

TYNE AND WEAR FIRE AND RESCUE AUTHORITY

Item No. 7

MEETING: HUMAN RESOURCES COMMITTEE - 7 FEBRUARY 2022

SUBJECT: REVIEW OF INTERNAL DISPUTE RESOLUTION PROCEDURE

REPORT OF THE FINANCE DIRECTOR

1 PURPOSE OF REPORT

- 1.1 The purpose of this report is to seek approval to adopt a revised Internal Dispute Resolution Procedure (IDRP) for Firefighter Pension Schemes.

2 BACKGROUND

- 2.1 As part of the agreed Local Pension Boards agenda, on an annual basis and normally in the March/April meeting, a review will be carried out in relation to the Internal Dispute Resolution Procedure.
- 2.2 The Pensions Act 1995 requires that all occupational pension schemes have a formal Internal Disputes Resolution Procedure (IDRP) for dealing with complaints from scheme members.
- 2.3 Circular issued by the Department of Communities and Local Government (FPSC 1/2009) provided advice regarding IDRPs, as agreed with the Firefighters' Pension Committee.

3 INTERNAL DISPUTE RESOLUTION PROCEDURE

- 3.1 The IDRP provides members of the Firefighters Pension schemes with a process to dispute matters relating to Firefighter Pension schemes.
- 3.2 The IDRP is a two stage process; the first stage of the process is managed by the Chief Fire Officer (CFO), or a member of the Executive Leadership Team as directed by the CFO. If the dispute is not resolved at stage one, the dispute can be escalated in the second stage to the Authority's Appeals Committee.
- 3.3 The current IDRP policy, Appendix A, is listed under Admin Procedure 7.7 and was last reviewed in August 2011.

4 PROPOSAL

- 4.1 After a review, it is proposed to make minor changes to the IDRP. These are primarily cosmetic changes, and do not change the context or content of the existing IDRP.
- 4.2 The revised IDRP is designed to take into account the guidance provided in the DCLG Circular. In addition to this, the wording of the IDRP is updated so as to take into account the implementation of the new Firefighters Pension Scheme 2015.
- 4.3 The amended IDRP provides further detail on who can make a claim under the IDRP and the time limits of making a claim. The amended IDRP also provides clearer guidance on the overall process, specifically stating time limits for actions to be completed and template forms for complainants to use when making a claim.
- 4.4 The proposed draft IDRP is appended to this report, Appendix B. The proposed revisions to the current IDRP take into account the guidance provided in the circular.
- 4.5 In addition to the above, the proposed changes comply with the section 50 of the Pensions Act 1995 and the Occupational Pension Schemes (Internal Dispute resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 (SI 2008/649).

5 EQUALITY AND DIVERSITY IMPLICATIONS

- 5.1 The draft IDRP reflects the Authority's obligations and commitment to equality.

6 FINANCIAL IMPLICATIONS

- 6.1 The IDRP does not in itself have any financial implications.

7 HEALTH AND SAFETY IMPLICATIONS

- 7.1 There are no health and safety implications in respect of this report.

8 RECOMMENDATIONS

- 8.1 Members are requested to approve the amended Internal Dispute Resolution Procedure.

Appendix A

Tyne and Wear Fire And Rescue Service (TWFRS)	
Firefighter's Pension Schemes	
Finance Manager	Rev Aug 2011
Admin Procedure 7.7	

Firefighter's Pension Schemes (Internal Dispute Resolution Procedures)

1. Introduction

- 1.1 Section 50(2)(a) of the 1995 Pensions Act as amended by section 273 of the Pensions Act 2004, and the Occupational Pension Scheme (Internal Disputes Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008, sets out the requirement for Fire and Rescue Services to set up a formal internal disputes resolution procedure for dealing with complaints relating to Firefighter's Pension Schemes.

2. Applications

- 2.1 Persons entitled to make an application for (Internal Dispute Resolution Procedures) include:
- Pension Scheme members - active, deferred and pensioners;
 - Their widows, widowers, surviving dependents and surviving non dependent beneficiaries.
 - Prospective members of the FPS and NFPS;
 - People who have ceased to be in one of these categories; and
 - Persons whose claim to be in one of these categories is under dispute.
- 2.2 An application may be made by a representative.
- 2.3 Applications may not be made in respect of a medical appeal in the FPS, NFPS and FCS (appeal to an independent medical referee against a medical opinion considered by the Fire Authority in the determination of an award) or where:
- proceedings have begun in any court or tribunal, or
 - the Pensions' Ombudsman has commenced an investigation into the dispute.
- 2.4 All applicants can seek the advice of the Occupational Pensions Advisory Service (OPAS) at any stage of their application.

