



Staffordshire Pension Fund

January 2020

Internal Dispute Resolution Procedure (IDRP)

A Guide for Scheme Employers



Introduction

Over the course of a Local Government Pension Scheme (LGPS) member's employment and even after they have left, certain decisions are made that can affect the member's benefits. The law provides the member with the opportunity to challenge decisions that they disagree with. Within the LGPS we have a formal Internal Dispute Resolution Procedure (IDRP) to enable this to happen.

The purpose of this guide is to help employers understand their responsibilities as an employer within the formal dispute process under the LGPS.

Decision making process of scheme employers or an administering authority

Throughout an individual's membership of the scheme the rules of the LGPS require decisions to be taken by both the employer and the administering authority which will affect the benefits of a member or their dependants may be entitled to receive. We call these "**first instance decisions**". It is very important that you as a scheme employer understand the decisions that you and the administering authority are responsible for.

The key decisions are summarised below:

Employer decisions

- Whether an employee is eligible to join the scheme;
- What elements of pensions pay are to be treated as pensionable;
- Calculating final pay (including CARE pay and assumed pensionable pay) to be used in calculating pension benefits;
- Deciding an employee contribution rate;
- Deciding an employee's entitlement to benefit on leaving the scheme for whatever reason;
- Exercising a number of employer specific discretions (e.g. entitlement to early release of pension benefits, waiving actuarial reductions).
- Or any other employer decision that affects an employee pension rights.

Obligation to inform the member

Whenever you inform the member of a decision (by email or letter) you must include a specific reference to the individual's right to have that decision referred to the stage 1 IDRP adjudicator. There is certain information that must be provided as part of this:

- Stage 1 IDRP adjudicator's job title;
- The address at which he or she can be contacted and
- The time limits within which the rights under the Regulations may be exercised.

You must also provide a clear reference to the fact that the individual is able to seek the support of the Pensions Advisory Service (TPAS) in helping to resolve any dispute.

Annex B - specimen IDRP first instant decision letter

Informal settlement of disputes

Avoiding appeals

Where a member is clearly unhappy with a decision and may resort to the formal IDRPs in the absence of any further action by the body that took the decision, it makes sense for an appropriate person from the employer to offer the member further information of the reasons for the decision, perhaps at an informal meeting. In some instances, where the issues are not complex, this recognition of their concerns, and the opportunity to understand more about the decision, may be enough to satisfy the complainant.

Unresolved informal disputes

Sometimes, informal attempts to resolve disagreements fail. The member has a statutory right to then investigate the formal IDRPs which we will cover in the next sections. Once this course of action is embarked on, detailed investigations will take place into not only the decision made but the process involved in reaching those decisions.

It is vitally important, however, that individuals are NOT discouraged from submitting an appeal via an IDRPs where an informal discussion has not resulted in a satisfactory resolution. Such practices could result in fines or other sanctions handed to you from the Pensions Regulator.

General right of appeal

The right to invoke the formal process is open not only to members themselves:

Who may appeal?

- A member or a prospective member
- A widow or widower of the member
- A surviving civil partner of the deceased
- A cohabiting partner
- The deceased member's dependants
- The member's representative

When and why can the applicant appeal?

- A member (or alternative applicant) may appeal against any decision made by the employer or the administering authority that affects that member's rights or benefits under the scheme, or against any other act or admission by the bodies.
- The member must appeal within six months of the date they are notified of that decision, or from the date of the act or omission- *the adjudicator has discretion to extend this time limit*
- The member has a further right of appeal to the administering authority if dissatisfied with the adjudicator's decision

The formal internal appeal process is in two stages;

- **Stage 1 is looked at by a person who is the first instance decision maker who has been appointed to look at these cases**
- **Stage 2 is looked at by the Staffordshire Pension Fund the appointed person for the Fund this is the Head of Treasury and Pensions**

A flowchart of the appeal procedure is included at Annex A

These two stages are dealt with in more detail in the following sections.

Stage 1 – Appeal to person that made the original decision.

Employer responsibility – appointing a stage 1 adjudicator

Under the stage 1 of the IDRP, scheme employers are required to appoint an adjudicator to consider each dispute received.

There is no specific requirement set out in any legislation regarding the qualification of the stage 1 adjudicator only that one has to be appointed. In reality, and for best practice, it would be expected that the person chosen should:

- be independent of the original decision-making process;
- be able to confirm they have no conflict of interest in considering any pension dispute
- have sufficient experience to understand the details of the dispute before them, enabling them to make a determination; and
- have the capacity to perform the role

The administering authority cannot specify who your stage 1 adjudicator should be, **although it is important that you do confirm the name, job title and contact details of your stage 1 adjudicator to the Staffordshire Pension Fund.** When making your appointment you might consider a suitable person to be your solicitor, human resources manager or payroll manager. The person does not have to be an employee or elected member of the authority.

