

RULE E3 Dependent relative's gratuity

Rule E3 gives details of a discretionary gratuity which can be paid to a firefighter's (or former firefighter's) dependent relative not otherwise entitled to an award under the FPS.

Eligibility for dependent relative's gratuity

Rule E3(1) applies this Rule where a person dies –

- while serving as a regular firefighter, or
 - while receiving a pension other than a deferred pension
- and where there is a dependent relative.

Rule E3(2) explains that a “relative” means a person who is

- a child of the deceased
- a surviving spouse or civil partner
- a child of a surviving spouse or civil partner
- a parent
- a child of a parent
- a grandparent
- a child of a grandparent
- a grandchild.

It also explains that a “dependent relative” means a relative as defined above who –

- was substantially dependent on the deceased immediately before his or her death, and
- is not entitled to any other award under the FPS.

The award of a dependant relative's gratuity is totally at the discretion of the fire and rescue authority. If, considering all the circumstances of the case, the fire and rescue authority decide that payment of the award would be appropriate, Rule E3(3) enables this to be done.

Amount of dependent relative's gratuity

The fire and rescue authority has total discretion to decide the amount of award but Rule E3(3) limits the total of any dependent relative gratuities payable to an amount no greater than your aggregate pension contributions. Aggregate pension contributions are defined in Rule A8 but, generally, they are all the basic and additional contributions paid by a firefighter during membership of the FPS (not previously returned) plus any returnable contributions transferred in from some other pension arrangement.

Payment

Payment will be made in accordance with Rules L3 and L5.

Example

An example of the calculation of a dependent relative's gratuity is given on page E3-Example 1.

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| Rule E3 (continued) |
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| Points To Note |
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1. More than one gratuity may be paid under this Rule.
2. "Substantially dependent" is not defined. It is for your fire and rescue authority to decide whether in their view there is substantial dependency, but even if they decide there is, it is still within their discretion to refuse an award, having regard to all the circumstances of the case.
3. As this award is expressly declared to be within a fire and rescue authority's discretion, there is no right of appeal against a decision not to pay it. Rule H3(3) states that the Crown Court (Sheriff Court in Scotland) cannot overrule a fire and rescue authority's exercise of discretionary powers.
4. This Rule does not **require** account to be taken of any allowances or other gratuities payable under any other Rule of the FPS. The sum payable is at the discretion of the fire and rescue authority and it may be that they do take other payments into account. If they do, they may also wish to take note of any payments made to a pension credit member, i.e. a former spouse or civil partner entitled to a share of the firefighter's benefits under a pension sharing order made by a court on divorce, dissolution of civil partnership or annulment.
5. Benefits for surviving civil partners were introduced into the FPS on 5 December 2005 but are based on service after 5 April 1988 only.

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Example of assessment of dependent relative's gratuity

Example A

An unmarried female firefighter with no children of her own had looked after her young niece and nephew and supported them financially since the death of her brother and sister-in-law in a road accident. When the children are aged 12 and 14, the firefighter herself dies. The contributions she has paid into the Pension Scheme since she first became a firefighter total £16,500.

The fire and rescue authority consider all the circumstances of the case and establish to their satisfaction the dependency of the two children. They decide to award each child a dependant relative's gratuity of £6,000. In the absence of any other award being due, apart from the death grant under Rule E1, the balance of aggregate pension contributions, i.e. £4,500.00 (£16,500.00 less 2 x £6,000.00) would be paid to the personal representatives of the firefighter under Rule E4.

Formula: Lesser of –
aggregate pension contributions, or
total sum decided by fire authority.

Dependent relative's gratuities will be lesser of:

£16,500.00, or

2 x £6,000.00 = £12,000.00

therefore the dependent relative's gratuities will be £6,000.00 for each of 2 children.