3. PROCEDURE

(STAGE ONE)

- 3.1 The Chief Fire Officer will deal with stage one appeals under this procedure.
- 3.2 On receipt of an application under IDRP, The Chief Fire Officer will acknowledge receipt of the claim. If the application is made by a representative of the complainant, the letter must be copied to the representative.
- 3.3 The Chief Fire Officer will make a decision on the application within two months of receipt of the application or a further letter will be sent explaining the reason for the delay and the expected date of the decision.
- 3.4 The Chief Fire Officer will inform the complainant or their representative in writing setting out his decision. This correspondence will make reference to any legislation (including the Firefighter's Pension Schemes) relied upon for the decision including, if a discretion has been exercised under the scheme, a reference to the provisions of the scheme under which the discretion is conferred.

(STAGE TWO)

- 3.5 If a complainant is dissatisfied with the decision at Stage 1, they can apply in writing, up to six months after notification of the Stage 1 decision, for the decision to be reconsidered by the Appeal Committee of the Fire Authority, setting out the details of the disagreement and attaching a copy of the notice of the decision made by the Chief Fire Officer.
- 3.6 The Appeal Committee of the Fire Authority will acknowledge receipt of the application.
- 3.7 The Appeal Committee will make a decision within two months of receipt of the application or a further letter must be sent explaining the reason for delay and the expected date of the decision.
- 3.8 The Appeal Committee will inform the complainant of their decision in writing and provide an explanation for the decision.
- 3.9 The written continuation should state whether and, if so, to what extent the decision either confirms or replaces the decision made by the Chief Fire Officer. Reference should be made to any legislation (including the Firefighter's Pension Schemes) relied upon for the decision including, if a discretion has been exercised, a reference to the provisions of the scheme which the discretion is conferred.

4. ADDITIONAL APPEAL PROCEDURE

- 4.1 The decision of the Appeal Committee of the Authority will inform the complainant that, should they remain dissatisfied, the Occupational Pensions Advisory Service is available for assistance, giving details of where it can be contacted and pointing out that the Pensions' Ombudsman may investigate complaints and disputes, again supplying contact details.

Appendix B - DRAFT - FIREFIGHTER PENSION SCHEMES INTERNAL DISPUTE RESOLUTION PROCEDURE

1. INTRODUCTION

- 1.1 The Pensions Act 1995 requires that all occupational pension schemes have a formal Internal Disputes Resolution Procedure (IDRP) for dealing with complaints from scheme members.
- 1.2 This document details the IDRP process for Firefighter Pension Schemes at Tyne and Wear Fire and Rescue Service.

2. TWO STAGE PROCESS

- 1.1 The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint made will be treated seriously, and considered thoroughly and fairly.
- 1.2 In Stage One, the dispute will be considered by the Chief Fire Officer or member of the Executive Leadership Team nominated by them, who will provide a decision.
- 1.3 If the applicant is not satisfied with the decision made in Stage One, the dispute may progress to Stage Two, in which the decision will be considered by the Appeal Committee.

3. FIREFIGHTER PENSION SCHEME – IDRP SCOPE

- 3.1 A complaint can be made under the IDRP where there is a dispute about a matter relating to;
 - The “old” Firefighters’ Pension Scheme (FPS1992),
 - The New Firefighters’ Pension Scheme (NFPS2006),
 - Firefighters’ Pension Scheme (FPS2015) and the
 - Firefighters’ Compensation Scheme (FCS)
- 3.2 The following appeals are exempt from the IDRP process:
 - Appeals lodged under Rule H2 of the FPS;
 - Appeals lodged under Part 8, Rule 4 of the NFPS;
 - Appeals lodged under Part 6, Rule 2 of the FCS;
 - Matters in respect of which proceedings have been commenced in any court or tribunal; and

- Matters in respect of which the Pensions Ombudsman has commenced an investigation, as a result of a complaint made or a dispute referred to them.

4. PERSONS ENTITLED TO MAKE A COMPLAINT UNDER THE IDRP

4.1 The IDRP is available to the following:

- a) A member (active, deferred or pensioner) of the FPS1992, NFPS2006, or FPS2015
- b) A surviving spouse or surviving dependant of a deceased member of the FPS1992, NFPS2006, or FPS2015
- c) A surviving non-dependant beneficiary of a deceased member of the FPS1992, NFPS2006, or FPS2015
- d) A prospective member of the FPS1992, NFPS2006, or FPS2015 (i.e. persons who, under their contract of employment, can or will become a member)
- e) Persons who have ceased to be within any of categories (a) to (d)
- f) Persons who claim to be such a person as are mentioned in paragraphs (a) to (e) and the dispute relates to whether he/she is such a person.

