



**Shropshire
County
Pension Fund**

Internal Dispute Resolution Procedure (IDRP)



September 2021

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This guide tells you about the complaints procedure for the Local Government Pension Scheme (LGPS) known as IDRP and, if you are unhappy with a decision about your pension benefits, the process to follow. We hope you find this guide helpful, and if you require further information, you are welcome to contact the Pensions Team.

Section 1 – What should you do if you have a problem with a decision about your benefits?

Firstly, you should contact whoever made the decision, either your employer or the pensions team, to explain your problem. Often a problem can be resolved quickly as it may have resulted from a misunderstanding, or because of incorrect information which can be explained or easily put right. Many problems are resolved this way and by contacting either the pensions team or your employer first this may save you time.

What is a decision?

From the day you join the Local Government Pension Scheme (LGPS), your employer is making decisions regarding your membership. Some decisions are the responsibility of your employer or former employer when you leave the scheme, whereas other decisions are the responsibility of the body administering the fund (the administering authority). Shropshire Council is the administering authority for the Shropshire County Pension Fund.

When you are notified of a decision you should check with whoever has made the decision, that it is based on correct information.

When a decision is made you should be informed of the outcome, told who to contact if you are unhappy with the decision reached and provided with details of the rights of appeal under the LGPS regulations. Similar information will be given to dependants and/or personal representatives upon the death of a LGPS member.

Section 2 – What decisions can be made and by who?

Examples of employer decisions:

- deciding whether you meet the grounds for an ill health retirement and what tier of benefits is to be awarded
- deciding the final pay to be used to work out your benefits
- deciding the contribution rate you pay
- deciding how and when to apply the discretions available to employers in the LGPS

Remember, if you are unhappy with any decision made by your employer you should contact them first before beginning the IDR process.

Examples of administering authority decisions:

- whether or not to accept a transfer from another scheme
- decide who receives any death grant that may be payable
- calculating your benefits

If you are unhappy with any decision made by the administering authority you should contact the pensions team before initiating the IDR process.

Other reasons you may wish to complain

There may be other reasons why you may wish to complain other than as a result of a decision that has been made. For example if you feel you have not been provided with the information you need, there has been an unreasonable delay in dealing with a request, or as a result of your employer or the administering authority failing to make a decision which they were required to make under the regulations. In such cases, there may be a reason behind these issues and we therefore suggest you contact either your employer or the

pensions team to discuss the matter before proceeding with an appeal.

Section 3 – What is IDR?

Regulations 72 to 79 of the Local Government Pension Scheme Regulations 2013 set out the formal dispute procedure. The complaints procedure's official name is the internal dispute resolution procedure (IDRP). This procedure has two stages, but complaints are often resolved at the first stage of the process. Full details of each stage are covered later in this guide. If you are unhappy with a decision, or a decision has not been made in reasonable time under the dispute rules, you have the right to have it looked at afresh by a "nominated person" through the first stage procedure. This is a person specified for this purpose by either your employer or the administering authority, depending upon who made the initial decision.

You also have the right to use IDR if a decision should, but has not been made, by your employer/former employer or administering authority. If you wish to complain about a non-decision or a delay, you must first use the IDR procedure for this type of complaint. Even if it is decided that there has been an issue with maladministration, neither your employer nor the administering authority has the power to award compensation for any loss you may have suffered. However, you can take your complaint to The Pensions Ombudsman (TPO) who does have the power to award compensation in such cases.

There are also a number of other regulatory bodies such as The Pensions Advisory Service (TPAS) who will be able to provide information about your pension, but if you have a complaint or dispute please refer this to TPO.

If a decision has been made by either your employer or administering authority using a discretionary power and you are disputing that decision, your complaint would follow the standard two stage dispute process. However, at neither stage of the process can the original decision be overturned, instead it would be assessed whether the discretion had been exercised reasonably accordingly to either bodies policy. If it was found not to have been exercised reasonably or not in line with policy the original decision maker would be asked to revisit their decision.

Who can use the IDR procedure?

You have the right to use the formal complaint procedure if:

- you are a member of the LGPS including; if you are currently paying into the scheme or;
- if you have now left and receive a pension from the scheme or;
- if you have deferred benefits in the scheme or;
- are a prospective member¹ of the scheme;
- you are the widow, widower, civil partner, child or other dependant of a person who fell into one of the categories above before he or she died;
- you think that you either might or should fall into one of the above categories;
- you do not fall into one of the above categories now but you did at some time during the last six months.

Why use the IDR process?

IDR is here to formalise the complaints procedure and to help you through a dispute. However, the IDR process should only be used if you have spoken to either your

¹ A 'prospective member' means that, although you are not a member now, you could become one by opting in, or by your employer bringing you into the LGPS.

employer or the administering authority to try to resolve your issue and you still disagree.

Can someone make a complaint on my behalf?

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, spouse, partner or friend and you will need to give the person you have chosen written authority to act on your behalf.

