

Circular



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Title:	Firefighter Pension Schemes: Internal Dispute Resolution Procedure (IDRP)
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Issued by:	Natalie Spiller Fire Services Branch
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Addressed to:	Please forward to:
Chief Fire Officers	FRA Chairs Treasurers Pensions Officers

Summary
This circular replaces Welsh Circular W-FRSC (09)01 and provides updated guidance on the IDRP arrangements. Draft application forms and letters relating to each stage of the IDRP process has been provided at Annex 1.

For further information contact:	
Fire Services Branch Welsh Government Rhydycar Merthyr Tydfil CF48 1UZ	Direct Line: 0300 062 8487 E-mail: fire@gov.wales Website: Fire and rescue

1. Internal Dispute Resolution Procedure (IDRP)

1.1 If a scheme member, prospective member, dependant, or other person with an interest in the scheme, is dissatisfied with a decision made by a Fire and Rescue Authority (FRA), or the failure to make a decision, there are rights of appeal available.

1.2 Each set of scheme rules contains arrangements for Internal Dispute Resolution Procedures (IDRP)¹:

Firefighters' Pension Scheme 1992 (FPS 1992) - Rule H3 of Schedule 2.

Firefighters' Pension Scheme (Wales) Order 2007 (FPS 2007) - Schedule 1, Part 8, Paragraph 5.

Firefighters' Pension Scheme 2015 (FPS 2015) - Part 12, Chapter 3, Regulation 173.

Firefighters' Compensation Scheme (Wales) Order 2007 - Schedule 1, Part 6, Rule 3.

2. Background

2.1 The advice set out in this circular has been prepared to update Welsh Government circular W-FRSC(09)01, (which reflected informal guidance from the Firefighters Pension Committee [FPSC 1/2009](#)) in respect of who each stage of the appeal should be heard by, and the relevant timescales for each stage.

2.2 The advice has been agreed by the Firefighters' Pensions Scheme Advisory Board for Wales (SABW).

2.3 Each FRA should have a process in place which determines how an IDRP will be managed.

3. Who is entitled to make a complaint under IDRP?

3.1 In respect of the Firefighters' Pension Schemes, a person with an interest in the scheme and who may use the IDRP would be:-

(a) a member – active, deferred or pensioner;

(b) a widow, widower, surviving civil partner, surviving cohabiting partner or other surviving dependant of a deceased member;

(c) a surviving non-dependant beneficiary of a deceased member;

(d) a prospective member, i.e. a person who is not currently a member and could join at their request or would be automatically admitted unless they opt out, or who may be admitted subject to the consent of the FRA;

¹ Based on the requirements of Section 50 of the Pensions Act 1995 and The Occupational Schemes Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations 2008

(e) a person who has ceased to be within any of the above categories (a) to (d); or

(f) a person who claims to be within any of the above categories (a) to (e) and the dispute relates to whether they are such a person.

3.2 As the procedures also apply to disputes relating to the FCS 2006, they are available to employees, prospective employees, and former employees, who may be entitled to benefits under that scheme, i.e. optants-out of the main FPS schemes, and retained firefighters employed before 6 April 2006 with protected rights.

4. Representation

4.1 An application under the IDRPs may be made or continued on behalf of a person who is a party to the dispute:

(a) where the person dies, by their personal representative,

(b) where the person is a minor or is otherwise incapable of acting for themselves, by a member of their family or some other person suitable to represent them, and

(c) in any other case, by a representative they have nominated.

5. How does IDRPs apply to the FPS?

5.1 The IDRPs allow any person mentioned in paragraph 3.1 above, who has a complaint relating to the pension that is not covered by the medical appeal arrangements, to have their appeal heard by the relevant scheme manager/ authority.

5.2 Amendments to the Pensions Act 1995 made in 2008² allowed for a single stage procedure, although pension schemes have discretion to make provision for two stages.

