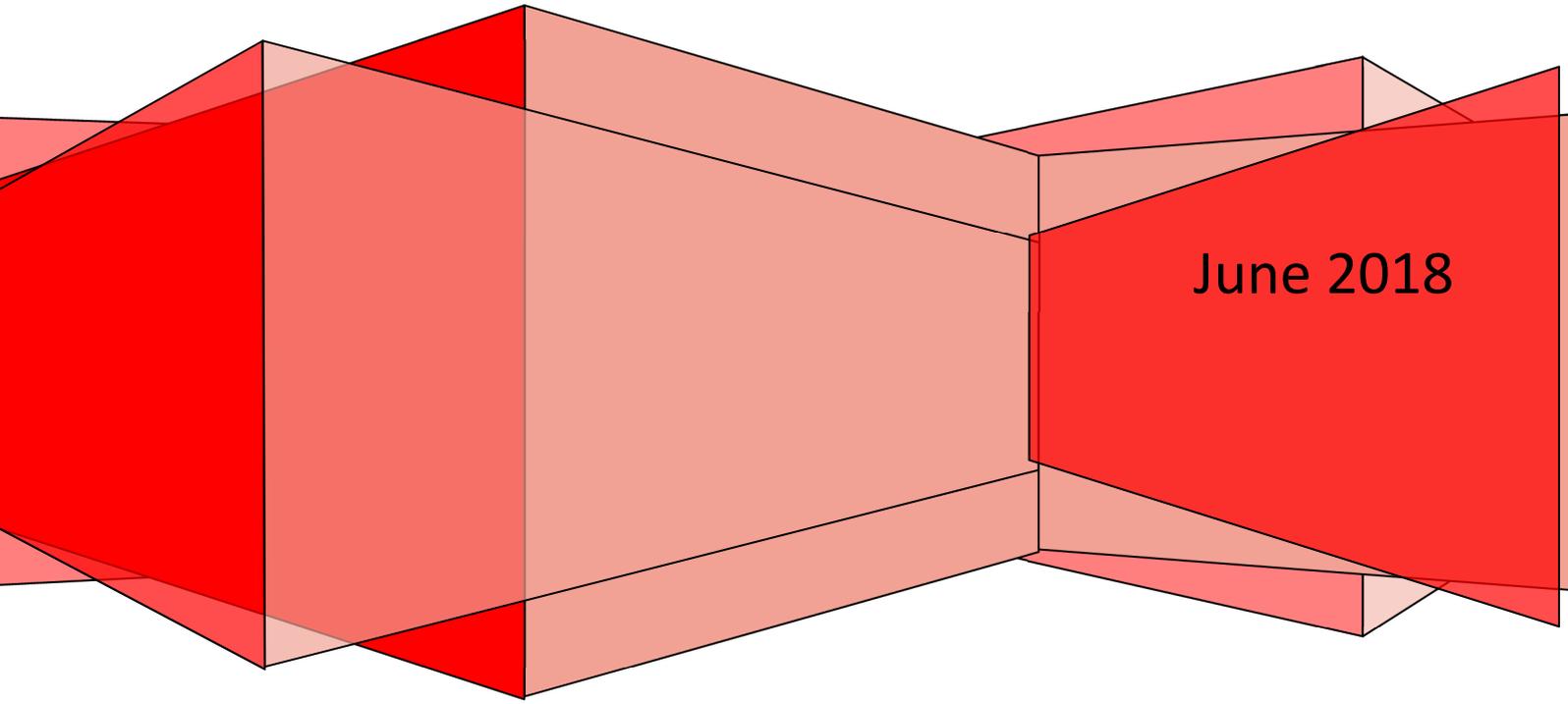


The Firefighters' Pension Schemes

Internal Dispute Resolution Procedure

A practitioners' guide



June 2018

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This guidance for practitioners is intended to familiarise Firefighters' pension authorities and other key users with the Internal Dispute Resolution Procedure (IDRP), a requirement of all occupational pension schemes. It also offers informal advice on a number of issues, which may be of concern to those with responsibilities and interest under these arrangements.

Background

Over the course of a Firefighters' Pension Scheme (FPS) member's employment, and after they have left, certain decisions are taken that can have an effect upon their benefits. Because of this, where decisions are taken, and the member disagrees with them, the law provides them with the opportunity to challenge the decision; this derives from:

Pensions Act 1995

Section 50 of the Pensions Act 1995, required occupational pension schemes, such as the FPS, to make arrangements for the resolution of disagreements between the trustees or managers of the scheme and one or more persons with an interest in the scheme (see [Annex E](#) – click to follow link).

Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996

The procedure that has to be followed is set out in the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 which came into force from April 1997 and issued as guidance within Home Office Circular 6/1997. The detailed procedures to be followed are now set out in Section 50B of the Pensions Act 1995, which was inserted by section 273 of the Finance Act 2004, and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008, referred to as 'the IDRPs Regulations'.

Although the regulations have now been revoked and replaced with the Pensions Regulator Codes of Practice, Home Office instruction is to continue to follow the procedures and timescales set out within the 1996 regulations.

The IDRPs is a formal procedure which is in place to resolve disagreements in relation to decisions taken regarding Firefighters' pension matters. It forms part of an overall process where disagreements occur which can be put simply as:

Step 1: A decision is taken that affects benefits (a "first instance decision")

Step 2: An informal approach to resolving a disagreement about that decision

Step 3: The instigation of the formal, two stage IDRPs (the internal "appeal")

Step 4: Application to the Pensions Ombudsman for a determination (the external "appeal")

Access to the process is available to any person with a vested interest in the Firefighters' Pension Scheme 1992, the Firefighters' Pension Scheme 2006 or the Firefighters' Pension Scheme 2015 who wishes to submit an appeal other than an appeal under:

- Schedule 9, rule H2 of the Firefighters' Pensions Regulations 1992 (appeal to board of medical referees),
- Schedule 1 of the Firefighters' Pensions Regulations 2006 (appeals to board of medical referees),
-

- Regulation 154 of the Firefighters' Pensions Regulations 2015 (appeal against determinations based on medical evidence)
- Schedule 5 of the Firefighters' (Compensation Scheme) Regulations 2006 (appeal to board of medical referees).

Appeals under the above Regulations together with appeals in which court or tribunal proceedings have begun or have been referred to the Pensions Ombudsman are specifically excluded from this process.

This process is illustrated in flowchart form at [Annex A](#) (click to follow link)

We will now approach each of these steps in turn.

Step 1: The First Instance Decision

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First Instance Decisions – General

Under the Firefighters' pension regulations, the Scheme Manager and the Firefighters' Pension Authority have different decisions to make that could affect member or dependants' pension benefits ("First Instance Decisions").

First Instance Decisions

- Any question concerning the person's previous service or employment
- Any question about counting additional periods as membership or crediting additional pension
- The amount of any benefit, or return of contributions, the member becomes entitled to under the regulations
- Eligibility for membership
- Pensionable pay
- Final pay
- Career Average pay
- Employee's contribution rate
- Entitlement to benefit on termination of membership
- Entitlement to early release of pension benefits

Statement of policy on the exercise of discretions

When making first instance decisions the scheme manager and the Firefighters' pension authority are exercising various discretions within the Firefighters' pension regulations. Although not a scheme requirement, it is recommended that each discretion has been documented in order to demonstrate a level of transparency and consistency. Apart from being good practice, this approach is one of the first steps to avoiding challenges to those decisions and a vital part of defending a position when the matter is escalated. These are covered more in "Avoiding appeals" and "The importance of record keeping" below.

Most first instance decisions are made entirely within the employing organisation, without the requirement for any external involvement (other than, perhaps, the provision of information from the Pensions Unit).

Notification of first instance decisions

Providing a clear written explanation of the decision is an obvious and essential part of good administration. The Scheme Manager and the Firefighters' Pension Authority should bear in mind, particularly when the decision results from the exercise of discretion, that there could be a possibility of a maladministration ruling by the Pensions Ombudsman.

- The grounds for the decision must be included in any notification that the person is not entitled to a benefit.
- A notification about a decision on the amount of a benefits must show how the benefit is calculated
- ALL notifications must give an address from which further information about the decision can be obtained.
- All notifications must include a reference to the right of appeal under the internal dispute resolution procedure. It is suggested that the scheme manager / Firefighters' pension

authority set a time limit of 6 months from the date of notification in which an IDRPs application can be submitted. This 6 month limit is deemed as a reasonable period by the Pensions Regulator and will enable you to turn down applications which are submitted often years after the event.

Step 2: Informal settlement of disputes

Avoiding appeals

Where a member is clearly unhappy with a decision (and may resort to the formal IDRPs in the absence of any further action by the body that took the decision) it makes sense for an appropriate person from the employing authority to offer the member further information on the reasons for the decision, perhaps at an informal meeting with his advisers, if necessary. In some instances where the issues are not complex, this recognition of their concerns and the opportunity to understand more about the decision may be sufficient to satisfy the complainant.

Being able to demonstrate that a first instance decision has been made in a consistent manner to other decisions in accordance with a clear policy statement can also help the member to understand why the decision has been reached and that it is “nothing personal”. Carefully recording your decision making (see below) also makes this process much easier.

