

# **Firefighters' Pension and Compensation Schemes: Internal Dispute Resolution Procedures (IDRP) Guidance notes for decision makers**

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## Introduction

The IDRP allows any eligible person, who has a complaint relating to the pension that is not covered by the medical appeal arrangements, to have their appeal heard by the relevant scheme manager/ authority.

This guidance has been produced to explain the procedures and actions Fire Authorities are required to take when an Internal Dispute Resolution is made by a member. This document will provide an overview on what the member needs to do to raise a dispute, what actions are required by the FRA, who is responsible for the IDRP at Stage One and Stage Two and the time frames an FRA must act within. This guidance also provides checklists for FRA to use to insure they have done everything that is required, regulation information and appeal information which can all be found in the Annex's.

## Who are the first steps for the scheme manager to do?

It is the responsibility of the scheme manager to:

- Agree on any details of their dispute resolution process that are not set out in law
- Provide contact details for the matters relating to disputes
- Regularly assess the effectiveness of the dispute procedure
- Be satisfied that those following the process are complying with the requirements set, which includes effective decision making.
- Consider the circumstances under which advice may be required to reach a decision on a dispute

## What should be made available to applicants by the scheme manager before a complaint is raised?

The scheme manager must ensure that the following information is made available before a complaint is raised:

- The process to apply for a dispute to be resolved
- The information that an applicant must include in the complaint
- The process by which any decisions are reached

## Who is entitled to make a complaint under IDRP?

In respect of the Firefighters' Pension Schemes, a person with an interest in the scheme and who may use the IDRP would be:

- (a) a member – active, deferred or pensioner;
- (b) a widow, widower, surviving civil partner, surviving 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 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;
- (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 they are such a person.

As the procedures also apply to disputes relating to the [FCS 2006](#), they are available to employees, prospective employees, and former employees, who may be entitled to benefits under that scheme, i.e. optants-out of the main FPS schemes, and retained firefighters employed before 6 April 2006 with protected rights.

## Exceptions on when IDRPs cannot be used

The IDRPs process cannot be used in the following circumstances:

- (a) proceedings in respect of the dispute have been commenced in any court or tribunal;
- (b) the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him; or
- (c) a notice of appeal has been issued by the complainant in accordance with:
  - (iii) [Regulation 154](#) of the Firefighters' Pension Scheme (England) Regulations 2014 (appeals against determinations based on medical evidence)<sup>1</sup>, as amended [by SI 2017/888](#), or
  - (iv) [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 a determination made by the FRA in relation to an ill-health or injury award. The FPS and FCS contain special provisions for medical opinions to be considered by the Board of Medical Referees (BMR).

However, the person may still be eligible to make an appeal on a medically-related issue other than the outcome of a medical opinion. For example, if a firefighter believes they are entitled to an ill-health award but the FRA make a determination of an ordinary award, without seeking a medical opinion.

It is important that a firefighter knows the appropriate route to use if they have a grievance about a benefit-related issue.

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<sup>1</sup> Although not (currently) included in the list of exempted disputes within The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations, these Guidance Notes assume that an appeal against a determination based on medical evidence under Regulation 154 of the FPS Regulations 2014 should also be treated as an exempted dispute.

## Representation

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

- (a) where the person dies, by their personal representative,
- (b) where the person is a minor or is otherwise incapable of acting for themselves, by a member of their family or some other person suitable to represent them, and
- (c) in any other case, by a representative they have nominated.

The IDRP forms for each stage ([stage 1](#) and [stage 2](#)) of the process contain a section for authorisation of a representative if relevant.

If representatives have been appointed –

- because the person making the application has died, or
- in the case of a minor or some other person incapable of acting for themselves

correspondence from the stage one and stage two decision makers should be addressed to the representative.

In other cases where the appellant has appointed a representative, correspondence should be addressed to the representative and a copy sent, with a covering letter, to the appellant.

## Issues other than awards

It may not necessarily be an award that is the subject of a disagreement. It could, for example, relate to the payment of contributions during a period of unpaid leave or how a case has been handled upon the death of a firefighter.

A grievance relating to any matter, not just awards, should be considered under the FRA's IDRP arrangements.

The one exception to this is the right of appeal mentioned in Rule F1(4) of FPS 1992 which allows a person who is dissatisfied with a certificate of pensionable service to appeal to the Secretary of State who would either confirm or vary the certificate. But even here, there may be issues which can be considered under IDRP.

## Actions required for a Stage One application

Before any action is taken, you must check to make sure that the complaint has reached the appropriate person (the person who will review the appeal and make a decision) to deal with it.

