

**HR Procedure**

**Fire Service**

**Internal Dispute Resolution (Appeal)**

**(Employer Issues only)**

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| Version Control | Changes | Author |
| V1 January 2019 | Fixed broken links / updated contact details | People Management |
| V2 August 2019 | Updated contact details | People Management |
| V3 May 2021 | Updated wording / Contacts  Changes to stage 2 | People Management |

**Introduction**

This document sets out the key steps to be followed in the case of pension appeals and identifies roles and responsibilities. This procedure refers to Fire Service-related pension schemes only (shown below), for other pension schemes refer to the relevant scheme information for guidance.

* Firefighters’ Pension Scheme (FPS or 1992 scheme)
* Firefighters’ 2006 Pension Scheme (NFPS or 2006 scheme)
* Firefighters’ 2015 Pension Scheme (2015 scheme)
* Firefighters’ Compensation Scheme 2006

Further information on each of the schemes is available at [lppapensions.co.uk](http://email.localpensionspartnership.org.uk/_act/link.php?mId=J923346704582470886043079zzzzz64ce1416c764a5bf72ae669ee64265fc8078970ee34b743cc6de6ccb262e91ff76&tId=358352762)

The Internal Dispute Resolution Procedure (Appeal Process) applies to:

1. active, deferred and pensioner members;
2. a widow, widower, surviving civil partner and surviving cohabitating partner or other surviving dependent of a deceased member;
3. a surviving non-dependent beneficiary of a deceased member;
4. a prospective member i.e. a person who is not currently a member and could join at their request or would be automatically admitted unless they opt out, or who may be admitted subject to the consent of the FRA;
5. a person who has ceased to be within any of the above categories a) to d);
6. a person who claims to be within any of the above categories and the dispute relates to whether they are such a person.
7. as the procedure also applies to disputes relating to the FCS 2006 it is available to employees, prospective employees and former employees who may be entitled to benefits under the 2006 scheme i.e. optants-out of the main FPS schemes, and retained Firefighters employed before 6 April 2006 with protected rights.

An application under the IDRP may be made or continued on behalf of a person who is party to the dispute:

1. Where a person dies, by his / her personal representative;
2. Where a person is a minor or otherwise incapable of acting for themselves , by a member of their family or some other person suitable to represent them; and
3. In any other case by a representative they have nominated.

Scheme members or their representatives should be encouraged to take the opportunity to try to resolve a matter informally in the first instance.

Whilst this is a formal process, the intention of this procedure is to ensure that easily resolved complaints and misunderstandings are dealt with and not unnecessarily referred to the Pension Ombudsman.

Applicants can seek advice from:

Money and Pensions Service (MaPS) <https://moneyandpensionsservice.org.uk/> which includes

The Pensions Advisory Service (TPAS)

120 Holborn

London

EC1N 2TD

Tel: 0800 011 3797

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

IDRP will not apply where:

* A notice of appeal has been issued under:
  + Rule H2 of the Firefighters’ Pension Scheme 1992 (appeal against opinion on a medical issue)**,**
  + Part 8, rule 4 of the New Firefighters’ Pension Scheme (England) 2006 (appeals against decisions based on medical advice),
  + Rule 154 of the Firefighters’ Pension Scheme (England) Regulations 2014 (appeals against determinations based on medical evidence), or
  + Part 6, rule 2 of the Firefighters’ Compensation Scheme (England) 2006 (appeal to medical referee); or
* Proceedings in respect of the dispute have commenced in any court or tribunal; or
* The Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred.

**Stage One** – Application

The applicant must submit an application in writing setting out the reasons why they feel aggrieved and the details of their complaint to [lppapensions.co.uk](http://email.localpensionspartnership.org.uk/_act/link.php?mId=J923346704582470886043079zzzzz64ce1416c764a5bf72ae669ee64265fc8078970ee34b743cc6de6ccb262e91ff76&tId=358352762)

An application form is attached as Appendix 1, detailing the information required for an application.

The application must be made within 28 days of the matter giving rise to the dispute or such longer period as the Council considers reasonable in the circumstances, at their discretion. However, the timescale cannot exceed 6 months.

LPPA will forward the application to the Senior HR Advisor – Pensions, People Management. The appeal will then be directed to either the Stage One Adjudicator or the Complaints section of the Council as appropriate.

This procedure relates to those matters to be considered by the Adjudicator.

**Stage One - Making the Decision**

The Stage One adjudicator, who is the Chief Fire Officer will:

* Check that the applicant has submitted their appeal within 28 days of the relevant date (unless they consider a longer period justified);
* Acknowledge receipt of the Stage One application and inform the applicant that the Money and Pensions Service (MaPS) <https://moneyandpensionsservice.org.uk/> is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme and give them the contact details;
* Either state that he/she intends to make the decision on the matters raised within 2 months from the date the application was received, or - in the event that he/she cannot give a decision within 2 months - he/she will send an interim reply setting out the reasons for the delay and the expected date of the decision.
* Undertake a formal review of the initial decision considering the documentary evidence and written representations submitted by the parties to the complaint together with any other evidence considered necessary, requested from expert advisers.

**Stage One - Notifying the employee of the Decision**

The Chief Fire Officer will provide the applicant with written notification of the decision within two months of receipt of the relevant particulars. However, if it is not possible to issue a decision within the two months a letter should be sent as soon as possible explaining the reason for the delay and giving an expected date for the decision. The written decision should include:

* the decision;
* reference to any legislation or Scheme provisions that it relies on;
* where relevant, a reference to the Scheme provisions conferring the discretion whose exercise has caused the disagreement;
* a reference to the applicants right to have the disagreement reconsidered at Stage 2, and the time limits for doing this;
* a statement that the Money and Pensions Service (MaPS) which includes the Pension Advisory Service (TPAS) is available to assist the applicant with any difficulty with the Scheme which remains unresolved and the TPAS address;
* a statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law.

