

**The Firefighters' Pension Scheme
The Firefighters' Compensation Scheme
The Pensions Act 1995**

INTERNAL DISPUTE RESOLUTION PROCEDURES

These notes explain how certain persons covered by the Firefighters' Pension Scheme and the Firefighters' Compensation Scheme can make an application for the reconsideration of a decision regarding an award of benefits

February 2009

These guidance notes reflect IDRPs for firefighters and their dependants covered by the rules of the Firemen's Pension Scheme Order 1992, the Firefighters' Compensation Scheme (England) Order 2006, and the Pensions Act 1995 at the date shown below. Nothing the notes contain can override the legislation.

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First Issue

INTERNAL DISPUTE RESOLUTION PROCEDURES

What are "Internal Dispute Resolution Procedures"?

Internal Dispute Resolution Procedures ("IDRP") are available to all members of occupational pension schemes and to their dependants. They offer a means of formally raising, and hopefully resolving, grievances about the way in which their pension rights have been managed.

All occupational pension schemes are required to have arrangements for IDRP. The current requirements are set out in Sections 50, 50A and 50B of the Pensions Act 1995 and in the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. Previously the requirements were contained in the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 2006. Schemes have a discretion to retain the structure of procedures they set up under these earlier Regulations. In November 2008, the Firefighters' Pension Committee agreed to exercise this discretion.

How do IDRP apply to firefighters?

IDRP offer firefighters a two-stage process of internal appeal hearing on pension and compensation matters.

Firefighters' pension rights are set out in Firefighters' Pension Scheme Orders. The IDRP Regulations requirements have not been written into the Orders but must operate alongside. In October 1996, a Central Fire Brigades Advisory Council Joint Pensions Committee Working Party was set up to decide and recommend how fire authorities should comply with the IDRP Regulations. The joint recommendations of employers and trade unions were issued in Fire Service Circular 2/1997.

Apart from a few minor adjustments to reflect changes required by later Pensions Acts, the current structure approved by the Firefighters' Pension Committee in 2008 reflects the views of that Working Party. These notes set out the approved procedures.

You should remember, however, that IDRP form only one part of your appeal rights in respect of the Firefighters' Pension Scheme and the Firefighters' Compensation Scheme.

It is important that you should select the most appropriate route to raise your grievance. For example, if you disagree with a determination made by your fire and rescue authority in respect of entitlement to an ill-health award, and you believe the problem lies in the medical opinion upon which the authority made their decision, it may be more appropriate to take your case to a Medical Appeal Board as allowed by Rule H2 of the Firefighters' Pension Scheme.

Whatever your pension problem, it would be helpful if, initially, you could raise it with your authority's pensions administrator. The problem may be a simple error which can be corrected immediately, or it may be the result of a misunderstanding which can be clarified by explanation. If you are still dissatisfied then one of the various formal appeal routes can be used. The pensions administrator will be able to explain them to you

Who can make a complaint under IDRP?

The following persons can use IDRP –

- (a) active, deferred and pensioner members of the Firefighters' Pension Scheme,
- (b) widows, widowers, civil partners or surviving dependants of deceased members of the Firefighters' Pension Scheme,
- (c) pension credit members, i.e. former spouses or civil partners of firefighters, with pension rights under the Firefighters' Pension Scheme granted by a pension sharing order made on divorce, dissolution of a civil partnership, or annulment,
- (d) prospective members of the Firefighters' Pension Scheme, i.e. persons who under their contract of employment can or will become members,
- (e) persons who ceased to be within any of the categories (a) to (d) within six months before the date of any application under IDRP, and
- (f) persons whose claims to be in one of the categories (a) to (e) above are the subject of the dispute.

The application can be made by –

- the applicant in person or by a nominated representative,
- personal representatives where the person has died,
- a member of the person's family or some other suitable representative in the case of a minor or where a person is incapable of acting for themselves.

Would I have to attend a hearing?

Only in exceptional circumstances. IDRP are normally conducted in writing.

What about retained firefighters appointed before April 2006 who chose not to join the New Firefighters' Pension Scheme, and optants out?

The IDRP Regulations apply to an “occupational pension scheme” as defined by the Pension Schemes Act 1993. That Act's definition of the meaning is “any scheme or arrangement which is comprised in one or more instruments or agreements and which has, or is capable of having, effect in relation to one or more descriptions or categories of employments so as to provide benefits, in the form of pensions or otherwise, payable on termination of service, or on death or retirement, to or in respect of earners with qualifying service in an employment of any such description or category”.

Optants out, and retained firefighters who chose not to join the New Firefighters' Pension Scheme, have injury cover under the Firefighters' Compensation Scheme. This provides benefits on ill-health retirement or death, resulting from a qualifying injury. In view of the above definition of an occupational pension scheme, this means that they would be able to use IDRP if they have a grievance relating to an injury award; their dependants, too, could use IDRP if they have a grievance relating to injury-based death benefits.

Remember, though, that if it is the medical evidence that is to be challenged in respect of a Compensation Scheme award, the medical appeal route may be more appropriate.

Are any cases excluded?

Yes. IDRP will not apply where –

- a notice of appeal has been issued by the complainant under Rule H2 of the Firefighter's Pension Scheme or Part 6 Rule 2 of the Firefighters' Compensation Scheme (appeal against opinion on a medical issue), or
- proceedings have begun in any court or tribunal (this would include an appeal to Crown Court under Rule H3 of the Firefighters' Pension Scheme or Part 6 Rule 3 of the Firefighters' Compensation Scheme), or
- the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him.

How do the procedures work?

There are two stages to the procedures.

