
STATUTORY INSTRUMENTS

2008 No. 649

PENSIONS

**The Occupational Pension Schemes (Internal
Dispute Resolution Procedures Consequential and
Miscellaneous Amendments) Regulations 2008**

<i>Made</i>	- - - -	<i>5th March 2008</i>
<i>Laid before Parliament</i>		<i>13th March 2008</i>
<i>Coming into force</i>	- -	<i>6th April 2008</i>

The Secretary of State for Work and Pensions makes the following Regulations in exercise of the powers conferred by sections 113(1)(d), 181(1) and 182(2) and (3) of the Pension Schemes Act 1993⁽¹⁾ and sections 50(8)(c) and (9)(c), 124(1) and 174(2) and (3) of the Pensions Act 1995⁽²⁾.

In accordance with section 185(1) of the Pension Schemes Act 1993 and section 120(1) of the Pensions Act 1995 the Secretary of State has consulted with such persons as he considers appropriate.

Citation, commencement and interpretation

1. (1) These Regulations may be cited as the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 and shall come into force on 6th April 2008.

(2) In these Regulations “the Act” means the Pensions Act 1995.

Information requirements

2. (1) When the trustees or managers of an occupational pension scheme receive (or, as the case may be, the specified person⁽³⁾ receives) an application under the relevant procedure, they must as soon as is reasonably practicable—

(1) 1993 c.48. Section 181(1) is cited because of the meaning there given to “prescribe” and “regulations”.
(2) 1995 c.26. Section 50 is substituted by section 273 of the Pensions Act 2004 (c.35) (“the 2004 Act”) as amended by section 16 of the Pensions Act 2007 (c.22). Section 124(1) is cited because of the meaning there given to “prescribed” and “regulations”.
(3) “Specified person” is a term used in section 50(4A) of the Pensions Act 1995. Subsection (4A) is inserted by section 273 of the 2004 Act.

- (a) inform the applicant that TPAS (the Pensions Advisory Service)(4) is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme, and
- (b) give the applicant the contact details for TPAS.

(2) For the purposes of paragraph (1), the relevant procedure is a procedure for the application for the resolution of a pension dispute under section 50(4) of the Act (procedure for resolution of a pensions dispute).

(3) For the purposes of paragraph (1), “member” has the meaning given to it in section 124(1)(5) and 125(4) of the Act (interpretation of Part 1 and supplementary), and “members” is to be construed accordingly.

(4) When the trustees or managers of an occupational pension scheme notify the applicant of their decision on the matters in dispute in accordance with section 50(5)(b) of the Act (dispute resolution arrangements – duties of trustees or managers), the notification shall include—

- (a) a statement that the Pensions Ombudsman appointed under section 145(2) of the Pension Schemes Act 1993(6) 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, and
- (b) the Pensions Ombudsman’s contact details.

Exempted schemes

3. An occupational pension scheme of a description prescribed for the purposes of section 50(8)(c) of the Act (schemes to which section 50 does not apply) is a scheme in relation to which the sole trustee of the scheme is a company and all members of the scheme are directors of that company.

Exempted disputes

4. A dispute of a description prescribed for the purposes of section 50(9)(c) of the Act (exempted disputes) is a dispute in respect of which a notice of appeal has been issued by the complainant in accordance with—

- (a) regulation H2 of the Police Pensions Regulations 1987(7) (appeal to board of medical referees);
- (b) rule H2 of Schedule 2 to the Firemen’s Pension Scheme Order 1992(8) (appeal against opinion on a medical issue);
- (c) rule 2 of Part 6 of Schedule 1 to the Firefighters’ Compensation Scheme (Scotland) Order 2006(9) (appeal to medical referee);
- (d) regulation 31 of the Police (Injury Benefit) Regulations 2006(10) (appeal to board of medical referees);
- (e) rule 2 of Part 6 of Schedule 1 to the Firefighters’ Compensation Scheme (England) Order 2006(11) (appeal to medical referee);

(4) The Pensions Advisory Service Limited is a company limited by guarantee under the Companies Act 1985 (c.6); registered number 2459671.

(5) Section 124(1) was amended by paragraph 61 of Schedule 12 to the Welfare Reform and Pensions Act 1999 (c.30)

(6) Section 145(2) was amended by section 274(1) of the 2004 Act.

(7) S.I. 1987/257; the relevant amending instruments are S.I. 2003/535, and 2004/1491 and S.S.I. 2003/406 and 2004/486.

