



## **Surrey Local Pension Board**

### **26 October 2017**

## **Internal Dispute Resolution Procedure**

### **Recommendations:**

The Board is asked to **note** the content of this report and make recommendations if any further action is required.

### **Background**

1. In circumstances where an individual has a complaint or an issue relating to his or her occupational or trust based pension scheme, an original or first instance decision will usually be made by a specified person as set out in the Scheme employer's dispute resolution arrangements.
2. All occupational pension schemes are required to have arrangements for 'Internal Dispute Resolution Procedures' (IDRP). The requirements are set out in Sections 50, 50A and 50B of the Pensions Act 1995, as amended, and in the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous) Regulations 2008 (the 2008 Regulations).
3. Internal Dispute Resolution Procedures are arrangements for the resolution of pension disputes. Such a dispute is one which is between (i) the trustees or managers of a pension scheme and (ii) one or more persons with an interest in the scheme and is about matters relating to the scheme that is not an 'exempted dispute'.
4. The IDRP must provide a process enabling any of the parties to the dispute to apply for a decision on the matters in dispute and for the scheme trustees or managers to take that decision.
5. The trustees or managers must take the decision within a reasonable period of time and equally must notify the applicant within a reasonable period of time.

6. Exempted disputes are ones which are or have been the subject of court or tribunal proceedings or a Pensions Ombudsman investigation; or if it is of a prescribed description.
7. The 2008 Regulations prescribe as 'exempted disputes' those for which a notice of appeal has been issued by the complainant in accordance with rule H2 of Schedule 2 to the Firefighters Pension Scheme Order 1992 (appeal against opinion on a medical issue); rule 4 of Part 8 of the Firefighters Pension Scheme 2006 (appeal against decision based on medical advice); or rule 2 of Part 6 of Schedule 1 to the Firefighters Compensation Scheme (England) Order 2006 (appeal to medical referee).
8. The IDRPs are available to the following:
  - a member (active, deferred or pensioner) of the FPS, NFPS or FPS 2015;
  - a widow, widower or surviving dependant of a deceased member of the FPS, NFPS or FPS 2015;
  - a surviving non-dependant beneficiary of a deceased member of the FPS, NFPS or FPS 2015
  - a prospective member of the scheme;
  - persons who are no longer within any of the categories of persons referred to in paragraphs (a) to (d);
  - persons who claim to be such a person as is mentioned in paragraphs (a) to (e) and the dispute relates to whether he/she is such a person; or
  - someone entitled to benefits under the Firefighters Compensation Scheme (FCS).
9. An application under the IDRPs may be made or continued on behalf of a person who is a party to the dispute:
  - where the person dies, by his/her personal representative;
  - where the person is a minor or is otherwise incapable of acting for him/herself, by a member of his/her family or some other person suitable to represent him/her; and
  - in any other case, by a representative nominated by him/her.
10. The IDRPs provide recourse for a person who has a complaint relating to their pension, other than matters covered by the medical appeal arrangements in the FPS, NFPS, FPS 2015 and FCS. The amended arrangements, as referred to in Fire Pension Scheme Circular 1/2009 (shown as Annex 1), allow for a single stage, although pension schemes have a discretion to make provision for two stages.
11. The Surrey Fire and Rescue Authority (the Authority) has decided that two-stage arrangements should operate on the following basis :
 

Stage 1: The Chief Fire Officer, or a senior manager specified by him/her, who will give a decision in the matters.

Stage 2: The decision should be confirmed or replaced by the decision of elected members of the fire and rescue authority. The authority may provide for decisions to be taken by or on their behalf by one or more of their number.

### **Stage One IDRPs**

12. Process:

- The application for consideration of the dispute is required to be made in writing, giving details of the complaint.
  - When an application is received, the Head of Human Resource Management or his/her representative acknowledges the application and informs the applicant of the date on which it will be considered.
  - The applicant is further advised that, whilst the issues raised within his or her application have been noted, he or she is invited to provide any further evidence or documentation that they may wish to be considered.
  - The process is entirely by written submission and does not involve personal appearance by the parties.
13. Circular 1/2009 recommends that a decision on the application is notified to the complainant, or the person acting for him or her, within two months of receipt of the application, or a further letter must be sent explaining the reason for the delay and the expected date of the decision. The Authority seeks to keep to this timescale.
14. The Pensions Regulator expectation is that a decision will be made on a dispute within four months of receiving the application and that applicants should be notified of the decision usually no later than 15 working days after the decision has been made.

## **Stage Two IDR**

15. Process
- The applicant will be informed in the decision letter that if he or she wishes to appeal under Stage Two of the IDR, he or she can do this by submitting an appeal in writing together with any additional evidence.
  - The application is stated to be required to be submitted not later than six months after the date on of the Stage One decision letter.
  - When a Stage Two application is received, it is acknowledged by the Authority who informs the applicant of the date on which it will be considered.
  - The applicant is further advised that, whilst the issues raised within his or her application have been noted, he or she is invited to provide any further evidence or documentation that they may wish to be considered.
  - As with Stage One, the process is entirely by written submission and does not involve personal appearance by the parties.
16. Circular 1/2009 recommends that a decision on the application is notified to the complainant, or the person acting for him or her, within two months of receipt of the application or a further letter must be sent explaining the reasons for the delay and the expected date of the decision.
17. A further recommendation of Circular 1/2009 is that the notice of the decision must include a statement that 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 the schemes, made or referred in accordance with that Act; and contact details. The Authority currently provides this information.
18. Whilst there was previously a statutory requirement for a two stage IDR process, there has never been a statutory requirement for elected member involvement in the second stage. DCLG Circular 1/2009 sets out a two stage arrangement on the basis of the second stage determination being made by elected members. However, this is a 'proposal' rather than statutory guidance.

## **Next steps**

19. Officers will take action on the basis of any Board recommendations and ensure IDRPs are transparent and easily accessible to the FFPS membership.

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**Sources/background papers:**

**Annexes:**

1. Department for Communities and Local Government Circular 1/2009