

North East Scotland Pension Fund
nespf



GUIDE TO

Internal Dispute Resolution Procedure (IDRP)

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The North East Scotland Pension Fund aims to demonstrate the highest level of customer service at all times, however we understand disputes and issues sometimes arise.

We hope that most problems can be dealt with informally, but we recognise that this is not always possible. As required by law, the Fund has a formal 2 stage Internal Dispute Resolution Procedure (IDRP) which describes the Fund's procedures for settling disputes and disagreements.

Who Can Complain?

Members, prospective members and widows, widowers, partners or dependents of a deceased member can use the Internal Dispute Resolution Procedure. A member can also ask someone else to make a complaint for them e.g. trade union representative or an adult son or daughter. The person chosen must be identified in writing by the member as acting on their behalf.

For members who have died, their personal representative can make and carry on the complaint on their behalf.

There is no charge involved for investigating any complaint at any stage under the procedure.

If any court or tribunal proceedings have started or if the Pensions Ombudsman has begun an investigation, these arrangements do not apply.

Types of Complaints

Before progressing with a complaint, you need to identify exactly what the complaint is and who it is against, as different complaints have different processes.

Employers

Employers are required to make decisions (known as “first instance decisions”) and inform employees of these decisions. Examples of decisions employers are expected to make include:

- Deciding whether or not an employee is eligible to join the scheme

- Deciding and applying the appropriate pension contribution rate that the member must pay in the scheme
- Deciding whether to approve ill health retirement based on the opinion of the employer's independent medical adviser

If you have any complaints about your scheme membership, entitlement to benefits, contribution rates or any decision made by your employer, your complaint should be made against your employer. See page 6 for information on how to progress your complaint.

Pension Fund (or Administering Authority)

The Pension Fund is also required to make decisions (“first instance decisions”) in regard to members and inform scheme members of these decisions. Examples of decisions the Fund is required to make include:

- The provision of information regarding the scheme
- Calculation and payment of pension benefits
- Calculation and treatment of transfer benefits
- Deciding who will receive benefits in the event of a member's death

If you have any complaints regarding to information received, the calculation and payment of benefits or any decision that has been made by the Pension Fund, your complaint should be made against the Pension Fund. See page 6 for information on how to progress your complaint.

Other Complaints:

If the complaint is about something other than a decision, for example maladministration, the complaint can be made directly to the Pensions Ombudsman.

The following are examples of maladministration:

- Unreasonable delays in letting a member know about or paying pension benefits
- Failure to advise a member about changes in their pension entitlement or changes in the scheme rules that may affect them
- Failure to give adequate or timely information that is needed to enable a member to make informed decisions about their rights and benefits

A member can also use the IDRP for this type of complaint but, even if the Appointed Person or Scottish Ministers find that there has been maladministration, they do not have the power to award compensation for any loss the member may have suffered, whereas the Pensions Ombudsman can order compensation to be paid.

The Appointed Person

The Appointed Person, either from your scheme employer or administering authority, will consider your complaint under Stage 1 of the IDR. The Appointed Person must be independent and must not have been involved in any capacity in the decision against which the member is appealing. The Appointed Person will either uphold or dismiss the appeal but must first consult with the North East Scotland Pension Fund to ensure any determination made is in accordance with the Regulations.

Discretions

Some decisions are made by employers or administering authorities “in the exercise of a discretion”. This means that they have a choice about the decision they make rather than simply looking at the scheme rules and deciding how they should be applied.

If a complaint is made about a discretionary decision, the Appointed Person will investigate it.

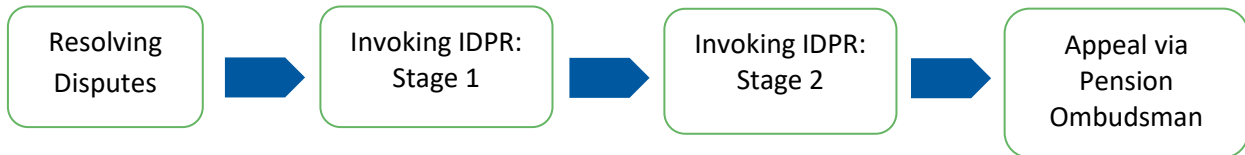
The Appointed Person does not have the power to overturn the decision. What the Appointed Person can do, however, is to ensure that the discretion is being exercised reasonably and to insist on the decision being reconsidered if it is found that the decision was not taken in a reasonable and transparent manner.