(8) S.I. 1992/129; the relevant amending instrument is S.I. 1997/2309. The scheme name is changed for England and Scotland by S.I. 2004/2306 and for Wales by S.I. 2004/2918. The scheme is revoked with transitional and saving provisions, see S.I. 2006/3432, S.I. 2007/199 and S.I. 2007/1072.

(9) S.S.I. 2006/338.

(10) S.I. 2006/932.

(11) S.I. 2006/1811.

- (f) regulation 72 of the Police Pensions Regulations 2006(12) (appeal to board of medical referees);
- (g) rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006(13) (appeals against decisions based on medical advice);
- (h) regulation 31 of the Police (Injury Benefit) (Scotland) Regulations 2007(14) (appeal to board of medical referees);
- (i) rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (Scotland) Order 2007(15) (appeals against decisions based on medical advice);
- (j) regulation 72 of Part 7 of the Police Pensions (Scotland) Regulations 2007(16) (appeal to board of medical referees);
- (k) rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007(17) (appeals against decisions based on medical advice); or
- (l) rule 2 of Part 6 of Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007(18) (appeal to medical referee).

Transitional provisions

5. (1) Any disagreement which was ongoing before 6th April 2008 under arrangements made and implemented under section 50(1) of the Act shall continue until the procedure under those arrangements comes to an end, as if the relevant legislative provisions governing those arrangements were still in force.

(2) For the purposes of paragraph (1), the relevant legislative provisions are—

- (a) section 50 of the Act as it was in force immediately before 6th April 2008; and
- (b) the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996(19).

(3) In the case of any relevant application, regulation 3 of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996(20) shall apply as it had effect before 6th April 2008.

(4) For the purposes of paragraph (3), “relevant application” means an application concerning a complaint or dispute made—

- (a) to an occupational pension scheme under the arrangements required by section 50 of the Act; and
- (b) before 6th April 2008.

Consequential and miscellaneous amendments

6. (1) In Schedule 1 to the Occupational Pension Schemes (Disclosure of Information) Regulations 1996(21) (basic information about the scheme);

- (a) in paragraph 25, for “section 50(7)” substitute “section 50(8)”; and

(12) S.I. 2006/3415.

(13) S.I. 2006/3432.

(14) S.S.I. 2007/68.

(15) S.S.I. 2007/199.

(16) S.S.I. 2007/201.

(17) S.I. 2007/1072 (W.110).

(18) S.I. 2007/1073 (W.111).

(19) S.I. 1996/1270; amended by S.I. 1999/3198, 2004/2306 and 2918 and 2005/2877.

(20) S.I. 1996/2475, to which there are amendments not relevant to these Regulations.

(21) S.I. 1996/1655; the relevant amending instrument is S.I. 1999/3198.

(b) in paragraph 26, for “OPAS” substitute “TPAS” in both places where it occurs.

(2) In Regulation 3 of the Personal and Occupational Pension Schemes (Pensions Ombudsman) Regulations 1996;

(a) in paragraph (1), for “the arrangements required by section 50(2)(b)” substitute “section 50(5)(b)”; and

(b) in paragraph (2), for “section 50(2)(a) or (b)” substitute “section 50(5)(b)”.

(3) In the Stakeholder Pension Schemes Regulations 2000⁽²²⁾ in the table in Schedule 2 (regulations applying to schemes which are or have been registered under section 2) in the column headed “Statutory Instrument” for “The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996” substitute “The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008”.

Revocation

7. The Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 are revoked.

Signed by authority of the Secretary of State for Work and Pensions.

5th March 2008

Mike O’Brien
Minister of State,
Department for Work and Pensions

(22) [S.I. 2000/1403](#); the relevant amending instrument is [S.I. 2001/934](#).

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are for the most part consequential upon section 273 of the Pensions Act 2004 (c.35) as amended by section 16 of the Pensions Act 2007 (c.22).

By virtue of section 273 of the Pensions Act 2004, section 50 of the Pensions Act 1995 (c.26) has been substituted by new sections 50, 50A and 50B. The new sections include much of the detail that was formerly contained in the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 1996 (S.I. 1996/1270) (“the 1996 Regulations”).