It is important, once your stage 1 adjudicator is in place, to ensure you include their job title and contact details in any decision notifications you issue. It is also essential that person is free to act independently of the matter under consideration and can satisfy all parties they have no conflict of interest in considering the dispute.

Timescale for making an appeal application

The applicant must submit their application within six months of the date they are notified of the decision which they wish to appeal. *Your stage 1 adjudicator has the discretion to extend this time limit if they believe there is reason to do so.*

How should they apply?

Applications under stage 1 should be made to the adjudicator in writing signed on or on behalf of the applicant. Each applicant must include:

- The applicants full name, national insurance number, address and date of birth;
- If the applicant is not a member, their relationship to the member, the members full name, address, date of birth, national insurance number and the name of the member's scheme employer;
- A statement giving details of the nature of the disagreement and the reasons why the applicant is aggrieved
- A copy of the decision in dispute

**On receipt the adjudicator should acknowledge the application and at the same time advise the applicant that The Pensions Advisory Service is available to help them if required.
a specimen acknowledgement letter is included in Annex C)**

Considering Stage 1 appeals

The purpose of the first stage of the IDRP is to carry out a formal review of the decision of the organisation that is being disputed. It is an opportunity to reconsider the facts of the case, in particular;

- To ensure the LGPS Regulations as well as any overriding legislation has been correctly applied;
- The correct procedures followed and, importantly evidenced
- Consider all facts, reports, background information before reaching a decision
- Request further evidence if necessary
- Determine whether any relevant facts or evidence were omitted or overlooked.
- The adjudicator must provide a determination within two months of receipt of the appeal
- If not, the adjudicator must write to the applicant immediately explaining the reason for delay and confirm when the determination will be made.

It is not possible for the stage 1 adjudicator to alter the original decision. Where applicable the adjudicator would be expected to refer the matter back to the organisation that took the original decision, where it is considered that the original decision is flawed, setting out the actions the adjudicator would expect to see undertaken.

Notice of stage 1 decision

Within two months of receiving the appeal (or such longer period as the stage 1 adjudicator has provided written confirmation of an extension to the time limits) the stage 1 adjudicator **MUST** provide a written notice of their decision. This notice **MUST** be sent to:

- The applicant (and /or his/her personal representative)
- The scheme employer
- Staffordshire Pension Fund

The decision notice must include the following

- The question of determination;
- Evidence received and considered;
- The decision; (see note below)
- A reference to any legislation or scheme provision that it relies upon
- Where relevant, a reference to the scheme provisions conferring the discretion that has caused the disagreement
- A reference to the applicants right to have their disagreement reconsidered by the administering authority providing the necessary contact details;
- The time limits for making a stage 2 appeal
- A statement that The Pensions Ombudsman (TPO) is available to assist the member with any difficulty with the scheme which remains unresolved, and the address for TPO

Important points to note

- **The adjudicator cannot make a determination outside the provision of the regulations**
- **The adjudicator cannot make an award of compensation**
- **A successful appeal only applies to that particular case.**
- **Unless the applicant refers the decision to the adjudicator of the Staffordshire Pension Fund for determination, then the decision raised by the adjudicator is final and binding on the Scheme Employer**
- **It is important that employers keep comprehensive records in the event of an appeal from members**

Consideration of medical appeals

If a dispute over ill health has emerged, it would be sensible for an employer to first check that all the regulatory requirements have been complied with. If they have not, a fresh decision needs to be made.

- Has a qualified, approved medical practitioner been used to assess the member's eligibility?
- Has the medical practitioner clearly stated that the member is not assessed as permanently incapable?
- Has the medical practitioner paid due consideration to the duties of the post?
- Has the medical practitioner considered reports from the member's GP, consultants etc. in arriving at that decision?
- Has the medical practitioner made a recommendation in accordance with the LGPS regulations?
- Has the employer made their decision having considered all relevant evidence?
- Has the employer asked all the necessary questions to have satisfied themselves before reaching any decision?
- It is not the role of the adjudicator to question the opinion of a suitably qualified, approved medical practitioner. But the assessment must be in accordance with the eligibility criteria in the regulations.

Employer Discretions

Due to the scope of the Pensions Act 1995, the adjudicator at both stages 1 and 2 may be asked to consider a disagreement about the way in which a Scheme employer has exercised a discretionary power under both the LGPS Regulations and where they apply, the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006. This will also cover those areas of discretion that Staffordshire County Council, as the administering authority, are required to make any decision on.

<p>In such cases, the role of the person deciding the disagreement is not to overturn the initial decision but to ensure that the discretion has been exercised reasonably, and in cases where this is found not to be the case, to determine that the matter be reconsidered in a proper manner</p>

Annex D - A specimen Stage 1 determination letter

Stage 2 – Referral to the administering authority where not satisfied with the original determination.