The following are some examples of “discretionary decisions” employers and administering authorities are required to make:

- Whether to grant additional pension to an active member (by up to £5000 p.a.) (Employer discretion)
- To whom a death grant should be paid in the event of the death of a scheme member (Administering authority discretion)

How to Appeal a Decision

The process



Resolving Disputes

In the first instance any complaint should be put to your employer (if the complaint is against them) or the Pension Fund (if your complaint is against the Fund). This gives them the opportunity to resolve the dispute.

A complaint against the Pension Fund should be made in writing to:

Pensions Manager at North East Scotland Pension Fund, Level 1, 2 Marischal Square, Broad Street, Aberdeen, AB10 1LP

If a complaint cannot be resolved by your employer or the Pension Fund informally, you can invoke the two-stage Internal Dispute Resolution Procedure (IDRP) by completing the IDRP appeal form (available in Appendix I). Any complaints received under the IDRP must be made in writing within six months of the date the member is notified of the decision which is being appealed against.

Internal Dispute Resolution Procedure: Stage 1

You should complete the IDRP Appeal Form (Appendix I) and send it to the appropriate Appointed Person – this is the individual nominated by the body who made the decision about which you wish to appeal. The Appointed Person is independent and must not have been involved in the decision against which you are appealing. They will either uphold or dismiss your appeal.

For complaints against the Pension Fund:

Please write to:

The Appointed Person
C/O Chief Officer- Governance
Aberdeen City Council
Business Hub 6, Level 1 South
Marischal College
Broad Street
Aberdeen
AB10 1AQ

For complaints against your Employer:

Please write to your employer's nominated Appointed Person

It is the responsibility of the organisation making the decision, to give the member details of their right of appeal against that decision, the time limits for making such an appeal, the Appointed Person and the process to be followed.

What details does the Appointed Person need?

In all cases members must explain the complaint as fully as possible, enclosing copies of any relevant documentation. In particular, if the complaint is about a decision that has been made, a copy of the letter or notice of decision from either the employer or Pension Fund advising of the decision should be sent to the Appointed Person.

If you are a relative, dependent or representative of a member, be sure to include the member's details such as their National Insurance (NI) number, full name, date of birth and your relationship. If applicable also provide written evidence of your authority to act for the complainant.

What else may be required?

The Appointed Person may need to ask for more information. For example, if the state of the member's health has a bearing on the complaint, they may be asked to attend a medical examination or to give consent for medical records to be released to a doctor chosen by the Appointed Person. This will be done at no cost to the member.

Timescale for the Appointed Person's decision

The Appointed Person should either give a decision within two months of receiving a written complaint, or write to the member at the end of two months explaining the reasons for the delay in reaching a decision and give a date by which the member may expect to hear the outcome.

If a member receives neither a letter giving the Appointed Person's decision, nor a letter giving the reason for the delay, within three months from the date that the application was made, or if the member fails to receive from the Appointed Person a decision within one month of the date by which they were told they could expect an outcome, a member can apply directly to the Scottish Ministers without waiting any longer.

Internal Disputes Resolution Procedure: Stage 2

If a member is not satisfied with the decision of the Appointed Person there is a further right of appeal under Stage 2 of IDRPs to the Scottish Ministers. This must be made in writing within six months of the Stage 1 determination.

Following the Stage 1 determination, the employer or Pension Fund who made the decision which is under appeal also has the right of appeal to the Scottish Ministers if they do not agree with the Appointed Person's determination.

If there is no Stage 2 appeal then the decision of the Appointed Person is binding.

The Scottish Ministers are totally independent of employers, Pension Funds and Appointed Persons. At Stage 2 the Ministers will require copies of all papers which were submitted at Stage 1 and a copy of the Stage 1 decision. The Scottish Ministers may also request further evidence and professional views; for example they have the power to request a further expert opinion in medical cases if they think it necessary. The Ministers must also respond to a complaint within two months of receiving it or let the member know the reason for any delay and when a member may expect a reply.

Appeals should be made in writing to:

The Scottish Ministers
Scottish Public Pensions Agency
7 Tweedside Park
Tweedbank
Galashiels, TD1 3TE

It is the responsibility of the organisation making the decision, to give the member details of their right of appeal against that decision, the time limits for making such an appeal, the Appointed Person and the process to be followed.

Appealing to the Pensions Ombudsman

If a member goes through the formal 2 stage dispute process and is still not satisfied, they can take the case to the Pensions Ombudsman (even if they were not the one who complained to the Scottish Ministers). For example, a member may have made a complaint to the Appointed Person which was resolved to their satisfaction but referred on to the Scottish Ministers by the employer. If the Scottish Ministers then overturned the Appointed Person's decision, the member could complain to the Pensions Ombudsman about the Scottish Ministers' decision.