The following steps are required for a Stage One application (please see [Annex A](#) for the Stage One checklist):

## Who is the appropriate person?

The appeal should be considered by the Chief Officer, or a delegated senior manager (“appropriate person”), who will make a stage one decision. An appropriate person would be the [scheme manager](#) under rule of the 2014 regulations<sup>2</sup>.

DCLG recommendations based on those of the Joint Pension Committee Working Party were that the application should be considered by the FRA’s Chief Fire Officer. In larger authorities the Chief Fire Officer may wish to nominate an authorised representative.

## Acknowledge receipt of the application

The appropriate person, who is dealing with the complaint, should send an acknowledgement letter to the applicant to confirm receipt of the application using [IDRP Stage One: Letter 1](#). If the applicant is being represented, a copy should be sent to the representative and the applicant if appropriate.

If further information is required or the application does not meet the criteria for an IDRP (see [exemptions](#)), this should be mentioned in ‘Letter 1’

To ensure that the appellant and decision maker agree as to the nature of the dispute, ‘Letter 1’ should set out the decision maker’s understanding of the appellant’s ground for appeal.

## Making the decision

If the application is in respect of a mandatory provision of the Firefighters’ Pension and Compensation Schemes, you can overturn the previous decision if you believe this to be appropriate.

If it is in respect of a discretionary provision the role of the appropriate person is to ensure that the discretion has been exercised reasonably and in a proper manner. If it has not, you can determine that the matter should be reconsidered by the person that made the original decision, but you cannot alter the decision.

You can consider an application which is principally a claim of maladministration and may decide that it would be appropriate to award redress.

If two months are likely to elapse before a decision is made, [IDRP Stage One: ‘Letter 2’](#) should be sent to tell the applicant that the decision will not be made before the date in ‘Letter 1’ explain why, and give a new date by which the decision will be notified.

## Timescales

The Pensions Regulator (TPR) sets out the guidance of reasonable timeframes on their [website](#), which this should be reviewed regularly to ensure Fire Authorities processes are compliant. The dispute resolution process should:

- decide the matter in dispute within four months of receiving the application
- notify the applicant of the decision no later than 32 days from when it is made
- not delay a decision where it is possible to process an application sooner than four months

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<sup>2</sup> <https://www.legislation.gov.uk/uksi/2014/2848/regulation/5/made>

- allow more than four months to reach a decision if it is appropriate to do so

## Notifying the appellant of the decision

When the investigation has been completed and decision has been made, you must notify the appellant using [IDRP Stage One: 'Letter 3'](#).

The decision should be given on or before the date specified in the acknowledgement or subsequent holding letter and should be within times limits set by the Pensions Regulator (as above) unless there is a good reason for non-compliance.

## What information do you need to provide to the appellant?

When you notify the appellant of the outcome, you are required to provide the following:

- the question for decision and all the evidence you have received
- a statement of the decision
- a reference to any legislation or provisions of the Scheme(s) which you relied upon to make your decision
- in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme(s) which confer the discretion, the standard policy of the Authority in respect of that discretion, and any relevant details of circumstances relating to the individual which have been taken into account
- a reference to the right of the applicant to refer the disagreement for a Stage Two reconsideration and to the time limit for this referral (21 working days beginning with the date the statement of decision under Stage One is received by the appellant)
- a statement that the [Money and Pensions Service](#) (MaPS) is available to give assistance in connection with any difficulty with the scheme, with contact details
- a statement that the [Pensions Ombudsman](#) can make investigations (if a complaint is raised with them), with contact details
- if the appeal relates to a discretionary decision which you cannot overturn but in respect of which you have concerns make this clear to the appellant, informing him/her that you are referring the case back to the original decision maker to reconsider
- if you have determined that [redress](#) for maladministration should be paid, this should be mentioned in the letter, setting out the reasons for compensation and the amount awarded

## Record keeping

Records should be kept of the Stage One determination. The person's pension records should reflect the determination and, if payments are affected, they should be adjusted accordingly.

## Actions required for a Stage Two application

Before any action is taken, you must check to make sure that the complaint has reached the appropriate person to deal with it.

The following steps are required for a Stage Two application (please see [Annex F](#) for the Stage Two checklist):

## Who is the appropriate person?

DCLG recommendations based on those of the Joint Pension Committee Working Party were that the application should be considered by elected members of the FRA through an appropriate panel or committee.

## Acknowledge receipt of the application

Once the relevant checks have been made, receipt of the application should be acknowledged using [IDRP Stage Two: Letter 1](#)

If the applicant is being represented send the letter to the representative but copy it, with a covering letter, to the applicant if appropriate.