Where a decision affects pension benefits, the Senior HR Advisor – Pensions, will inform LPPA and ask them to process the decision / outcome as set out below.

Unless the applicant refers this decision for determination under the second stage this decision is final and binding on the Council.

**Stage Two - Application**

If the complainant is not satisfied with the decision at stage one, they can refer the matter to the Council for reconsideration. This should be sent to Senior HR Advisor – Pensions, People Management.

The application should include:

* the information provided at stage one;
* a statement of the reasons why the applicant is dissatisfied with the decision;
* a statement confirming, they wish the disagreement to be reconsidered; and
* any other supporting information considered relevant.

This must be made within 6 months of the stage one decision (or the date at which there is a failure to make a decision) and must be signed by the applicant.

**Stage Two - Making the Decision**

The persons appointed by the Council to consider stage 2 appeals, and who will not have been previously involved, are:

* The s151 Officer or nominated Deputy
* The Monitoring Officer or nominated Deputy
* Deputy / Assistant Chief Fire Officer or other nominated Senior Fire Officer

The Panel will:

* Arrange for the acknowledgement of receipt of the Stage Two application;
* state that the panel intends to make the decision on the matters raised within 2 months from the date the application was received, or – in the event that the panel cannot give a decision within 2 months, send an interim reply, setting out the reasons for the delay.
* Reconsider the decision taking full account of the facts of the case and any written evidence submitted, or relied on, by either party in the determination at stage one;
* Check that the regulations were applied correctly; and
* Check that sound, impartial procedures were used to reach the decision including the reasonable and consistent exercise of any discretion.

**Stage Two - Notifying the Applicant of the Decision**

The Chair of the Panel will provide the applicant with written notification of the decision within two months of receipt of the relevant particulars and include all the details set out in the stage one outcome letter.

If it is not possible to issue a decision within the two months, a letter will be sent as soon as possible explaining the reason for the delay and giving an expected date for the decision.

Written notification of the decision must include a statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of the fact of law in relation to the scheme and give the Pension Ombudsman’s contact details.

Where a decision affects pension benefits, the Senior HR Advisor – Pensions, will inform LPPA and ask them to process the decision / outcome as set out below.

**Processing the Decision**

The Senior HR Advisor – Pensions will administer the internal appeal processes and will:

1. Notify LPPA of the outcome of either stage one or two;
2. Complete or liaise with the Service Centre to ensure the appropriate forms are submitted to LPPA to implement any changes to the pension member’s benefits or their representative’s benefits where applicable;
3. Monitor appeals, outcomes / decisions to support consistency.

This is the end of the internal procedures.

**External Appeal process**

Any further appeal should be made to the Pension Ombudsman normally within three years from the date of the original decision i.e. the event being complained about. The pension Ombudsman has jurisdiction to consider disputes of fact or law and complaints of maladministration.

By post to:

The Pensions Ombudsman

10 South Colonnade

Canary Wharf

London

E14 4PU

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

**LPPA responsibilities**

Where the decision is made which affects pension benefits, LPPA will write to the applicant and where appropriate give them their payments options and / or process the pension changes.

**Review**

This guidance will be reviewed periodically in the light of developments in the law, pension’s regulations, and changes in the needs of the organisation to ensure continuing effectiveness and relevance.

**Appendices**

Appendix 1 – Internal Appeal Application form

Appendix 2 – Process Map

Appendix 1 - Internal Appeal Application Form

|  |  |
| --- | --- |
| **Firefighters’ Pension Scheme(s): Internal Disputes Resolution Procedure (IDRP)**  **Stage One Application** |  |

*This application may be submitted by a person (or nominated representative) who is active, deferred and pensioner members; a widow, widower, surviving civil partner and surviving cohabitating partner or other surviving dependent of a deceased member; a surviving non-dependent beneficiary of a deceased member; a prospective member i.e. a person who is not currently a member and could join at their request or would be automatically admitted unless they opt out, or who may be admitted subject to the consent of the FRA; a person who has ceased to be within any of the above categories; a person who claims to be within any of the above categories and the dispute relates to whether they are such a person. As the procedure also applies to disputes relating to the FCS 2006 it is available to employees, prospective employees and former employees who may be entitled to benefits under the 2006 scheme i.e. optants-out of the main FPS schemes, and retained Firefighters employed before 6 April 2006 with protected rights.*

**To the Chief Fire Officer**

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:

* A notice of appeal has been issued under Rule H2 of the Firefighters’ Pension Scheme 1992**,** Part 8, rule 4 of the New Firefighters’ Pension Scheme 2006, Rule 154 of the Firefighters’ Pension Scheme 2014, or Part 6, rule 2 of the Firefighters’ Compensation Scheme 2006 (appeal to a board of medical referees against a decision on an issue of a medical nature), or
* Proceedings in respect of this dispute have begun in any court or tribunal, or
* The Pensions Ombudsman has commenced an investigation into a complaint, or a dispute referred to him.

3. The nature of the disagreement is set out in the attached page(s).

**Complete in all cases (in Block capitals)**

|  |  |
| --- | --- |
| **Full Name of Scheme Member** |  |
| **Role and employment reference** |  |
| **Address of Scheme Member** |  |
| **Member’s Date of Birth** |  |
| **Member’s National Insurance Number** |  |

**Complete if complainant is not a Scheme member (in Block Capitals)**

|  |  |
| --- | --- |
| **Full Name of Complainant** |  |
| **Address for Correspondence** |  |
| **Relationship of complainant to Scheme Member (if relevant)** |  |

**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 …………..**

