

Firefighters' Pension and Compensation Schemes: Internal Dispute Resolution Procedures (IDRP) Guidance notes for members

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Introduction

The Internal Dispute Resolution Procedure (IDRP) allows any eligible person, who has a dispute or appeal relating to their pension that is not covered by the medical appeal arrangements, to have their appeal heard by the relevant Fire and Rescue Authority (FRA).

The Firefighters' Pensions Scheme Advisory Board (Board) considered the IDRP process in 2018 following review of Pension Regulator guidance that schemes should have a one stage process and confirmed they wanted to keep a two-stage process, as a one stage was suitable for centralised schemes not locally managed schemes.

This guidance has been produced to explain the procedures and actions you (the member) are required to take when raising an Internal Dispute Resolution. This document will provide an overview on what you need to do to raise a dispute, what actions are required by the FRA and the time frames an FRA must act within.

What is IDRP?

IDRP is a means of formally raising a dispute or appeal about the management of pension rights or a decision that has been made in relation to the scheme rules. It is available to anyone who has an interest in an occupational scheme, such as the Firefighters' Pension Scheme (FPS). This can include members, prospective members, their dependants, or any other person who may be entitled to benefits from the scheme.

All occupational pension schemes are required by law to have formal arrangements for IDRP.

How does IDRP apply to the FPS?

IDRP offers those who have an interest in the FPS or the Firefighters Compensation Scheme (FCS) a two-stage internal appeal on pension and compensation matters.

The IDRP forms only one part of your appeal rights in respect of the FPS and FCS. It is important that you should select the most appropriate route to raise your grievance. For example, if you disagree with a determination the FRA has made based on a medical opinion, your case should be directed to the Board of Medical Referees not via an IDRP.

Any problems should always be raised with your FRA in the first instance. The problem may be a simple error which can be corrected immediately, or it may be the result of a misunderstanding which can be clarified by explanation.

This would not prevent you from proceeding to use IDRP if you are still dissatisfied.

Will I have to attend a hearing?

Only in exceptional circumstances. IDRP is normally conducted in writing.

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 IDRP cannot be used

The IDRP 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)¹, 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, you may still be eligible to make an appeal on a medically related issue other than the outcome of a medical opinion. For example, if you believe you are entitled to an

¹ 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.

ill-health award, but the FRA decide of an ordinary award, without seeking a medical opinion.

It is important that you know the appropriate route to use if you have a dispute about a benefit-related issue.

Representation

An application under the IDRPs may be made or continued on your behalf by someone 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 IDRPs forms for each stage 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 you have appointed a representative, correspondence should be addressed to the representative and a copy sent, with a covering letter, to you.

Issues other than awards

It may not necessarily be an award that is the subject of a dispute. 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 dispute relating to any matter, not just awards, should be considered under the FRA's IDRPs 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 IDRPs.

How does the IDRPs work?

The FRA must make and implement dispute resolution arrangements. These are a two-stage procedure.²

² The Scheme Advisory Board considered the IDRPs process in 2018 following TPO guidance that schemes should have a one-stage process and confirmed they wanted to keep a two-stage process, as a one-stage process was suitable for centralised schemes not locally managed schemes.

Your FRA will be able to provide you with information on how their dispute procedure operates, the [timescales](#) involved as well as confirmation of who is directly involved in each part of the decision-making process.

Timescales

Having considered the the Pensions Regulator (TPR) guidance on reasonable timeframes, the Board provided recommendations as referenced earlier in the guidance which are taken into account in the the dispute resolution process as follows:

- decide the matter in dispute within two months of receiving the application
- notify you of the decision no later than 21 days from when it is made
- not delay a decision where it is possible to process an application sooner than two months
- allow more than two months to reach a decision if it is appropriate to do so

When you receive the IDR Stage One decision, you have six months, beginning with the date the statement of decision under Stage One is received by you, to refer the disagreement for a Stage Two reconsideration.