If the applicant fails on any of the above, or if further information is needed before the decision making process can commence, this should be mentioned in the letter.

To ensure that the appellant and appropriate person agree as to the nature of the dispute, the letter should set out the appropriate person's understanding of why the appellant is dissatisfied with the Stage One determination.

The applicant must be told in the letter that MaPS can be contacted for assistance. The appropriate reference is built into the model letter.

## Review timescales

If 2 months are likely to elapse before a decision is made, [IDRP Stage Two: Letter 2](#) should be sent to tell the applicant that the decision will not be made before the date mentioned in Letter 1, explain why, and give a new date by which the decision will be notified.

## Making the decision

If the application is in respect of a mandatory provision of the Firefighters' Pension and Compensation Scheme, you can overturn the previous decision if you believe this to be appropriate.

If, however, it is in respect of a discretionary provision, you cannot overturn the original decision.

As in the case of the Stage One, the role of the appropriate person is to ensure that the discretion has been exercised reasonably and in a proper manner. If it has not, you can determine that the matter should be reconsidered by the person that made the original decision, but you cannot alter the decision.

You can consider an application which is principally a claim of maladministration and may decide that it would be appropriate to award redress.

## Notifying the decision

When you have investigated the case and reached your decision, you must notify the appellant using [IDRP Stage Two: Letter 3](#)



The decision should be given on or before the date you specified in the acknowledgement or subsequent holding letter and should be within time limits set by the Pensions Regulator unless there is a good reason for non-compliance.

Under TPR's code, applicants should be notified of the decision usually no later than 21 working days after the decision has been made.

### What information do you need to provide to the appellant?

When you notify the appellant of the outcome, you are required to provide the following:

- the question for decision and all the evidence you have received,
- a statement of the Stage Two decision as regards the original appeal and the Stage One determination,
- a reference to any legislation or provisions of the Scheme(s) which you relied upon to make your decision,
- in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the Scheme(s) which confer the discretion, the standard policy of the Authority in respect of that discretion, and any relevant details of circumstances relating to the individual which have been taken into account,
- a reference to the right of the applicant to refer the disagreement for a Stage Two reconsideration and to the time limit for this referral (28 working days beginning with the date the statement of decision under Stage One is received by the appellant),
- a statement that [Money and Pensions Service](#) is available to give assistance in connection with any difficulty with the Scheme, with contact details, and
- a statement that the [Pensions Ombudsman](#) can make investigations (if a complaint is raised with them), with contact details.
- If the determination has been made in respect of an award under the FCS Order 2006, the applicant should be informed of their right of appeal to Crown Court under [Part 6 Rule 3](#) of the Order.
- If the appeal relates to a discretionary decision which you cannot overturn but in respect of which you have concerns, make this clear to the appellant, informing him/her that you are referring the case back to the original decision maker to reconsider.
- If you have determined that redress for maladministration should be paid, this should be mentioned in the letter, setting out the reasons for compensation and the amount awarded.

### Record keeping

Records should be kept of the Stage Two determination. The person's pension records should reflect the determination and, if payments are affected, they should be adjusted accordingly.

## Annex A - Stage one checklist

Before any action can be taken, the Stage One checklist should be considered.

	Has the complaint reached the appropriate person?
	<p>If you are an appropriate person and receive an IDRP application, first check that you are the appropriate person to deal with it. If you are not, pass the information to the person to whom the responsibility has been delegated. Keep the appellant informed of your actions.</p> <p>If the complaint is clearly a matter that relates to the content of a medical opinion and the correct appeal route should be to a Medical Appeal Board, ensure that the person is made aware of, and understands, the medical appeal route.</p>
	Does the dispute fall with the <a href="#">exemptions</a> category?
	If so, advise the appellant that their appeal cannot be considered under IDRP and signpost the appropriate route for their complaint.
	Is the individual <a href="#">eligible</a> to use the IDRP process, i.e. they have an interest in the scheme?
	If not, respond to the individual to advise that their complaint cannot be progressed.
	Has the application form been completed correctly?
	The relevant form is the <a href="#">Stage One application form</a> . The appellant's personal details should be checked against HR and payroll records.
	Is a <a href="#">representative</a> acting on behalf of the applicant?
	In this case, the FRA will require proof of the representative's authority to act or the person's written nomination of the representative.
	Has the IDRP application been received within the time limits?
	<p>The regulations state that applications should be made within 21 days of receipt of the determination giving rise to the dispute.</p> <p>However, the Pension Regulator's (TPR) <a href="#">single code of practice</a> which comments on the specified reasonable period, gives a period of six months and allows discretion to accept applications made outside of this time period.</p>
	Is the nature of the dispute clear?
	The Stage One application form asks the applicant to set out a full statement of the dispute they wish to be considered. The applicant is also invited to attach/enclose any documents they believe are relevant to their case and to provide a list of attached/enclosed documents.