- Where the applicant is dissatisfied with the stage 1 adjudicator's decision,
- The adjudicator has failed to issue either a decision, or a letter of explanation, within two months from the date on which the application was made, or
- An interim letter of explanation was sent, but the adjudicator has failed to subsequently issue a decision.

Timescale for making an application

The applicant must submit their application within six months of the date they are notified of the decision which they wish to appeal, or from the date of the act or omission. As with stage 1, the stage 2 adjudicator also has the discretion to extend this time limit if they believe there is reason to do so.

Purpose of stage 2 adjudication

The purpose of the second stage of the IDRP is to enable the applicant to refer their complaint to the administering authority for an independent review, where they are dissatisfied with the decision of the stage 1 adjudicator.

An applicant can also refer their case to the stage 2 adjudicator where:

- the stage 1 adjudicator has failed to issue either a determination, or a letter extending the time limits, within two months from the date on which the application was made; or
- an interim letter extending the time limits was issued, but the stage 1 adjudicator then has failed to issue a determination.

It is important to note that the stage 2 adjudicator cannot replace a first instance decision of an employer. Consequently, they can only instruct that the employer reconsider its decision where either robust processes have not been followed or a discretion has been exercised. The decision of the stage 2 adjudicator is binding and can only be overturned by the Pensions Ombudsman or the High Court.

The stage 2 steps to follow

In reality the steps taken by the stage 2 adjudicator are the same as that at stage 1 or the IDRPs.

Under stage 2 the adjudicator will reconsider the original determination, taking full account of the facts of the case and of any evidence submitted or relied on by either party at stage 1. They will also;

- check that the LGPS regulations were correctly applied
- ensure that sound, impartial procedures were used to reach the stage 1 determination
- ensure the original determination was consistent with other decisions reached and that it would stand up to external scrutiny; and
- review that sound, impartial procedures were used to reach the decision (this is particularly important where the dispute concerns the exercise of a discretion by a scheme employer or by the administering authority)

Notice of a Stage 2 decision.

Within two months of receiving the appeal (or such longer period as the stage 2 adjudicator has provided written confirmation of an extension to the time limits) the stage 2 adjudicator **MUST** provide a written notice of their decision. The decision **MUST** be sent to;

- the applicant (and /or his/her personal representative): and
- the scheme employer

The determination notice must include the following

- The question of determination;
- Evidence received and considered;
- The decision;
- A reference to any legislation or scheme provision that it relies upon
- Where relevant, a reference to the scheme provisions conferring the discretion that has caused the disagreement
- A statement that The Pensions Ombudsman (TPO) is available to assist the member with any difficulty with the scheme which remains unresolved, and the address for TPO.

Annex E - A specimen Stage 2 determination letter

Beyond IDRPs – the external appeal

Where a member remains dissatisfied after the IDRPs have been exhausted, they can seek independent review of their appeal. The Pensions Ombudsman can review appeal decisions beyond the IDRPs.

The Pension Ombudsman

- Will consider cases after the member's case has been through the scheme's two stage IDRPs,
- May investigate and determine any complaint or dispute of fact or law, in relation to the scheme, made or referred in accordance with the Pension Scheme Act 1993 and
- Can make awards of compensation for loss and for distress and inconvenience

The determination of the Ombudsman is final and binding on all parties, subject only to an appeal on a point of law to the Chancery Division of the High Court.

Further points on appeals

As you can imagine, determining appeals is anything but straightforward, therefore Staffordshire Pension Fund is available to help employers with this task and will provide information on the process and regulations that may be involved. However, Staffordshire Pension Fund cannot draft responses, advise upon decisions or become otherwise directly involved with an employer/adjudicator function.

It is important that employers keep comprehensive records in the event of an appeal from members.

The Pensions Advisory Service (TPAS)

The Pensions Advisory Service (TPAS) is an independent no profit organisation that provides free information advice and guidance on all types of pension scheme. Their role is primarily one of negotiation and advice and they are available to assist individuals and their dependants in connection with any pension difficulties they have failed to resolve.

It is important to be aware that TPAS has no statutory power to impose any course of action or determination on an employer or the administration authority. They can though give an opinion to any individual as to whether they believe any complaint would be a case that the Pension Ombudsman might pursue



<https://www.pensionsadvisoryservice.org.uk/>



<https://www.pensionsadvisoryservice.org.uk/contacting-us?moreInfo=4>



120 Holborn, London EC1N 2DT



0800 0113797

The Pensions Ombudsman (PO)

The Pensions Ombudsman is able to investigate and determine any allegation of maladministration or any dispute of fact of law in relation to the Local Government Pension Scheme made or referred in accordance with the Pension Scheme Act 1993. The Pensions Ombudsman will, however, only usually investigate cases which has been through stages 1 and 2 of the Internal Dispute Procedure.

