



Item No: 8

**TYNE AND WEAR FIRE AND RESCUE AUTHORITY**

**FIRE AUTHORITY MEETING: 20 JULY 2015**

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**SUBJECT: THE FIREFIGHTERS PENSION SCHEME 2015 – SCHEME MANAGER  
OBLIGATIONS AND DISCRETIONS**

**JOINT REPORT OF THE CHIEF FIRE OFFICER, THE CLERK TO THE AUTHORITY AND THE  
PERSONNEL ADVISOR TO THE AUTHORITY**

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**1 PURPOSE OF REPORT**

- 1.1 This report is to inform members of scheme manager obligations and discretions that apply to the Firefighters Pension Scheme (England) Regulations 2014 and to seek agreement on those that require a policy decision.

**2 BACKGROUND**

- 2.1 The Firefighters Pension Scheme (Amendment) (Governance) Regulations 2015 were laid before Parliament on 5 March and set out the new governance arrangements for the Firefighters Pension Scheme. The regulations came into force on 1 April 2015 and provided for new governance provisions.
- 2.2 As part of the new governance provisions referred to above, one of the requirements of the Authority as the scheme manager is to establish and maintain internal controls to ensure the Scheme is managed in accordance with the rules and legislative requirements.
- 2.3 To assist the Authority in carrying out this role the Local Government Association (LGA) has published a list of the relevant regulations where there is a obligation on scheme manager (appendix A).

**3 OBLIGATIONS AND DISCRETIONS REQUIRING POLICY DECISION**

- 3.1 Within the LGA document, fifty two obligations are listed, a number of which the scheme manager will have some discretion over as the regulations are written in such a way that the scheme manager 'may' do certain things.



- 3.2 Whilst the Authority as scheme manager will have to take cognisance of all these obligations when making decisions regarding the administration of the Scheme an immediate policy decision is not required for all aspects.
- 3.3 However, there are three specific areas the scheme manager is required to make a policy decision on, namely:
- 3.3.1 **Delegation (Regulation 5):** The scheme manager must ensure that delegated powers are appropriate and current;
- 3.3.1.1 The Human Resources Committee currently have some delegated powers in relation to Regulation 5 - Delegated Powers. It is therefore recommended that decisions regarding the Firefighters Pension Scheme 2015 are also delegated to this committee of the Authority.
- 3.3.2 **Pensionable pay (Regulation 17):** The scheme manager has discretion to determine if continual professional development payments (CPD) are to be treated as pensionable pay;
- 3.3.2.1 With regard to Regulation 17, pensionable pay, the Authority currently treats continual professional development payments as pensionable. The recommendation is that this discretion continues in the 2015 Scheme in the same way such payments were treated in the preceding Firefighter Pension Schemes.
- 3.3.3 **Contributions during absence from work due to illness, injury, trade dispute or authorised absence (Regulation 111):** Where an active member is absent from scheme employment because of illness or injury and not entitled to receive pensionable pay, or because of trade dispute or authorised unpaid absence, they may pay member contributions, if they do, the scheme employer may require that they should also pay employer contributions.
- 3.3.3.1 With regard to Regulation 111, contributions during absence from work, the Authority previously required an employee to pay both employee and employer contributions if they wished to continue to pay into their pensions following an absence from work and the employee was not entitled to pensionable pay. It is recommended that this discretion continues in the 2015 Scheme. Furthermore with regard to Regulation 111 contributions during absence from work members are advised there are three potential areas for consideration, namely;
- 3.3.3.2 **Illness and Injury** – The default will be that the employee should pay for the employer contributions for any periods of absence in which the employee is not entitled to receive any pensionable pay. However, the employee may make a request in writing to the Scheme Manager to pay these contributions.



- 3.3.3.3 **Trade Dispute** – The default is that that the employee is required to pay the employee and employer contributions for any periods of absence resulting from taking part in industrial action. However, the Authority may retain the ability to opt to pay for the employer contributions, and any decision can be made in light of the economical, effective and efficient management of the scheme and the costs likely to be incurred in the particular case at that time. It should be noted that individual employees will not be able to make this request in writing it will be for the Authority to decide following a relevant trade dispute.
- 3.3.3.4 **Authorised Absence** – the default is that the employee will be required to pay the employee and employer contributions for any periods of authorised absence in which the employee is not entitled to receive any pensionable pay. However, the employee may make a request in writing that the Authority pays the employer contributions, and this will be judged on a case by case basis by the delegated committee upon application.
- 3.4 Members are advised that the policy decisions set out above are consistent with the current approach in that in the majority of cases the employee will be required to pay the both employee and employer contributions. However, these discretions continue to provide the Authority with sufficient flexibility to allow for discretion in particular cases.

## 4 FINANCIAL IMPLICATIONS

- 4.1 There are no additional financial implications on the proposed scheme manager discretions set out in this report.

## 5 STRATEGIC PLAN LINK

- 5.1 Links to Goal 4 - To deliver a modern, effective service, ensuring value for money with staff who reflect the communities we serve.

## 6 EQUALITY AND FAIRNESS IMPLICATIONS

- 6.1 There are no equality implications resulting from this report.

## 7 HEALTH AND SAFETY IMPLICATIONS

- 7.1 There are no health and safety implications from this report.

## 8 CONSULTATION UNDERTAKEN

- 8.1 Consultation has been undertaken with SCC Pensions team and Legal Services and associated comments incorporated within this report.

## 9 CONCLUSION



- 9.1 As the Scheme Manager the Authority needs to make an immediate policy decisions regarding the three specific discretions highlighted, record that decision and make the Local Pension Board and all scheme members aware of the decision thus ensuring there is appropriate transparency and accountability in accordance with the Regulations.
- 9.2 The additional forty nine discretions do not require an immediate decision and only required to be noted for information by members. Subject to Authority approval, as highlighted in 3.3.1.1 above, such matters would be considered by the HR Committee, with decisions related to these discretions subject to further reports as required.

## 10 RECOMMENDATIONS

10.1 Members are requested to:

- a) Note the content of this report;
- b) Agree the recommendations detailed in section 3.3 of this report;
- c) Make the Local Pension Board and scheme members aware of the decision in 10.1(b) above;
- d) Receive further reports as necessary.

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## BACKGROUND PAPERS

The under mentioned Background Papers refer to the subject matter of the above report:

- The Public Service Pension Act 2013
- The Firefighters' Pension Scheme (England) Regulations 2014 – S.I. 2848/14
- Scheme Manager Discretions – LGA 2015