# Annex B - Example of Stage One Application form

## INTERNAL DISPUTE RESOLUTION PROCEDURE

### STAGE ONE APPLICATION

1 I wish to apply for a decision to be made, under the Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007, 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 H3 (as amended by SI 2013/1392) of The Firefighters' Pension Scheme 1992, Part 8 Rule 5 of the Firefighters' Pension Scheme 2006, Regulation 163 of the Firefighters' Pension Scheme 2015 and Part 6 Rule 3 of the Firefighters' Compensation Pension Scheme
- 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 (using Block capitals)

Full Name of Scheme Member: \_\_\_\_\_

Role and Service No or Pension Reference: \_\_\_\_\_

Address of Scheme Member: \_\_\_\_\_

Member's Date of Birth: \_\_\_\_\_

Member's National Insurance No: \_\_\_\_\_

#### Complete if Complainant is not a Scheme Member (using Block Capitals)

Full Name of Complainant: \_\_\_\_\_

Address for Correspondence: \_\_\_\_\_

\_\_\_\_\_

Relationship of Complainant to Scheme Member (if relevant):

**Signature of Complainant (or representative):**

Date: \_\_\_\_\_

### 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.

[illegible]

**Signature of Complainant (or representative):**

Date: \_\_\_\_\_

# Annex C - Example of Stage One Letter: Letter 1

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME 1992/NEW FIREFIGHTERS' PENSION SCHEME 2006/  
FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015  
(delete as appropriate):  
Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of  
2004 and 2007**

## **Internal Dispute Resolution Procedures: Stage One**

Your application under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007 for a decision in respect of a disagreement was received on *(date)*  
\_\_\_\_\_.

I intend to decide on the matters raised by your application within 2 months from the date the application was received.

If, for any reason, I am unable to issue you with a decision within this timescale you/and your representative *(complete as appropriate)* will be sent:

- an interim reply;
- the reasons for the delay; and
- an expected date for the issue of the decision.

The Pensions Ombudsman (TPO) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with the scheme. TPO can be contacted at:  
10 South Colonnade, Canary Wharf, E14 4PU (telephone: 0800 9174487).

Yours sincerely

# Annex D - Example of Stage One Letter: Letter 2

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME 1992/NEW FIREFIGHTERS' PENSION SCHEME 2006/  
FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015  
(delete as appropriate):  
Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of  
2004 and 2007**

## **Internal Dispute Resolution Procedures: Stage One**

Further to my letter of *(date of issue of IDRP Stage One: Letter 1)* \_\_\_\_\_, I regret I am not yet able to issue you with a decision.

The reasons for the delay are *(reasons)* \_\_\_\_\_.

I expect to be able to issue you with a decision on *(date)* \_\_\_\_\_.

Yours sincerely

# Annex E - Example of Stage One Letter: Letter 3

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME 1992/NEW FIREFIGHTERS' PENSION SCHEME 2006/  
FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015  
(delete as appropriate):**

**Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of  
2004 and 2007**

## **Internal Dispute Resolution Procedures: Stage One**

I have considered your application received on *(date)* \_\_\_\_\_ for a decision to be made under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007 in respect of your disagreement referred to in the application.

My decision is as follows:

*Give a statement of the decision and make reference to any legislation (including the relevant pension or compensation scheme orders) relied upon for the decision and also including, if a discretion has been exercised under the scheme, a reference to the provisions of the scheme under which the discretion is conferred.*

*If you are not content with this decision, you have a right to apply for it to be reconsidered by XX no later than 2 months from the date of this letter. The relevant form is attached to the Internal Dispute Resolution Procedure which is available on XXX*

The Pensions Ombudsman (TPO) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. TPO can be contacted at: 10 South Colonnade, Canary Wharf, E14 4PU (telephone: 0800 9174487).

