



# Firefighters' Pension and Compensation Schemes Internal Dispute Resolution Procedures

January 2020

These are the Internal Dispute Resolution Procedures of the Staffordshire Commissioner Fire and Rescue Authority. They have been made in compliance with –

- Sections 50, 50A and 50B of the Pensions Act 1995 (as inserted by Section 273 of the Pensions Act 2004 as amended)
- The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008
- Home Office Fire Service Circular 2/1997 “Firemen’s Pension Scheme Internal Dispute Resolution Procedures”
- Pensions Regulator Code of Practice No. 11 “Dispute resolution – reasonable periods”
- Pensions Regulator Code of Practice No. 14 “Governance and administration of public service pension schemes” [Draft]

They are the arrangements for the resolution of pension disputes, which are not “exempted disputes”, in respect of –

- The Firemen’s Pension Scheme Order 1992
- The Firefighters’ Pension Scheme (England) Order 2006
- The Firefighters’ Compensation Scheme (England) Order 2006
- The Firefighters Pension Scheme 2015

as administered by the Staffordshire Commissioner Fire and Rescue Authority.

There are two stages to the Procedures –

**Stage One:** The first stage consideration of a person’s dispute, and a decision in respect of that dispute, would be made by the Chief Fire Officer of the Staffordshire Commissioner Fire and Rescue Authority or a person nominated and authorised to act for the Chief Fire Officer in this matter.

**Stage Two:** If the appellant remains dissatisfied with the decision made at Stage One, he/she may refer the matter for confirmation or replacement of that decision by the Scheme Manager of the Staffordshire Commissioner Fire and Rescue Authority.

## **Meanings of certain expressions**

### **Meaning of “persons with an interest in the scheme”**

#### **Firefighters’ Pension Schemes**

In respect of the Pension Schemes, a person with an interest in the Scheme and who may use the IDRPs would be –

- (a) a member – this includes those paying into the Scheme (“active members”), those who have left with entitlement to immediate payment of benefits (“pensioner members”), or who have benefits preserved in the Scheme for future payment (“deferred members”), those who have entitlement to pension rights as the former spouse or civil partner of a Scheme member, under the terms of a pension sharing order made on divorce, dissolution of a civil partnership, or annulment (“pension credit members”), and those who have left the Scheme with a period of membership of insufficient length to qualify for benefits other than a refund of contributions;
- (b) a widow, widower, surviving civil partner, surviving nominated cohabiting partner or other surviving dependant of a deceased member;
- (c) a surviving non-dependant beneficiary of a deceased member;
- (d) a prospective member, i.e. a person who, although not currently a member, could join at their request or would be automatically admitted until and unless they opt out, or who may be admitted subject to the consent of the Fire and Rescue Authority;
- (e) a person who has ceased to be within any of the above categories (a) to (d); or
- (f) a person who claims to be within any of the above categories (a) to (e) and the dispute relates to whether he/she is such a person.

#### **Firefighters’ Compensation Scheme 2006**

In respect of the Compensation Scheme, a person with an interest in the Scheme and who may use the Internal Dispute Resolution Procedures would be –

- (a) an employee;
- (b) a widow, widower, surviving civil partner, or other surviving dependant of a deceased employee;
- (c) a surviving non-dependant beneficiary of a deceased employee;
- (d) a person prospectively covered by the Compensation Scheme;
- (e) a person who has ceased to be within any of the above categories (a) to (d); or
- (f) a person who claims to be within any of the above categories (a) to (e) and the dispute relates to whether he/she is such a person.

## **Meaning of “pension dispute”**

A “pension dispute” in these arrangements is a dispute between the Staffordshire Commissioner Fire and Rescue Authority and one or more persons with an interest in the Scheme, about matters relating to the Scheme, and which is not an “exempted dispute”.

## **Meaning of “exempted dispute”**

A dispute is an “exempted dispute” if –

- (a) proceedings in respect of it have been commenced in any court or tribunal;
- (b) the Pensions Ombudsman has commenced an investigation in respect of it as a result of a complaint made or a dispute referred to him; or
- (c) a notice of appeal has been issued by the complainant in accordance with –
  - (i) Rule H2 of Schedule 2 to the Firemen’s Pension Scheme Order 1992 (appeal against opinion on a medical issue);
  - (ii) Rule 4 of Part 8 of Schedule 1 to the Firefighters’ Pension Scheme (England) Order 2006 (appeals against decisions based on medical advice); or
  - (iii) Rule 2 of Part 6 of Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006 (appeal to medical referee).

(The appeals listed in (c) above relate to the content of a medical opinion obtained by the Fire and Rescue Authority for the purposes of making a determination; an appeal against a medically related issue other than the content of a medical opinion may not be an exempted dispute.)

## **Provision of information about Internal Dispute Resolution Procedures**

The process, and timescales, for the Internal Dispute Resolution Procedures (“IDRP”) will be publicised to all those who have an interest in the Schemes. Notes explaining the process and timescales, together with an application form for the person to complete with all the necessary information about the dispute, will be made available for downloading from the Pension Administrator or Service Website or provided in hard copy.