Regulation 2 requires trustees or managers to make persons who apply for the resolution of a pension dispute (“applicants”) aware that the Pensions Advisory Service (TPAS) is available to assist them and the Pensions Ombudsman is available to investigate and determine any complaint or dispute, as part of the notification to the applicants of the trustees’ or managers’ or specified person’s decision in relation to the pension dispute.

Regulation 3 describes an occupational pension scheme in relation to which the requirement for dispute resolution arrangements does not apply.

Regulation 4 describes exempted disputes for the purposes of section 50 of the Pensions Act 1995.

Regulation 5 provides for transitional provision, to deal with cases already being considered under the internal dispute resolution procedures as they were prior to the coming into force of these Regulations, and also to deal with cases excluded from being considered by the Pensions Ombudsman because they were already being considered under internal dispute resolution procedures prior to the coming into force of these Regulations.

Regulation 6 makes consequential amendments to other Regulations. It also updates the references to the Pensions Advisory Service.

Regulation 7 revokes the 1996 Regulations.

These Regulations have only a negligible impact on the costs of business, charities and the voluntary sector. Publication of a full impact assessment is not necessary for such legislation.



Firefighters' Pension Scheme Circular

Circular Number:	FPSC 1/2009	Date Issued:	02/01/2009
Action:	For Information and Action [Non-statutory guidance]		
Title:	<i>Firefighters' Pension Scheme: INTERNAL DISPUTE RESOLUTION PROCEDURE (IDRP)</i>		
Issued by:	Martin Hill Local Government and Firefighters' Pensions Division		

Summary:	This circular advises FRAs that IDRP arrangements have been reviewed and changes introduced with the agreement of the Firefighters' Pension Committee to ensure that they continue to meet the requirements of the Pensions Act 1995, as amended.
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Addressed to:	Please Forward to:
The Clerk to the Fire and Rescue Authority	Pension and human resources managers
The Chief Fire Officer	Medical/Occupational health managers
	Scheme members

Enquiries:

Pensions Team Leader:

Martin Hill	martin.hill@communities.gsi.gov.uk	020 7944 8641
Andy Boorman	andy.boorman@communities.gsi.gov.uk	020 7944 8123
Anthony Mooney	anthony.mooney@communities.gsi.gov.uk	020 7944 8087

Medical Appeals

Philip Brown	philip.Brown@communities.gsi.gov.uk	020 7944 6787
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General Enquiries: firepensions@communities.gsi.gov.uk

Firefighters' Pension Scheme Website: www.communities.gov.uk/firepensions

1. Background

- 1.1 We have reviewed the Internal Dispute Resolution Procedures set out in Fire Service Circular 2/1997 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.
- 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 IDRP?

- 2.1 The IDRP 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.

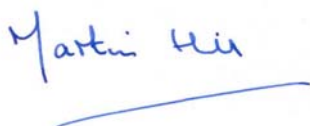
- 5.4 The exceptions are any determinations by an authority under Part 8, rule 2 of the New Firefighters' Pension Scheme 2006, where rule 5 provides for written notice of any disagreement to be submitted within 28 days of receipt of the determination.
- 5.5 A decision on the application must be notified 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.communities.gov.uk/fire/working/firefighterpensions/>

A handwritten signature in blue ink that reads "Martin Hill". The signature is written in a cursive style and is underlined with a single horizontal line.

Martin Hill

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 IDRP 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

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.

**The New Firefighters' Pension Scheme
The Firefighters' Compensation Scheme**

The Pensions Act 1995

INTERNAL DISPUTE RESOLUTION PROCEDURES

These notes explain how certain persons covered by the New Firefighters' Pension Scheme and the **Firefighters' Compensation Scheme** can make an application for the reconsideration of a decision regarding an award of benefits

February 2009

These guidance notes reflect IDRPs for firefighters and their dependants covered by the rules of the Firefighters' Pension Scheme (England) Order 2006, the Firefighters' Compensation Scheme (England) Order 2006, and the Pensions Act 1995 at the date shown below. Nothing the notes contain can override the legislation.

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First Issue

INTERNAL DISPUTE RESOLUTION PROCEDURES

What are "Internal Dispute Resolution Procedures"?

Internal Dispute Resolution Procedures ("IDRP") are available to all members of occupational pension schemes and to 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 current requirements are set out in Sections 50, 50A and 50B of the Pensions Act 1995 and in the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008. Previously the requirements were contained in the Occupational Pension Schemes (Internal Dispute Resolution Procedures) Regulations 2006. Schemes have a discretion to retain the structure of procedures they set up under these earlier Regulations. In November 2008, the Firefighters' Pension Committee agreed to exercise this discretion.