Yours sincerely

## Annex F - Stage Two checklist

	<b>Has the complaint reached the right person?</b>
	<p>The person responsible for the administration arrangements at Stage Two should ensure that all those involved in the case have received copies of the Stage Two application and the Stage One determination and associated paperwork.</p> <p>This person may also assist with all the following necessary checks before the reconsideration by the Stage Two decision makers.</p>
	<b>Has the application form been completed correctly?</b>
	The relevant form is the <a href="#">Stage Two application form</a> . The details should be checked as at Stage One.
	<b>Is a representative acting on behalf of the applicant?</b>
	An application can be made at Stage Two by a representative even if not involved at Stage One, subject to the applicant's authority and circumstances.
	<b>Has the IDRP application been received within the time limits?</b>
	The guidance in <a href="#">FPSC 1/2009</a> [paragraph 6.1] gave a timeframe of within six months of receiving the Stage One decision and the Scheme Advisory Board consider this to still be an acceptable timeframe.
	<b>Is the nature of the dispute clear?</b>
	The Stage Two application form asks the applicant to set out a full statement of the dispute they wish to be considered. The applicant is also invited to attach/enclose any documents they believe are relevant to their case and to provide a list of attached/enclosed documents.



# Annex G - Example of Stage Two Application form

## INTERNAL DISPUTE RESOLUTION PROCEDURE

### STAGE TWO APPLICATION

1 I am applying for reconsideration of the decision of the IDPR made under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007. I understand that XXX will either uphold the decision or replace it.

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 H3 (as amended by SI 2013/1392) of The Firefighters' Pension Scheme 1992, Part 8 Rule 5 of the Firefighters' Pension Scheme 2006, Regulation 163 of the Firefighters' Pension Scheme 2015 and Part 6 Rule 3 of the Firefighters' Compensation Pension Scheme
- 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 I attach a copy of the notice of the decision referred to in paragraph one and a statement of the reason(s) for dissatisfaction with that decision.

#### Complete in all cases (using Block capitals)

Full Name of Scheme Member: \_\_\_\_\_

Role and Service No or Pension Reference: \_\_\_\_\_

Address of Scheme Member: \_\_\_\_\_

Member's Date of Birth: \_\_\_\_\_

Member's National Insurance No: \_\_\_\_\_

#### Complete if Complainant is not a Scheme Member (using Block Capitals)

Full Name of Complainant: \_\_\_\_\_

Address for Correspondence: \_\_\_\_\_

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Date: \_\_\_\_\_

### Nature of disagreement

[illegible]

Date: \_\_\_\_\_

# Annex H - Example of Stage Two Letter: Letter 1

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME 1992/NEW FIREFIGHTERS' PENSION SCHEME 2006/  
FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015  
(delete as appropriate):  
Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of  
2004 and 2007**

## **Internal Dispute Resolution Procedures: Stage Two**

Your application for a reconsideration of a decision dated \_\_\_\_\_ made under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007 by XXXXX was received on \_\_\_\_\_.

The decision maker will consider the matters raised by your application and will confirm or replace that decision under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007 within 28 days from the date your application was received.

If, for any reason, the panel are unable to issue you with a decision within this timescale you/and your representative (complete as appropriate) will be sent:

- an interim reply;
- the reasons for the delay; and
- an expected date for the issue of the decision.

The Pensions Ombudsman (TPO) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. TPO can be contacted at: 10 South Colonnade, Canary Wharf, E14 4PU (telephone: 0800 9174487).

Yours sincerely

# Annex I - Example of Stage Two Letter: Letter 2

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME 1992/NEW FIREFIGHTERS' PENSION SCHEME 2006/  
FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015  
(delete as appropriate):  
Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of  
2004 and 2007**

## **Internal Dispute Resolution Procedures: Stage Two**

Further to my letter of \_\_\_\_\_, I regret that the FRS Board is not yet in a position to issue you with a decision.

The reasons for the delay are *(reasons)* \_\_\_\_\_ .

XX expect to be able to issue you with a decision on *(date)* \_\_\_\_\_ .

Yours sincerely

# Annex J - Example of Stage Two Letter: Letter 3

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME 1992/NEW FIREFIGHTERS' PENSION SCHEME 2006/  
FIREFIGHTERS' COMPENSATION SCHEME/ FIREFIGHTERS' PENSION SCHEME 2015  
(delete as appropriate):**

**Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of  
2004 and 2007**

## **Internal Dispute Resolution Procedures: Stage Two**

\_\_\_\_\_.  
I have considered your application received on *(date)* \_\_\_\_\_ for a decision to be made under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007 in respect of your disagreement referred to in the application (date).

