



HOME OFFICE  
HORSEFERRY HOUSE, DEAN RYLE STREET  
LONDON SW1P 2AW

The Chief Executive to the County Council

The Clerk to the Fire and Civil Defence  
Authority

The Clerk to the Combined Fire Authority

The Chief Fire Officer

4 February 1997

Dear Sir or Madam

## **FIRE SERVICE CIRCULAR 2/1997**

### **FIREMEN'S PENSIONS SCHEME INTERNAL DISPUTE RESOLUTION PROCEDURES**

#### Background

1. This circular gives advice on the application of section 50 of the Pensions Act 1995 (the Act) and the Occupational Pensions Schemes ( Internal Disputes Resolution Procedures) Regulations 1996 (SI.1996 No.1270) (the Regulations) to the Firemen's Pension Scheme (FPS).
2. The Act requires all occupational pension schemes (other than very small schemes) to introduce formal internal dispute resolution procedures (IDRP) for dealing with complaints from scheme members. The Regulations set out the procedures for dealing with disputes and this circular advises fire authorities on the IDRP arrangements that need to be established **with effect from 6 April 1997. This circular should also be brought to the attention of the fire authority's Pensions Officer.**
3. The new procedures also give members of a scheme the opportunity to have the original decision on any internal dispute reconsidered by the managers of the scheme.
4. Fire Authorities must follow these procedures in all cases where there is a dispute about a matter relating to the FPS as set out in the Firemen's Pension Scheme Order 1992 (S.I. 1992/129), other than appeals lodged under Rule H2 which are exempted from the Regulations.
5. This advice on the IDRP for dealing with complaints under the FPS has been agreed by the Joint Pension Committee of the CFBAC.
6. The new procedures will not apply where either proceedings have begun in any court or the Pensions Ombudsman has commenced an investigation.

7. Fire authorities should note that in certain cases a complainant may have recourse to either an application under the IDRPs or an application under Rule H3 of the FPS. However, once an appeal has been made to the Crown Court (or in Scotland the Sheriff) under Rule H3 a complainant is not allowed to apply under the IDRPs.

Who is entitled to make a complaint under IDRPs?

8. The IDRPs are available to the following:

- (a) active, deferred and pensioner members of the FPS;
- (b) widows, widowers or surviving dependants of deceased members of the FPS;
- (c) prospective members of the FPS, i.e. persons who under their contract of employment or the FPS can or will become members;
- (d) persons who ceased to be within any of categories (a) to (c) within six months before the date of any application under the IDRPs; and
- (e) persons whose claims to be in one of the categories (a) to (d) above are the subject of the dispute.

Representation

9. An application under the IDRPs can be made on behalf of the applicant by a representative nominated by him/her or, where he/she dies or is a minor or is incapable of acting for him/herself, by his/her personal representative or, in any case other than death, by a member of his/her family or some other suitable person.

How are IDRPs to be applied to the FPS?

10. The IDRPs provide recourse for a person mentioned in paragraph 8 above who has a complaint about a matter relating to his or her pension, other than a matter covered by Rule H2 (medical appeals). The new legislation requires the setting up of two stages for dealing with applications under the IDRPs. It is recommended that:

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

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

11. Stage One (Section 50(2)(a) of the Act

An application for a decision by the Chief Fire Officer must be in writing, giving details of the complainant who may be a person in any of the categories set out in paragraph 8, or a representative of that person as indicated in paragraph 9. Attached to this circular are suggested formats of:

- (a) a form for use by the complainant or his representative at Stage One. The form covers all the details which must be supplied by the complainant or his representative;
- (b) an acknowledgement letter to be sent to the complainant or his representative by the Chief Fire Officer. (Note: A decision must be made on the application and notified to the complainant or his representative within two months of the receipt of the application or a further letter must be sent explaining the reason for the delay and the expected date of the decision.); and
- (c) a letter to the complainant or his representative setting out the decision of the Chief Fire Officer.

