

The Firemen's Pension Scheme

APPEAL PROCEDURES WHICH LIE OUTSIDE THE FPS

The Firemen's Pension Scheme Order 1992 contains various rights of appeal. For example you may appeal against –

- the content of a Certificate of Pensionable Service (Rule F1), or
- an opinion on a medical issue (Rule H2), or
- the disallowance, in full or part, of an award or payment in respect of an award (Rule H3).

It used to be the case that some private sector pension schemes did not offer members much by way of right of appeal if they had a grievance. To remedy this, the Pensions Act 1995 introduced or extended the role of pensions “watchdogs” and the means by which a person having difficulty with pension rights could receive assistance or the right to a regulated form of grievance procedure.

While it was accepted that the public service occupational pension schemes contained quite extensive appeal procedures in their Rules, the appeal and regulatory requirements of the Pensions Act 1995 were still compulsorily applied (with a few minor exceptions) to the public service schemes.

The terms of these requirements of the Pensions Act, and Regulations made under the Act, have not been written into the Rules of the FPS. They do, however, apply to firefighters and must be complied with by the managers of the FPS, i.e. a fire authority.

This Annexe tells you about –

- the Pensions Advisory Service (OPAS)
- the Pensions Ombudsman
- the Occupational Pensions Regulatory Authority (OPRA)

and gives detailed information about your rights of appeal under the Internal Dispute Resolution Procedures (IDRPs)

Appeal procedures which lie outside the FPS

The Pensions Advisory Service (“OPAS”)

The Pensions Advisory Service (“OPAS”) was originally set up as a charitable trust but it is now aided by Government grant. Its objectives include giving free, confidential advice to individual members of the public who are experiencing difficulties which their pension scheme authorities have either ignored or failed to resolve.

A national network of voluntary advisers – all members of the pensions industry who have been vetted as proficient by the central body of OPAS – can be contacted through Citizens Advice Bureaux or by getting in touch with the OPAS office. Although OPAS will offer help before, during, or after Internal Dispute Resolution Procedures (explained below), before getting involved they will normally expect a person to have taken up his/her grievance at least informally with the pension scheme administrators.

OPAS can negotiate and conciliate but does not provide an arbitration service or initiate legal action. An OPAS adviser can refer a case to the OPAS office for specialist guidance. If the office feels it appropriate they may recommend that the complainant should put his or her case to the Pensions Ombudsman.

OPAS can be contacted at:
11 Belgrave Road, London SW1V 1RB
Telephone: 020 7233 8080

The Pensions Ombudsman

The Pensions Ombudsman can investigate a pension scheme member’s complaint of maladministration or a dispute of fact or law between a scheme member and the pension scheme managers or employer. However, the Ombudsman cannot help if court proceedings have begun and will normally expect the case to have first been put through Internal Dispute Resolution Procedures (explained below). Also, a complainant who writes to the Ombudsman direct will usually be requested to have the case dealt with first by OPAS (explained above). You should normally contact the Ombudsman within 3 years of the act or omission that you are complaining about or disputing although he does have the discretion to extend this period where appropriate.

The Pensions Ombudsman can be contacted at:
11 Belgrave Road, London SW1v 1RB
Telephone: 0207834 9144

The Occupational Pensions Regulatory Authority (“OPRA”)

The Occupational Pensions Regulatory Authority (“OPRA”) has a regulatory role in ensuring that occupational pension scheme members’ interests are protected and that schemes comply with the law. It deals with issues about pension schemes as a whole. Normally it would expect a scheme member with a personal grievance to seek resolution through Internal Dispute Resolution Procedures (explained below) or by OPAS and the Pensions Ombudsman (explained above).

OPRA can be contacted at:
Invicta House, Trafalgar Place, Brighton BN1 4DW
Telephone: 01273 627600

Appeal procedures which lie outside the FPS

Internal Dispute Resolution Procedures (“IDRP”)

Internal Dispute Resolution Procedures (“IDRP”) are available to all members of occupational pension schemes or 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 requirements are set out in Section 50 of the Pensions Act 1995 and in the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996.

IDRP offer a two-stage process of internal appeal hearing on pension matters.

How do IDRP apply to firefighters?

Firefighters’ pension rights are set out in Firemen’s Pension Scheme Orders. The IDRP requirements have **not** been written into the Orders but must operate alongside. In October 1996, a CFBAC Joint Pension Committee Working Party was set up to decide and recommend how fire authorities should comply with the IDRP Regulations. Recommendations agreed between employer’s side and trade union representatives were issued in Fire Service Circular 2/1997.

You should remember that IDRP form only one part of your appeal rights. The FPS offers various appeal routes according to the nature of your grievance. It is important that you should select the most appropriate route.

If you have a pension problem it may be helpful if, initially, you raise it with the relevant person in your brigade (e.g. the pensions administrator or personnel officer). The problem may be a simple error which can be corrected immediately, or 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.

