the circumstances of the case.

Are my pension benefits affected if I am convicted of an offence?

(Withdrawal of pension in whole or in part, permanently or temporarily, on a firefighter's conviction of certain offences- Regulation 171 (1), (3) & (5) of the FPS 2015, K5(1) of the FPS, Part 9, Rule 5 of the NFPS)

If you are convicted of one of the following offences:

- Treason; or
- One or more offence under the Official Secrets Act 1911-1989 for which a prison sentence of at least 10 years is to be served.

The Fire & Rescue Service will, in exceptional circumstances, seek to reduce in whole or part the value of your pension benefits where it is considered appropriate.

Each case will be referred to a Brigade Manager for consideration and considered on a case by case basis depending on the circumstances of the case.

Can payment be reinstated following whole or partial withdrawal?

(Restoring a pension withdrawn or to apply it for the benefit of any dependant of the pensioner- Regulation 171 (4) of the FPS 2015, K5(5) of the FPS, Part 9, Rule 5, paragraph 4 of the NFPS)

If the Fire & Rescue Service has reduced in whole or part your pension, they may, in exceptional or compassionate circumstances, reinstate payment to you or for the benefit of any dependant.

Each case will be referred to a Brigade Manager for consideration and considered on a case by case basis depending on the circumstances of the case.

Are my pension benefits affected if I am convicted of a fraudulent offence?

(Forfeiture: relevant monetary obligations and relevant monetary losses – Regulation 174 of the FPS 2015)

(Set off – Regulation 175 of the FPS 2015)

(Forfeiture by a person who has been convicted of an offence under section 34(6) of the Fire & Rescue Services Act 2004- Regulation Part 9, Rule 6 of the NFPS) (Withholding sums due in respect of an award to a firefighter where there has been a loss to the F&RS as a result of fraud, theft or negligence in connection with his/her employment- Regulation L5(6))

If you leave your employment with the Fire & Rescue Service due to a fraudulent offence, theft or negligence or, if you commit an offence by conducting an act (or an omission) as a result of which you are injured or become ill, for the purpose of obtaining an award, for you or another person, the Fire & Rescue Service will, in exceptional circumstances, seek to reduce the value of your pension benefits.

Each case will be referred to a Brigade Manager for consideration and considered on a case by case basis depending on the circumstances of the case.

Re-employment following retirement from West Sussex Fire & Rescue Service

Do I still receive my pension if I am re-employed by the Fire & Rescue Service?

(Abatement of pension on re-employment as a firefighter- Regulation K4 of the FPS, Part 9, Rule 3, paragraph (1) of the NFPS)

(Withdrawal of the whole or part of a pension paid to a firefighter during any period of re-employment as a regular firefighter, retained firefighter, volunteer firefighter, or in any capacity by any Fire & rescue authority-Regulation Part 9, Rule 3, paragraphs 1,2 and 3 of the NFPS)

In the FPS or NFPS your annual pension may be adjusted or suspended throughout your re-employment with the Fire & Rescue Service, or if you are re-employed in any other capacity by West Sussex County Council. The reduction is on a £ for £ basis. This is to make sure that you are not receiving any more than the value of pay you would have received when you left your former employment.

For full details please see the following link

[Operational Retirement Policy to be amended]

Following your divorce

If my Ex-spouse's pension is small, can they take it as a lump sum?

(Commutation of a pension credit- Regulation Part 6, Rule 2 of the NFPS)

If your ex spouse's pension under the NFPS is deemed to be small under the HM Revenue and Customs limits (less than £30,000 of your Life Time Allowance (LTA)), the Fire & Rescue Service would pay their pension in full (this is known as "commutation" and make payment as a one off lump sum. No further payments would then be made under the pension scheme.

The Pensions Team would automatically provide them with further details upon payment if this was applicable. Please note that consideration would be taken of any other pension credit payable to them.

If my ex-spouse dies and a post-retirement death grant is payable, who will it be payable to?

(Payment of post-retirement death grant in respect of a pension credit member to such person or persons as the Fire & Rescue Service think fit- Regulation Part 6, Rule 5, paragraph 2 of the NFPS)

Under the FPS:

There is no provision to make a nomination; therefore payment will be made to their estate. It is therefore recommended that they make provision in their will.

Under the NFPS and FPS 2015:

Where it is clear, having taken account all circumstances, payment is made in accordance with their nomination. If no nomination has been made, then payment is made to their estate.

Where there is doubt this will be referred to a Brigade Manager for consideration or grant of probate will be obtained.

NFPS/FPS 2015 -Death Grant Nomination form

http://www.westsussex.gov.uk/your_council/pension_fund/membership_contributions_and/firefighters_pension_scheme/firefighter_pension_forms.aspx

Following your death

If an overpayment of my pension occurs due to late notification of my death, what happens?

(Recovery of all or part of an overpayment following a pensioner's death of which the Fire & Rescue Service were not informed- Regulation Part 14, Rule 3, paragraph 5 of the NFPS)

The Fire & Rescue Service would look to seek recovery of any overpayment of £100 or more.

