



The Firefighters' Pension Scheme 1992/2006/Modified/2015

The Firefighters' Compensation Scheme

The Pensions Act 1995

**The Occupational Pension Schemes (Internal Dispute Resolution
Procedures Consequential and Miscellaneous Amendments)
Regulations 2008**

INTERNAL DISPUTE RESOLUTION PROCEDURES

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

March 2018

These guidance notes reflect IDRPs for firefighters and their dependants covered by the rules of the Firefighter's Pension Scheme 1992, Firefighter's Pension Scheme 2006, Modified Firefighter's Pension Scheme 2006, Firefighter's Pension Scheme 2015 and the Firefighters' Compensation Scheme (England) Order 2006. Nothing in the notes contains or can override the legislation.

March 2018

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 Schemes 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 the rules of the Firefighters' Pension Schemes.

Whatever your pension problem, it would be helpful if, initially, you could raise it with the Service's Pensions Manager in the first instance. 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 Service's Pensions Manager will be able to explain them to you and can be contacted as follows:-

James Durrant, Pensions Manager, Essex Fire Authority, Kelvedon Park, London Road, Witham
Essex CM8 3HB

Direct Dial: 01376 576143 E-mail: james.durrant@essex-fire.gov.uk

Who can make a complaint under IDR?

The following persons can use IDR –

- (a) active, deferred and pensioner members of a Firefighters' Pension Scheme,
- (b) widows, widowers, civil partners or surviving dependants of deceased members of a Firefighters' Pension Scheme,
- (c) pension credit members, i.e. former spouses or civil partners of firefighters, with pension rights under a Firefighters' Pension Scheme granted by a pension sharing order made on divorce, dissolution of a civil partnership, or annulment,
- (d) prospective members of a 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 IDR, 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. IDR 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 IDR 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 one of the Firefighters' Pension Schemes, 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 IDR if they have a grievance relating to an injury award; their dependants, too, could use IDR 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. IDRPs will not apply where –

- a notice of appeal to the board of medical referees has been issued by the complainant under the rules of a Firefighter's Pension Scheme or 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 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 the Police, Fire and Crime Commissioner or a person specified by him/her who works for the Office of the Police, Fire and Crime Commissioner.

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 IDRPs rules. To help you with this a form has been designed. You can obtain a copy from the pension pages on the Service Intranet, or from the Service's pensions website (www.fire.essexpensionfund.co.uk) or from the Service's Pensions Manager. 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 the form 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 IDRPs 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 IDRPs process.

At Stage Two, the decision of the Chief Fire Officer or his/her nominated decision maker would be reconsidered by the Police, Fire and Crime Commissioner or a person specified by him/her who works for the Office of the Police, Fire and Crime Commissioner.

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 IDRPs Regulations. Again, as for Stage One, a form has been prepared for this purpose and is available from the pension pages on the Service Intranet, or from the Service's pensions website (www.fire.essexpensionfund.co.uk) or from the Service's Pensions Manager.

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 Police, Fire and Crime Commissioner or a person specified by him/her who works for the Office of the Police, Fire and Crime Commissioner.

3. the Police, Fire and Crime Commissioner or a person specified by him/her who works for the Office of the Police, Fire and Crime Commissioner 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 IDRPs 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 IDRPs have been completed, the Pensions Advisory Service may be prepared to help before the IDRPs 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: 0300 123 1047

Web: www.thepensionsadvisoryservice.org.uk

The Pensions Ombudsman can be contacted at:

11, Belgrave Road, London SW1V 1RB Tel: 020 7630 2200

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 IDRPs process would depend upon the nature of your grievance. For example, although IDRPs 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 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 IDRPs 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).