The decision of the panel, made under the under Sections 50, 50A and 50B of the Pensions Act 1995 as amended by the Pensions Act of 2004 and 2007, is as follows:

*Give a statement of the decision and an explanation as to whether, and if so to what extent, that decision either confirms or replaces the decision made by the decision maker.*

*Refer to any legislation, including FPS or FCS regulations relied upon for the decision and also including, if discretion has been exercised under the Scheme, a reference to the provisions of the Scheme under which the discretion is conferred.*

If you remain dissatisfied:

- The Pensions Ombudsman is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. The Pensions Ombudsman may also investigate and determine any complaint or dispute of fact or law in relation to a scheme made or referred in accordance with that Act. TPO can be contacted at: 10 South Colonnade, Canary Wharf, E14 4PU (telephone: 0800 9174487).

Yours sincerely

# Annex K - Regulation references

The [Pensions Act 1995](#) imposed a new range of controls on all pension schemes to ensure pension scheme members were treated fairly.

Section 50 of the Act required all trustees or managers of pension schemes to set up arrangements for the resolution of disputes. [The Occupational Pension Schemes \(Internal Dispute Resolution Procedures\) Regulations 1996](#), made under the Act, set out the details.

The [Pensions Act 2004](#) replaced the existing Section 50 and added Sections 50A and 50B from 6 April 2008.

Also on 6 April 2008, [the Occupational Pension Schemes \(Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments\) Regulations 2008](#) came into effect.

These Regulations:

- revoked the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 with transitional provisions for disagreements already being considered,
- required pension schemes to advise IDRP applicants that the Pensions Advisory Service (TPAS) and the Pensions Ombudsman could assist them, and
- listed certain types of dispute exempt from the IDRP process (e.g. ill-health and injury appeals under the Police and Firefighters' Pensions and Compensation Schemes).

The above regulations were amended in 2019 following the merge of TPAS with Pension Wise and the Money Advice Service to form the [Money and Pensions Service](#) (MaPS).

The original IDRP provisions required a two-stage process. Initially, the revised IDRP provisions as set out in the Pensions Act 2004 required a single stage process. However, the amendments made to the Pensions Act 2004 by the Pensions Act 2007 allowed a two-stage process to be retained if the trustees or managers of the pension scheme wished.

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The Firefighters' Pensions (England) Scheme Advisory Board (SAB) agreed in 2019 that the provision for two stages should continue and have issued [updated guidance](#) on this basis.

Each set of scheme rules contains arrangements for Internal Dispute Resolution Procedures (IDRP) 1 :

Firefighters' Pension Scheme 1992 (FPS 1992)	Rule H3 (as amended by <a href="#">SI 2013/1392</a> )
Firefighters' Pension Scheme 2006 (FPS 2006)	<a href="#">Part 8 Rule 5</a>
Firefighters' Pension Scheme 2015 (FPS 2015)	<a href="#">Regulation 163</a>
Firefighters' Compensation Scheme 2006 (FCS 2006)	<a href="#">Part 6 Rule 3</a>

## Notification of right of appeal

Whenever the FRA make a decision relating to a person's interests or entitlement under the schemes, the person should be notified of their rights of appeal under IDRP arrangements in accordance with the following regulations:

FPS 1992	<a href="#">Rule H3</a> (as amended by SI 2013/1392)
FPS 2006	<a href="#">Part 8 Rule 5</a>
FPS 2015	<a href="#">Regulation 163</a>
FCS 2006	<a href="#">Part 6 Rule 3</a> <sup>3</sup>

If the determination is made after considering a medical opinion provided by an IQMP, the person has rights of reconsideration or appeal to the Board of Medical Referees under separate regulations. These are included below for completeness:

Scheme	Reconsideration (new medical evidence)	Appeal to BMR
FPS 1992	<a href="#">Rule H1A</a> (as inserted by SI 2013/1392)	<a href="#">H2</a> (as amended by SI 2013/1392)
FPS 2006	<a href="#">Part 8 Rule 3</a>	<a href="#">Part 8 Rule 4</a>
FPS 2015	<a href="#">Regulation 153</a>	<a href="#">Regulations 154 - 162</a>
FCS 2006	<a href="#">Part 6 Rule 3</a>	<a href="#">Part 6 Rule 2</a>

## Interpretation of scheme legislation

In many cases you will be called upon to interpret the Firefighters' Pension and/or Compensation Scheme Rules and you have the power to overturn a previous decision and apply your own interpretation.

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<sup>3</sup> Although there is no specific mention of IDRP in Part 6 Rule 3, DCLG guidance was that the "reconsideration" should be conducted on IDRP principles.

Decision makers should have access to up-to-date copies of the relevant [legislation](#).



# Annex L - Other ways of resolving a grievance

## The Pensions Ombudsman (TPO)

The Pensions Ombudsman is an independent and impartial service set up by law to investigate complaints about pension administration. The free service is sponsored by the Department for Work and Pensions (DWP) and funded by a levy collected from schemes by TPR.