A Pensions Ombudsman decision is binding on all parties and can only be challenged on a point of law in the Supreme Court



<https://www.pensions-ombudsman.org.uk/>



enquiries@pensions-ombudsman.org.uk



10 South Collonade, Canary Wharf, E14 4 PU



0800 917 4487

Staffordshire Pension Fund contact details



www.staffspf.org.uk



pensions.enquiries@staffordshire.gov.uk

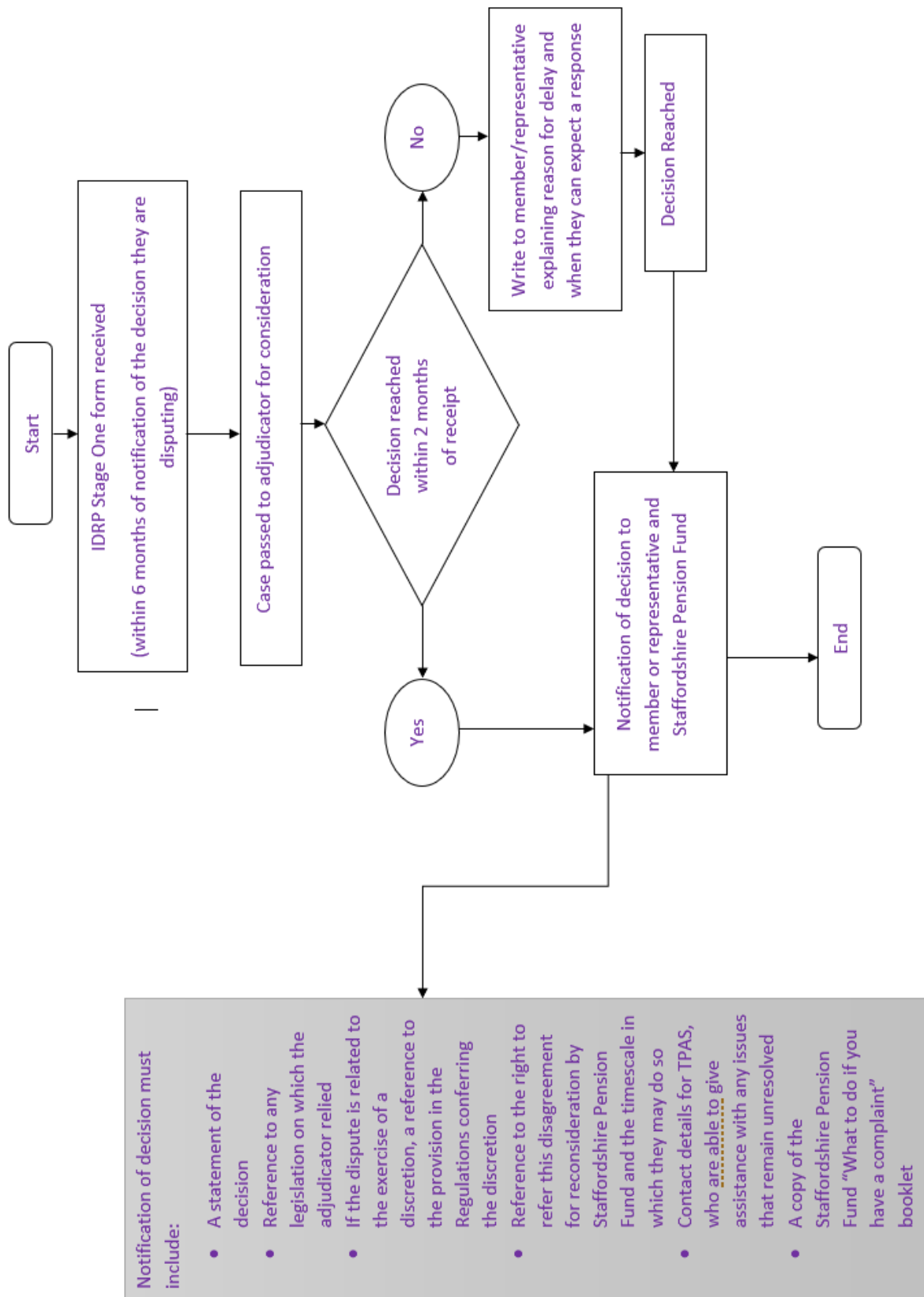


Staffordshire Pension Fund, No 2 Staffordshire Place, Tipping Street,
Stafford, ST16 2DH



01785 278222

Annex A



Annex B - Specimen IDRP first instant decision

The following wording could be used in any decision letter issued to a scheme member, highlighting their right of appeal under the LGPS formal IDRP

Right of Appeal

If you are not satisfied with this decision you should contact me for clarification and further explanation of the matter in question. Many misunderstandings or incorrect information can be explained or put right quickly and easily by doing this. If, following this, you are still not satisfied with the decision you have the right of appeal, within six months of this letter, to [enter name, job title and contact details of adjudicator].