In circumstances where the prospective complainant has died, his or her personal representative (the person dealing with the estate) can make or continue the complaint on behalf of the deceased complainant. If the person who is entitled to make the complaint is a child or is for some other reason not capable of making and carrying out the complaint on their own behalf, then the complaint can be made and enacted by a member of their family or by another suitable person.

Section 4 – IDRP and ill health retirements?

If you are considering using IDRP for a dispute regarding an ill health retirement, you must be clear what it is that you can appeal against before starting the IDRP process. You do not have the right of appeal to the fund under IDRP against your employer's decision not to terminate your employment through ill health grounds; instead, you must appeal direct to your employer as this is an employment issue.

However, if you have been dismissed from your employment and a decision has been made not to award you an ill health benefit with which you disagree, you may appeal against it through the IDRP procedure. You can also use IDRP if you disagree with the ill health benefit awarded.

Specific issues relating to Ill health retirement before considering using IDRPs.

- It is your employer's decision whether or not to agree an ill health retirement benefit and subsequently which tier of benefit is awarded - an opinion is provided by an Independent Registered Medical Practitioner (IRMP) to assist your employer when making this decision. The IRMP does not make the decision
- It is not your own GP or consultants decision as to whether you qualify for ill health benefits under the LGPS Regulations – however, medical evidence from them can be used to assist the IRMP with their opinion
- Has your employer followed their policies and procedures? If your complaint is about something other than a decision, for example if you feel that there has been an unreasonable delay in letting you know about your pension benefits, you must be sure what the expected timeframe is before considering IDRPs
- Are you happy that all relevant medical evidence was fully considered by the IRMP before their final opinion was given? If not, you should speak to your employer about other options before considering IDRPs

You cannot appeal just because you are unhappy with the decision. You must clearly state why you feel that you do meet the regulatory criteria or that new evidence should be considered.

Section 5 – Stage 1: Formal complaint

What to do first

You need to put your complaint in writing, using the appeals form to whoever you think is at fault - either your employer,

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or the administering authority. Ask yourself “who made the decision I am unhappy with?” The answer should tell you who to appeal to.

The appeals form to use is available on the website: www.shropshirecountypensionsfund.co.uk or can be requested by calling: 01743 252130.

You must complete the form as it will help you include all the information we require and it must be submitted within six months of the date you were told of the decision.

What information should be included on the 1st stage appeal form?

Anything you feel relevant to your complaint about the decision or issue you are appealing should be included. However, it is important to stick to the facts. You can attach any related information to the form including copies of letters you have been sent. Your complaint will be looked at by the person nominated by your employer or the administering authority that took the original decision you wish to appeal against. This individual is referred to as the nominated person. The nominated person will not have been involved in the initial decision or issue that you are appealing and therefore you must ensure that you provide them with all relevant information. The regulations do not stipulate who should be the nominated person at the first stage of the dispute process. It could be, for example, the human resources manager, or the pensions or payroll manager. It is for each employer and administering authority to decide who should fulfil this role.

Where should I send the first stage appeal form?

For complaints against your employer please send your form to your employer’s nominated person. Your employer should have told you who their nominated person is or how to find this information in the letter that contained the decision you

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are appealing. If you do not know who your employer's nominated person is, please contact the organisation who made the decision you are appealing against.

For appeals against the administering authority, please send your form to: Justin Bridges, Head of Treasury and Pensions, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND.

What happens next?

The facts of your case you have provided on the first stage appeal form and any other supporting documentation will be examined, alongside the scheme rules, and any legislation that is applicable. It is possible that you may be asked for more details, to help the nominated person fully understand your case. Your complaint will then be considered carefully by the nominated person and you should receive a written reply within two months of the date your complaint arrived. The letter will either provide you with a decision, or will acknowledge your complaint.

What happens if a decision cannot be made within two months?

Where it has not been possible for the nominated person to issue his/her decision within the two month period, a letter will be sent to you explaining the reasons for the delay and provide an expected date for issuing a decision. Although in most cases the decision should be made within two months, there may be circumstances where the specified person may wish to seek the views of the interested parties, in particular, those of the relevant administering authority before a final decision is taken which may take longer.

Receiving a reply from the nominated person

The LGPS regulations require the nominated person's decision to provide you with the following in their reply:

- a statement of their decision;
- a reference to any legislation on which the nominated person relied;
- if your case relates to the exercise of a discretion, a reference to the provisions of these regulations conferring the discretion²;
- if your appeal is not upheld, a reference should be made to your right to refer the disagreement for reconsideration by the appropriate administering authority and the time within which you may do so.

What power does the nominated person's decision carry?

The nominated person's decision is final and binding on the employer or administering authority, unless you refer the decision of the nominated person to the administering authority for determination under a second stage appeal. The only exemption to this is a decision of your employer or administering authority, where the matter concerns the exercise of a discretion, in which case, if the nominated person does not uphold the decision, the matter must be referred back to the body which made the decision for reconsideration or, where that body would have been the employer but that body is no longer a scheme employer, to the appropriate administering authority.