Please remember that if a decision is altered in any way, you should inform XPS Administration so that details can be recorded on the member record for future reference.

The next step

Sometimes, informal attempts to resolve disagreements fail. The member has a statutory right to then instigate the formal IDRPs which we will cover in the next sections. Once this course of action is embarked upon, detailed investigations will take place into not only the decisions made but the processes involved in reaching those decisions.

The importance of record keeping

These investigations at the formal appeal process will require evidence of how and why first instance decisions were reached. It is important that employers keep detailed records of first instance decisions taken, including (but not limited to):

- Dates of scheme entry
- Reductions/restrictions in pay
- Elections to opt out of the scheme
- Elections to re-enter scheme
- Changes in hours and or weeks worked
- Breaks in service and elections to pay or not to pay contributions
- Policy on exercise of discretions, including previous versions and dates of publication
- Publicity materials , publications and other notifications issued to members and the dates of issue

Minutes of meetings to determine eligibility for benefits

Step 3: The formal internal appeal process (IDRP)

General right of appeal

The right to invoke the formal appeal process is open not only to members themselves:

Who may appeal?

- A member or a prospective member
- A widow or widower of the member
- A surviving civil partner of the deceased
- A surviving married same sex partner of the deceased
- A cohabiting partner (FPS 2006 and 2015 only)
- The deceased member's dependants
- The member's representative

Please note that throughout this document, whom so ever invokes the IDRP is referred to as the "applicant".

When and why can the applicant appeal?

- A member (or alternative applicant) may appeal against any decision made by the Scheme Manager or the Firefighters' Pension Authority that affects that member's rights or benefits under the scheme, or against any other act or omission by these bodies.
- Although there is no strict time limit within the regulations for the submission of an appeal, it is recommended that the application is submitted within six months of the date they are notified of that decision, or from the date of the act or omission
- The member has a further right of appeal to the administering authority if dissatisfied with the adjudicator's decision or if a decision is not provided within the appropriate time scales

The formal internal appeal process is in two stages; Stage 1 is looked at by a person who has been nominated by the Firefighters' Pension Authority. This must be someone who is senior enough to review the process and regulations applied to the case and, if necessary, overturn the initial decision. Stage 2 is looked at by the scheme manager or their nominated representative. Home Office guidance dictates that the nominated representative will be at the level not below treasurer or a similar senior official.

A flowchart of the appeal procedure is included at [Annex A](#).

These two stages are dealt with in more detail in the following sections.

Stage 1 appeals

Lodging an appeal

Where an applicant wishes to appeal against a first instance decision (or lodge another valid appeal against an act or omission) this should be done in writing, with a copy of the decision they wish to appeal against if possible. The Pensions Unit will provide any member wishing to make an application with a guide and application form.

On return to the Pensions Unit the appeal will be recorded and then submitted to the “adjudicator”.

The adjudicator

The Firefighters’ pension authority must appoint a person to consider appeal cases at Stage 1 of the IDRP (their adjudicator). The Pensions Act 1995 does not stipulate any particular requirements about who should determine complaints at the first stage but Home Office Circular 6/1997 states this should be an official or a member of a panel of officials responsible for the day-to-day administration of the Firefighters’ pension scheme.

In practice, as the person will need to understand the details of the dispute, the employer is likely to ask someone with relevant expertise to decide it. Depending on the circumstances, a suitable person could be a senior Firefighters’ officer, human resources manager, payroll manager or a solicitor. The adjudicator must be totally independent and have not had any involvement in the making of the decision to which the appeal relates.

Considering Stage 1 appeals

The purpose of the first stage is to carry out a formal review of the initial decision by the authority or body which took that decision. It is an opportunity to reconsider the question and, where appropriate, to alter the decision if it was not a reasonable one to reach based on the relevant procedures, legislation and evidence; e.g. where certain relevant facts or evidence were not taken into account, or where there has clearly been a mistake or oversight.

- On receipt of an application, send an acknowledgement (a specimen acknowledgement letter is included at [Annex B](#))
- Consider all facts, reports, background information before reaching a determination
- Request further evidence if necessary (if the applicant’s personal data is required, requests from third parties will need to be accompanied by a signed letter of authority from the applicant)
- The adjudicator must provide a determination within two months of receipt of the appeal
- If not, the adjudicator must write immediately to the member explaining the reason and when a determination will be made
- Issue a copy of the determination to the applicant / representative, the Firefighters’ Pensions Authority and XPS Administration
- The member may refer the dispute direct to stage 2 where the specified person fails to make a determination within the prescribed or extended time limits

Although in most cases the Stage 1 decision will be a final one, there may be circumstances where the adjudicator may wish to issue a provisional decision so that the views on interested parties, in particular, that of the Firefighters' Pensions Authority, can be obtained before a final decision is taken. Because the two month time limit relates to the final decision, a letter of explanation should be sent if the issue of a provisional letter delays the final decision beyond the time limit.