4.2 As the procedures also apply to disputes relating to the Firefighters' Compensation Scheme 2006, they are available to those who are entitled to benefits under the Scheme, i.e. those who have opted out of the FPS1992, NFPS2006 and FPS2015.

5. REPRESENTATION

5.1 A claim under the IDRP can be made by:

- A representative nominated by the applicant
- Where the applicant is a minor or is incapable of acting for themselves – by a member of their family or some other person suitable to represent them
- Where the applicant dies – by their personal representative

6. TIME LIMITS TO MAKE A CLAIM

6.1 For claims in respect of persons in categories a) to d) in 4.1, applications must be made within six months from the date on which the person could have reasonably known about the matter in dispute.

- 6.2 For claims in respect of persons in category e) in 4.1, applications must be made within six months from the date that the person ceased to be a member of the FPS or NFPS.
- 6.3 The exception to this timeframe is that if the dispute is in regards to a determination under Part 8, Rule 2 of the New Firefighters' Pension Scheme 2006 the time limit to make a claim is 28 days.

7. STAGE ONE

- 7.1 To commence the stage one process of the IDRP the complainant will be required to complete a Stage One Application (appendix A) and send to Chief Fire Officer. This must be done within 6 months of the complainant becoming aware of the dispute.
- 7.2 If the complainant wishes to use the IDRP process within regards to a determination under Part 8, Rule 2 of the New Firefighters' Pension Scheme this should be done within 28 days of receipt of a determination.
- 7.3 The Chief Officer may conduct the review or delegate to a Senior Officer to review. The Chief Officer/delegated Senior Officer will acknowledge receipt of the application.
- 7.4 Within 2 months of receipt of application form, the Chief Officer or delegated Senior Officer will write back to the complainant with a decision.
- 7.5 If the Chief Officer or delegated Senior Officer is unable to reach a decision within the 2 months of receipt letter, the complainant should be informed of the delay, the reasons why, and the proposed new timeframe.
- 7.6 The Process and Actions in regards of Stage One of the IDRP are detailed in the below.

	Process/Action	Timeframe
1	Complainant (or their representative) to complete the Stage One Application (see Appendix A) and forward to Chief Fire Officer.	Within 6 months from complainant knowing of matter in dispute
2	Chief Fire Officer / delegated Senior Officer to acknowledge receipt of application.	As soon as practicable

3	Chief Fire Officer / delegated Senior Officer to write to complainant with decision.	Within 2 months of receiving application
4	If a decision is not possible within 2 months, Chief Fire Officer / delegated Senior Officer to write to complainant with reasons for the delay and providing a new timeframe	Within 2 months of receiving application
5	Delayed decision to then be made by Chief Fire Officer/delegated Senior Officer and sent to Complainant	Within new specified timeframe

8. STAGE TWO

- 8.1 If the complainant is unsatisfied with the decision made within stage one they may wish to progress to Stage Two.
- 8.2 To commence the stage two process of the IDRP the complainant will be required to complete a Stage Two Application (appendix B) and send to Appeal Committee. This must be done within 6 months of the complainant becoming aware of the dispute.
- 8.3 The Appeal Committee will acknowledge receipt of the application.
- 8.4 Within 2 months of receipt of application form, the Appeal Committee will write back to the complainant with a decision.
- 8.5 If the Appeal Committee is unable to reach a decision within the 2 months of receipt letter, the complainant should be informed of the delay, the reasons why, and the proposed new timeframe.
- 8.6 The Process and Actions in regards of Stage Two of the IDRP are detailed in the below.

	Process/Action	Timeframe
1	Employee or other complainant (or their representative) complete the Stage Two Application (see Appendix B) and forward to the Appeal Committee.	Within 6 months of the date of the Chief Fire Officer's decision

2	Appeal Committee to acknowledge receipt of application.	As soon as practicable
3	Appeal Committee to consider the appeal, and Chair to write to complainant with decision.	Within 2 months of receiving application
4	If a decision is not possible within 2 months, Appeal Committee to write to complainant with reasons for the delay and providing a new timeframe.	Within 2 months of receiving application
5	Delayed decision to then be made by Appeal Committee and decision sent.	Within new specified timeframe

