



SCOTTISH PUBLIC PENSIONS AGENCY

The Chief Executives, Fife Council and Dumfries & Galloway
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Dear Colleague

SCOTTISH FIRE AND RESCUE SERVICE CIRCULAR No 2/2009

FIREFIGHTERS PENSIONS SCHEME (FPS)

NEW FIREFIGHTERS PENSION SCHEME (NFPS)

INTERNAL DISPUTE RESOLUTION PROCEDURES

1. Background

- 1.1 We have reviewed the Internal Dispute Resolution Procedures set out in Fire Pensions Circular 1997/2 in the light of changes made to section 50 of the Pensions Act 1995 by section 273 of the Pensions Act 2004, as amended by section 16 of the Pensions Act 2007, and the Occupational Pension Schemes (Internal Dispute resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 (SI 2008/649).
- 1.2 The advice set out in this circular has been agreed with the Firefighters' Pension Committee.
- 1.3 This advice on the procedure for dealing with complaints under the Firefighters' Pension Scheme 1992 (FPS), the New Firefighters' Pension Scheme 2006 (NFPS) and the Firefighters' Compensation Scheme 2006 (FCS) should be followed in all cases where there is a dispute other than appeals lodged under Rule H2 of the FPS, Part 8, rule 4 of the NFPS or Part 6, rule 2 of the FCS, which are exempted under the 2008 Regulations.



INVESTOR IN PEOPLE

- 1.4 Also exempted are matters in respect of which proceedings have been commenced in any court or tribunal, or the Pensions Ombudsman has commenced an investigation in respect of it as a result of a complaint made or a dispute referred to him.
- 1.5 If, after an application for the resolution of a pension dispute has been made, the dispute becomes an exempted dispute under paragraphs 3 and 4 above, the resolution of the dispute under the procedure ceases.

2. Who is entitled to make a complaint under IDRPs?

2.1 The IDRPs are available to the following:

- (a) a member (active, deferred or pensioner) of the FPS or NFPS,
- (b) a widow, widower or surviving dependant of a deceased member of the FPS or NFPS,
- (c) a surviving non-dependant beneficiary of a deceased member of the FPS or NFPS,
- (d) a prospective member of the scheme,
- (e) persons who have ceased to be within any of the categories of persons referred to in paragraphs (a) to (d), or
- (f) persons who claim to be such a person as is mentioned in paragraphs (a) to (e) and the dispute relates to whether he/she is such a person.

2.2 As the procedures apply also to disputes relating to the Firefighters' Compensation Scheme 2006, they will be available to those who are entitled to benefits under the Scheme, i.e. optants out of the FPS and NFPS, and retained firefighters employed before 6th April 2006 with protected rights.

3. Representation

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

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

4. How are IDRPs to be applied to the FPS and NFPS?

4.1 The IDRPs provide recourse for a person mentioned in paragraph 2.1 above who has a complaint relating to their pension, other than matters covered by the medical appeal arrangements in the FPS, NFPS and FCS. The amended

arrangements allow for a single stage, although pension schemes have a discretion to make provision for two stages.

- 4.2 It is proposed that two-stage arrangements should be maintained on the following basis:

Stage One: the matters should be considered by the Chief Fire Officer, or a senior manager specified by him/her, who will give a decision in the matters; and

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

5. Stage One

- 5.1 The application for consideration of the dispute should be made in writing, giving details of the complaint. A suggested format is attached at Annex 1.
- 5.2 When an application is received, the Chief Fire Officer, or the person specified by him/her, should acknowledge, and must inform the applicant that the Pensions Advisory Service (TPAS) is available to assist members and beneficiaries of the scheme(s) in connection with any difficulty with the scheme, and give the applicant the contact details of TPAS.
- 5.3 Except in cases referred to in section 3, applications must be made by any person referred to in paragraph 2(a) to (d) above within six months beginning after the date on which the person could have reasonably known about the matter in dispute, or in the case of a person in categories (e) and (f) the person ceased to be a member of the FPS or NFPS. The Chief Fire Officer, or the person specified by him/her, has discretion to accept an application made outside this period.
- 5.4 The exceptions are any determinations by an authority under Part 8, rule 2 of the New Firefighters' Pension Scheme 2006, where rule 5 provides for written notice of any disagreement to be submitted within 28 days of receipt of the determination.
- 5.5 A decision on the application must be notified to the complainant or his representative within two months of receipt of the application or a further letter must be sent explaining the reason for the delay and the expected date of the decision.