Information about IDRP will be given in the pension information provided to members and prospective members upon joining or being automatically enrolled/re-enrolled into the Pension Schemes. It will also be supplied whenever the Fire and Rescue Authority determine an award. The role of The Pensions Advisory Service (“TPAS”) and the Pensions Ombudsman in resolving disputes will also be mentioned, and the postal/electronic address and job title of the person(s) who may initially be contacted about IDRP will be provided.

# Internal Dispute Resolution Procedures Process

## 1. Application for the resolution of a pension dispute: Stage One

A person's application for the resolution of a pension dispute relating to the determination of an award under –

- Rule H1 of the Firemen's Pension Scheme Order 1992 ("FPS 1992")
- Part 8 Rule 2 of the Firefighters' Pension Scheme (England) Order 2006 ("FPS 2006")
- Part 6 Rule 1 of the Firefighters' Compensation Scheme (England) Order 2006 ("FCS")

must be made, using the Stage One application form, within 28 days of the person having received the Fire and Rescue Authority's determination under the above Rules.

If –

- a Scheme member (FPS 1992 and/or FPS 2006 ) or employee (FCS);
- a widow, widower, surviving civil partner or surviving dependant of a deceased Scheme member (FPS 1992 and/or FPS 2006) or employee (FCS);
- a surviving non-dependant beneficiary of a deceased Scheme member (FPS 1992 and/or FPS 2006) or employee (FCS); or
- a prospective Scheme member (FPS1992 and/or FPS 2006) or employee (FCS)

wishes to apply for the resolution of any other dispute relating to the Schemes, the person's application for the resolution of the dispute must be made using the Stage One application form within 28 days of the act or omission which gives rise to the grievance.

For a person –

- who has ceased to be within the above categories; or
- claims that they were within the above categories, have ceased to be such a person, and the dispute relates to whether they are such a person

the Stage One application form should be received by the Fire and Rescue Authority within 6 months of the date on which the person ceased to be, or claims they ceased to be, a person with an interest in the Schemes.

The Staffordshire Commissioner Fire and Rescue Authority will not normally agree to accept an application for a dispute which is received outside the above specified periods unless it can be demonstrated to the satisfaction of the Staffordshire Commissioner that the person's delay in making the application is caused by an error or oversight on the part of the Authority.

An application for the resolution of a pension dispute may be made, or continued, on behalf of a person –

- (a) where the person dies, by his/her personal representative;
- (b) where the person is a minor or is otherwise incapable of acting for himself/herself, by a member of his/her family or some other person suitable to represent him/her; and
- (c) in any other case, by a representative nominated by him/her.

In the case of (a) or (b) the Fire and Rescue Authority will require proof of the representative's authority to act; in the case of (c) the Authority will require the person's written nomination of the representative.

The Stage One application form requires –

- (i) details about the person whose employment potentially gives access to membership of, or entitlement under, the Schemes – name, address, date of birth, National Insurance number, rank/role and brigade number;
- (ii) details about the applicant if not the person in (i) above, e.g. a dependant – name, address, date of birth; and
- (iii) full details about the nature of the dispute.

## **2. Acknowledgement of receipt of Stage One application form**

The Stage One decision maker will send to a letter to the applicant (and the person representing them, if relevant) acknowledging receipt of the Stage One application form. The letter will give the date on which the Stage One form was received.

The Stage One decision maker will check that –

- the dispute is of a type that may be considered under IDRPs (e.g. it is not an appeal against the content of a medical opinion and has not been made after proceedings in respect of the dispute have been commenced in any court or tribunal)
- the person in respect of whom the dispute application has been made is a person with an interest in the relevant Scheme (unless this is the basis of the dispute)
- if the person in respect of whom the dispute application has been made is being represented, suitable authorisation has been given/checked
- the nature of the dispute for consideration is clear
- the application form was submitted within the appropriate time limits

and if the application fails or needs additional input from the applicant on any of these points, this will be mentioned in the acknowledgement letter.

Subject to the application meeting the above requirements, the letter will set out the Stage One decision maker's understanding of the issue(s) he/she is being asked to consider, with an invitation to the applicant or representative to correct this if it is not accurate.

The letter will explain the process by which any decisions required are to be reached.

The letter will tell the applicant that it is the Stage One decision maker's intent to issue a decision on the matters raised in the application as soon as possible and within two months of the date the application was received; that if it proves not to be possible to issue a decision within this time-scale the person (and representative if relevant) will be sent an interim reply giving the reasons for the delay and an expected date for the issue of the decision.

The letter will mention that The Pensions Advisory Service ("TPAS") is available to assist members and beneficiaries of the Schemes, together with contact details.

### **3. Stage One decision is made and notified to applicant**

The Stage One decision maker, having considered the case and arrived at a decision will send a letter to the applicant (and applicant's representative if relevant) setting out the decision and the process by which that decision was reached. The notification will be made within 15 working days after the decision has been made. The statement of decision will mention any legislation relied on for the decision including, if a discretion has been exercised under a Scheme, a reference to the provisions of the Scheme under which that discretion is conferred.