How do IDRP apply to firefighters?

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

Firefighters' pension rights are set out in Firefighters' Pension Scheme Orders. The IDRP Regulations requirements have not been written into the Orders but must operate alongside. In October 1996, a Central Fire Brigades Advisory Council Joint Pensions Committee Working Party was set up to decide and recommend how fire authorities should comply with the IDRP Regulations. The joint recommendations of employers and trade unions were issued in Fire Service Circular 2/1997.

Apart from a few minor adjustments to reflect changes required by later Pensions Acts, the current structure approved by the Firefighters' Pension Committee in 2008 reflects the views of that Working Party. These notes set out the approved procedures.

You should remember, however, that IDRP form only one part of your appeal rights in respect of the New Firefighters' Pension Scheme ("NFPS") and the Firefighters' Compensation Scheme.

It is important that you should select the most appropriate route to raise your grievance. For example, if you disagree with a determination made by your fire and rescue authority in respect of entitlement to an ill-health award, and you believe the problem lies in the medical opinion upon which the authority made their decision, it may be more appropriate to take your case to a Medical Appeal Board as allowed by Part 8 Rule 4 of the NFPS.

Whatever your pension problem, it would be helpful if, initially, you could raise it with your authority's pensions administrator. 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. If you are still dissatisfied then one of the various formal appeal routes can be used. The pensions administrator will be able to explain them to you.

Who can make a complaint under IDR?

The following persons can use IDR –

- (a) active, deferred and pensioner members of the NFPS,
- (b) widows, widowers, civil partners or surviving dependants of deceased members of the NFPS,
- (c) pension credit members, i.e. former spouses or civil partners of firefighters, with pension rights under the NFPS granted by a pension sharing order made on divorce, dissolution of a civil partnership, or annulment,
- (d) prospective members of the NFPS, i.e. persons who under their contract of employment can or will become members,
- (e) persons who ceased to be within any of the categories (a) to (d) within six months before the date of any application under IDR, and
- (f) persons whose claims to be in one of the categories (a) to (e) 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 where a person is incapable of acting for themselves.

Would I have to attend a hearing?

Only in exceptional circumstances. IDR are normally conducted in writing.

What about those who have opted out of the NFPS?

The IDR 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".

Optants out have injury cover under the Firefighters' Compensation Scheme. This provides benefits on ill-health retirement or death, resulting from a qualifying injury. In view of the above definition of an occupational pension scheme, this means that they would be able to use IDR if they have a grievance relating to an injury award; their dependants, too, could use IDR if they have a grievance relating to injury-based death benefits.

Remember, though, that if it is the medical evidence that is to be challenged in respect of a Compensation Scheme award, the medical appeal route may be more appropriate.

Are any cases excluded?

Yes. IDRPs will not apply where –

- a notice of appeal has been issued by the complainant under Part 8 Rule 4 of the NFPS or Part 6 Rule 2 of the Firefighters' Compensation Scheme (appeal against opinion on a medical issue), or
- proceedings have begun in any court or tribunal (this would include an appeal to Crown Court under Part 6 Rule 3 of the Firefighters' Compensation Scheme), or
- the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him.

How do the procedures work?

There are two stages to the procedures.

At Stage One the grievance will be considered by the Chief Fire Officer or a person specified by him/her to decide a Stage One application. If the person with the grievance remains dissatisfied, he or she may then enter Stage Two of the appeal process.

At Stage Two the grievance is heard by one or more elected members of the fire and rescue authority.

How do I get my case considered under Stage One?

The procedures are as follows –

1. Your Stage One application for a decision in respect of a disagreement must be given in writing and contain all the information required by the IDRPs rules. To help you with this a special form has been designed. You can obtain a copy from your authority's pensions administrator. If you supply all the information prompted by the form then you will have complied with the rules. When you (or your representative if you prefer) have completed the form it should be signed and returned as directed by your authority together with any relevant attachments (i.e. any documents which you believe relevant and which may support your case). You should note that if the appeal is against a determination of award under Part 8 Rule 2 of the NFPS, your application must be made within 28 days of receipt of the determination.
2. The Stage One decision maker (i.e. the Chief Fire Officer or other decision maker specified by him/her) 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 two months from the date the application was received,
 - explain that in the event that he/she cannot give a decision within two months you will be sent an interim reply (copied to your representative if you have one) setting out the reasons for the delay and the expected date for the issue of a decision,
 - give you contact details for the Pensions Advisory Service ("TPAS") which is available to assist members and beneficiaries of a pension scheme in connection with any difficulty with the scheme,and will gather such facts and evidence as he/she feels appropriate to give a fair decision in respect of your grievance.

