

Avon Pension Fund Internal Disputes Resolution Procedure [IDRP]

Dealing with Disagreements

Introduction

The Local Government Pensions Regulations 2013 have provisions included that specify the requirements for cases where there is a disagreement with a decision made or where a decision has not been made under the regulations.

Under the Pensions Regulator Code of Practice 14, Administering Authorities must make and implement dispute resolution arrangements that comply with the requirements of the Public Service Pensions Act 2013 to help resolve pension disputes

This document sets out the internal disputes resolution procedure on how the provisions of the regulations will be administered by Avon Pension Fund and its scheme employers.

The Pensions Ombudsman will not usually consider any applications until the IDRP has been completed.

Who can use IDRP?

The following can apply under the IDRP:

A member: who is paying contributions into the LGPS, or a retired member who receives a pension from Avon Pension Fund, or a former member who has left the scheme and their benefits are deferred with us.

A prospective member: an employee who although not a member yet, could become one if their employer brings them in you in, or they ask to join.

A dependant: the widow, widower, surviving civil partner or a cohabiting partner or a child of a member or prospective member

Using someone else to represent

Someone else can represent the applicant as they may not be able to put the case themselves, for example in the case of a child.

The applicant can, in this case choose someone else to represent them. This can be husband, wife, partner, a friend, relative, solicitor, union rep, etc.

First instance decisions

Any question concerning the rights or liabilities under the LGPS of any member or prospective member, are to be decided in the first instance as specified in the regulations as follows:

First Instance Decisions [regulation 72]	
Administering Authority	
(a)	a person's previous service or employment
(b)	a person's previous service or employment the crediting of additional pension under regulation 16 (additional pension);
(c)	the amount of any benefit, or return of contributions, a person is or may become entitled to out of a pension fund.
Scheme Employer	
must decide any question concerning any other matter relating to the person's rights or liabilities under the Scheme.	

Any decision made under this regulation must be made as soon as is reasonably practicable.

Whenever a decision is made about a member' or prospective member's pension, the member should be informed about it in writing.

Any notification must include details of the member's right to challenge the decision made.

Informal enquiry

Disagreements

An informal enquiry should be made for any initial disagreement the member has regarding a decision made. This should be raised with whoever is responsible for the decision either their employer or Avon Pension Fund. Many issues that members have are, in fact, resolved in this way. They may be caused by misunderstandings or wrong information, which can be explained or put right easily.

The scheme employer or Avon Pension Fund will try to deal with the enquiry as quickly and efficiently as possible.

Regardless of how the informal enquiry is made, any response must be made in writing and include full details of regulations used in making the decision, details of the next stage in the IDRP, and the name and position of the adjudicator to be contacted in the event that the disagreement is not resolved.

Formal Process

Adjudication of disagreements

Stage 1 [Regulations 74 and 75]

The Adjudicator

Each scheme employer and administering authority must appoint a person ("the adjudicator") to consider applications from any person whose rights or liabilities under the Scheme are affected by—

- a) a decision under regulation 72 (first instance decisions); or
- b) any other act or omission by a Scheme employer or administering authority, and to make a decision on such applications.

The adjudicator must determine—

- a) the procedure to be followed when exercising functions under this regulation; and
- b) the manner in which those functions are to be exercised.

Any formal application at stage 1 should be submitted on **form IDRPS1** to the adjudicator of whoever made the determination under the regulations from where the dispute occurred, either the employer or Bath and North East Somerset Council as the administering authority for Avon Pension Fund. If the employer is no longer participating in the Avon Pension Fund then applications should be made to Bath and North East Somerset Council.

The initial application must be made in writing within **six months** of the dispute taking place, as it can only be looked at after a longer period in special cases.

Any application under stage 1 must—

- a) set out the applicant's name, address and date of birth;;
- b) if the applicant is not a member of the Scheme, set out the applicant's relationship to any relevant member of [the Scheme](#) and give that member's full name, address, date of birth, national insurance number and the name of the member's Scheme employer;
- c) include a statement giving details of the nature of the disagreement and the reasons why the applicant is aggrieved;;
- d) set out the details of the grounds on which the applicant relies;
- e) be accompanied by a copy of any written notifications for [first instance decisions](#); and
- f) be signed by or on behalf of the applicant.

