

The Chief Executives, Fife Council and Dumfries & Galloway Council  
Clerks to the Joint Boards  
Chief Fire Officers

7 Tweedside Park  
Tweedbank  
Galashiels TD1 3TE  
<http://www.sppa.gov.uk>

Telephone: 01896 893223  
Fax: 01896 893230  
[James.preston@scotland.gsi.gov.uk](mailto:James.preston@scotland.gsi.gov.uk)

Our ref: FIR/06/01/01

18 April 2007

Dear Colleague

**SCOTTISH FIRE AND RESCUE SERVICE CIRCULAR No 9/2007**

**FIREFIGHTERS PENSION SCHEME (FPS)**

**This circular covers:**

- 1. Firefighters' Compensation Scheme**
- 2. Firefighters' Pension Schemes: Earnings Cap 2007-08**
- 3. Regional Meetings**

**This circular should be brought to the attention of your fire authority, pension managers, pension administrators brigade medical officers/occupational health managers, Human Resources and active members of the FPS**

**1. FIREFIGHTERS' COMPENSATION SCHEME**

DCLG have received enquiries concerning Part 2, rule 3 (Compensation for death or permanent incapacity while on duty) of the Firefighters' Compensation Scheme (FCS) and how entitlement should be established.

The award was previously included in the Grey Book (paragraph 13 of Section IX of the Fifth Edition) but was removed from the sixth edition and transferred to the FCS to place payments on a statutory basis.

The rule applies to a firefighter whose death is caused solely by the effects of a qualifying injury sustained in the performance of his/her duties as a firefighter; and also a firefighter who is permanently incapacitated at the date of discharge for carrying on any occupation solely by reason of a qualifying injury.



The award is paid to a firefighter or, if he/she dies within twelve months of the date on which he/she sustained the injury that was the cause of death, to a dependant or, where there is more than one, dependants. If the firefighter dies leaving no dependants, the sum of £950 goes to his/her estate.

The amount of the award is a sum equal to five times the annual pensionable pay that a person receives who is employed in the role of firefighter by the same fire and rescue authority and, for pay purposes, is competent (i.e. has completed four years' service), using the rate of pay applicable at the date on which the injury was sustained. In other words, it guarantees a higher level of payment to firefighters with short service and limits awards where the firefighter was serving in a more senior role. The award is abated by the amount of any compensation or damages and reduced by any other gratuity paid under the FCS (other than the amount of the gratuity that represents the difference between the Special and Augmented awards).

Determining entitlement in situations where the firefighter dies is reasonably straightforward. The award would be payable if it can be established that death was caused solely by the effects of a qualifying injury and occurred within twelve months of sustaining the injury. However, entitlement where a firefighter is injured requires a decision that he/she is permanently incapacitated for carrying on any occupation. This is different to the test for entitlement to an injury award under Part 2, rule 1, which hinges on a firefighter's permanent disablement from performing any duties of the role in which he was last employed; and where the level of injury award is based on loss of earnings capacity.

It is our view that a Rule 3 award should only be paid in exceptional circumstances where the nature of the injury is such that it is reasonable to determine that the firefighter will not be capable of carrying on any occupation. This is, by implication, a more stringent test than that, for example, for a higher tier ill-health award. For a higher tier award, a firefighter must be permanently disabled from undertaking regular employment, which means employment for at least 30 hours a week on average over a period of not less than 12 consecutive months.

Because of this difference in criteria, entitlement for an award under Rule 3 will require separate consideration from that for determining entitlement to an injury award. Where the question arises as to whether there is entitlement, before deciding, the Fire and Rescue Authority should obtain the written opinion of an independent qualified medical practitioner in accordance with Part 6, rule 1 of the FCS, which should include an opinion on the specific question of permanent incapacity at the date of discharge for carrying on any occupation solely by reason of a qualifying injury. The normal appeals procedure, also detailed in Part 6 of the FCS, will apply where the person concerned is dissatisfied with an opinion.

## **2. FIREFIGHTERS' PENSION SCHEMES: EARNINGS CAP 2007-08**

Both the Firefighters' Pension Scheme 1992 (FPS) and the New Firefighters' Pension Scheme 2006 (NFPS) include an earnings cap. This is a limit on the level of pay that can be treated as pensionable. The cap applies to anyone who first became liable to pay pension contributions after 31 May 1989.

For the 1992 scheme, Rule G1(2) refers; and for the 2006 scheme, Part 11, Chapter 1, rule 1(4) refers.

Pay above the cap does not count as pensionable pay. Contributions are not paid on the excess and pay above the cap is not taken into account when calculating benefits based on pensionable pay or average pensionable pay.

The cap for tax year 2007-08 is £112,800.00.



**3. REGIONAL MEETINGS FOR FIRE PENSION ADMINISTRATORS AND HR PERSONNEL**

DCLG are arranging a round of regional meetings for HR and pension administration staff from last year's seminars. The agenda for the meetings has not yet been finalised but will cover:

- Options exercise: outstanding issues and lessons to be learnt;
- Eligibility for membership of the New Firefighters' Pension Scheme;
- Ill-health retirements: what the FPS and NFPS provide and the discretions;
- Pensionable pay and allowances;
- Re-employment/re-deployment.

A Scottish meeting has been added to the list for the 8th June at Pentland House Edinburgh (please see table below). If relevant HR or pension administration staff wish to attend but are unable to make this date then they may wish to consider attending one of the other events by contacting the relevant regional contact.

If there are other matters attendees wish to raise please let us know in good time before the 8<sup>th</sup> of June.

<b>Region</b>	<b>Date</b>	<b>Place</b>	<b>Contact</b>
North East	2 <sup>nd</sup> May	Tyne & Wear HQ	John Hindmarch, Tyne & Wear FRA <a href="mailto:John.hindmarch@twfire.gov.uk">John.hindmarch@twfire.gov.uk</a>
West Midlands	10 <sup>th</sup> May	Staffordshire HQ	Irina Volkova-Heath, Staffordshire FRA <a href="mailto:i.volkova-heath@staffordshirefire.gov.uk">i.volkova-heath@staffordshirefire.gov.uk</a>
North West	16 <sup>th</sup> May	Greater Manchester Training Centre	Alf Mason, Greater Manchester FRA <a href="mailto:masona@manchesterfire.gov.uk">masona@manchesterfire.gov.uk</a>
London & South East	23 <sup>rd</sup> May	DCLG, Ashdown House, Victoria Street, London SW1	Martin Hill, DCLG <a href="mailto:martin.hill@communities.gsi.gov.uk">martin.hill@communities.gsi.gov.uk</a> Lindsey Shaw, Surrey FRA <a href="mailto:Lindseys@surreycc.gov.uk">Lindseys@surreycc.gov.uk</a>
South West	31 <sup>st</sup> May	Hestercombe House, Taunton	Jenny Long, Devon & Somerset FRA <a href="mailto:jlong@devfire.gov.uk">jlong@devfire.gov.uk</a>
Scotland	8th June	Pentland House, Edinburgh	Dorothy Hamilton, SPPA <a href="mailto:Dorothy.hamilton@scotland.gsi.gov.uk">Dorothy.hamilton@scotland.gsi.gov.uk</a>
East Midlands	13 <sup>th</sup> June	Alfreton Fire Station	Sue Millett, Derbyshire FRA <a href="mailto:smillett@derbys-fire.gov.uk">smillett@derbys-fire.gov.uk</a>
Yorks & Humberside	To be arranged		
East Anglia			

Yours sincerely



Jim Preston