## 12. Stage Two (Section 50(2)(b)) of the Act

If a 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 was given, for the decision to be reconsidered under Stage Two by the Appeal Committee of the fire authority. Attached to this circular are suggested formats of:

- (a) an application form for use by the complainant at Stage Two. The form covers all the details which must be supplied by the complainant;
- (b) an acknowledgement letter to be sent to the complainant or his representative by the Appeal Committee. (Note: a decision must be made on the application within two months of the receipt of the application or a further letter must be sent explaining the reason for delay and the expected date of the decision.); and
- (c) a letter setting out the decision of the Appeals Committee. The notice of decision must also contain:
  - a statement that the Occupational Pensions Advisory Service (OPAS), 11 Belgrave Road, London SW1V 1RB is available to assist complainants in connection with difficulties they have failed to resolve; and
  - a statement that the Pensions Ombudsman, 11 Belgrave Road, London SW1V 1RB may investigate and determine any complaints or disputes of fact or law in relation to the FPS.(See also paragraph 14 below.)

## Penalties (Regulation 10) of the Regulations

13. Penalties of £1,000 for individuals and £10,000 for “others” respectively may be imposed by the Occupational Pensions Regulatory Authority (OPRA) for failure to set up or implement IDRPs.

### Pensions Ombudsman

14. Regulations to be made under the Pensions Act 1995 will extend the powers of the Pensions Ombudsman to include questions of fact or law in relation to public service pensions schemes, in addition to his existing jurisdiction to investigate complaints of maladministration.

### Actions by the Home Departments

15. Requests for advice on general issues concerning the FPS (but not individual cases) can be made by any party at Stage One or Stage Two of the IDRPs. The request should be made in writing to the Home Office, Fire Service Pensions Section, Room 630, Horseferry House, Dean Ryle Street, London SW1P.

16. The Joint Pension Committee (see paragraph 5) has agreed that should a member of the FPS wish to use IDRPs whilst seconded to the Central Services, the 'parent' fire authority, i.e. the fire authority from which the member is seconded, should undertake both Stage One and Stage Two of the procedures.

17. Contact Danny Lafayette, 0171 217 8688

Your faithfully

A handwritten signature in cursive script that reads "Eddie Guy". The signature is written in dark ink and is positioned above the typed name and title.

G E Guy  
Head of Fire Services Unit  
Fire and Emergency Planning Directorate

## X FIRE AUTHORITY

**FIREMEN'S PENSION SCHEME  
PENSIONS ACT 1995: Section 50  
Internal Dispute Resolution Procedures: Stage One Application**

*This application may be submitted by a person (or nominated representative) who is an "active" member of the Firemen's Pension Scheme, or a deferred or pensioner member, or a widow, widower or dependant of a deceased member, or by a person claiming a right under any of these categories.*

**To the Chief Fire Officer, ..... Fire Authority:**

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

***Complete in all cases (in Block Capitals)***

Full name of Scheme member .....

Rank and brigade 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*) .....

Complainants Date of Birth.....

**Signature of complainant (or representative)..... Date.....**

**FIREMEN'S PENSION SCHEME  
PENSIONS ACT 1995: Section 50  
Internal Dispute Resolution Procedures: Stage One Application**

**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 to the application form together with any supporting documents.*

**Signature of complainant (or representative).....Date .....**

**Brigade Headed Notepaper**

Dear (*name of complainant*)

**FIREMEN'S PENSION SCHEME: PENSIONS ACT 1995, SECTION 50(2)(a)  
Internal Dispute Resolution Procedures: Stage One**

Your application under Section 50(2)(a) 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 given above.

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
- an expected date for the issue of the decision.