6. Stage Two

- 6.1 If the complainant is dissatisfied with the decision at Stage One, he or she can apply in writing, not later than six months after the date on which notified of the Stage One decision, for the decision to be reconsidered by the fire and rescue authority. A suggested format is attached at Annex 2.
- 6.2 When an application is received, it should be acknowledged.

- 6.3 A decision must be taken within two months of receipt of the application or a further letter must be sent explaining the reasons for the delay and the expected date of the decision.
- 6.4 The notice of the decision must include a statement that the Pensions Ombudsman appointed under section 145(2) of the Pension Schemes Act 1993 may investigate and determine any complaint or dispute of fact or law, in relation to the schemes, made or referred in accordance with that Act; and contact details

7. Pro-formas

- 7.1 To assist fire and rescue authorities, draft application forms and letters for each stage have been prepared and are annexed. Copies will be available on the website at: <http://www.sppa.gov.uk/fire/circulars.htm>

Yours sincerely

Dorothy Hamilton

Policy Officer

Stage One: Application

This application may be submitted by a person (or nominated representative) who is (a) an active, deferred or pensioner member of the Firefighters' Pension Scheme, or the New Firefighters' Pension Scheme; (b) a widow, widower or surviving dependant of a deceased member of the FPS or NFPS; (c) a surviving non-dependant beneficiary of a deceased member of the FPS or NFPS; (d) a prospective member of the NFPS; (e) persons who have ceased to be within any of the categories in (a) to (d); or (f) persons who claim to be a person mentioned in (a) to (e) and the dispute relates to whether he is such a person.

To the Chief Fire Officer, Fire and Rescue Authority

1. I wish to apply for a decision to be made, under section 50 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 Firefighters' Pension Scheme 1992, Part 8, rule 4 of the New Firefighters' Pension Scheme 2006 or Part 6, rule 2 of the Firefighters' Compensation Scheme 2006 (appeal to a board of medical referees against a decision on an issue of a medical nature), or
 - 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 (in Block capitals)

Full name of Scheme member

Role and employment reference

Address of Scheme member

.....

Member's date of birth Member's National Insurance No.

Complete if complainant is not a Scheme member (in 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.

Signature of complainant (or representative)

Date

Stage One: Letter 1

Fire and Rescue Service Headed Notepaper

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME (as appropriate):
PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage One**

Your application under Section 50 of the Pensions Act 1995 for a decision in respect of a disagreement was received on *(date)*.....

I intend to make a decision on the matters raised by your application within two months from the date the application was received.

If, for any reason, I am unable to issue you with a decision within this time-scale 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.

TPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with the scheme. TPAS can be contacted at: 11 Belgrave Road, London SW1V 1RB, telephone 0845 6012923

Yours sincerely,

(Chief Fire Officer or the person specified by him)

This acknowledgement letter must be sent, in all cases, where a Stage One application is received from a complainant. If there are problems with the way in which the application has been completed, then this letter should be adapted accordingly.

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage One: Letter 2

Fire and Rescue Service Headed Notepaper

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/ NEW FIREFIGHTERS' PENSIONS SCHEME/
FIREFIGHTERS' COMPENSATION SCHEME (as appropriate):
PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage One**

Further to my letter of *(date of issue of IDRPs Stage One: Letter 1)*....., I regret I am not yet in a position 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,

(Chief Fire Officer or the person specified by him/her)

This letter must be sent if a decision cannot be made within two months of receipt of a Stage One application from a complainant.

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage One: Letter 3

Fire and Rescue Service Headed Notepaper

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME (as appropriate): PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage One**

I have considered your application received on *(date)*..... for a decision to be made under Section 50 of the Pensions Act 1995 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 reconsideration of the disagreement by the Fire and Rescue Authority *(complete with appropriate reference to the committee or individuals who will be responsible for Stage 2 consideration)* no later than six months from the date of this notice. A form designed for this purpose can be obtained from *(complete as appropriate)*.

TPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. TPAS can be contacted at: 11, Belgrave Road, London, SW1V 1RB; Telephone 0845 6012923

Yours sincerely,

(Chief Fire Officer or the person specified by him/her)

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage Two: Application

If a person is dissatisfied with the decision of the Chief Fire Officer or the person specified by him at Stage 1 of the IDRP, an application may be submitted by that person (or nominated representative) for the decision to be confirmed or replaced by the decision of elected members of the fire and rescue authority. The authority may provide for decisions to be taken by or on their behalf by one or more of their number.