Further points on appeals

- The adjudicator cannot make a determination outside the provisions of the regulations
- The adjudicator cannot consider cases relating to the level of ill health or injury benefits awarded
- The adjudicator cannot consider cases of alleged maladministration
- The adjudicator cannot make an award of compensation
- A right of appeal against a decision on entitlement to a benefit only arises after the earlier of – the date employment ends, or the date specified in a notice to opt out
- A successful appeal only applies to that particular case
- The decision reached by the adjudicator is final and binding on the scheme employer

Considerations of medical appeals

If a dispute over ill health or injury benefits has emerged, the application must be rejected and the applicant notified that their appeal will need to be submitted under one of the following:

- Regulation H2 of the Firefighters' Pensions Regulations 1992 (appeal to board of medical referees),
- Regulation 72 of the Firefighters' Pensions Regulations 2006 (appeal to board of medical referees),
- Regulation 40 of the Firefighters' Pensions Regulations 2015 (appeal against selected medical practitioner's report)
- Regulation 31 of the Firefighters' (Injury Benefit) Regulations 2006 (appeal to board of medical referees).

Other potential appeal applications

- Tiered contributions
- Pensionable pay - e.g. exclusion of certain items
- Final / CARE pay for calculation purposes
- Date of scheme entry – especially at the end of a member's service
- Claim of not being informed of right to pay back for lost pension
- Claim of not being informed of right to transfer in previous rights
- The amount of service credited following the transfer in of service from another pension scheme

Notice of a stage 1 decision

Written notice of the adjudicator's decision must be sent to the applicant (and/or his/her personal representative), the Firefighters' Pensions Authority, and XPS Administration within two months of the receipt of the appeal.

The decision notice must include the following-

- The question for determination
- Evidence received and considered
- The decision
- A 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 applicant's right to have the disagreement reconsidered by the scheme manager, and the time limit for doing this
- A statement that TPAS is available to assist the member with any difficulty with the Scheme which remains unresolved, and the address for TPAS

A specimen stage 1 determination letter is included at [Annex C](#).

IDRP Stage 1 process summary

- Member notified of decision / benefit
- Member submits appeal
- Appeal considered by adjudicator within two months
- Member, Firefighters' Pensions Authority and XPS Administration notified of outcome
- Member has the right of appeal to the scheme manager (within six months of the adjudicator's determination)

A flowchart of the appeal procedure is included at [Annex A](#).

Stage 2 appeals – referral of disagreement to Scheme Manager

Referrals to the Scheme Manager against the decision of the adjudicator may be made by the applicant. A disagreement may also be referred in cases where-

- The adjudicator has failed to issue either a decision, or a letter of explanation, within two months from the date on which the application was made, or
- An interim letter of explanation was sent, but the adjudicator has failed to subsequently issue a decision

Considering Stage 2 appeals

The person determining appeals at Stage 2 will, in many respects, undertake that function in the same way that the adjudicator did under Stage 1.

The applicant's complaint must be considered in depth and in a formal way; the Scheme Manager or appointed representatives need to satisfy themselves that the first stage decision was reasonable, had considered all relevant facts and regulations, was consistent with other decisions reached and that it would stand up to external scrutiny. The Scheme Manager or appointed representatives must be totally independent and have not had any involvement in the making of the decision to which the appeal relates.

The Scheme Manager should-

- Reconsider the decision, taking full account of the facts of the case and any evidence submitted, or relied on, by either party in the determination at Stage 1,
- Check that the regulations were applied correctly,
- Check that sound, impartial procedures were used to reach the decision. This is particularly important where the dispute concerns the exercise of a discretion by the Firefighters' Pensions Authority.

Limit of Scheme Managers powers at Stage 2

- Cannot replace a first instance decision, can only instruct to reconsider where discretion is exercised
- Cannot award for maladministration even where found
- No power to act outside of the regulations nor to instruct any party to do so
- No power to award compensation for any reason, including where an appeal is upheld against the amount of a benefit due; limited to placing the affected party in the position they would have been in.

Impartiality

By definition, an *internal* resolution procedure must be carried out by those responsible for the scheme; an entirely independent judgement is available via the Ombudsman (see later).

