

YPS Employer Guide

Appeals

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Introduction

Overview & Purpose

As an LGPS employer, you perform important functions in relation to the Scheme. These actions affect the benefits of members. However, there are certain times where a person whose entitlement has been affected disagrees with what you have done (or failed to have done).

It is preferable that you aim to resolve these disagreements informally. Sometimes a simple explanation of the decision or recognition and subsequent correction of a misunderstanding can easily resolve many disagreements. However, sometimes a disagreement cannot be resolved informally.

The Scheme's rules set out a *formal* procedure to resolve disagreements. This is called the Internal Dispute Resolution Procedure (IDRP). The IDRP has 2 stages. Stage 1 is dealt with by the body who did the action (or omission) that has caused the disagreement (e.g. the employer). If the disagreement is not resolved at stage 1, the person can refer it to the pension fund for a decision at stage 2.

This guide is designed to assist employers who have received a stage 1 formal complaint.

Overview of stage 1

The right to make a stage 1 IDRP complaint is time limited. Generally, the applicant has 6-months.

The employer will nominate a person to determine stage 1 complaints (the adjudicator). The adjudicator will carefully consider the complaint and provide their written decision within 2 months (though they could send a letter delaying the deadline).

The guide provides more detailed notes on stage 1 complaints below.

Overview of stage 2



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The applicant can ask the pension fund to take a fresh look at their complaint in any of the following circumstances:

- (1) The applicant is not satisfied with the adjudicator's stage 1 decision,
- (2) The applicant has not received the stage 1 decision letter within certain deadlines.

This review would be undertaken by a person not involved in the stage 1 decision.

The pension fund must give its stage 2 decision within 2 months (though they could send a letter delaying the deadline).

If the applicant is still unhappy following the stage 2 decision, they can take their case to The Pensions Ombudsman for a formal determination provided they do so within 3 years of the event that gave rise to the complaint.

Rights of representation

The applicant can nominate someone to take their complaint forward on their behalf. This could be, for instance, a trade union official, welfare officer, their partner, or a friend.

If the applicant is a minor or they have become incapable of acting, a family member or some other suitable representative can make (or continue) the complaint on their behalf.

Where a person who has started the IDR process (or a person who has not done so but has the right to do so) dies, the person's personal representatives can make (or continue) the complaint on the person's behalf.

If the applicant nominates a representative before an application is made, the applicant must give the representative's full name and address. The applicant must also specify whether that address is to be used when sending documents connected to the appeal to the applicant. If the representative's address is not used in that way, the representative must nevertheless be sent a copy of any IDR decision letter (including any letters stating that the decision is delayed).



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Regulations

Appeals in the Local Government Pension Scheme (LGPS) are covered within regulations 72 to 79 of the LGPS Regulations 2013. You can access a timeline version of the regulations at <https://www.lgpsregs.org/schemeregs/lgpsregs2013/timeline.php>

These regulations apply to all IDRPs applications not completed by 31 March 2014, irrespective of when the member left the LGPS.

Stage 1 (guidance for employers)

Requirement for employers to appoint an “adjudicator”

Each LGPS employer must appoint a person who will determine stage 1 complaints in respect of decisions/acts/omissions made by the employer. The regulations refer to this person as the “adjudicator”.

The LGPS Regulations do not elaborate on who the employer may appoint. In practice, as the person will need to understand the details of the dispute, the employer is likely to ask someone with relevant expertise, although this does not have to be an employee of the authority. Depending on the circumstances, a suitable person could be the employer’s legal team, the human resources manager, or payroll manager.

Who can make a stage 1 IDRPs application?