TPO has legal powers to make decisions that are final, binding and enforceable in court. A decision of the Ombudsman can only be changed by appealing to the appropriate court on a point of law.

TPO will normally expect the complainant to have had their case considered by TPAS and to have exhausted the IDRP process before they get involved. Stage one and stage two decision makers should note this and ensure that their decisions could potentially stand up to scrutiny by the Ombudsman.

TPO can impose fines and instruct that redress should be made for financial loss. They can also award compensation for distress and inconvenience – this is usually in the range of £500 to £2000 plus.

Contact TPO at

The Pensions Ombudsman  
10 South Colonnade  
Canary Wharf  
E14 4PU

0800 917 4487

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

## Money and Pensions Service

The Money and Pensions Service (MaPS) is an arm's-length body sponsored by the Department for Work and Pensions, established at the beginning of 2019, and also engages with HM Treasury on policy matters relating to financial capability and debt advice.

They help people – particularly those most in need – to improve their financial wellbeing and build a better, more confident future. Working collaboratively across the UK, they make sure customers can access high-quality money and pensions guidance and debt advice throughout their lives, how and when they need it.

MaPS works to make pensions accessible and understandable for everyone. They provide independent and impartial information and guidance about pensions, free of charge, to members of the public.

They help with all pension matters covering workplace, personal and stakeholder schemes and also the State Pension. They answer general questions, help with specific

queries and offer guidance for people with complaints about their private pension scheme.

A person can seek the assistance of MaPS at any stage during IDRPs, or they may be approached after an IDRPs process has been completed and the person remains dissatisfied, as a preliminary to an investigation by the Pensions Ombudsman.

Opinions expressed by MaPS are not legally binding and the complainant has a right to take their case to the Ombudsman even if not supported by MaPS.

[Contact](#) MaPS at:

Money and Pensions Service  
Borough Hall  
Cauldwell Street  
Bedford  
MK42 9AB

**Email:** [contact@maps.org.uk](mailto:contact@maps.org.uk)[Opens in a new window](#)

**Phone:** [01159 659570](tel:01159659570)

## Firefighters' Compensation Scheme: Appeal to Crown Court

If a person claims that they are entitled to an award under the FCS, or a payment in respect of the award and the FRA do not admit the claim, or admit it to its full extent, the FRA would be required to reconsider the case if the member so requests. The reconsideration would be made under the IDRPs process. Should the person remain dissatisfied following the reconsideration, Part 6 Rule 3 of the FCS Order 2006 allows him/her to appeal to Crown Court.

However, the Crown Court cannot

- make any order or declaration controlling the FRA's exercise of discretion – except in relation to Part 9 Rule 5 (withdrawal of pension on conviction of certain offences), or
- reopen any medical issue decided under the FCS medical appeal process (Part 6 Rule 2), or
- question a certificate of pensionable service which has become conclusive under rule F1(5) of the FPS Order 1992.

Initially, it was not clear whether IDRPs would apply to the FCS provisions. In 2003, a legal opinion was sought in respect of Local Government Compensation Regulations. The opinion was that they were covered. Consequently, it has been assumed that they would also apply to Fire Compensation provisions.

## Courts and Tribunals

Sometimes a person will pursue a pensions grievance through the courts or a tribunal. IDRPs decision makers may find it helpful to look on the site of the British and Irish Legal Information Institute ("BAILII") to see if any judgements could have a bearing on the dispute they have been asked to determine.

The BAILII website can be found at <http://www.bailii.org/>.

## **IDRP and the Pensions Regulator**

TPR may get involved if the managers or trustees of a pension scheme fail to take steps to comply with IDRP requirements.

TPR introduced the [single code of practice](#) to coincide with the revised IDRP provisions. Trustees and managers of pension schemes must have regard to this in addition to all the legislation setting out IDRP requirements.

## **Effect of Court or Tribunal proceedings and Pensions Ombudsman investigations**

Under the Pensions Act 1995, the resolution of a dispute under IDRP ceases (or does not commence) if the dispute has become the subject of proceedings in any court or tribunal.

The same applies where the Pensions Ombudsman (TPO) has begun an investigation of the dispute as a result of a complaint made, or where the dispute has been referred to him after Stage 2 has been completed or because an IDRP decision was not given within the statutory limit.

# Annex M - Other useful information

## Maladministration

In some cases, a complaint may be received, not about a decision but about the way in which a case has been handled, i.e. a complaint of maladministration. A person who wishes to make a complaint of maladministration can use the IDRP process.