The Pensions Advisory Service (TPAS) is available to assist members and beneficiaries in connection with difficulties they have failed to resolve. Their address is 120 Holborn, London EC1N 2DT (telephone 0800 0113797).

The Pensions Ombudsman may investigate and determine any allegation of maladministration or any dispute of fact or law in relation to the Local Government Pension Scheme made or referred in accordance with the Pensions Scheme Act 1993. His address is 11 Belgrave Road, London, SW1V 1RB (telephone 020 7834 9144).

The Pensions Ombudsman will, however, only usually investigate cases which have been through stages 1 and 2 of the Internal Dispute Procedure

Annex C - Specimen acknowledgement letter

The following wording could be used in an acknowledgement letter issued to a scheme member

Dear xxxxx

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

Thank you for your application received on [date], enclosing information on your disagreement with [name of relevant body]. I have been appointed by [name of body] to make the stage one decision under the internal dispute resolution procedure.

I am required to make a decision within two months of receiving your application. If, for some reason, I am unable to comply with that timescale, I will write to you explaining the reason and the date by which I expect to make my final determination.

You can also ask the Pensions Ombudsman for assistance. The Ombudsman help members and beneficiaries of pension schemes with disputes they cannot resolve.

The Pensions Ombudsman will, however, only usually investigate cases which have been through stages 1 and 2 of the Internal Dispute Procedure.

The Pensions Ombudsman can be contacted at

10 South Colonnade, Canary Wharf, E14 4PU.

Tel: 0800 917 4487.

Email: enquiries@pensions-ombudsman.org.uk

Website: www.pensions-ombudsman.org.uk

Yours sincerely

Annex D - Specimen stage 1 decision letter

The following wording could be used in Stage 1 decision letter issued to a scheme member

Dear xxx

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

I have looked at the details of your disagreement and reached a decision under stage one of the IDRP. **Details should include:**

- The question of determination;
- Evidence received and considered;
- The decision;
- A reference to any legislation or scheme provision that it relies upon
- Where relevant, a reference to the scheme provisions conferring the discretion that has caused the disagreement
- A reference to the applicants right to have their disagreement reconsidered by the administering authority providing the necessary contact details;
- The time limits for making a stage 2 appeal

This concludes the first stage of the internal dispute resolution procedure. If you are not happy with my decision, you have the right to ask the Staffordshire Pension Fund to look at your complaint again.

You must do this in writing, within six months from the date of this letter. For further information on the grounds to make a complaint and an application form can be obtained from the Staffordshire Pension Fund Website

Insert link

You can also ask the Pensions Ombudsman for assistance. The Ombudsman help members and beneficiaries of pension schemes with disputes they cannot resolve. The Pensions Ombudsman can be contacted at

10 South Colonnade, Canary Wharf, E14 4PU.

Tel: 0800 917 4487.

Email: enquiries@pensions-ombudsman.org.uk

Website: www.pensions-ombudsman.org.uk

Copies of this determination have been sent to [name of body] as your employer/former employer and the Staffordshire Pension Fund.

Yours sincerely

Annex E - Specimen stage 2 decision letter

The following wording could be used in Stage 2 decision letter issued to a scheme member

Dear xxxx

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

I refer to your appeal, under stage 2 of the Internal Disputes Resolution Procedure, against the decision at stage 1 by [insert name, job title and body], the adjudicator, not to uphold your complaint.

My role in making a determination on your complaint is to determine whether your employer has made their decision in accordance with the pension scheme regulations, that all relevant evidence has been taken into account and that the decision reached is not perverse. I have no powers to implement my own decision; however, I can require the employer to reconsider their decision if I consider that they have misdirected themselves or that their decision is perverse. In addition, I have no power to direct the employer to act outside the provisions of the regulations.

The determination notice must include the following

- the question of determination;
- evidence received and considered;
- the decision;
- a reference to any legislation or scheme provision that it relies upon
- where relevant, a reference to the scheme provisions conferring the discretion that has caused the disagreement
- a statement that The Pensions Ombudsman (TPO) is available to assist the member with any difficulty with the scheme which remains unresolved, and the address for TPO.

This concludes the second stage of the internal dispute resolution procedure. The Pensions Ombudsman is available to assist members and beneficiaries of pension schemes in connection with difficulties you may have. Their address is 10 South Colonnade, Canary Wharf, E14 4PU. (telephone 0800 917 4487) or

Email: enquiries@pensions-ombudsman.org.uk

Website: www.pensions-ombudsman.org.uk

Having made my decision, I cannot enter into further correspondence with you; the decision can only be overturned by a judgement of the High Court or the Pensions Ombudsman. The Pension Ombudsman may investigate and determine any complaint of maladministration or dispute of fact or law or referred to him in accordance with the Pensions Schemes Act 1993

Copies of this determination have been sent to [name of body] as your employer/former employer and the Staffordshire Pension Fund.