² If the decision you are appealing against concerns the exercise of a discretion by your employer or the administering authority, and the nominated person decides that your employer or the administering authority should reconsider how they exercised their decision, they will write to notify them of their decision. In such cases the nominated persons cannot overturn the initial decision but can determine whether the decision has exercised reasonably, and in cases where this is found not to be the case, can refer the decision to be reconsidered. If you are still not satisfied with this decision after reconsideration then you can take your appeal to stage 2.

Section 6 – Stage 2: Further appeal

You can ask the administering authority to take a fresh look at your complaint under the second stage procedure if:

- you are not satisfied with the nominated person’s first stage decision or;
- you have not received a decision or an interim letter from the nominated person.

You make ask for your complaint to be looked at under the second stage procedure within the following timescales:

- in the case where notice of a decision has been given under the first stage appeal and it is six months from the date the notice was received;
- in the case where an interim reply has been sent under the first stage appeal, but no notice has been given under the first stage appeal and it is seven months from the expected decision date; and
- in the case where no notice has been given under the first stage appeal and no interim reply was sent under the first stage appeal and it is nine months from the date on which the application was made.

Each administering authority must appoint a person (“the adjudicator”) to consider applications under the second stage appeal. The adjudicator is appointed by the fund’s administering authority (Shropshire Council). The name and address of the adjudicator should be up-to-date on the appeals form.

What details should be sent with a second stage form?

All the information and details that were required for the first stage application should be resubmitted at the second stage via the appeals form. Additionally, where you have received

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a first stage decision a copy of the decision letter and most importantly, an explanation of why you are dissatisfied with it should be explained on the appeals form. As with appeals at the first stage of the dispute rules, the person considering your application should acknowledge receipt of the appeals form and may request further information so that they can fully understand your complaint. If your health is a factor in the complaint, you may be asked to attend a medical examination or consent to the release of your medical details to another IRMP for a further medical opinion. The review at the second stage would be undertaken by an IRMP not involved in the first stage decision.

The person nominated by the administering authority must then decide on the basis of the scheme rules, and by taking into account the facts and evidence they have obtained, whether or not the nominated persons decision reached at the first stage of the process was correct. If they decide that it was not, they must replace the nominated person's decision in the first stage with a new decision of their own.

As is the case at Stage 1, if the original decision was made in the exercise of a discretion and the administering authority decides that it was not exercised in a reasonable manner, they can only insist the employer or administering authority reconsider its discretion - they cannot replace their original decision with a decision of their own.

When you can expect the adjudicator's decision

At the second stage the adjudicator must either write to you to let you know their decision within two months of the date they receive your second stage appeals form, or they must write to you at the end of two months to let you know when a decision is likely to be reached and the reason for any delay.

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When they write to inform you of the decision, they will also tell you whether the decision confirms or replaces the nominated person's decision and they will tell you the particular legislation used in reaching their decision.

If you are still unhappy following the adjudicators second stage decision you can refer your complaint to The Pension Ombudsman (TPO) provided you do so within three years from the date of the original decision (or lack of decision) about which you are complaining.

Section 7 – Further information

The Pensions Advisory Service (TPAS)

TPAS offer a free service to all members of pension schemes who have problems with their pensions. They have local advisors who can help to explain and obtain more information about your pension for you.

Website: www.pensionsadvisoryservice.org.uk

Write to: The Pensions Advisory Service, 11 Belgrave Road, London SW1V 1RB

Telephone: 0845 6012923

The Pension Ombudsman (TPO)

TPO investigates complaints and settles disputes concerning pension schemes.

TPO is a completely independent body which acts as an impartial adjudicator. Its role and powers have been decided by Parliament. There is no charge for using the ombudsman's services.

You must refer your complaint to the ombudsman within three years of the event about which you are complaining, or

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within three years of when you first became aware of the problem.

Website: www.pensions-ombudsman.org.uk

Write to: The Pensions Ombudsman, 10 South Colonnade, Canary Wharf, E14 4PU

Telephone: 0800 917 4487

Contact details

The Shropshire County Pension Fund is a data controller under the General Data Protection Regulations. This means we store, hold and manage your personal data in line with statutory requirements to enable us to provide you with pension administration services. To enable us to carry out our statutory duty, we are required to share your information with certain bodies, but will only do so in limited circumstances. For more information about how we hold your data, who we share it with and what rights you have to request information from the fund, please visit www.shropshirecountypensionfund.co.uk.

If you can read this but know someone who cannot, please contact us on (01743) 252130 so we can provide this information in a more suitable format.

You can contact the pensions team on any issue regarding your pension using the below contact details.

Email: pensions@shropshire.gov.uk

Tel: 01743 252130

Website: www.shropshirecountypensionfund.co.uk

Write to: Pension Services, Shropshire Council, Shirehall, Abbey Foregate, Shrewsbury, SY2 6ND

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Office hours:

Monday - Thursday

8.45am - 5.00pm

Friday

8.45am - 4.00pm

Administered By