The most common cases of maladministration are unreasonable delay in taking appropriate action; taking incorrect action; failing to provide adequate information, explanation or advice; failure to compile and maintain adequate records; failure to take appropriate action; and failure to take relevant instructions into account in making a decision.

The following are some examples of maladministration in the context of pensions administration:

- unreasonable delays in letting the person know about, or paying, benefits
- failure to let the person know about changes in pension entitlement or changes in the Scheme rules which may affect him/her
- failure to give adequate or timely information that is needed for a person to be able to make informed decisions about rights and benefits under the Scheme which may affect him/her.

There is nothing in the Firefighters' Pension and Compensation Schemes which permits the payment of compensation in the case of maladministration.

However, [Section 92 of the Local Government Act 2000](#) ("payment in cases of maladministration") allows a "relevant authority" to make a payment to an individual to compensate for that authority's own maladministration, if the authority think it appropriate.

A relevant authority includes an FRA constituted by a scheme under section 2 of the Fire and Rescue Services Act 2004 or a scheme to which section 4 of that Act applies<sup>4</sup>.

If compensation is awarded it could be for "distress and inconvenience" and/or to correct financial loss. The merits of each case must be considered. There should be no expectation of significant sums of money other than in very exceptional circumstances.

The Ombudsman may determine that compensation is due where none is awarded or, where it has been awarded, that it should be increased.

## Decision makers

Decision makers at each stage of the process owe a common law duty of care to the persons affected by their decisions. They are not, therefore, exempt from any claim of negligence being made against them.

Stage One involves a formal review of the decision by the FRA which is the subject of dispute. It is an opportunity to reconsider the decision and, where appropriate, to amend it

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<sup>4</sup> <http://www.legislation.gov.uk/ukpga/2000/22/part/III/chapter/I>

– for example where certain relevant facts or evidence were not considered, or where there has clearly been a mistake or oversight.

Stage Two of the procedure should seek to achieve an impartial, fair-minded decision on the dispute.

## **Decision makers – reviewing an application**

When reviewing an application, the decision makers should:

- ensure they have all the appropriate information to make an informed decision
- request further information if required
- be satisfied that the time and action taken to reach a decision and notify the applicant are appropriate to the situation, and be able to demonstrate this

## **Reference to previous appeal cases**

FRAs should keep records of IDRP cases and you may be able to find guidance in a previous determination

Determinations made by the Pensions Ombudsman can be found on their website at <https://www.pensions-ombudsman.org.uk/>. These can provide guidance for decision makers.

Also, a decision maker could analyse court judgements available on the British and Irish Legal Information Institute “BAILII” website at [www.bailli.org](http://www.bailli.org).

Specialist guidance may be sought from those not previously involved in the consideration or determination of the matter in dispute; the FRA would be responsible for the payment of any fees due in respect of this advice.

## **Discretionary decisions**

Sometimes a decision is made under discretionary powers given to the FRA by the Scheme rules and it could be in respect of the exercise of these discretionary powers that a person may appeal.

Decisions not made under a discretion may be overturned by the person deciding the disagreement.

However, in the case of discretions, the role of the person deciding the disagreement is not to overturn the initial decision but to ensure that the discretion has been exercised reasonably and, where it is decided that this was not the case, to determine that the matter should be reconsidered in a proper manner.

Even if an FRA has a policy statement regarding the exercise of certain discretions, it is generally agreed that it is unlawful for an Authority to fetter its discretion by agreeing or contracting to exercise a discretion in a particular way without consideration of individual circumstances or to proceed on the basis of usual practice.

## Reasonableness in the case of discretion

The principles of “reasonableness” apply when exercising discretionary powers:

- these powers must be exercised reasonably having regard to the fiduciary duty owed to the tax payers of the borough/district/county;
- these powers may not be used for an ulterior motive, for instance to use them for a purpose for which they were not intended; and
- regard must be given to all the relevant factors, disregarding irrelevant factors, and the cost to tax payers must be balanced against the benefits to the employer in deciding whether to adopt these powers.
- the correct questions should be asked
- all relevant factors should be taken into account
- the applicable rules or regulations must be correctly interpreted
- the decision arrived at should not be perverse, i.e. it should not be a decision that no other reasonable body of trustees could be expected to reach.

## Further resources

[IDRP factsheet](#)

IDRP guidance for applicants [Coming soon]

Template [letters](#) and [forms](#)

[TPR single code of practice](#)

The following documents provide useful historic context:

[FPC 28 \[Item 7\]](#)

[FPC\(08\)7](#)

[FPSC 1/2009](#)