

Eligibility to the pension scheme (Welsh Version)

Introduction

This factsheet replicates the factsheet available for English Fire and Rescue Authorities (FRAs)¹ to make it suitable for Welsh FRAs by referencing the Welsh Statutory Instruments.

The original factsheet was produced following the Firefighters' (England) Scheme Advisory Board (FESAB) considerations at their meeting in May 2016 [Item 10\(2\)](#) on whether guidance similar to [FPSC 2/2007](#) should be issued to clarify the eligibility status of membership in the Firefighters' Pension Schemes. The Board agreed that no guidance was needed as the regulations were clear that the **person needed to have been employed as a 'firefighter' and that the regulations provided an interpretation of 'firefighter'**.

The scheme rules ([Appendix 1](#)) set out who is eligible to join the Firefighters' Pension Schemes. This factsheet only provides a note of eligibility to the Firefighters' Pension Schemes, it does not consider which scheme a person may be entitled to join, i.e. whether they have full protection or tapered protection.

'Firefighter' definition

Each set of scheme rules explains the definition of a regular, retained, and volunteer firefighter. While the wording may be slightly different the definition is the same, and requires the person to be appointed under terms that they may be required to engage in firefighting:

on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary

¹ <http://fpsregs.org/images/admin/Eligibilityv3clean.pdf>

Summary

Each set of scheme rules (1992, 2006, 2015 & compensation scheme) require that, to be eligible for the pension scheme, **a person must be employed as a 'firefighter'**. The definition of 'firefighter', whether they are a regular, retained, or volunteer firefighter require the person to be appointed under such terms as they are or maybe **"required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary"**

As contracts and roles are determined locally it is the responsibility of each FRA as the employer to determine whether or not a role meets the definition of 'firefighter' under the interpretation of the regulations.

Only those who meet the eligibility under the scheme rules qualify for benefits from the Firefighters' Pension Schemes and the Firefighters' Compensation Scheme. If a person does not meet this criteria the appropriate scheme is the Local Government Pension Scheme (LGPS).

This factsheet has been prepared by LGA, for Welsh Fire Authorities only to give some guidance on the rules of the pension scheme using the regulations as they stand at October 2019, however they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice.

Please address any queries on the content of this factsheet to bluelight.pensions@local.gov.uk

Version 1

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FPS 1992

The 1992 scheme regulations can be found [here](#)².

Rule A3, paragraph 1 confirms the 1992 scheme applies to a 'regular firefighter'. A regular firefighter is defined in the glossary of expression and determines that they should be appointed under terms which they are required or may be required to engage in firefighting and may without a break be required to perform other duties appropriate to the role as a firefighter.

Exclusive application to regular firefighters [Rule A3 (1)]

(1) Subject to paragraphs (3) to (6), this Scheme applies in relation to regular firefighters and their spouses or civil partners and dependants to the exclusion of pension provision under any enactment other than section 26 of the principal Act and the 1993 Act.

Glossary of expressions [Schedule 1, Part 1]

“**regular firefighter**” - in relation to any time on or after 1st October 2004, the expression means a person who is employed—

(a) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and

(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in firefighting) and whose employment is not temporary.

² Until 2007 the Welsh Fire Authorities followed the Firemen's Pension Scheme Order 1992, this was adopted by [WSI 2007/1074](#) and renamed the Firefighters' Pension (Wales) Scheme, it has subsequently been amended by WSIs [2009/1226](#), [2012/974](#), [2013/736](#), [2014/522](#), [2014/3242](#), [2015/1014](#), [2015/1016](#), [2016/1136](#), [2018/577](#)

FPS 2006

The Firefighters' Pension Scheme (Wales) Order 2007 can be found [here](#)³.

Part 2, [rule 1](#) and [1A](#) define the rules for scheme membership. A regular, retained, and volunteer firefighter, as defined under the [interpretations](#), should be appointed under terms which they are required or may be required to engage in firefighting and may without a break be required to perform other duties appropriate to the role as a firefighter.

