



COMBINED FIRE AUTHORITY

14 JUNE 2019

DISCRETIONS UNDER THE FIREFIGHTER PENSION SCHEMES

JOINT REPORT OF CHIEF FIRE OFFICER AND TREASURER

Purpose of Report

1. The purpose of this report is to seek members approval to a number of employer obligations and discretions in respect of the Firefighter Pension Schemes.

Background

2. The Firefighter Pension Schemes set out a number of discretions within their provisions which can be exercised by the employer. These are detailed in the following scheme provisions:
 - Firefighter Pension Scheme (1992);
 - New Firefighter Pension Scheme (2006);
 - Firefighter Compensation Scheme (2006);
 - Firefighter Pension Scheme (2015).
3. The Authority previously considered the exercise of three discretions in relation to the Firefighter Pension Scheme 2015, on 24 March 2015. These discretions related to:
 - Delegation (Regulation 5);
 - Pensionable Pay (Regulation 7);
 - Contributions during absence from work due to illness, injury, trade dispute or authorised absence (Regulation 111).

Policy Statement on Discretions

4. The Service is required to provide a policy statement outlining how the discretions under the pensions' regulations will be exercised. A list of the discretions within the different firefighter pension schemes has been obtained from the Local Government Association (LGA) and reviewed in relation to how the discretions are to be exercised. The attached Statement of Firefighter Pension Schemes – Scheme Member Obligations and Discretions (Appendix A) sets out the following information:
 - The nature of the discretion;
 - The Pension Regulation it relates to;
 - An explanation and/or process for exercising the discretion;
 - A statement of how the discretion will be exercised.

5. In setting out the policy statement the view that has been taken is that in most cases the opinion to exercise the discretion should be available to the Service. This will allow for the individual circumstances of each case to be taken into account when arriving at a decision. These discretions are categorised as 'Yes' in the final column of the table set out in Appendix A although it should be noted that where a discretion is available to be exercised this does not mean that it will be. There are a few instances where the discretions have been categorised as 'No' in the final column, which means that they will not be considered at all.

Exercising Discretions

6. Where discretions are categorised as 'Yes' it is recommended that they are dealt with by the Chief Fire Officer in conjunction with the Treasurer (Section 151 Officer) acting as Scheme Manager on behalf of the Authority. The Chief Fire Officer and Treasurer will consider each case and make the decision on whether or not the discretion is to be exercised. If a discretion is related to the Chief Fire Officer, then the decision around this would be made by the Combined Fire Authority following a recommendation from the Treasurer. The Treasurer is not a member of any of the firefighter pension schemes.
7. The financial impact of the exercise of a pension discretion will vary depending on the particular discretion in question, with many having no financial impact at all. Where there is a financial implication, either for the pension fund account or for the Authority's revenue budget, the over-riding aim will be to act in the Authority's best interests and to safeguard public money. This means that the option to exercise the discretion may not be taken, however the policy allows for some discretions to be exercised where it is felt that this would result in fair treatment for the employee concerned.
8. The policy statement attached at Appendix A will ensure that the Service is acting in a consistent manner between pension scheme members when exercising discretions. A record is kept of all discretions exercised and the reasons for the decision to ensure consistency.
9. It should be noted that a failure to comply and implement the requirements of pension scheme regulations would have the potential for a future challenge to the Pensions Ombudsman / Regulator.

Recommendations

10. Members are requested to:
 - (a) **Approve** the Statement of Firefighter Pension Schemes – Scheme Member Obligations and Discretions (Appendix A).
 - (b) **Delegate authority** to the Chief Fire Officer in conjunction with the Treasurer to exercise pension scheme discretions acting as Scheme Manager on behalf of the Authority. Where the discretion is related to the Chief Fire Officer then the relevant decision(s) will be made by the Combined Fire Authority following a recommendation from the Treasurer.