Who can make a complaint under IDRP?

The following persons can use IDRP –

- (a) active, deferred and pensioner members of the FPS,
- (b) widows, widowers or surviving dependants of deceased FPS members,
- (c) prospective members of the FPS, i.e. persons who under their contract of employment can or will become members,
- (d) persons who ceased to be within any of the categories (a) to (c) within six months before the date of any application under IDRP, and
- (e) persons whose claims to be in one of the categories (a) to (d) 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 a person incapable of acting for him or herself.

ANNEXE 12

Appeal procedures which lie outside the FPS

IDRP and retained firefighters

The IDRP 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”.

Although the FPS is not normally considered an occupational pension scheme for retained firefighters, in the event of a retained firefighter having a qualifying injury followed by termination of employment or death, benefits would be paid under the provisions of the FPS. Consequently the definition of the 1993 Act would allow applications under IDRP to be made by retained firefighters or their representatives, etc., in matters relating to injury benefits.

IDRP and optants-out

A regular firefighter who has opted out of the FPS has IDRP rights.

IDRP exclusions

IDRP will not apply where –

- a notice of appeal has been issued by the complainant under Rule H2 of the Firemen’s Pension Scheme Order 1992 (appeal against opinion on a medical issue), or
- proceedings have begun in any court or tribunal, or
- the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him.

IDRP procedures

The IDRP process allows a person to make an application to have a decision regarding pension rights reconsidered.

There are two stages to the process. A person dissatisfied with a decision made at Stage One can move on to Stage Two for a further reconsideration.

The CFBAC JPC Working Party recommended that –

at Stage One: the application should be considered by the Chief Fire Officer. In metropolitan and/or larger fire authorities the Chief Fire Officer may wish to nominate his/her authorised, named representative; and

at Stage Two: the application should be considered by elected members of the fire authority through its Appeal Committee, i.e. the same body that considers certain disciplinary matters on behalf of the fire authority under Regulation 13(2) of the Fire Services (Discipline) Regulations 1985.

In this Annexe, in line with the above recommendations, the explanation of the IDRP process will refer to the Chief Fire Officer making the Stage One decision and the “Appeal Committee” making the Stage Two decision.

ANNEXE 12

Appeal procedures which lie outside the FPS

IDRP Stage One Your Stage One application for a decision in respect of a disagreement must be given in writing and must contain all the information required by the IDRP Regulations.

To help you with this, your fire authority may provide you with a form to complete. A model form for this purpose is shown on page Annexe 12-Form 1. If you supply all the information prompted by the form then you will have complied with the Regulations. When you (or your representative if you prefer) have completed the form – or your written application in the absence of a form – it should be signed and sent, with any relevant attachments (i.e. any documents which you believe relevant and which may support your case) to the Chief Fire Officer (as the Stage One decision maker).

To comply with the IDRP Regulations, the Chief Fire Officer 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 2 months from the date the application was received
- explain that in the event that he/she cannot give a decision within 2 months he/she will send you (and/or your representative) an interim reply setting out the reasons for the delay and the expected date for the issue of a decision
- will gather such facts and evidence as felt appropriate to give a fair decision in respect of your grievance.

Having considered the case and arrived at a decision, the Chief Fire Officer will give you that decision in writing. The decision will refer to any legislation, including Firemen's Pension Scheme Orders, relied upon for the decision. If a discretion allowed by the FPS has been exercised, there will be reference to this and to the provisions of the FPS which allow the discretion. There will also be a statement to the effect that OPAS (see above) is available to assist members and beneficiaries of the Scheme in connection with any difficulty with the Scheme which remains unresolved, together with a contact address for OPAS.

This concludes Stage One of the IDRP process.

IDRP Stage Two If you remain dissatisfied after you have received the decision of the Chief Fire Officer you have six months from the receipt of that decision to apply for a reconsideration of the disagreement under Stage Two of the IDRP process.

At Stage Two, the decision of the Chief Fire Officer would be reconsidered by the fire authority's Appeals Committee.

Your Stage Two application, like the Stage One application, must be given in writing and must contain all the information required by the IDRP Regulations. Again, as for Stage One, your fire authority may provide you with a form to complete. A model form for this purpose is shown on page Annexe 12-Form 2. If you supply all the information prompted by the form then you will have complied with the Regulations.

ANNEXE 12

Appeal procedures which lie outside the FPS

IDRP Stage Two (continued)

The form (if supplied, if not – your written application) should be signed and sent with –

- a copy of the Stage One decision made by the Chief Fire Officer, and
 - any documents you believe relevant and which may support your case
- to the relevant person in the fire authority who can receive it on behalf of the Appeals Committee (e.g. the Clerk to the Fire Authority).