However, the decision must be fair-minded and impartial having regard to the following principles:

- Not representing any party or interest
- No previous personal involvement with the case

In practice, there should always be sufficient senior officers that have not had any personal interest and who can give an impartial decision without deference to the position of the Firefighters' Pensions Authority at an earlier stage.

Notice of a Stage 2 decision

The Scheme Manager or appointed representatives must respond to a Stage 2 appeal within the same time limits that apply to Stage 1 appeals, i.e. within two months of the receipt of the appeal. A notice of the decision must be in writing and contain:

- The question for determination
- Evidence received and considered
- The decision
- A 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 statement that TPAS is available to assist the member with any difficulty with the Scheme which remains unresolved, and the address for TPAS
- A statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law and the Pensions Ombudsman's address.

A template Stage 2 response is given at [Annex D](#).

Possible outcomes

Appeal not upheld:

The Stage 2 decision maker has reviewed the facts and the evidence in the case and has not found that any decision reached is either incorrect or inconsistent with the appropriate application of the regulations and any discretion applied.

Appeal upheld:

The decision maker may not be satisfied that the initial decision was properly reached or that the appropriate legislation has not been correctly applied or adhered to. The stage 2 decision maker cannot impose any alternative decision upon the original decision maker wherein a discretion was exercised – he can only remit the case for reconsideration highlighting his areas of concern or where fault was found in law or in fact. Where it is found that the decision was incorrect in the application of regulations or in calculating benefits due, he can instruct that the correct position be applied in relation to the member.

Appeal partially upheld:

Occasionally, an appeal may have more than one head of argument or may rest on more than one determining factor. Where this is the case, the decision maker may find that the appeal should be upheld in part rather than wholly and a combination of the possible outcomes above be applied.

The decision of the Scheme Manager or appointed representatives is binding and can only be overturned by the Ombudsman or the High Court. Neither the Firefighters' Pensions Authority nor the Scheme Manager will enter into further correspondence in relation to the appeal.

A flowchart of the appeal procedure is included at [Annex A](#).

Rights of Representation – Stages 1 & 2

A person who is entitled to make an application under the procedure can nominate a representative to make the application on his behalf. He can use the representative to make a first stage or second stage application. He can also use the representative to continue the appeal.

If a person dies and they had a right to make an appeal, or they had made an application at either the first or second stage, their personal representative may continue the appeal on behalf of the deceased.

If a person who has a right to make an appeal is a minor, or he is otherwise incapable of acting for himself, the appeal may be made/continued on his behalf by a member of his family or some other suitable representative.

If a person who has made an appeal at either the first or second stage, is or becomes otherwise incapable of acting for himself, the appeal may be made/continued on his behalf by a member of his family or some other suitable representative.

Where a representative is nominated before an appeal is made, the appeal must specify his full name and address and whether that address is to be used for service on the applicant of any documents in connection with the appeal. If the representative's address is not used in that way, they must nevertheless be sent a copy of any notification of a first stage or second stage decision. If an interim reply was sent at either the first or second stage, the representative must be sent a copy.

Step 4: Beyond IDRП – the external appeal

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Where a member remains dissatisfied after the IDRП has been exhausted, they can seek independent review of their appeal. There are two bodies responsible for the review of appeal decisions beyond the IDRП.

The Pensions Advisory Service

The Pensions Advisory Service (TPAS) is an independent non-profit organisation that provides free information, advice and guidance on all types of pension schemes. Their role is primarily one of negotiation and advice; they have no statutory power to impose any course of action or determination.

This should be the first port of call for any member seeking an independent review of the IDRП. They will attempt to explain or resolve the problem and, where this is not possible, the steps available to the member. TPAS can also give their opinion to the member as to whether they believe this would be a case that the Ombudsman would pursue.

If resolution can still not be found, the member (or alternative applicant) has one further point of recourse.

The Pensions Ombudsman

- Will only normally consider cases after the member's case has been through the scheme's two stage IDRП and where TPAS have been approached
- May investigate and determine any complaint or dispute of fact or law in relation to the Scheme made or referred in accordance with the Pension Schemes Act 1993
- The Ombudsman can make awards of compensation for loss and for distress and inconvenience
- The determination of the Ombudsman is final and binding on all parties, subject only to an appeal on a point of law to the Chancery Division of the High Court

Cases sent to the Ombudsman's office are initially assessed by his staff to determine whether the appeal or dispute can, or should, be referred for consideration by the Ombudsman. Further information may be sought at this stage from both the Scheme Manager and the Firefighters' Pensions Authority as well as from the individual.

Where the Ombudsman does make a determination in respect of a case that he feels can and should be before him, the possible outcomes are the same as set out at Stage 2 of the IDRП (above).

