

Meeting of the Board 13 June 2019

ITEM 9

## 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 (IDRP). 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 and Rescue Authorities (FRAs).
2. At their meeting on 20 June 2018 ([paper 3](#)), the Scheme Advisory Board considered retaining a two stage process or moving to a one stage process and decided<sup>1</sup> to retain the two stage process, albeit they agreed that a review should be made of which roles would be appropriate to be involved and whether the time limit should be lowered.
3. This decision was communicated to FRAs in bulletin 9<sup>2</sup>, a further factsheet ([Annex One](#)) has been drafted to provide detail over the current process.
4. This paper now requests members to consider the following two questions to consider whether a review of the current procedure is needed, and if so is a working party the appropriate way to proceed?
  - i. What / who is the appropriate role / body to hear stage one and stage two?
  - ii. Should the total timeframe be reduced?

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<sup>1</sup> Minutes of the meeting (item 12) -

<http://www.fpsboard.org/images/PDF/Meetings/20062018/Minutes200618.pdf>

<sup>2</sup> <http://www.fpsboard.org/images/PDF/Bulletin9/Bulletin9.pdf>

**For discussion**

5. What / who is the appropriate role or body to hear stage one and stage two?

Stage One

The current procedure requires the Chief Fire Officer (CFO) or senior manager delegated by the CFO to hear the first stage. This is a role similar to the delegated scheme manager<sup>3</sup> under rule 5 of the 2014 regulations<sup>4</sup>.

The Board should consider whether this is an appropriate level of expertise and seniority to hear the first stage. It might be appropriate for the HR / Finance director to hear the first stage if they are not already the delegated scheme manager. The Board may also wish to consider whether each scheme manager should be allowed to determine who hears the first stage.

Stage Two

The current procedure requires the elected members of the FRA to hear the second stage. The FRA are determined to be the scheme manager<sup>5</sup> under rule 3 & 4 of the 2014 regulations<sup>6</sup>.

The Board should consider whether elected members have the required level of expertise and knowledge of the pension regulations in order to appropriately hear the second stage. The Board should also consider whether authorities are delegating the scheme manager role appropriately.

6. Should the total timeframe be reduced?

Under the current guidance, the timeframe for submitting a stage one or two complaint is within six months of the grievance occurring or the stage one decision being made. In each case the timeframe for responding is within two months of the application. However, there is some discretion allowed to extend a response and a letter must be sent explaining the reason for delay and the expected date of decision.

The Board should consider that the regulations were amended in 2013 to provide that a complaint should be submitted within 28 days, however, the current guidance is dated 2009 and has not been changed, which still allows six months.

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<sup>3</sup> <http://www.fpsregs.org/images/admin/Schememanagerv1.pdf>

<sup>4</sup> Rule 5 of the 2014 regulations - <http://www.legislation.gov.uk/uksi/2014/2848/regulation/5/made>

<sup>5</sup> <http://www.fpsregs.org/images/admin/Schememanagerv1.pdf>

<sup>6</sup> <http://www.legislation.gov.uk/uksi/2014/2848/regulation/4/made>

The Board should consider whether the timeframes should be shortened to enable quicker resolution.

## **Board decision**

7. The Board are asked to agree the formation of a working group to further consider the above questions. It is the Secretariat's recommendation that the working group should consist of six people, this should comprise the Board Secretariat, an employer and employee SAB member, and three FRA stakeholders, preferably with HR responsibilities. A member from the Home Office team should also be invited to observe.

Board Secretary  
13 June 2019



## Information

# Internal Dispute Resolution Procedure (IDRP)

## Introduction

This factsheet has been prepared to give guidance on how to manage an internal dispute resolution for the Firefighters' Pension Schemes.

## What is an IDR?

An IDR can be raised by a member of the Firefighters Pension Scheme if they feel that the scheme manager has made a decision under the scheme incorrectly. Each Fire and Rescue Authority (FRA) should have in place a process which determines how an IDR will be managed.

A full list of discretions and determinations made by the scheme manager can be found under the 'Guides and Sample Documents' tab, within the 'Administration Resources' tab of [www.fpsregs.org](http://www.fpsregs.org)<sup>7</sup>

If the disagreement involves an issue of a medical nature<sup>8</sup>, then an IDR is **not** appropriate and the correct route is a medical appeal. However, it should be noted that in certain situations it may be possible that medical disputes could end up with both a medical appeals dispute process and an IDR where the processes that should have been in place to deal with the medical issue have not been appropriately managed.

