



**Hampshire
& Isle of Wight**
FIRE & RESCUE AUTHORITY

HIWFRA Standards and Governance Committee

Purpose: Approval

Date: **11 December 2023**

Title: **CONTINGENT DECISIONS DELEGATION**

Report of Chief Financial Officer

SUMMARY

1. A Contingent Decision is a decision taken by a pension scheme member, that would have been different had it not been for the discrimination identified by the courts as part of the McCloud pension remedy.
2. This report recommends the delegation of decision-making powers relating to contingent decisions to the Chief Fire Officer.

BACKGROUND

3. The legislation to implement the McCloud pensions remedy came into force from 1st October 2023. There is an eighteen-month period for the remedy to be enacted.

CONTINGENT DECISIONS

4. There are three categories of contingent decision that are covered by legislation:
 - (a) Opt-outs – a member would not have opted out if they had been allowed to remain in the Legacy Scheme
 - (b) Additional service – a member would have purchased more additional service if they had been allowed to remain in the Legacy Scheme

- (c) Transfers – members would have made different decisions about transferring service in or out of the scheme if they had been allowed to remain in the Legacy Scheme.
- 5. The process for resolving contingent decision claims is that a member submits an application, which is considered by the scheme manager. Decisions are subject to a strict timeline and adhering to the timeline will mean that close co-operation between the decision maker and the administrator is necessary. Decision making will be guided by regulation and supplementary guidance provided by the Local Government Association.
- 6. Should the member wish to appeal the decision, appeals will follow the standard Internal Dispute Resolution Procedure (IDRP).
- 7. A copy of the Local Government Association (LGA) Guidance on Contingent Decisions is included as Appendix A.

DELEGATION TO THE CHIEF FIRE OFFICER

- 8. Matters of policy on Contingent Decisions are driven by legislation and national guidance. The LGA have stressed the need for decision making to be consistent nationally so there is no scope for a different policy direction or strategic approach.
- 9. This means that decision making is an operational matter, more suited to delegation to the Chief Fire Officer. In addition, the process is driven by strict timelines, meaning that it would not be suited to the irregularity of the formal committee decision making.
- 10. In addition, appeals will be considered by the IDRP process, an officer led activity.
- 11. For these reasons it is proposed that decision making is delegated to the Chief Fire Officer. They will establish appropriate structures for the making and recording of decisions on the advice of other officers.

RESOURCE IMPLICATIONS

- 12. There are no resource implications of this proposal.

IMPACT ASSESSMENTS

- 13. In order to avoid any unintentional impacts on any groups it is important that guidance is followed and that a clear rationale for decisions is established

and recorded. No specific internal impact assessments are required as we are following legislation.

LEGAL IMPLICATIONS

14. The Firefighters Pension Scheme (England) Regulations 2014 provide that the scheme manager of a pension fund may delegate any functions under those Regulations, including the power to delegate, to such persons or employees of such person as may be authorised in that behalf by the scheme manager.
15. The legislation specific to contingent decisions is as follows:-
 - (a) The Public Service Pensions and Judicial Offices Act 2022
 - (b) The Public Service Pensions (Exercise of Powers, Compensation and Information) Directions 2022
 - (c) The Firefighters Pensions Remediable Service Regulations 2023

CONCLUSION

16. Given the strict timescales for completing activities and the operational nature of the tasks, it is recommended that the Standards and governance Committee (as scheme manager) delegates the decision making on contingent decisions to the Chief Fire Officer.

17.

RECOMMENDATION

18. That decision making on Contingent Decisions is delegated by the Standards and Governance Committee to the Chief Fire Officer.

APPENDICES ATTACHED

Appendix A – LGA Guidance: Age discrimination remedy – Contingent Decisions Guidance for Scheme Managers

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