This person, on behalf of the Appeals Committee will, in writing –

- acknowledge receipt of your Stage Two application for a reconsideration of the Chief Fire Officer's decision
- tell you that he/she will refer your application to the Appeals Committee for the issue of a decision on the matters raised by your application within 2 months from the date your application was received
- explain that in the event that the Committee cannot give a decision within 2 months he/she will send you (and/or your representative) an interim reply setting out the reasons for the delay and the expected date for the issue of a decision.

The Appeals Committee will consider the case and arrive at their decision. This will be set out in a letter to you, giving details 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 Chief Fire Officer. As with the Stage One decision, the Stage Two decision will include a reference to any legislation, including the Firemen's Pension Scheme Orders, relied upon for the decision. If a discretion allowed by the FPS 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 –

- OPAS is available to assist members and beneficiaries of the Scheme in connection with any difficulty which remains unresolved, and
- 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 OPAS and the Pensions Ombudsman will be given.

This completes Stage Two of the IDRP process.

Model Form: IDRP 1 – Firefighter’s application for a decision at Stage One of IDRP

PENSIONS ACT 1995, SECTION 50(2)(a)
Internal Dispute Resolution Procedures

STAGE ONE APPLICATION

This application may be submitted by a person (or nominated representative) who is an “active” member of the Firefighters’ Pension Scheme, or a deferred pensioner or pensioner member, or a widow, widower or dependent of a deceased member, or by a person claiming a right under any of these categories, or – in relation to the injury provisions – a retained firefighter or a regular firefighter who has opted out of the Scheme. When both sides of the form have been completed it should be signed and sent, with any relevant attachments, to the Chief Fire Officer,

TO THE CHIEF FIRE OFFICER, FIRE AUTHORITY:

1. I wish to apply for a decision to be made, under Section 50(2)(a) of the Pensions Act 1995, in respect of the disagreement set out in this application.
2. I understand that an application may not be made where, in respect of a disagreement –
 - a notice of appeal has been issued under Rule H2 of the Firemen’s Pension Scheme Order 1992 (appeal to an independent medical referee against a medical opinion considered by the fire authority in the determination of an award), or
 - proceedings have begun in any court or tribunal, or
 - the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him.
3. The nature of the disagreement is set out overleaf and, where relevant, on the attached pages.

Give the following details (in block capitals) in all cases

Full name of Scheme member

Rank and Brigade number

Address of Scheme member

.....

Member’s date of birth National Insurance No.

Give the following details (in block capitals) only if complainant is not a member

Full name of complainant

Address for correspondence.....

.....

Relationship of complainant to Scheme member (if relevant)

Complainant’s date of birth

Model Form: IDRP 2 – Firefighter’s application for a decision at Stage Two of IDRP

PENSIONS ACT 1995, SECTION 50(2)(b)
Internal Dispute Resolution Procedures

STAGE TWO APPLICATION

This application may be submitted by a person (or nominated representative) who is an “active” member of the Firefighters’ Pension Scheme, or a deferred or pensioner member, or a widow, widower or dependant of a deceased member, or by a person claiming a right under any of these categories, or – in the relation to the injury provisions – a retained firefighter or a regular firefighter who has opted out of the Scheme. When both sides of the form have been completed it should be sent, with relevant attachments, to

TO THE APPEALS COMMITTEE, FIRE AUTHORITY:

1. I am applying for reconsideration of a disagreement in respect of which a decision has been made under Section 50(2)(a) of the Pensions Act 1995 by the Chief Fire Officer. I understand this means that the Appeals Committee will either confirm that decision or give a new decision in its place.
2. I understand that an application may not be made where, in respect of a disagreement –
 - a notice of appeal has been issued under Rule H2 of the Firemen’s Pension Scheme Order 1992 (appeal to an independent medical referee against a medical opinion considered by the fire authority in the determination of an award), or
 - proceedings have begun in any court or tribunal, or
 - the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him.
3. I attach a copy of the notice of the decision made by the Chief Fire Officer under Section 50(2)(a) of the Pensions Act 1995 and overleaf is a statement of the reason(s) for my dissatisfaction with that decision.

Give the following details (in block capitals) in all cases

Full name of Scheme member

Rank and Brigade number

Address of Scheme member

.....

Member’s date of birth National Insurance No.

Give the following details (in block capitals) only if complainant is not a member

Full name of complainant

Address for correspondence.....

.....

Relationship of complainant to Scheme member (if relevant)

Complainant’s date of birth

FORM IDRP 2: SIDE ONE

Model Form: IDRP 2 – Firefighter’s application for a decision at Stage Two of IDRP

STAGE TWO APPLICATION

NATURE OF DISAGREEMENT

Firstly, read and complete the other side of this form. Next, on this side of the form and continuing on to additional pages if necessary, give a statement for the reason for dissatisfaction with the decision made by the Chief Fire Officer under Section 50(2)(a) of the Pensions Act 1995. Attach to the application form any documents you believe are relevant and which may support your case.

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Signature of complainant or representative **Date**