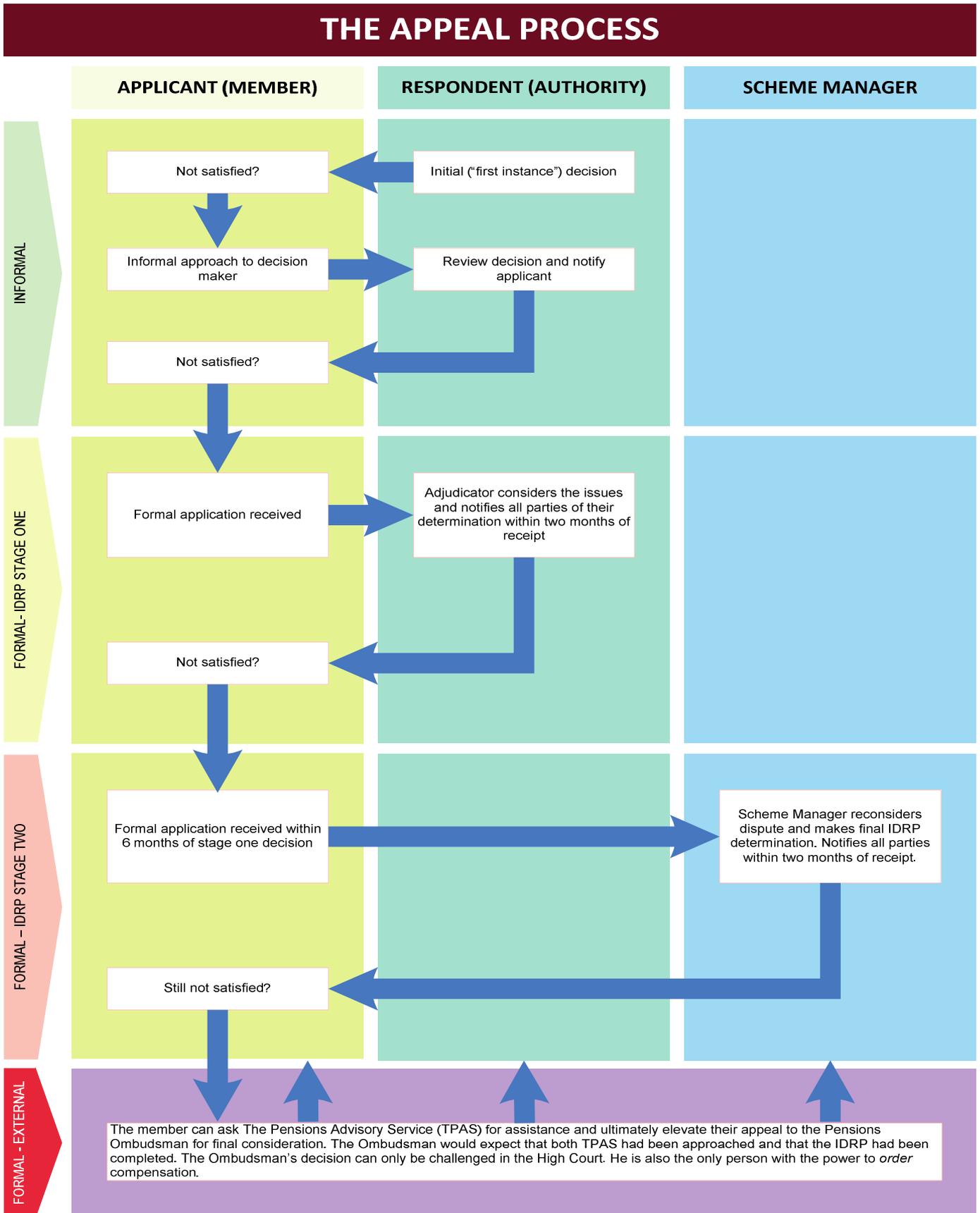
The appeal may be wholly, or partially, upheld or he may determine that the appeal should not be upheld against the respondents at all. When making his determination, the Ombudsman will have regard to former cases, but these are **not precedent**, as at law. Consequently, parties to an Ombudsman investigation should concentrate on the facts and law applicable in their circumstances rather than rely upon the outcome of previous cases that were *prima facie* the same. A history of former determinations is available on the Pensions Ombudsman's website: <http://www.pensions-ombudsman.org.uk/determinations>

The Ombudsman's determination can only be challenged on a point of law. The appeal against the decision of the Ombudsman needs to be made to the High Court within 28 days of the date of the decision that is being appealed against.

And, finally...