9. FOLLOWIING STAGE TWO

- 9.1 If you are unsatisfied with the decision made in Stage Two the Pensions Ombudsman, appointed under Section 145(2) of the Pension Schemes Act 1993 may investigate and determine any complaint or dispute of fact or law in relation to a scheme made or referred in accordance with that Act.
- 9.2 The Pensions Ombudsman can be contacted at 11 Belgrave Road, London, SW1V 1RB; Telephone 020 7834 9144 or online at www.pensions-ombudsman.org.uk.
- 9.3 If your complaint refers to the Firefighters' Compensation Scheme, you could take your grievance to Crown Court. You should notify the appropriate officer of both the Court and the Authority, within 21 days of the Stage Two decision.
- 9.4 Further information about this process can be found on The Pensions Advisory Service website-
[http://www.pensionsadvisoryservice.org.uk/dealing-with-complaints/internal-dispute-resolution-process-\(idrp\)](http://www.pensionsadvisoryservice.org.uk/dealing-with-complaints/internal-dispute-resolution-process-(idrp))

**Firefighters' Pension Scheme, NFPS, 2015 Scheme, FCS
Internal Dispute Resolution Procedure (IDRP)
Stage One: Application**

To the Chief Fire Officer, Tyne and Wear Fire and Rescue Authority

1. I wish to apply for a decision to be made, under section 50 of the Pensions Act 1995, in respect of the disagreement set out in this application.
2. I understand that an application may not be made where, in respect of a disagreement:
 - An appeal has been lodged under Rule H2 of the FPS;
 - An appeal has been lodged under Part 8, Rule 4 of the NFPS;
 - An appeal has been lodged under Part 6, Rule 2 of the FCS;
 - Proceedings have begun in any court or tribunal; or
 - The Pensions Ombudsman has commenced an investigation into a complaint or a dispute referred to them.
3. The nature of the disagreement is set out in the attached page(s).

Scheme Member's details (please complete in block capitals):

Full name

Job Title

Service Number

Address

.....

Date of birth

National Insurance No.

Complainant's details if not a Scheme Member (block capitals):

Full name

Address

.....

Relationship of complainant to Scheme Member (if relevant)

.....

Representative's details - if any (please complete in block capitals):

Full name

Address for correspondence

.....

Relationship of Representative to Scheme Member / complainant (if relevant)

.....

Signature of complainant (or representative)

.....**Date**

Nature of disagreement

Give a statement of the nature of the disagreement with sufficient details to show why aggrieved. If necessary, continue details on to another page and attach the application form with any supporting documents.

Signature of complainant (or representative)

.....**Date**

Send your complete application to:

The Chief Fire Officer
Tyne & Wear Fire and Rescue Service
Service HQ
Barmston Mere
Nissan Way
Sunderland
SR5 3QY

**Firefighters' Pension Scheme, NFPS, 2015 Scheme, FCS
1184 Internal Dispute Resolution Procedure (IDRP)
Stage Two: Application**

To the Appeal Committee, Tyne and Wear Fire and Rescue Authority

1. I am applying for reconsideration of the decision of the Chief Fire Officer (or the member of the Executive Leadership Team nominated by them), made under section 50 of the Pensions Act 1995. I understand that the Tyne and Wear Fire and Rescue Authority will either confirm the decision or replace it.
2. I understand that an application may not be made where, in respect of a disagreement:
 - An appeal has been lodged under Rule H2 of the FPS;
 - An appeal has been lodged under Part 8, Rule 4 of the NFPS;
 - An appeal has been lodged under Part 6, Rule 2 of the FCS;
 - Proceedings have begun in any court or tribunal; or
 - The Pensions Ombudsman has commenced an investigation into a complaint or a dispute referred to them.
3. I attach a copy of the notice of the decision referred to in paragraph 1 and a statement of the reason(s) for dissatisfaction with that decision.

Scheme Member's details (please complete in block capitals):

Full name

Rank

Service reference

Address

.....

Date of birth

National Insurance No.

Complainant's details if not a Scheme Member (block capitals):

Full name

Address

.....

Relationship of complainant to Scheme Member (if relevant)

.....

Representative's details - if any (please complete in block capitals):

Full name

Address for correspondence

.....

Relationship of Representative to Scheme Member / complainant (if relevant)

.....

Signature of complainant (or representative)

.....**Date**

Nature of disagreement

Give a statement of the nature of the disagreement with the decision made by the Chief Fire Officer (or the member of the Executive Leadership Team nominated by them), with sufficient details. If necessary, continue details on to another page and attach to the application form with any supporting documents.

Signature of complainant (or representative)

.....**Date**

Attach a copy of the notice of the decision referred to in paragraph 1.

Send your complete application to:

Appeal Committee
Tyne and Wear Fire and Rescue Authority
PO Box 100
Civic Centre
Sunderland
SR2 7DN