Yours sincerely

Chief Fire Officer

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

**Brigade Headed Notepaper**

Dear *(Name of complainant)*

**FIREMEN'S PENSION SCHEME: PENSIONS ACT 1995, SECTION 50(2)(a)  
Internal Dispute Resolution Procedures: Stage One**

I have considered your application submitted on *(date)* ..... for a decision to be made under Section 50(2)(a) 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 Firemen's Pension Scheme) relied upon for the decision including, if a discretion has been exercised under the scheme, a reference to the provisions of the scheme under which the discretion is conferred.*

You have the right to apply for reconsideration of the disagreement by the Appeal Committee of the ..... Fire Authority no later than six months from the date of this notice.

Yours sincerely

Chief Fire Officer

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



**X FIRE AUTHORITY**

**FIREMEN'S PENSION SCHEME  
PENSIONS ACT 1995: Section 50  
Internal Dispute Resolution Procedures: Stage Two Application**

*This application may be submitted by a person (or nominated representative) who is an "active" member of the Firemen's Pension Scheme, or a deferred or pensioner member, or a widow, widower or dependant of a deceased member, or by a person claiming a right under any of these categories.*

**To the Appeals Committee, ..... Fire Authority:**

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

***Complete in all cases (in Block Capitals)***

Full name of Scheme member .....

Rank and brigade reference .....

Address of Scheme member .....

.....

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

***Complete if complainant not a Scheme member (in Block Capitals)***

Full name of complainant .....

Address of complainant .....

.....

Relationship of complainant to Scheme member .....

Complainants date of birth .....

**Signature of complainant (or representative) ..... Date .....**

**FIREMEN'S PENSION SCHEME  
PENSIONS ACT 1995; Section 50  
Internal Dispute Resolution Procedures: Stage Two Application**

**NATURE OF DISAGREEMENT**

*Give a statement of the reason for dissatisfaction with the decision made by the Chief Fire Officer under Section 50(2) (a) of the Pensions Act 1995. If necessary, continue details on to another page and attach to the application form together with any supporting documents.*

**Signature of complainant (or representative) ..... Date .....**

**Fire Authority Headed Notepaper**

Dear *(name of complainant\*)*

**FIREMEN'S PENSION SCHEME: PENSIONS ACT 1995, SECTION 50(2)(a)  
Internal Dispute Resolution Procedures: Stage Two**

Your application for a reconsideration of a decision dated *(date)* ..... made under Section 50(2)(a) of the Pensions Act 1995 by the Chief Fire Officer was received on *(date)* .....

The Appeal Committee of the ..... Fire Authority intent to consider the matter raised by your application and will be looking to issue a notice of decision under Section 50(2)(b) of the Pensions Act 1995 within two months from the date your application was received.

If, for any reason, the Appeal Committee is unable to issue you with a decision within this timescale you/and your representative *(complete as appropriate)* will be sent:

- an interim reply
- the reasons for the delay
- an expected date for the issue of the decision.

Yours sincerely

Chairman of the Appeal Committee

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

## Fire Authority Headed Notepaper

Dear *name of complainant*\*

### **FIREMEN'S PENSION SCHEME: PENSIONS ACT 1995, SECTION 50(2)(b) Internal Dispute Resolution Procedures: Stage Two**

The Appeal Committee of ..... Fire Authority has considered your application received on (*date*) ..... for reconsideration of the disagreement which was the subject of a decision made by the Chief Fire Officer under Section 50(2)(a) of the Pensions Act 1995, as indicated in the notice of decision dated .....

The decision of the Appeal Committee, made under Section 50(2)(b) 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.*

*Refer to any legislation (including the Firemen's Pension Scheme) relied upon for the decision including, if a discretion has been exercised, a reference to the provisions of the scheme which the discretion is conferred.*

*Add the following:*

If you remain dissatisfied,

- OPAS (the Occupational Pensions Advisory Service) is available to assist members and beneficiaries of an occupational pension scheme with difficulties which they have failed to resolve with the trustees or managers of the schemes. It can be contacted at -

11 Belgrave Road, London, SW1V 1RB; Telephone (0171) 233 8080

- 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 (0171) 834 9144

Yours sincerely

Chairman of the Appeal Committee

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