

MEETING

Authority

AGENDA ITEM

12

MEETING DATE

21 September 2007

DOCUMENT NUMBER

FEP 1091

SUBJECT

Internal Dispute Resolution Procedures – Firefighters Pension Scheme

REPORT

(30.08.07) by the Head of Human Resources

Summary

This report seeks approval for delegated authority to be given to officers, as set out below, to determine appeals (at Stages 1 and 2) under the Firefighters Pension Scheme which are considered under the Internal Dispute Resolution Procedures.

RECOMMENDATIONS

That:

1. The Heads of Human Resources and Finance, or their nominated representatives, in consultation with the Head of Legal and Democratic Services, are given delegated authority to determine Stage 1 appeals under the Firefighters Pension Scheme which are considered under the Internal Dispute Resolution Procedures.
2. Directors are given delegated authority to determine Stage 2 appeals under the Firefighters Pension Scheme which are considered under the Internal Dispute Resolution Procedures.

BACKGROUND

Firefighters Pension Scheme – appeal processes

1. There are a number of appeal processes under the Firefighters Pension Scheme (FPS). Appeals under Regulation 'H2' of the FPS, which are on medical matters, are heard by the Board of Medical Referees, acting for the Secretary of State. Appeals under Regulation 'H3' of the FPS, under which an individual may request a reconsideration of their claim, and may concern a dispute on a factual matter or legal matter, are considered initially by the Head of Human Resources and Head of Finance under delegated authority. If the appeal is not upheld then the appellant may further appeal to the Crown Court. All other appeals under the FPS are considered under the Internal Dispute Resolution Procedures (IDRP).

Internal Dispute Resolution Procedures

2. 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. IDRP offer a two-stage process of internal appeal hearing on pension matters. Although it might be desirable sometimes for the complainant to attend a

meeting as part of the IDR process, it is essentially a written procedure and a complainant cannot be required to attend an oral hearing or interview in respect of either Stage 1 or Stage 2. Thereafter, if the complainant remains dissatisfied he/she can progress the matter to the Pensions Advisory Service (OPAS) and the Pensions Ombudsman.

Application to Firefighters

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

Who can make a complaint under IDR?

4. The following persons can use IDR:
 - (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) pension credit members, i.e. ex-spouses of firefighters with pension rights under the FPS granted by a pension sharing order made on divorce or annulment of marriage,
 - (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.
5. 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.
6. An example of an appeal which would fall under the IDR is where a widow(er) of a member of the FPS, who was separated from their spouse at the time of death, wishes to appeal against a decision of the Authority not to exercise discretion to pay a full widow's pension.
7. It should be noted that those appealing under 'H2' and 'H3' (see para. 1 above) do not have recourse to the IDR.

THE AUTHORITY'S CURRENT IDR ARRANGEMENTS (FPS)

8. As noted above, the IDR requires a two-stage appeal process. Currently, for the FPS, the Commissioner or their nominated representative determines appeals at Stage 1 of the IDR, and the Authority's Disciplinary Appeals Committee (DAC) determines appeals at Stage 2 (FCD 5359, May 1997). The DAC is no longer a constituted committee of the Authority, and, therefore, new arrangements need to be put in place to deal with any appeal that is made.
9. Annexe 12 to the Commentary on the Firefighters Pension Scheme Order 1992 notes that the CFBAC Joint Working Party referred to above (para. 2) recommended that Stage 1 should be considered by the Chief Fire Officer or their authorised representative, and that Stage 2 should be considered by the Member-level appeal body that considers disciplinary matters in relation to the Fire Services (Discipline) Regulations 1985. This Annexe is guidance only.

With the subsequent repeal of the Fire Services (Discipline) Regulations 1985, this Authority has amended the terms of reference of the DAC so that it no longer deals with individual staffing matters, e.g. in relation to disciplinary appeals. Officers now deal with all disciplinary appeals.

10. It should be noted that Stage 2 IDRPs appeals under the Local Government Pension Scheme, in accordance with the Local Government Pension Scheme Regulations 1997 (and a subsequent amendment, the Local Government Pension Scheme (Amendment) Regulations 2004, SI 2004 No 573, are heard by the body responsible for administering the LGPS; in LFEPA's case this is the London Pension Fund Authority (LPFA).

RECOMMENDATIONS

11. It is therefore recommended that:

- The Heads of Human Resources and Finance, or their nominated representatives, in consultation with the Head of Legal and Democratic Services, are given delegated authority to determine Stage 1 appeals under the Firefighters Pension Scheme which are considered under the Internal Dispute Resolution Procedures; and
- Directors are given delegated authority to determine Stage 2 appeals under the Firefighters Pension Scheme which are considered under the Internal Dispute Resolution Procedures. It is considered that this is the appropriate level of officer to consider appeals at these stages.

12. Thereafter the matter would be referred to OPAS (see para. 2 above).

STAFFSIDE CONSULTATION

13. Staffside will be consulted on the contents of this report in advance of the Authority meeting, and their comments will be reported to the Authority.

ENVIRONMENTAL IMPACT

14. There are no direct environmental implications associated with the contents of this report.

LOCAL GOVERNMENT (ACCESS TO INFORMATION) ACT 1985		
List of background documents		
<ul style="list-style-type: none"> • <i>Firefighters Pension Scheme</i> • <i>Annexe 12 to the Commentary on the Firefighters Pension Scheme Order 1992</i> • <i>Occupational Pension Schemes (Internal Disputes Resolution Procedures) Regulations 1996.</i> • <i>FCD 5359</i> 		
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