Member Guide - how to raise a complaint / dispute

Issue Date November 2019

Introduction

When you become a member of the Local Government Pension Scheme multiple decisions are made in respect of your membership. Some decisions are made by your employer or former employer, whilst some are made by the administering authority for the Staffordshire Pension Fund which is Staffordshire County Council. It is advised that if you are notified of a decision, that you should check with the decision maker that it has firstly been based on the correct information. When notified of a decision, contact details will be provided so you can query any uncertainties and be provided with details of the rights of appeal under the LGPS regulations.

Resolving Complaints

Often a problem can be resolved quickly by contacting the decision maker directly. Whether this is your employer or the Staffordshire Pension Fund, the decision may have evolved from incorrect information being used or an initial misunderstanding. Both scenarios can therefore be explained and easily amended by contacting the decision maker by telephone or in writing. Many problems are resolved this way, so please bare this in mind as it may save you time.

What action can I take if I'm still dissatisfied

If you are still dissatisfied, you have the right to have your complaint independently reviewed under the **Internal Dispute Procedure (IDRP)**

What is an Internal Dispute Resolution Procedure (IDRP)?

If an agreement cannot be made between the applicant and the decision maker, within the LGPS Regulations 2013, Regulations 72 to 79 detail the formal dispute procedure known as the IDRP.

The process is split into two stages, if you are unhappy with a decision following Stage 1, or a decision has not been made in reasonable time under the dispute rules, you have the right to have it looked at afresh.

Who can raise a dispute?

You can use the dispute system if you are:

- A member: in other words, you are paying into Staffordshire Pension Fund or you have retired and draw a pension from us, or you have left your benefits 'on hold' with us
- A prospective member: in other words, you are not a member yet, but could become one if your employer brings you in, or you ask to join
- A dependant: in other words, you are the widow, widower, surviving civil partner, eligible cohabiting partner or child of a member or prospective member

You can even use the dispute system if you think you should fall into one of these categories, or you did so during the last six months.

Using someone else to represent you

You might feel happier with someone else representing you, or you may not be able to put your case yourself.

In this case you can choose someone else to represent you. This can be whoever you like - a friend, relative, solicitor, union rep, and so on.

What can I raise an IDRPs about?

From the day you join the pension scheme, various decisions are being made about your pension – both by your employer, and ourselves here at Staffordshire Pension Fund. If you disagree with a decision, you can dispute it.

Examples of Employer decisions:

- Deciding whether you meet the grounds for an ill-health retirement and what tier of benefits is to be awarded
- Deciding the final pay to be used to work out your benefits
- Deciding the contribution rate, you pay
- Deciding how and when to apply the discretions available to employers in the LGPS

Remember, if you are unhappy with any decision made by your employer you should contact them first before beginning the IDRPs process

Examples of Administering Authority decisions:

- Whether or not to accept a transfer from another scheme
- Decide who receives any death grant that may be payable
- Calculating your benefits

If you are unhappy with any decision made by the administering authority you should contact the Staffordshire Pension Fund before initiating the IDR process

Other disputes

You can also dispute about other aspects of your pension, for example if you feel that you haven't been given the information you need.

Stage 1: Formal complaint

You need to put your complaint in writing, using the Appeals Form to whomever you think is at fault - either your employer, or the administering authority. Ask yourself "who made the decision I am unhappy with?" The answer should tell you who to appeal to.

The appeal must be made within six months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by a person nominated by the body that took the decision against which you wish to complain. This guide calls them the 'Adjudicator' that person is required to give you their decision in writing.

The Appeals Form is in Appendix A

You can also obtain a copy of the Appeal form on the Staffordshire Pension Fund Website at the following link –

<https://www.staffspf.org.uk/Members/How-to-raise-a-complaint-or-dispute/Members-IDRP-Formv1.pdf>

Or by requesting an Appeal form by either emailing

pensions.enquiries@staffoordshire.gov.uk or telephone 01785 278222

What information should be included on the 1st stage appeal form?

Anything you feel relevant to your complaint about the decision or issue you are appealing should be included. However, it is important to stick to the facts. You can attach any related information to the form including copies of letters you have been

sent. Your complaint will be looked at by the person nominated by your employer or the administering authority that took the original decision you wish to appeal against. This individual is referred to as the 'Adjudicator'. The adjudicator will not have been involved in the initial decision or issue that you are appealing and therefore you must ensure that you provide them with all relevant information. The regulations do not stipulate who should be the adjudicator at the first stage of the dispute process. It could be, for example, the human resources manager, or payroll manager. It is for each employer and administering authority to decide who should fulfil this role.

Where should I send the 1st stage appeal form?

For complaints against your employer please send your form to your employer's appointed person. Your employer should have told you who their adjudicator is or how to find this information in the letter that contained the decision you are appealing. If you do not know who your employer's nominated person is, please contact the organisation who made the decision you are appealing against.