5.3 The scheme rules do not prescribe what the dispute resolution arrangements should look like or the process to be followed, only that the member should give written notice to the scheme manager/ authority within 28 days of receipt of the determination to require the scheme manager/ authority to deal with the disagreement by means of an IDRPs. How the scheme manager/ authority then responds is a matter for guidance.

5.4 The SABW has proposed that the existing guidance on how to manage this process as set out in W-FRSC(09)01 should be maintained on the following basis:

Stage one: the appeal should be considered by the Chief Officer, or a delegated senior manager (“the specified person”), who will make a stage one decision.

An appropriate delegation would be the delegated scheme manager under rule 14(1) of the 2015 regulations³.

Stage two: the stage one decision should be agreed or overturned by the decision of a nominated panel of representatives of the FRA; noting that the panel must obtain relevant

² <https://www.legislation.gov.uk/ukpga/2007/22/section/16>

³ <https://www.legislation.gov.uk/wsi/2015/622/regulation/14/made>

advice on technical or legal issues. The panel may include elected members of the authority or any other suitable representatives. The panel may provide for decisions to be taken by or on their behalf by one or more of their number.

6. Stage one

6.1 The application should be made in writing, giving details of the complaint. A suggested format is at Annex 1.

6.2 The regulations state that applications should be made within 28 days of receipt of the determination giving rise to the dispute.

6.3 However, [TPR code of practice 11](#) which comments on the specified reasonable period, gives a period of six months and allows discretion to accept applications made outside of this time period. The guidance in W-FRSC(09)01 gave a timeframe of six months for the application and the SABW consider this to still be an acceptable timeframe.

6.4 The specified person must acknowledge receipt of the application as soon as reasonably possible, and:

(a) inform the applicant that the [Money and Pensions Service](#) (MaPS) is available to assist members and beneficiaries of the scheme in connection with any difficulty with the scheme, and

(b) give the applicant the contact details for MaPS.

6.5 A stage one decision must be provided to the complainant or their representative within two months of receipt of the application or a further letter must be sent explaining the reason for the delay and the expected date of the decision.

7. Stage two

7.1 If the applicant is dissatisfied with the decision at stage one, they can apply in writing for the decision to be reconsidered by the FRA. A suggested format is included in Annex 1.

7.2 The guidance in W-FRSC(09)01 gave a timeframe of within six months of receiving the stage one decision and the SABW consider this to still be an acceptable timeframe.

7.3 When an application is received, it should be acknowledged.

7.4 A stage two decision must be taken within two months of receipt of the application or a further letter must be sent explaining the reasons for the delay and the expected date of the decision.

7.5 When notification of the decision is sent to the applicant, it must include:

(a) a statement that 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, and;

(b) the Pensions Ombudsman's contact details.

8. Exemptions

a. IDRPs cannot be used where –

(a) proceedings in respect of the dispute have been commenced in any court or tribunal;

(b) the Pensions Ombudsman has commenced an investigation into a complaint made or dispute referred to him; or

(c) a notice of appeal has been issued by the complainant in accordance with :-

i. Rule H2 of Schedule 2 to the Firemen's Pension Scheme Order 1992 (appeal against opinion on a medical issue);

ii. Rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (Wales) Order 2007 (appeals against decisions based on medical advice);

iii. Regulation 164 of the Firefighters' Pension Scheme (Wales) Regulations 2015 (appeals against determinations based on medical evidence), or

iv. Rule 2 of Part 6 of Schedule 1 to the Firefighters' Compensation Scheme (Wales) Order 2007 (appeal to medical referee).

8.2 The appeals listed in (c) above relate to a determination made by the FRA in relation to an ill-health or injury award. The FPS and FCS contain special provisions for medical opinions to be considered by the Board of Medical Referees (BMR).

8.3 However, the person may still be eligible to make an appeal on a medically-related issue other than the outcome of a medical opinion. For example, if a firefighter believes they are entitled to an ill-health award, but the FRA make a determination of an ordinary award, without seeking a medical opinion, or if the dispute is that the correct processes have not been followed.

Natalie Spiller
Fire Services Branch.