Any person whose LGPS benefits are affected by any decision, act or omission made by an LGPS employer. This includes the following:

- (1) A member
- (2) A dependent of a deceased member (e.g. widows, widowers, civil partners, cohabiting partners, or eligible children)



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- (3) A person who, on the death of a member, is entitled to payment of benefits under the scheme
- (4) A prospective member
- (5) A person who ceased to be within any of the above listed categories
- (6) A person purporting to be in one of the above categories and the dispute relates to whether the person falls within such category

Exempted disputes

The resolution of a dispute under the IDRPs ceases if the dispute has become the subject of proceedings in any court or tribunal. The same applies where The Pensions Ombudsman has begun an investigation of the dispute as a result of a complaint made, or the dispute being referred to the Ombudsman, for instance, because no decision was given within the time limit.

What are the deadlines for making stage 1 IDRPs applications?

The cause of the disagreement	Deadline to make Stage 1 IDRPs applications
The employer has sent a letter to a person setting out a decision	<p>Within 6 months of the date the letter was given.</p> <p>The adjudicator has discretion to extend this deadline.</p>
The employer has acted/failed to act the result of which has affected the person's LGPS entitlement.	<p>Within 6 months of the date of the act/omission.</p> <p>If there is more than one act/omission, the 6 months starts from the date of the last act/omission.</p> <p>The adjudicator has discretion to extend this deadline.</p>



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How should the person make the stage 1 IDRPs application?

To make a stage 1 application, it must be made within the deadline (see previous section) and –

- (1) Set out the applicant's name, address and date of birth
- (2) If the applicant is not a member, set out the applicant's relationship to any relevant member and give that member's full name, address, date of birth, national insurance number and the name of the member's Scheme employer
- (3) Include a statement giving details of the nature of the disagreement and the reasons why the applicant is aggrieved
- (4) Be accompanied by a copy of any relevant decision letter (if applicable)
- (5) Be signed by or on behalf of the applicant
- (6) Where a representative is nominated before an application is made, specify the representative's full name and address, and whether that address is to be used for service on the applicant of any documents in connection with the application.

The applicant should complete the application form (available on our website) and send it to us. We would then liaise with the relevant employer. The application form contains guidance notes to assist applicants with the process.

General notes on procedure to be followed by the adjudicator?

At stage 1, the adjudicator will carefully review the complaint. This is an opportunity to reconsider the decision - for instance, where certain relevant facts or evidence were not taken into account, or where there has clearly been a mistake or oversight.

Upon receipt of an application, which must be a written one, the adjudicator will need to ensure that the applicant has provided all the required information (see previous section).

The adjudicator must also check that the application has been submitted within the 6-month deadline. Otherwise, the adjudicator will need to consider whether to exercise their discretion to extend the deadline.

The adjudicator should ensure that they have all the appropriate information to make an informed decision. They should request further information if required.



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By when and to whom must the adjudicator give written notice of their decision?

The adjudicator must give their decision in writing to the applicant, scheme employer and us. If the applicant has nominated a representative on their application form, the applicant will have set out whether the adjudicator should send any relevant communications to the applicant by sending it to the representative's address. If so, the adjudicator will send the decision letter to the representative, scheme employer and the pension fund and Your Pension Service (YPS). Otherwise, the adjudicator will need to send the decision letter to the applicant, the representative, scheme employer and the pension fund and YPS.

The decision letter must be sent within the 2-month period beginning with the date on which the stage 1 application was received. Where it is possible to make the decision sooner, there should be no delay in taking the decision (i.e. do not sit on the complaint until the end of the 2-month period, if the decision could be given sooner).

If the adjudicator is not able to give the decision letter within the 2-month period, the adjudicator must send a letter to the relevant parties (see first paragraph of this section) setting out the reasons for the delay and an expected decision date.

It is accepted that the decision times will vary depending on the nature of the complaint. In the Pension Regulator's Code of Practice 14, this point is acknowledged. TPR also notes that the employer should be satisfied that the time taken to reach a decision is appropriate to the situation and be able to demonstrate this, if necessary. In addition, the adjudicator is expected to provide regular updates on the progress of their investigation (paragraph 232 of TPR's code of practice 14).

What information must the adjudicator's decision letter contain?