3. Having considered the case and arrived at his/her decision the Stage One decision maker will notify you in writing. The decision will refer to any legislation, including NFPS and Compensation Scheme Orders, relied upon for the decision. If a discretion allowed by these Orders has been exercised, there will be a reference to this and to the provisions of the Scheme which allow the discretion. There will also be a statement to the effect that if you are dissatisfied with the Stage One decision you can take your grievance to Stage Two (see below). This will be copied to your representative if you have one.

This concludes Stage One of the IDRPs process.

What if I am unhappy with the Stage One decision?

If you remain dissatisfied after you have received a Stage One decision, you have six months from receipt of that decision to apply for a reconsideration of the disagreement under Stage Two of the IDRPs process.

At Stage Two, the decision of the Chief Fire Officer or his/her nominated decision maker would be reconsidered by one or more elected members of the fire and rescue authority. Your authority may, for example, have a special panel created for this purpose.

How do I get my case reconsidered under Stage Two?

The procedures are as follows –

1. Your Stage Two application, like the Stage One application, must be given in writing and must contain all the information required by the IDRPs Regulations. Again, as for Stage One, a form has been prepared for this purpose and should be available from your authority's pensions administrator.

When you (or your nominated representative) have completed the form, it should be signed and submitted in accordance with the authority's directions, together with –

- a copy of the Stage One decision, and
- any documents you believe relevant and which may support your case.

2. Your authority should, in writing –

- acknowledge receipt of your Stage Two application for a reconsideration of the Stage One decision, stating that a notice of a decision on the matters raised by your application will be made within two months from the date your application was received and that, in the event that a decision cannot be made within two months, you will receive an interim reply (copied to your representative if you have one) setting out the reasons for the delay and the expected date for the issue of a decision.
- refer your application to the relevant elected member(s) of the authority.

3. The elected member(s) will consider the case and arrive at their decision. This will be set out in a letter to you (copied to your representative if you have one) with an explanation as to whether, and if so to what extent, that decision either confirms or replaces the decision made at Stage One.

As in the case of the Stage One decision, the Stage Two decision will include a reference to any legislation, including NFPS and Compensation Scheme Orders, relied upon for the decision. If a discretion allowed by the NFPS 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, 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 the Pensions Ombudsman will be given.

This completes Stage Two of the IDR process.

How and when would I contact the Pensions Advisory Service or the Pensions Ombudsman?

Although the Pensions Ombudsman would not normally investigate a case unless both stages of IDR have been completed, the Pensions Advisory Service may be prepared to help before the IDR process has commenced or has been completed provided that the person with a grievance has made at least an informal approach to the pension scheme managers about the problem.

The Pensions Advisory Service can be contacted at:

11, Belgrave Road, London SW1V 1RB Telephone: 0845 6012923
Web: www.opas.org.uk

The Pensions Ombudsman can be contacted at:

11, Belgrave Road, London SW1V 1RB Telephone: 020 7834 9144
Web: www.pensions-ombudsman.org.uk

Do I have any further rights of appeal?

To what extent you would have any further rights of appeal after completing both stages of the IDR process would depend upon the nature of your grievance.

In the case of the NFPS you could take your case to the Pensions Ombudsman.

In the case of the Firefighters' Compensation Scheme, Part 6 Rule 3 of the Firefighters' Compensation Scheme (England) Order 2006 states that if a person claims he/she is entitled to an award, or to any payment in respect of an award, and the fire and rescue authority "do not admit the claim at all, or do not admit the claim to its full extent" then the authority must reconsider the case if he/she applies to them to do so. If you have used the IDR process for such a "reconsideration" – and it would be sensible to do so because the application and decisions are then formally prepared, documented and regulated – after receiving the "reconsideration", i.e. the Stage Two decision, you could proceed to take your grievance to Crown Court.

An appeal to Crown Court has to be lodged by notifying both the "appropriate officer" of the Court and the fire and rescue authority, normally within 21 days of receiving the reconsideration (Stage Two decision).