If my spouse cohabits or remarries following my death will their pension stop?

If you are a member of the FPS then surviving spouses or civil partner's pension entitlement will cease upon remarriage.

If you are a member of the NFPS or FPS 2015 the pension will not cease upon cohabitation or remarriage.

If my spouse's marriage or civil partnership subsequently terminates, will they be able to reinstate their pension?

(Reinstatement of all or part of a spouse's or civil partner's pension following the termination of marriage or civil partnership- Regulation C9 of the FPS)

The Fire & Rescue Service would not automatically reinstate a spouse's pension.

Each case will be referred to a Brigade Manager for consideration and considered on a case by case basis depending on the circumstances of the case.

If I was paid a gratuity, other than an injury gratuity, how will this be paid to my spouse?

(Where the deceased received a gratuity, other than an injury gratuity, survivors' benefits are payable from the first anniversary of his death or such earlier date as the fire authority, in the circumstances of the case, think fit. Option to pay in instalments rather than as a single lump sum- Regulation L3(7)&(8) of the FPS)

Payment of a gratuity would normally be paid as a single lump sum from the first anniversary of your death.

However, there may be extenuating circumstances, where a Brigade Manager would consider for payment to be made by instalments, following a request by your surviving spouse.

If I am living apart from my spouse at the time of my death, will this affect what is payable?

(Increase in level of spouse's or civil partner's award where the firefighter and spouse/civil partner were living apart at the date of death- Regulation C8(6)&(7) of the FPS)

In you are living apart at the time of your death your spouse would be entitled to a benefit payable at the rate of 1/160th of your average pensionable pay at the date of death (which is known as a requisite benefit). Unless they have remained financially dependent on you, whereby, they will be entitled to a higher benefit may be payable.

The Fire & Rescue Service may increase the amount payable, in extenuating or compassionate circumstances. This would be considered by a Brigade Manager on a case by case basis depending on the circumstances of the case.

Is there provision to make payment to a dependent relative, following my death?

(Award of dependent relative's gratuity- Regulation E3 of the FPS)

The Fire & Rescue Service does not normally approve payment to a dependent relative, other than that set out by the pension scheme.

However, there may be exceptional or compassionate grounds where this may be considered by a Brigade Manager. Each case would be considered on a case by case basis depending on the circumstances of the case.

If I have made a nomination for payment of my death grant, can I be assured this is who it will be paid to?

(Recipient of death grant- Regulation 95 of the FPS 2015, Part 5, Rule 1, paragraph 10 of the NFPS)

If you are a member of the FPS:

There is no provision to make a nomination; therefore payment will be made to your spouse, or civil partner. It is therefore recommended that if you are not married, or in a civil partnership, that you make provision in your will.

If you are a member of the NFPS and FPS 2015:

Where it is clear, having taken account all circumstances, payment is made in accordance with your nomination. If no nomination has been made, then payment is made to your spouse, nominated partner or civil partner.

Where there is doubt this will be referred to a Brigade Manager for consideration or grant of probate will be obtained.

NFPS/FPS 2015 -Death Grant Nomination form

http://www.westsussex.gov.uk/your_council/pension_fund/membership_contributions_and/firefighters_pension_scheme/firefighter_pension_forms.aspx

If there is a death grant payable following my death that is less than the amount specified in the Administration of Estates (Small Payments) Act

1965, who is the amount payable to?

(Payment of sums less than the amount specified in the Administration of Estates (Small Payments) Act 1965 – Regulation 169 of the FPS 2015, L5(3) of the FPS, Part 14, Rule 6, paragraph 2 of the NFPS).

If a death grant payment is due under either the FPS, NFPS or FPS 2015 that is less than the amount specified under the above Act, (which is currently £5,000), there would be a requirement for the Legal Personal Representative to complete a Form of Indemnity, before payment would be made. The Form of Indemnity would be provided by the Capita Pensions Team.

In all other cases, unless there is a nomination in place, a Grant of Probate would be required.

If my spouse is convicted of my manslaughter or murder, will they still be entitled to payment of their spouse's benefit?

*(Withholding 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- Regulation 171 (2) of the FPS 2015, Part 4, Rule 1, paragraph 3 of the NFPS)
(Forfeiture of Pensions: offences committed by other persons – Regulation 172 (1) & (5))*

If your spouse is convicted of your manslaughter, the Fire & Rescue Service will, in exceptional circumstances, seek to reduce the value of their spouse's pension benefits to an amount considered appropriate.

If your spouse is convicted of your murder, the Fire & Rescue Service must, seek to withhold the value of their spouses pension benefits.

Each case will be referred to a Brigade Manager for consideration and this will depend on the circumstances of the case.

If there is a death grant payable, will this be paid to them?