- Determining appeals is anything but straightforward
- XPS Administration is available to assist with this task and will provide information on the process and regulations that may be involved.
- XPS Administration cannot draft responses, advise upon decisions or become otherwise directly involved with an employer/adjudicator function.
- It is important that employers keep comprehensive records in the event of an appeal from members
- Members must not be discouraged from submitting an appeal.

Annex A



Specimen acknowledgement letter

Dear Mrs Krupke

Firefighters' Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

Thank you for your application received on [date], enclosing information on your disagreement with [name of relevant body]. I have been appointed by [name of body] to make the stage one decision under the internal dispute resolution procedure.

I am required to make a decision within two months of receiving your application. If, for some reason, I am unable to comply with that timescale, I will write to you explaining the reason and the date by which I expect to make my final determination.

You can also ask the Pensions Advisory Service (TPAS) for assistance. TPAS help members and beneficiaries of pension schemes with disputes they cannot resolve. You can contact TPAS at:

The Pensions Advisory Service
11 Belgrave Road
London
SW1V 1RB

www.pensionsadvisoryservice.org.uk

Yours sincerely

Specimen stage 1 decision letter

Dear Mrs Krupke

Firefighters' Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

I have looked at the details of your disagreement and reached a decision under stage one of the IDRP.

Question for determination:

Provide details of the disagreement

My decision

The decision itself

Relevant Facts

Provide facts / timeline

Evidence received/considered

Reference all material documentation

Regulations considered and reason for decision

If the decision is based on a discretionary power contained in a policy made by the Fire and Rescue Pensions Authority, include a copy of the policy or the relevant part of it, and a reference to the scheme regulation that allows the discretion.

Having made my decision it can only be changed on appeal under the next stage of the Internal Dispute Resolution Procedure. Any such appeal must be lodged with {Name and job title} not later than six months from the date of this letter. You can also ask the Pensions Advisory Service (TPAS) for assistance. TPAS help members and beneficiaries of pension schemes with disputes they cannot resolve. You can contact TPAS at:

The Pensions Advisory Service

11 Belgrave Road

London

SW1V 1RB

Telephone:

www.pensionsadvisoryservice.org.uk

This concludes the first stage of the internal dispute resolution procedure. If you are not happy with my decision, you have the right to ask the Scheme Manager to look at your complaint again. You must do this in writing, within six months from the date of this letter.

Copies of this determination have been sent to [name of body] as your employer/former employer and XPS Administration.

Yours sincerely

Specimen stage 2 decision letter

Dear Mrs Krupke

Firefighters' Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

I refer to your appeal, under stage 2 of the Internal Disputes Resolution Procedure, against the decision at stage 1 by [insert name, job title and body], the adjudicator, not to uphold your complaint.

My role in making a determination on your complaint is to determine whether any decision has been made in accordance with the pension scheme regulations, that all relevant evidence has been taken into account and that the decision reached is not perverse. I have no powers to implement my own decision; however I can require the employer to reconsider their decision if I consider that they have misdirected themselves or that their decision is perverse. In addition, I have no power to direct the employer to act outside the provisions of the regulations.

Question for determination:

Details of the disagreement

My decision

The decision itself

Relevant Facts

Evidence received/considered

Regulations considered and reason for decision

This concludes the second stage of the internal dispute resolution procedure. The Pensions Advisory Service (TPAS) is available to assist members and beneficiaries of pension schemes in connection with difficulties you may have. Their address is 11 Belgrave Road, London SW1V 1RB (telephone 0845 601 2923).

Having made my decision, I cannot enter into further correspondence with you; the decision can only be overturned by a judgement of the High Court or the Pensions Ombudsman. The Pension Ombudsman may investigate and determine any complaint of maladministration or dispute or fact or law or referred to him in accordance with the Pensions Schemes Act 1993. His address is: Office of the Pensions Ombudsman, 11 Belgrave Road, London SW1V 1RB (telephone 020 7630 2200).

Copies of this determination have been sent to [name of body] as your employer/former employer and XPS Administration.