Interpretation [Part 1, rule 2(1)]

“regular firefighter” (*“diffoddwr tân rheolaidd”*) means a person employed (whether whole-time or part-time) by an authority—

- (a) as a firefighter, but not as a retained or volunteer firefighter,
- (b) on terms under which the firefighter is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting); and
- (c) otherwise than in a temporary capacity;

“retained firefighter” (*“diffoddwr tân wrth gefn”*) means a person employed by an authority

- (a) as a retained firefighter, but not as a regular firefighter or as a volunteer firefighter;
- (b) on terms under which the firefighter is, or may be, required to engage in firefighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in firefighting);
- (c) otherwise than in a temporary capacity; and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;

“volunteer firefighter” (*“diffoddwr tân gwirfoddol”*) means a person employed by an authority

- (a) as a volunteer firefighter but not as a regular firefighter or as a retained firefighter;
- (b) on terms under which the firefighter is, or may be required to, engage in firefighting (whether instead of, or in addition to, engaging in firefighting);
- (c) otherwise than in a temporary capacity; and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives.

³ Amended by WSI's [2009/1225](#), [2012/972](#), [2013/735](#), [2013/1577](#), [2014/523](#), [2014/3254](#), [2015/1013](#), [2015/1016](#), [2018/577](#)

FPS 2015

The Firefighters' Pension Scheme (Wales) Regulations 2015 can be found [here](#)⁴.

To be eligible for the 2015 scheme, [regulation 16](#) confirms a person must be in 'scheme employment'. [Regulation 15](#) confirms that among other conditions, to be in scheme employment a person must be employed by a fire & rescue authority as a 'firefighter'. This means they have to be operational (i.e. resolving incidents or leading and supporting others in resolving incidents).

The [interpretations](#) of a regular, retained, and volunteer firefighter confirm that the terms of engagement must be that the person is or may be required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting).

Interpretation [Regulation 3]

"regular firefighter" (*"diffoddwr tân rheolaidd"*) means a person (P) employed (whether whole-time or part-time) by an authority—

- (a) as a firefighter, but not as a retained or volunteer firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to P's role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting), and
- (c) otherwise than in a temporary capacity;

"retained firefighter" (*"diffoddwr tân wrth gefn"*) means a person (P) employed by an authority—

- (a) as a firefighter, but not as a regular firefighter or a volunteer firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to P's role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),
- (c) otherwise than in a temporary capacity, and
- (d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that P receives;

"volunteer firefighter" (*"diffoddwr tân gwirfoddol"*) means a person (P) who carries out operational firefighting for an authority—

- (a) as a firefighter, but not as a regular firefighter or a retained firefighter,
- (b) on terms under which P is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to P's role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

⁴ Amended by WSI's [2015/848](#), [2015/1016](#), [2018/576](#)

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that P receives

Compensation Scheme

The Firefighters' Compensation Scheme (Wales) Order 2007 can be found [here](#)⁵.

Part 1, rule 3 of the compensation scheme confirms the scheme applies to regular and retained 'firefighters'. The definitions of a regular, retained, and volunteer firefighter can be found in the interpretations at part 1, rule 2 and confirm that the terms of engagement must be that the person is or may be required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting).

Interpretation [Part 1, rule 2(1)]

"regular firefighter" means a person who is employed—

(a) by a fire and rescue authority as a firefighter (whether whole-time or part-time), other than as a retained or volunteer firefighter, and

(b) on terms under which he is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to his role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting) and whose employment is not temporary;

"retained firefighter" means a person who is employed by an authority—

(a) as a retained firefighter, but not as a regular firefighter or a volunteer firefighter,

(b) on terms under which the person is, or may be, required to engage in fire-fighting or, without a break in continuity of such employment, may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives

"volunteer firefighter" means a person who is employed by an authority—

(a) as a volunteer firefighter but not as a regular firefighter or a retained firefighter,

(b) on terms under which the person is, or may be, required to engage in fire-fighting or may be required to perform other duties appropriate to their role as a firefighter (whether instead of, or in addition to, engaging in fire-fighting),

(c) otherwise than in a temporary capacity, and

(d) who is obliged to attend at such times as the officer in charge considers necessary, and in accordance with the orders that he receives;

⁵ Amended by WSI's [2014/3256](#), [2015/1013](#) and [2018/577](#)