For appeals against the administering authority, please send your form to the Staffordshire Pension Fund – Head of Treasury and Pensions

What happens next?

The facts of your case that have been provided on the 1st stage Appeal Form and any other supporting documentation will be examined, alongside the Scheme rules, and any legislation that is applicable. It is possible that you may be asked for more details, to help the adjudicator fully understand your case. Your complaint will then be considered carefully by the appointed person and you should receive a written reply within two months of the date your complaint arrived. The letter will either provide you with a decision or will acknowledge your complaint.

What happens if a decision cannot be made within 2 months?

Where it has not been possible for the nominated person to issue his/her decision within the two-month period, a letter will be sent to you explaining the reasons for the delay and provide an expected date for issuing a decision. Although in most cases the decision should be made within 2 months, there may be circumstances where the specified person may wish to seek the views of the interested parties those of the relevant administering authority before a final decision is taken which may take longer.

Receiving a reply from the appointed person

The LGPS regulations require the adjudicator's decision to provide you with the following in their reply:

- a statement of their decision
- a reference to any legislation on which the nominated person relied;
- if your case relates to the exercise of a discretion, a reference to the provisions of these Regulations conferring the discretion*
- if your appeal is not upheld, a reference should be made to your right to refer the disagreement for reconsideration by the appropriate administering authority and the time within which you may do so;
- contact details for the 'Pensions Ombudsman' who are available to give assistance with any issues that remain unresolved

*If the decision you are appealing against concerns the exercise of a discretion by your employer or the administering authority, and the adjudicator person decides that your employer or the administering authority should reconsider how they exercised their decision, they will write to notify them of their decision. In such cases, the adjudicator cannot overturn the initial decision but can determine whether the discretion has been exercised reasonably and, in cases where this is found not to be the case, can refer the decision to be reconsidered.

If you are still not satisfied with this decision after reconsideration, then you can take your appeal to stage 2.

Stage 2: Formal Appeal

The 2nd stage procedure applies when you ask the administering authority to take a fresh look at your complaint if:

- you are not satisfied with the adjudicator first stage decision
- you have not received a decision or an interim letter from the adjudicator, and it is more than two months since you lodged your 1st stage appeal
- it is one month after the date by which the adjudicator told you (in an interim letter) that they would give you a decision, and you have still not received that decision

Each administering authority must appoint a person ("the adjudicator") to consider applications under the 2nd stage appeal. The adjudicator is appointed by the Funds administering authority (Staffordshire County Council) The name and address of the adjudicator should be up-to-date on the Appeals Form.

What details should be sent with a 2nd stage form?

All the information and details that were required for the 1st stage application should be resubmitted at the 2nd stage via the Appeals Form. Additionally, where you have received a 1st stage decision a copy of the decision letter and most importantly, an explanation of why you are dissatisfied with it should be explained on the Appeals Form. As with appeals at the 1st stage of the dispute rules, the person considering your application should acknowledge receipt of the Appeals Form and may request further information so that they can fully understand your complaint. If your health is a factor in the complaint, you may be asked to attend a medical examination or consent to the release of your medical details to another IRMP for a further medical opinion. The review at the 2nd stage would be undertaken by an IRMP not involved in the 1st stage decision.

The person nominated by the administering authority must then decide on the basis of the Scheme rules, and by taking into account the facts and evidence they have obtained, whether the adjudicator decision reached at the 1st stage of the process was correct. If they decide that it was not, they must replace the adjudicator decision in the 1st stage with a new decision of their own.

As is the case at stage 1, if the original decision was made in the exercise of a discretion and the administering authority decides that it was not exercised in a reasonable manner, they can only insist the employer or administering authority reconsider its discretion - they cannot replace their original decision with a decision of their own. At the 2nd stage the adjudicator must either write to you to let you know their decision within two months of the date they receive your 2nd stage Appeals Form, or they must write to you at the end of two months to let you know when a decision is likely to be reached and the reason for any delay.

When they write to inform you of the decision, they will also tell you whether the decision confirms or replaces the original adjudicator's decision and they will tell you the legislation used in reaching their decision.

If you are still unhappy following the adjudicator's 2nd stage decision you can refer your complaint to the Pension Ombudsman provided you do so within three years from the date of the original decision (or lack of decision) about which you are complaining.

Additional help

The Pensions Advisory Service (TPAS)

The Pensions Advisory Service (TPAS) is an independent no profit organisation that provides free information advice and guidance on all types of pension scheme. Their role is primarily one of negotiation and advice and they are available to assist individuals and their dependants in connection with any pension difficulties they have failed to resolve.