To theFire and Rescue Authority

1. I am applying for reconsideration of the decision ofmade under section 50 of the Pensions Act 1995. I understand that the Fire and Rescue Authority will either confirm the decision or replace it.
2. I understand that an application may not be made where, in respect of the matter:
 - A notice of appeal has been issued under Rule H2 of the Firefighters' Pension Scheme 1992, Part 8, rule 4 of the New Firefighters' Pension Scheme 2006 or Part 6, rule 2 of the Firefighters' Compensation Scheme 2006 (appeal to a board of medical referees against a decision on an issue of a medical nature), or
 - 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 1 and a statement of the reason(s) for dissatisfaction with that decision.

Complete in all cases (in Block capitals)

Full name of Scheme member
 Role and employment reference
 Address of Scheme member

 Member's date of birth Member's National Insurance No.

Complete if complainant is not a Scheme member (in 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 the decision made by the Chief Fire Officer or the person specified by him. If necessary, continue details on to another page and attach the application form with any supporting documents.

Signature of complainant (or representative)

Date



Stage Two: Letter 1

Fire and Rescue Authority Headed Notepaper

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME (as appropriate):
PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage Two**

Your application for a reconsideration of a decision dated made under Section 50 of the Pensions Act 1995 by *(complete as appropriate)* was received on

The Fire and Rescue Authority or one or more of their number will consider the matters raised by your application and will confirm or replace that decision under Section 50 of the Pensions Act 1995 within two months from the date your application was received.

If, for any reason, the Authority/the members of the Authority (complete as appropriate) are unable to issue you with a decision within this time-scale 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.

TPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. TPAS can be contacted at: 11, Belgrave Road, London, SW1V 1RB; Telephone 0845 6012923

Yours sincerely,

Secretary to the Fire and Rescue Authority

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

Stage Two: Letter 2

Fire and Rescue Authority Headed Notepaper

Dear *(name of firefighter)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME (as appropriate): PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage Two**

Further to my letter of, I regret *the Fire and Rescue Authority/ members of the Fire and Rescue Authority appointed to consider the matter (as appropriate)* are not yet in a position to issue you with a decision.

The reasons for the delay are (reasons)

The panel expect to be able to issue you with a decision on *(date)*

Yours sincerely,

Secretary to the Fire and Rescue Authority

This letter must be sent if a decision cannot be made within two months of receipt of a Stage Two application from a complainant.

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.



Stage two: Letter 3

Fire and Rescue Authority Headed Notepaper

Dear *(name of complainant)*

**FIREFIGHTERS' PENSION SCHEME/NEW FIREFIGHTERS' PENSION SCHEME/FIREFIGHTERS' COMPENSATION SCHEME (as appropriate): PENSIONS ACT 1995, SECTION 50
Internal Dispute Resolution Procedures: Stage Two**

The Fire and Rescue Authority/members of the Fire and Rescue Authority (as appropriate) have considered your application received on (date)..... for reconsideration of the disagreement which was the subject of a decision made by the Chief Fire Officer/by the person specified by the Chief Fire Officer (as appropriate) under Section 50 of the Pensions Act 1995, as indicated in the notice of decision dated (date).....

The decision of the panel, made under Section 50 of the Pensions Act 1995, 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 Chief Fire Officer or the person specified by him/her.

Refer to any legislation, including the FPS, NFPS or FCS 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 remain dissatisfied.

- TPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of pension schemes in connection with any difficulty with a scheme which remain unresolved. TPAS can be contacted at:11 Belgrave Road, London, SW1V 1RB; Telephone 0845 6012923
- the Pensions Ombudsman, appointed under Section 145(2) of the Pension Schemes Act 1993 may investigate and determine any complaint or dispute of fact or law in relation to a scheme made or referred in accordance with that Act. He can be contacted at:11 Belgrave Road, London, SW1V 1RB; Telephone 020 7834 9144
- the Scottish Public Services Ombudsman (SPSO), appointed under Section 1(1) of the Scottish Public Services Ombudsman Act 2002 may investigate and determine any complaint or dispute of fact of law when a member of the public claims to have suffered injustice or hardship as a result of maladministration or service failure on the part of a listed authority that comes within the remit of the SPSO. The SPSO can be contacted at: 4 Melville Street, Edinburgh EH3 7NS; Telephone 0800 377 7330; Email ask@spsos.org.uk.

Yours sincerely,

Secretary to the Fire and Rescue Authority

If the application was made by a representative of the complainant, ensure this letter is copied to the representative.