The Pensions Ombudsman investigates and makes decisions on complaints and disputes about the way that Pension Schemes are run. His role and powers have been decided by Parliament, and he is appointed by the Secretary of State for Work and Pensions. He is completely independent and acts as an impartial adjudicator. There is no charge for using the Pensions Ombudsman's services.

The Pensions Ombudsman's decision is final and binding on all the parties to the complaint or dispute. It can be enforced in the Courts. His decision can only be changed by appealing to the appropriate court on a point of law.

The Office of the Pensions Ombudsman
10 South Colonnade
Canary Wharf
E14 4PU

Website: www.pensions-ombudsman.org.uk
Email: helpline@pensions-ombudsman.org.uk

The Scottish Public Services Ombudsman (SPSO)

The Scottish Public Services Ombudsman can also be contacted if a member is dissatisfied with the outcome of an application under the scheme's appeal procedures. He will investigate cases only when the complainant has already exhausted the formal complaints procedure of the organisation concerned.

Scottish Public Services Ombudsman
Bridgeside House
99 McDonald Road
Edinburgh
EH7 4NS

Freephone advice line: 0800 377 7330
Email: ask@spsso.org.uk
Website: www.spsso.org.uk

MoneyHelper

If, at any time, you are having difficulty sorting out your complaint you may wish to contact MoneyHelper. MoneyHelper can provide free advice and information to explain your rights and responsibilities.

A MoneyHelper adviser can't force a pension scheme to take a particular step, but if they think your complaint is justified, they will try to resolve the problem through conciliation and mediation. MoneyHelper would need copies of all relevant documents relating to your complaint under the IDRPs.

Money and Pensions Service
120 Holborn
London
EC1N 2TD

Freephone advice line: 0800 011 3797
Website: <https://www.map.org.uk/moneyhelper>

More Information

For more information please contact the pension Fund at the details below:

North East Scotland Pension Fund
Level 1, 2MSq
Marischal Square
Broad Street
Aberdeen
AB10 1LP

Helpdesk: (01224) 045 045
Email: pensions@nespf.org.uk
Website: www.nespf.org.uk

DISCLAIMER

The information in this guide is based on the Local Government Pension Scheme (Scotland) Regulations 2018 and other relevant legislation. It applies to people who were contributing members of the Local Government Pension Scheme on 1 April 2015 or who have since joined the Scheme. This guide was up-to-date at the time of publication in March 2023. It is for general use and cannot cover every personal circumstance, nor does it cover specific protected rights that apply to a very limited number of employees. In the event of any dispute over your pension benefits, the appropriate legislation will prevail as this guide does not confer any contractual or statutory rights and is provided for information purposes only.

Appendix I - Application to the Appointed Person

You can use this form to apply to the Appointed Person if you have a disagreement or complaint about a decision that has been made about you under the Scheme rules, or a complaint about the way your case has been dealt with.

Please write clearly in black ink using block capitals.

1. Member's Details:

If you are the member (the person who is or was in the scheme) please give your details in the first box. You can then ignore the rest of this page and go straight to the other side of the form.

If you are the member's dependent (for example spouse, civil partner, eligible co-habiting partner or eligible child) or if you are representing the person with the complaint, please give the member's details in the first box, then see below.

Full Name	
Address	
Date of Birth	
Employer	
National Insurance Number	

2. Dependent's Details:

If you are the member's dependent and the complaint is about a benefit for you, please give your details in this box. If the complaint is about a benefit for a dependent and you are the dependent's representative, please give the dependent's details in this box:

Full Name	
Address	
Date of Birth	
Relationship to member	

3. Representative's Details:

If you are the member's or dependent's representative, please give your details in this box:

Full Name	
Address	
Whose address should letters go to?	

4. Your Complaint:

Please give full details of your complaint in this box. Please try to explain exactly why you are unhappy, giving any dates or periods of scheme membership that you think are relevant. If there is not enough space please use a separate sheet, writing your name and National Insurance number (or if you are not the member, the member's name and National Insurance number) at the top, and attach it to this form.

Please enclose a copy of any notification from the employer or administering authority about the decision being complained about, together with any other letter or notification which might be helpful.

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I would like the Appointed Person to look into my complaint and make a decision about it. I give consent for the Appointed person to obtain any information they deem relevant to this. You can learn more about how we manage and process your data in our Privacy Notice available on our website.

I am a:

- member/prospective member/former member*
- dependent of a member/prospective member/former member*
- member's/prospective member's/former member 's/dependent's representative*

* delete as appropriate.

Signed:

Date:

Once completed, send this form to the relevant Appointed Person.