FPS Bulletin 13 and 14<sup>9</sup> commented on the duty of FRAs to 'not act blindly' on receipt of an IQMP opinion. The responsibility of the decision maker (the authority) is to not act blindly in accepting a medical opinion, and should ensure the IQMP reaches their opinion in a proper manner. Various case law was cited in the bulletins.

## Regulations

The wording across the schemes is identical and states that where a member disagrees with a scheme manager's determination, they can **within 28 days** of the determination require the scheme manager to conduct an IDRP.

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<sup>7</sup> <http://www.fpsregs.org/images/admin/AllSMdiscretionsv2.pdf>

<sup>8</sup> See Ill-Health and Injury Pension Quick Guide - <http://www.fpsregs.org/images/admin/Illhealth.pdf>

<sup>9</sup> <http://www.fpsboard.org/images/PDF/Bulletin13/Bulletin13.pdf> and <http://www.fpsboard.org/images/PDF/Bulletin14/Bulletin14.pdf>

Where—

(a) a member (P) disagrees with a scheme manager's determination under regulation 151 (determinations by the scheme manager); and

(b) the disagreement does not involve an issue of a medical nature,

P may, by written notice given to the scheme manager within 28 days of receipt of the determination, require the scheme manager to deal with the disagreement by means of the arrangements implemented by it pursuant to the requirements of section 50 of the Pensions Act 1995(1) (requirement for dispute resolution arrangements) and the Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008(2).

This factsheet is written for English FRAs only, as devolved authorities may have different guidance or processes in place. However, the rules for each scheme are provided below for completeness.

	FPS 1992	FPS 2006	FPS 2015
England	<a href="#">H3</a>	<a href="#">Part 8, Paragraph 5<sup>10</sup></a>	<a href="#">Rule 163</a>
Wales	<a href="#">H3</a>	<a href="#">Part 8, Paragraph 5<sup>11</sup></a>	<a href="#">Rule 173</a>
Scotland	<a href="#">H3</a>	<a href="#">Part 8, Paragraph 5<sup>12</sup></a>	<a href="#">Rule 153</a>
Northern Ireland	<a href="#">Article 67</a>	<a href="#">Article 48</a>	<a href="#">Rule 165</a>

## Guidance

The guidance in [FPSC 1/2009](#) put in place a two stage process; stage one should be considered by the Chief Fire Officer (CFO) or a senior manager specified by the CFO; stage two should be considered by the elected members of the FRA.

The guidance also set out the following timescales for the authority to deal with the complaint.

This can have the effect of the total process taking 16 months to complete.

	Stage One	Stage Two
Application	Application must be made within six months of the dispute arising <sup>13</sup>	No later than six months after receiving stage one decision
Decision	Within two months of receipt of application.	Within two months of receipt of application.
Possible total time	8 Months	8 Months

<sup>10</sup> Amended by [SI 2013/1393](#)

<sup>11</sup> Amended by [WSI 2014/3254](#)

<sup>12</sup> Amended by [SSI 2018/215](#)

The Scheme Advisory Board received a number of queries regarding the potential lengthy process and whether two stages were necessary, and / or whether the elected members of the FRA were the appropriate body to review the second stage owing to a lack of technical knowledge of the scheme.

At their meeting on 20 June 2018 ([Paper 3](#)), the Board considered retaining a two stage process or moving to a one stage process and decided to retain the two stage process, albeit they agreed that a review should be made of which roles would be appropriate to be involved and whether the time limit should be lowered.

The current position remains as reported in FPS Bulletin 9<sup>14</sup> that the process as laid out in FPSC 1/2009 should be followed.

## Further Guidance

FPC (08) 7 - <http://www.fpsregs.org/images/FPC/FPC08.7.pdf>

FPC 28 - Item 7 - <http://www.fpsregs.org/images/FPC/FPC28.pdf>

FPSC 1/2009 - <http://www.fpsregs.org/images/FPSC/1-2009.pdf>

This factsheet has been prepared by LGA to give some guidance on the rules of the pension scheme using the regulations as they stand at June 2019, however they should be used only as an informal view of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice

Please address any queries on the content of this factsheet to [bluelight.pensions@local.gov.uk](mailto:bluelight.pensions@local.gov.uk)

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<sup>14</sup> <http://www.fpsboard.org/images/PDF/Bulletin9/Bulletin9.pdf>