At Stage One the grievance will be considered by the Chief Fire Officer or a person specified by him/her to decide a Stage One application. If the person with the grievance remains dissatisfied, he or she may then enter Stage Two of the appeal process.

At Stage Two the grievance is heard by one or more elected members of the fire and rescue authority.

How do I get my case considered under Stage One?

The procedures are as follows –

1. Your Stage One application for a decision in respect of a disagreement must be given in writing and contain all the information required by the IDRP rules. To help you with this a special form has been designed. You can obtain a copy from your authority's pensions administrator. If you supply all the information prompted by the form then you will have complied with the rules. When you (or your representative if you prefer) have completed the form it should be signed and returned as directed by your authority together with any relevant attachments (i.e. any documents which you believe relevant and which may support your case).
2. The Stage One decision maker (i.e. the Chief Fire Officer or other decision maker specified by him/her) will, in writing –
 - acknowledge receipt of your Stage One application for a decision,
 - state that he/she intends to make a decision on the matters raised by your application within two months from the date the application was received,
 - explain that in the event that he/she cannot give a decision within two months you will be sent an interim reply (copied to your representative if you have one) setting out the reasons for the delay and the expected date for the issue of a decision,
 - give you contact details for the Pensions Advisory Service ("TPAS") which is available to assist members and beneficiaries of a pension scheme in connection with any difficulty with the scheme,

and will gather such facts and evidence as he/she feels appropriate to give a fair decision in respect of your grievance.

3. Having considered the case and arrived at his/her decision the Stage One decision maker will notify you in writing. The decision will refer to any legislation, including Firefighters' Pension and Compensation Scheme Orders, relied upon for the decision. If a discretion allowed by these Orders has been exercised, there will be a reference to this and to the provisions of the Scheme which allow the discretion. There will also be a statement to the effect that if you are dissatisfied with the Stage One decision you can take your grievance to Stage Two (see below). This correspondence will be copied to your representative if you have one.

This concludes Stage One of the IDRP process.

What if I am unhappy with the Stage One decision?

If you remain dissatisfied after you have received a Stage One decision, you have six months from receipt of that decision to apply for a reconsideration of the disagreement under Stage Two of the IDRP process.

At Stage Two, the decision of the Chief Fire Officer or his/her nominated decision maker would be reconsidered by one or more elected members of the fire and rescue authority. Your authority may, for example, have a special panel created for this purpose.

How do I get my case reconsidered under Stage Two?

The procedures are as follows –

1. Your Stage Two application, like the Stage One application, must be given in writing and must contain all the information required by the IDRP Regulations. Again, as for Stage One, a form has been prepared for this purpose and should be available from your authority's pensions administrator.

When you (or your nominated representative) have completed the form, it should be signed and submitted in accordance with the authority's directions, together with –

- a copy of the Stage One decision, and
- any documents you believe relevant and which may support your case.

2. Your authority should, in writing –

- acknowledge receipt of your Stage Two application for a reconsideration of the Stage One decision, stating that a notice of a decision on the matters raised by your application will be made within two months from the date your application was received and that, in the event that a decision cannot be made within two months, you will receive an interim reply (copied to your representative if you have one) setting out the reasons for the delay and the expected date for the issue of a decision.
- refer your application to the relevant elected member(s) of the authority.

3. The elected member(s) will consider the case and arrive at their decision. This will be set out in a letter to you (copied to your representative if you have one) with an explanation as to whether, and if so to what extent, that decision either confirms or replaces the decision made at Stage One.

As in the case of the Stage One decision, the Stage Two decision will include a reference to any legislation, including Firefighters' Pension and Compensation Scheme Orders, relied upon for the decision. If a discretion allowed by the Firefighters' Pension Scheme has been exercised there will be a reference to this and to the provisions of the Scheme which allow the discretion. The letter will also advise you that, if you remain dissatisfied, the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law in relation to a pension scheme. A contact address for the Pensions Ombudsman will be given.

This completes Stage Two of the IDR process.

How and when would I contact the Pensions Advisory Service or the Pensions Ombudsman?

Although the Pensions Ombudsman would not normally investigate a case unless both stages of IDR have been completed, the Pensions Advisory Service may be prepared to help before the IDR process has commenced or has been completed provided that the person with a grievance has made at least an informal approach to the pension scheme managers about the problem.

The Pensions Advisory Service can be contacted at:

11, Belgrave Road, London SW1V 1RB Tel: 0845 6012923
Web: www.opas.org.uk

The Pensions Ombudsman can be contacted at:

11, Belgrave Road, London SW1V 1RB Tel: 020 7834 9144
Web: www.pensions-ombudsman.org.uk

Do I have any further rights of appeal?

To what extent you would have any further rights of appeal after completing both stages of the IDR process would depend upon the nature of your grievance. For example, although IDR can be used in a number of areas of dispute by members of occupational pension schemes, it is envisaged that a firefighter would normally use them as an application for the required "reconsideration" of his/her case under Rule H3 of the Firemen's Pension Scheme Order 1992 or Part 6 Rule 3 of the Firefighters' Compensation Scheme (England) Order 2006.

These rules state that if a person claims he/she is entitled to an award, or to any payment in respect of an award, and the fire and rescue authority "do not admit the claim at all, or do not admit the claim to its full extent" then the authority must reconsider the case if he/she applies to them to do so. If you have used the IDR process for such a "reconsideration" – and it would be sensible to do so because the application and decisions are then formally prepared, documented and regulated – after receiving the "reconsideration", i.e. the Stage Two decision, you could proceed to take your grievance to Crown Court.

An appeal to Crown Court has to be lodged by notifying both the "appropriate officer" of the Court and the fire and rescue authority, normally within 21 days of receiving the reconsideration (Stage Two decision).