The decision letter must contain the following information:

- (1) A statement of the decision
- (2) A reference to any legislation on which the adjudicator relied
- (3) In a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the LGPS regulations conferring the discretion
- (4) A reference to the right of the applicant to refer the disagreement to the pension fund (stage 2) and that, if the applicant wishes to do so, the person needs to do so within 6 months of the adjudicator's decision letter.



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- (5) a statement that the Money and Pensions Service is available to give assistance in connection with any difficulty with the Scheme that remains unresolved including the address at which it may be contacted.

See [template letter](#).

[General notes on ill-health appeals](#)

The majority of IDRPs applications regard ill-health retirements.

To assist employers, The Pensions Ombudsman has produced a newsletter which provides generic guidance on the ill-health decision-making process. This is available on the <http://lgpsregs.org/landscape/index.php/other-guidance> (then click 'Other Government documents', then 'Other documents').

[Template stage 1 decision letter](#)

Dear XX XXXX

Local Government Pension Scheme: Internal Dispute Resolution Procedure (stage 1 decision)

Thank you for your application form of XX XXXX XXXX enclosing information on your disagreement with *[name of relevant Scheme employer]*. I was asked to make the stage 1 decision under the Internal Dispute Resolution Procedure (IDRP).

I have looked at the details of your complaint and have made the following decision.

Details should include:

- *The question for decision*
- *The decision itself*
- *Evidence received*
- *Any scheme regulations considered, and the reasons for the decision*



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- *If the decision is based on a discretionary power contained in a policy made by the employer, a copy of the policy or the relevant part of it, and a reference to the scheme regulation that allows the policy.*

If you are not happy with this reply, you have the right to ask the xxxxx pension fund administering authority to look at your complaint again at stage 2 of the IDRP. You must do this in writing within six months from the date of this letter. To do so, please fill out the application form (attached) and provide the necessary information. Please send this to the pension fund (see notes to application form).

The Money and Pensions Service is available to give assistance in connection with any difficulty with the Scheme that remains unresolved.

Please note that prior to March 2018, persons could approach both the Pensions Advisory Service (now known as the Money and Pensions Service) and The Pensions Ombudsman (TPO) for help when dealing with a pension complaint. TPAS tended to focus on complaints before the Scheme's Internal Dispute Resolution Procedure (IDRP) had been completed, while The Pensions Ombudsman dealt with complaints that had been through the IDRP. In March 2018, TPAS's dispute resolution function has moved to The Pensions Ombudsman. The aim of the change is to simplify the customer journey. Customers will be able to access all dispute resolution, previously handled by two services, whether pre or post IDRP, at TPO.

If you have a complaint or dispute concerning your workplace or personal pension arrangements, you should contact:

The Pensions Ombudsman

Tel: 0800 917 4487

Address: 10 South Colonnade

Canary Wharf, E14 4PU

Email: enquiries@pensions-ombudsman.org.uk

Website: www.pensions-ombudsman.org.uk

If you have general requests for information or guidance concerning your pension arrangements contact:



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The Pensions Advisory Service (now known as the Money and Pensions Service)

Address: 11 Belgrave Road, London, SW1V 1RB

Tel: 0800 011 3797

Website: www.pensionsadvisoryservice.org.uk/

Yours sincerely

XXXXXXXXXXXXXXXXXX

Title - XXXXXXXXXXXXXXXXXXXX



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Change History

Version	Date	Author	Amendment
1.0	03/09/2014	Colin Smith	First draft
2.0	10/07/2015	Steven Moseley	Minor amends made upon annual review.
3.0	22/1/2016	Linda Thompson	Added link to PO Newsletter
4.0	01/03/2018	Steven Moseley	Note that TPAS's dispute resolution function has transferred to TPO.
5.0	12/06/2019	Ammie Mchugh	Changed referred to TPAS to the Money and Pensions Service. Updated TPO address
6.0	20/06/2019	Steven Moseley	Expanded to provide more advice on the process