An FRA has the discretion to agree to an extension to any time limits, however, this is unlikely unless it can be demonstrated that the delay in making an application was caused by an error or oversight on their part. Additionally, the FRA may choose to extend time limits should you demonstrate that there were exceptional circumstances on your part which prevented you from submitting your request within the time frame specified.

What should be made available to you by the FRA before a complaint is raised?

The FRA must ensure that the following information is made available to you before a complaint is raised:

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

How do I make a stage one application?

Your stage one application must be given in writing and contain all the information required by the IDR rules. To help you with this most FRAs will have a template form for you to complete. It is not mandatory that a form is completed, however your dispute must be received in writing. Your FRA's process should make you aware of where you must send your dispute and any supporting documents which you believe are relevant and may support your case.

Actions required by the FRA for a Stage One application

Acknowledge receipt of the application

The FRA should send an acknowledgement letter to you to confirm receipt of the application. If you are being represented, a copy should be sent to them.

To ensure that you and the FRA agree as to the nature of the dispute, the FRA should set out their understanding of your ground for appeal and how a decision will be reached. You will be invited to comment if their understanding is not correct and may be asked to provide more information if needed.

Notifying you of the FRAs decision

When the investigation has been completed and a decision has been made, the FRA must inform you in writing of the outcome.

The decision should be given on or before the date specified in their communications with you and should be within the [timescales](#) illustrated earlier in the guidance. If they are unable to provide you with a response by the date specified, they should provide you with an explanation as to why not and provide a further date as to when they will be able to respond.

What information does the FRA need to provide to you?

An FRA is required to provide the following:

- the question for decision and all the evidence they have received
- a statement of the decision
- a reference to any legislation or provisions of the Scheme(s) which the FRA relied upon to make the 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 you which have been considered
- a reference to your rights to refer the disagreement for a Stage Two reconsideration and to the [timescales](#) for this referral
- 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 dispute is raised with them), with their contact details
- if the appeal relates to a discretionary decision which the FRA cannot overturn but in respect of which they have concerns, the FRA must inform you that they are referring the case back to the original decision maker to reconsider
- if the FRA 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

How do I get my case reconsidered under Stage Two?

Your stage two application must also be given in writing and contain all the information required by the IDRPs rules. As with stage one most FRAs will have a template form for

you to complete. It is not mandatory that a form is completed, however your dispute must be received in writing. Your FRA's process should make you aware of where you must send your dispute and any supporting documents which you believe are relevant and may support your case.

Like at stage one, the stage two decision maker will check that your application has been received on time and can be considered under IDR, and that you have given authority if a representative is applying on your behalf.

Actions required by the FRA for a Stage Two application

Acknowledge receipt of the application

You will receive an acknowledgement letter outlining the FRA's understanding of your dispute and explaining how a decision will be reached. You will be invited to comment if their understanding is not correct and may be asked to provide more information if needed.

Notifying you of the FRA's decision

The decision should be given on or before the date the FRA specified in the acknowledgement or subsequent holding letter and should be within [timescales](#) as illustrated earlier in the guidance. If they are unable to provide you with a response by the date specified, they should provide you with an explanation as to why not and provide a further date as to when they will be able to respond.

Applicants should be notified of the decision usually no later than 21 working days after the decision has been made.

What information does the FRA need to provide to you?

When the FRA notifies you of the outcome, they are required to provide the following:

- the question for decision and all the evidence they 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 the FRA relied upon to make their 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 you which have been considered,
- a reference to the right of the applicant to refer the disagreement for a Stage Two reconsideration and the [timescales](#) for this referral
- 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, you should be informed of your right of appeal to Crown Court under [Part 6 Rule 3](#) of the Order.
- if the appeal relates to a discretionary decision which the FRA cannot overturn but in respect of which they have concerns, the FRA must inform you that they are referring the case back to the original decision maker to reconsider
- If the FRA 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.

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 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[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 IDRPs requirements.

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

Effect of Court or Tribunal proceedings and Pensions Ombudsman investigations

Under the Pensions Act 1995, the resolution of a dispute under IDRPs 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 IDRPs decision was not given within the statutory limit.

Where can I get more information?

Please [contact](#) your FRA for more information.