It is important to be aware that TPAS has no statutory power to impose any course of action or determination on an employer or the administration authority. They can though give an opinion to any individual as to whether they believe any complaint would be a case that the Pension Ombudsman might pursue



<https://www.pensionsadvisoryservice.org.uk/>



<https://www.pensionsadvisoryservice.org.uk/contacting-us?moreInfo=4>



120 Holborn, London EC1N 2DT



0800 0113797

The Pensions Ombudsman (PO)

The Pensions Ombudsman is able to investigate and determine any allegation of maladministration or any dispute of fact of law in relation to the Local Government Pension Scheme made or referred in accordance with the Pension Scheme Act 1993. The Pensions Ombudsman will, however, only usually investigate cases which has been through stages 1 and 2 of the Internal Dispute Procedure.

A Pensions Ombudsman decision is binding on all parties and can only be challenged on a point of law in the Supreme Court



<https://www.pensions-ombudsman.org.uk/>



enquiries@pensions-ombudsman.org.uk



10 South Collonade, Canary Wharf, E14 4 PU



0800 917 4487

Further information

If you require further information about the areas covered by these notes, you can get in touch as follows:



www.staffspf.org.uk



pensions.enquiries@staffordshire.gov.uk



Staffordshire Pension Fund, 2 Staffordshire Place, Tipping Street, Stafford,
ST16 2DH



01785 278222

**If a copy of this information is needed in large print, Braille,
another language or on cassette or disc, please contact
Pensions Services.**



Independent Dispute Resolution Procedure (IDRP) Application Form

This form is to be used by a member, or their dependant or representative to make a formal complaint to either the member's former employer or to Staffordshire Pension Fund

Local Government Pension Scheme Internal Dispute Resolution Procedure (IDRP) Application

You can use this form:

- a. To apply to the nominated person (adjudicator) at Stage 1 of the IDRP if you want them to investigate a complaint concerning your pension; and
- b. To apply to the Administering Authority (Staffordshire Pension Fund) at Stage 2 of the IDRP if you want them to reconsider a determination made by the adjudicator

About the Complaint (Please fill in this part in all cases)

Who is the complaint against?

The following
employer.....

Staffordshire Pension Fund

Please specify the stage you are making the application under

- Stage One
- Stage Two

1. Member's details (Please fill in this part in all cases)

If you are the member (the person who is or was in the LGPS) or entitled to a pension credit (i.e. a person entitled to a share of a pension scheme member's benefits following divorce or dissolution of civil partnership) please give your details, in block capitals, in the box below. You can then go straight to question 4.

If you are the member's dependant (for example – husband, wife, civil partner or child) or if you are representing the person with the complaint, please give the member's details in the box below and then complete question 2 before moving to question 4.

If you are representing the person with the complaint, please give the member's details in the box below and then complete question 3 before moving to question 4.

Full name	
Address	
Date of birth	
Scheme employer	
Pay Reference / Job Title	
NI Number	

2. Dependant’s details:

If you are the member’s dependant and the complaint is about a benefit for you, give your details in this box. If the complaint is about a benefit for a dependant and you are the dependant’s representative, give the dependant’s details in this box, then complete question 3:

Full name	
Address	
Date of birth	
Relationship to member	

3. Representative’s details:

If you are the member’s or dependant’s representative, give your details in this box:

Full name	
Address	
Address to which letters should be sent	
Relationship to member	
<i>Please send evidence of your authority to act for the member or dependant</i>	

4. Your complaint:

Please give full details of your complaint in this box. Try to explain exactly why you are aggrieved, giving any dates or periods of LGPS membership that you think are relevant. If there is not enough space, continue details on to a separate sheet (with your name and address at the top). Then attach it to this form with any supporting documents, for example any notification you received from your employer or the administering authority regarding the decision about which you are complaining, together with any other letter or notification you think might be helpful:

5. Your request and signature:

I would like my complaint to be investigated and a decision made.	
I am a <i>(tick one relevant box)</i> member	<input type="checkbox"/> scheme member / former member / prospective member
	<input type="checkbox"/> dependant of a former member
	<input type="checkbox"/> member's representative
Signed	Date

6. Appeal against a decision to refuse ill health retirement

If your appeal relates to a refusal to agree ill health retirement, the adjudicator will require access to relevant records held by the Occupational Health Unit in order to have the full and comprehensive data on which to make a decision.

The adjudicator will contact you under separate correspondence to obtain your consent to access your medical records

IMPORTANT: PLEASE KEEP A COPY OF THE COMPLETED FORM FOR YOUR OWN RECORDS.

Please send this form to:

Stage 1 of the internal dispute resolution procedure

If your stage 1 appeal is against your employer, please send to the Personnel Department of your current employer in the first instance. They will notify you of the nominated person who will consider your appeal.

If your stage 1 appeal is against the Administering Authority, please send the form to the Head of Treasury and Pensions.

Stage 2 of the internal dispute resolution procedure

All Stage 2 appeals should be sent to:

Head of Treasury and Pensions, Staffordshire Pension Fund, No 2 Staffordshire Place,
Tipping Street, Stafford, ST16 2DH

PEN APP 2 V2.1 May 2020