(Withholding payment of a death grant, where the recipient has been convicted of murder or manslaughter of the deceased- Regulation 173 of the FPS 2015, Part 5, Rule 1, paragraph 11 of the NFPS)

If the recipient of your death grant has been convicted of your murder or manslaughter, your death grant will not be paid to them.

If my spouse or child has made a false declaration to claim a dependant's benefit will the payment be suspended and recovered?

(Surviving partner's pension and eligible child's pensions: Suspensions and recovery – Regulation 101(2) & (3))

If your surviving partner and/or child made a false declaration, or deliberately suppressed a material fact in connection to the benefit awarded, the Fire & Rescue Service will suspend payment of the pension and would seek to recover any overpayment.

If my death grant was not paid and their conviction was quashed on appeal, can payment now be made?

(Payment of any death grant not paid in full, to a person whose conviction for murder or manslaughter of the deceased has been quashed- Regulation 173 of the FPS 2015, Part 5, Rule1, paragraph 12 of the NFPS)

If a death grant has not been paid due to these circumstances, and the conviction has subsequently been quashed, the case will be referred to a Brigade Manager (in consultation with the Executive Director of Corporate Resources & Services or as advised with the Director of WODDS).

If my child is under 18 who will the pension be paid to?

(Payment of Pensions under Part 6 'Death Benefits' – Regulation 100 (2))

If your child is under the age of 18, and is due payment of a child's pension, this will be paid to their legal guardian.

If there is no surviving parent, then supporting guardianship documentation will be required.

If my child is permanently disabled will their pension be payable for life?

(Cessation of child's pension where the Fire & Rescue Service are satisfied that the child is no longer permanently disabled or the child's pension should not have been awarded- Regulation D5(4)(c) & 3(a) of the FPS, Part 4, Rule 7, paragraph 9 of the NFPS).

Should you die and leave a permanently disabled child, the Fire & Rescue Service will determine the eligibility of their pension at this point. The Pensions Team will ascertain through your child's GP, whether their condition requires reassessing and at what intervals.

If it is found that your child is no longer deemed as being permanently disabled the Fire & Rescue Service would cease payment of the child's pension.

However there may be exceptional or compassionate grounds where this may be considered, and agreed to by a Brigade Manager. Each case would be considered on a case by case basis depending on the circumstances of the case

If at the time of my death, my child is left with no surviving parents who would their child's pension be payable to?

(Recipient of any sum payable to a minor – Regulation L5(1) of the NFPS, Part 14, Rule 5, paragraph 1 of the NFPS)

Should you die and your child be left with no surviving parents, the Fire & Rescue Service would make payment to their legal guardian. The Pensions Team would require evidence of guardianship.

It is therefore recommended that you seek legal advice and make provision for this in your will.

If my child is 17 or over and decides to take a break in full time education, would payment of their child's pension continue?

The Fire & Rescue Service would cease payment if your child is 17 or over and they are no longer in full time education.

If they then returned to full time education, would their pension be reinstated?

(Award of children's benefit to a child age 17 or over, where there has been a break in full time education- Regulation D(5) & (3)(b) of the FPS)

The Fire & Rescue Service would not automatically reinstate a child's pension.

Each case would be referred to a Brigade Manager for consideration. Each case would be considered on a case by case basis depending on the circumstances of the case.

If payment of my child's pension is at a flat rate following my death, is there provision for this to be increased?

(Substitution of a higher amount of child's flat rate award where neither child's parent is alive- Regulation E9(6) of the FPS)

The Fire & Rescue Service would not automatically increase the flat rate entitlement to your child upon your death, in the event that there are no surviving parents.

However, there may be exceptional or compassionate grounds where this may be considered, by a Brigade Manager. Each case would be considered on a case by case basis depending on the circumstances of the case.

If an adjustment needs to be made to my child's pension as there is a further eligible child or it subsequently appears that they are not eligible, will the amount be adjusted?

(Provisional awards of eligible child's pensions: later adjustments – Regulation 102 (2) & (3))

If a child to whom no payment has been made or a child born after your death becomes eligible to a child's pension benefit, the Fire & Rescue Service will adjust the payments being made and recover any overpayment accordingly from the existing child.

If my child is convicted of my manslaughter or murder, will they still be entitled to payment of their pension benefit?

(Withholding all or part of a child's pension, permanently or temporarily, where the child is convicted of manslaughter of the deceased- Regulation 172 (2) of the FPS 2015, Part 4, Rule 7, paragraph 5)

(Forfeiture of Pensions: offences committed by other persons – Regulation 172 (1) & (5))

If your child is convicted of your manslaughter, the Fire & Rescue Service will, in exceptional circumstances, seek to reduce the value of their pension benefits to an amount considered appropriate.

If your child is convicted of your murder, the Fire & Rescue Service must, seek to withhold the value of their spouses pension benefits.

Each case will be referred to a Brigade Manager for consideration. Each case would be considered on a case by case basis depending on the circumstances of the case.

Written by: HR Policy and Practice Unit (TA)

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