The letter will inform the applicant that if not content with the decision, they have a right to apply for a reconsideration of the disagreement – by the Fire and Rescue Authority's Appeals Committee – at Stage Two of the Authority's Internal Dispute Resolution Procedures.

A Stage Two application form will be made available for this purpose.

The person will be told that an application for a Stage Two determination must be made within 28 working days of receiving the Stage One determination.

The applicant will also be told that The Pensions Advisory Service ("TPAS") is available to assist members and beneficiaries of the Schemes in connection with any difficulty relating to the Scheme which remains unresolved; they will be given TPAS contact details. They will also be told that the Pensions Ombudsman is available to investigate and determine complaints or disputes of fact or law in relation to a public service scheme; they will be given the Ombudsman's contact details.

### **4. Application for the resolution of a pension dispute: Stage Two**

A person's Stage Two application for reconsideration of the resolution of a pension dispute must be given on the Stage Two application form and received by the Fire and Rescue Authority within 28 days of the person having received the Stage One determination. A copy of the Stage One determination which is the subject of the dispute should be attached.

The Fire and Rescue Authority will not normally agree to accept an application for the resolution of a dispute which is received outside the above specified period unless it can be demonstrated to the satisfaction of the Authority that the person's delay in making the application is caused by an error or oversight on the part of the Authority.

As at Stage One, a pension dispute may be made, or continued, on behalf of a person –

- (a) where the person dies, by his/her personal representative;
- (b) where the person is a minor or is otherwise incapable of acting for himself/herself, by a member of his/her family or some other person suitable to represent him/her; and
- (c) in any other case, by a representative nominated by him/her.

If not provided at Stage One, in the case of (a) or (b) the Fire and Rescue Authority will require proof of the representative's authority to act; in the case of (c) the Authority will require the person's written nomination of the representative.

The Stage Two application form requires –

- (i) details about the person whose employment potentially gives access to membership of, or entitlement under, the Schemes – name, address, date of birth, National Insurance number, rank/role and brigade number;
- (ii) details about the applicant if not the person in (i) above, e.g. a dependant – name, address, date of birth; and
- (iii) full details about the nature of the dispute, i.e. the reason for dissatisfaction with the decision made at Stage One of the process.

## **5. Acknowledgement of receipt of Stage Two application form**

The Stage Two decision maker will send a letter to the applicant (and the person representing them, if relevant) acknowledging receipt of the Stage Two application form. The letter will give the date on which the Stage Two form was received.

The Stage Two decision maker will check that –

- the dispute is still of a type that may be considered under IDRPs (e.g. it is not an appeal against the content of a medical opinion and has not been made after proceedings in respect of the dispute have been commenced in any court or tribunal)
- the person in respect of whom the dispute application has been made is still a person with an interest in the relevant Scheme (unless this is the basis of the dispute)
- if the person in respect of whom the dispute application has been made is being represented, that suitable authorisation is still in order
- the nature of the dispute for consideration is clear, and the issues arising from the Stage One decision are expressed clearly
- the application form was submitted within the appropriate time limits

and if the application fails or needs additional input from the applicant on any of these points, this will be mentioned in the acknowledgement letter.

Subject to the application meeting the above requirements, the letter will set out the Stage Two decision maker's understanding of the issue(s) he/she is being asked to consider, with an invitation to the applicant or representative to correct this if it is not accurate.

The letter will explain the process by which any decisions required are to be reached.

The letter will tell the applicant that it is the Stage Two decision maker's intent to issue a decision on the matters raised in the application as soon as possible and within two months of the date the application was received; that if it proves not to be possible to issue a decision within this time-scale the person (and representative if relevant) will be sent an interim reply giving the reasons for the delay and an expected date for the issue of the decision.

The letter will mention that The Pensions Advisory Service ("TPAS") is available to assist members and beneficiaries of the Schemes, together with contact details.

## **6. Stage Two decision is made and notified to applicant**

The Stage Two decision maker, having considered the case and arrived at a decision will send a letter to the applicant (and applicant's representative if relevant) setting out the decision and the process by which that decision was reached. The notification will be made within 15 working days after the decision has been made.

The statement of decision will mention any legislation relied on for the decision, including, if a discretion has been exercised under a Scheme, a reference to the provisions of the Scheme under which that discretion is conferred.

The applicant will also be told that The Pensions Advisory Service ("TPAS") is available to assist members and beneficiaries of the Schemes in connection with any difficulty relating to the Scheme which remains unresolved; they will be given TPAS contact details. They will also be told that the Pensions Ombudsman is available to investigate and determine complaints or disputes of fact or law in relation to a public service scheme; they will be given the Ombudsman's contact details.

If the Scheme in respect of which the decision was made is the FCS, the person will be informed of their right of appeal to Crown Court under Part 6 Rule 3 of the Firefighters' Compensation Scheme (England) Order 2006.

## **7. Record-keeping**

Records will be kept of decisions made and action taken by the Staffordshire Commissioner Fire and Rescue Authority in respect of IDRPs.