Yours sincerely

Pensions Act 1995

50 Requirement for dispute resolution arrangements

- (1) The trustees or managers of an occupational pension scheme must secure that dispute resolution arrangements complying with the requirements of this section are made and implemented.
- (2) Dispute resolution arrangements are arrangements for the resolution of pension disputes.
- (3) For this purpose a pension dispute is a dispute which-
 - (a) is between-
 - (i) the trustees or managers of a scheme, and
 - (ii) one or more persons with an interest in the scheme (see section 50A),
 - (b) is about matters relating to the scheme, and
 - (c) is not an exempted dispute (see subsection (9)).
- (4) The dispute resolution arrangements must provide a procedure-
 - (a) for any of the parties to the dispute mentioned in subsection (3)(a)(ii) to make an application for a decision to be taken on the matters in dispute ("an application for the resolution of a pension dispute"), and
 - (b) for the trustees or managers to take that decision.
- (4A) The dispute resolution arrangements may make provision for securing that an application for the resolution of a pension dispute may not be made to the trustees or managers unless-
 - (a) the matters in dispute have been previously referred to a person of a description specified in the arrangements ("the specified person") in order for him to consider those matters, and
 - (b) the specified person has given his decision on those matters, and for enabling the specified person's decision to be confirmed or replaced by the decision taken by the trustees or managers on the application, after reconsidering those matters.
- (5) Where an application for the resolution of a pension dispute is made in accordance with the dispute resolution arrangements, the trustees or managers must-
 - (a) take the decision required on the matters in dispute within a reasonable period of the receipt of the application by them, and
 - (b) notify the applicant of the decision within a reasonable period of it having been taken.
- (5A) In a case where a reference is made to the specified person in accordance with provision made under subsection (4A), subsection (5) applies in relation to the specified person as it applies in relation to the trustees or managers in a case where an application for the resolution of a pension dispute is made to them.
- (6) The procedure provided for by the dispute resolution arrangements in pursuance of subsection (4) must include the provision required by section 50B.

(7) Dispute resolution arrangements under subsection (1) must, in the case of existing schemes, have effect on and after the date of commencement of this section in relation to applications made on or after that date.

(8) This section does not apply in relation to an occupational pension scheme if-

- (a) every member of the scheme is a trustee of the scheme,
- (b) the scheme has no more than one member, or
- (c) the scheme is of a prescribed description.

(9) For the purposes of this section 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) it is of a prescribed description.

(10) If, in the case of an occupational pension scheme, the dispute resolution arrangements required by this section to be made-

- (a) have not been made, or
- (b) are not being implemented,

section 10 applies to any of the trustees or managers who have failed to take all reasonable steps to secure that such arrangements are made or implemented.

50A Meaning of "person with an interest in the scheme"

(1) For the purposes of section 50 a person is a person with an interest in an occupational pension scheme if-

- (a) he is a member of the scheme,
- (b) he is a widow, widower, surviving civil partner or surviving dependant of a deceased member of the scheme,
- (c) he is a surviving non-dependant beneficiary of a deceased member of the scheme,
- (d) he is a prospective member of the scheme,
- (e) he has ceased to be within any of the categories of persons referred to in paragraphs (a) to (d), or
- (f) he claims to be such a person as is mentioned in paragraphs (a) to (e) and the dispute relates to whether he is such a person.

(2) In subsection (1)(c) a "non-dependant beneficiary", in relation to a deceased member of an occupational pension scheme, means a person who, on the death of the member, is entitled to the payment of benefits under the scheme.

(3) In subsection (1) (d) a "prospective member" means any person who, under the terms of his contract of service or the rules of the scheme-

- (a) is able, at his own option, to become a member of the scheme,
- (b) will become so able if he continues in the same employment for a sufficiently long period,
- (c) will be admitted to the scheme automatically unless he makes an election not to become a member, or
- (d) may be admitted to it subject to the consent of his employer.

50B The dispute resolution procedure

(1) The procedure provided for by the dispute resolution arrangements in pursuance of section 50(4) must (in accordance with section 50(6)) include the following provision.

(2) The procedure must provide that an application for the resolution of a pension dispute under section 50(4) may be made or continued on behalf of a person who is a party to the dispute mentioned in section 50(3)(a)(ii)-

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

(3) The procedure-

- (a) must include provision requiring an application to which subsection (3A) applies to be made by the end of such reasonable period as is specified;
- (b) may include provision about the time limits for making such other applications for the resolution of pension disputes as are specified.

(3A) This subsection applies to-

- (a) any application by a person with an interest in a scheme as mentioned in section 50A (1) (e), and
- (b) any application by a person with an interest in a scheme as mentioned in section 50A (1) (f) who is claiming to be such a person as is mentioned in section 50A (1) (e).

(4) The procedure must include provision about-

- (a) the manner in which an application for the resolution of a pension dispute is to be made,
- (b) the particulars which must be included in such an application, and
- (c) the manner in which any decisions required in relation to such an application are to be reached and given.

(4A) The provision made under subsection (4) (c) may include provision for decisions of the trustees or managers to be taken on their behalf by one or more of their number.

(5) The procedure must provide that if, after an application for the resolution of a pension dispute has been made, the dispute becomes an exempted dispute within the meaning of section 50(9) (a) or (b), the resolution of the dispute under the procedure ceases.