

Meeting of the Board 20 June 2018

ITEM 12

Internal Dispute Resolution Procedures (IDRPs).

Introduction

1. The Firefighters' Pension Scheme regulations allow for members to challenge a scheme decision under an Internal Dispute Resolution Procedure. The regulations do not specify what this procedure should be, however in 2009 after consultation with representative bodies, DCLG (now Home Office) published guidance ([FPSC 1/2009](#)) on IDRPs for Fire Authorities.
2. The guidance [paragraph 4.2] calls for a two stage procedure, the first stage to be considered by the Chief Fire Officer or appropriate delegated officer and the second stage to be considered by the elected members of the Fire and Rescue Authority.
3. This paper requests members to consider whether it is time to review the IDRPs guidance, and sets out the background to the current procedure and other information that may be relevant.

Recommendation: It is the secretariat's view that evidence of the current procedure should be gathered and consideration be given to revising guidance on IDRPs with a view to moving to a one stage process.

Background

4. The pension scheme regulations do not determine what the IDRPs process should be, they simply determine that where a person disagrees with an authority's determination and where that disagreement is not of a medical nature, then the disagreement should be dealt with under the terms of [section 50](#) of the Pensions Act 1995 (*requirement for dispute resolution arrangements*) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008 [[SI 2008/649](#)].

The relevant regulations in each scheme are [H3](#) (1992 Scheme), [Part 8, Rule 5](#) (2006 Scheme) and [163](#) (2015 Scheme).

5. As mentioned, in 2009 after consultation with representative bodies and the Firefighters Pension Committee (FPC), DCLG (now Home Office) published guidance ([FPSC 1/2009](#)) on IDRP for Fire Authorities. Notes from the FPC meeting when the 2009 FPS circular (1/2009) was introduced are linked below:

- [FPC 28 – item 7](#)
- [FPC \(08\) 7](#)

6. The Pensions Ombudsman (TPO) supports a one stage process as they believe this provides a timelier outcome for individuals. TPO have been working with The Pensions Advisory Service (TPAS) in order to create one centre for the resolution of pension disputes to ensure a simpler and quicker customer journey. [TPO bulletin [here](#)]

7. Other organisations have already adopted a one stage procedure and, notably, SPPA have implemented a one stage procedure across the entire public sector in Scotland. Circular [2018/06](#) confirms that this change will take effect from 1 May 2018 for the Firefighters' Pension Scheme in Scotland.

8. Fire Authorities who have sought legal advice on whether they can adopt a one stage IDRP have received the following advice.

“A circular is not legislation, and it is not statutory guidance which authorities are generally obliged to have regard to. It is simply guidance, and an authority can always depart from guidance where it has good reason to do so. Accordingly, it might be argued that it would be lawful for the service to unilaterally remove a stage in the IDRP process and/or, shorten timescales in the process, in the light of the Webber case. However, as there was clearly significant union involvement in the production of the 2009 circular, I would caution against taking such a step without at least discussing with DCLG what it intends to do in the light of the Webber case”.

9. The secretariat has received a number of queries from Fire Authorities with regard to the procedure, including views that a second stage involving Fire Authorities does not offer value as the elected members at Fire Authorities generally have limited knowledge of pensions and an IDRP is rarely, if ever, overturned at the second stage.

10. Since the original release of the IDRPs guidance, engagement with regard to firefighter pensions from Fire Authorities has increased considerably. The PSPA2013 which introduced governance, requires Local Pension Boards and indeed this board, to assist scheme managers in ensuring compliance with scheme rules, and guidance is frequently published by LGA across two web sites www.fpsboard.org and www.fpsregs.org. This means there is greater knowledge of, and scrutiny over, pension decisions.

Recommendations

In order for the SAB to consider whether revised guidance on IDRPs is necessary it is recommended that the Board take the opportunity to review how the existing procedure operates, in order to consider whether they would support a one stage process.

11. This would involve requesting data from Local Pension Boards to confirm:
- i. Whether they currently operate within the guidance of the 2009 circular, and if not why not
 - ii. How many IDRPs have been considered within the 12 month period from 31 July, and of those
 - a. How many IDRPs are upheld in the members favour
 - b. How many IDRPs decisions are overturned by the Authority at the second stage?

Board decision

12. The board are asked to agree the recommendations.

Board Secretary
20 June 2018