The facts of the case will be examined, in accordance with LGPS regulations and any other legislation which is relevant. Further information may be requested to help in reviewing the case.

A written reply is to be sent within **two months** of the date the application is received. This reply should acknowledge receipt of the dispute, and explain the timescales for making a decision or notifying any delays.

When a decision is made, it must be made in writing and set out the disagreement, the relevant regulations and how any decision made was done so in accordance with the regulations.

The decision letter must also refer to the applicant's right to have the adjudicator's decision reconsidered under stage 2 of this procedure and how this can be done.

A copy of any decision made under stage 1 must be sent to Avon Pension Fund.

Reconsideration by the Administering Authority

If an applicant still disagrees with the outcome of **stage 1** (or hasn't had a reply in time) they may refer a decision [of the adjudicator](#) for reconsideration by the Avon Pension Fund under stage 2. *This is the case no matter who the original dispute was against.*

Stage 2: [Regulations 76 and 77]

An applicant may refer a decision for reconsideration by the appropriate administering authority.

Any application under stage 2 should be submitted on **form IDRP S2** and must—

a) be made before the relevant date;

i. *in a case where notice of a decision has been given by the adjudicator six months from the date the notice is received;*

ii. *in a case where an interim reply has been sent by the adjudicator, but no notice has been given, seven months from the expected decision date; and*

iii. *in a case where no notice have been given and no interim reply sent by the adjudicator, nine months from the date on which the application was made.*

b) set out the applicant's full name, address and date of birth;

c) if the applicant is not a member of the Scheme, set out the applicant's relationship to any relevant member of [the Scheme](#) and give that member's full name, address, date of birth, national insurance number and the name of the member's Scheme employer;

d) include a statement that the applicant wishes the decision to be reconsidered by the administering authority;

- e) set out the details of the grounds on which the applicant relies;
- f) be accompanied by a copy of any written notifications for first instance decisions and decisions of the adjudicator; and
- g) be signed by or on behalf of the applicant.

The Bath and North East Somerset must determine—

- 1) the procedure to be followed when exercising its functions under this regulation; and
- 2) the manner in which those functions are to be exercised, this may include seeking a review from an outside body before making a decision. No person who was involved in the making of a first-instance decision or a decision of the adjudicator can be involved in a decision on reconsideration.

The facts of the case will be examined, in accordance with LGPS regulations and any other legislation which is relevant. Further information may be requested to help in reviewing the case. The Stage 1 process should be looked at to consider whether it was carried out in accordance with the regulations

A written reply is to be sent within two months of the date the application is received. This reply should acknowledge receipt of the dispute, and explain the timescales for making a decision or notifying any delays.

When a decision is made, it must be made in writing and set out the disagreement, the relevant regulations and how any decision made was done so in accordance with the regulations.

The decision letter must also refer to the applicant's right to apply to the Pensions Ombudsman to challenge decisions made during the IDR. Contact details for both the Pensions Ombudsman and The Pensions Advisory Service [TPAS] must be included in the final written response.

Cases where matter is referred back to a scheme employer

When, as part of the Stage 2 process, the matter is referred back to the employer to review their decision, any decision made by the employer whether or not there is any change to the original decision is subject to a possible further challenge under IDR.

Following consultation with the Pension Ombudsman's Office either Stage 1 and/or Stage 2 could be waived and the matter referred straight to The Pension Ombudsman.

The employer would therefore be given the option of carrying out Stage 1 or waive it.

However, it seems appropriate that Stage 2 should always be completed, if only to ensure that any direction made in the original Stage 2 review has been carried out appropriately.

In such circumstances following discussions between their Monitoring Officer and Pension Section Bath and North East Somerset Council will decide who will carry out this Stage 2 review.

Forms IDR P S1 and S2 are included within the **Internal Resolution Dispute Procedure (IDRP): Guidance Notes for Members** which can be obtained from the Avon Pension Fund website at

<http://www.avonpensionfund.org.uk/customerservice/docs/HowtoComplain-20141128.pdf>

Alternatively the Avon Pension Fund are able to send a copy by post on request.

The Avon Pension Fund will assist employers in understanding how to manage IDR P and if there is sufficient interest may from time to time provide employer training sessions.

As this procedure is subject to legislation which are subject to amendment from time to time, it will be regularly reviewed and any changes will be notified via member newsletters and the website.