

Local Pension Board

11 March 2021

Internal Dispute Resolution Procedure (IDRP) Cases



Report of Paul Darby, Corporate Director of Resources (Interim)

Purpose of the Report

- 1 To provide Board Members with a summary of the outcomes of any internal dispute cases or Pensions Ombudsman cases the Pension Fund has been involved in since April 2020.

Executive summary

- 2 Since April 2020, 10 scheme members or their representatives have made an appeal under the Pension Fund's IDRP process. All of these applications related to ill health retirement applications.

Of the 10 applications, 8 were reviewed at Stage 1 by the adjudicator, who in 5 cases upheld the Council's decision. Two cases were also reviewed at Stage 2 of the IDRP Process. One of these Stage 2 appeals has now been completed and the original decision was upheld.

Recommendation(s)

- 3 The Board is asked to note the report.

Background

- 4 Scheme members with an unresolved complaint about their pension benefits are able to make use of the Pension Fund's two stage Internal Dispute Resolution Procedure (IDRP) Whenever a scheme member initially receives a benefit from the scheme, they are made aware of this procedure – a copy of the information sent to the scheme members about the procedure is enclosed as Appendix A.

Review of IDRP Cases

- 5 From 1 April 2020 to 11 March 2021 the Fund has received a total of 10 applications under the IDRP process. The first stage of the process is an application to the adjudicator. There has been a total of 8 applications to the adjudicator during 2020/21 and all of these related to complaints about an individual not being awarded an ill-health pension.
- 6 Of the 8 applications, in 5 cases the adjudicator upheld the employer's decision. Three cases were referred back to the employer to reconsider. Of the 3 ill-health cases referred back to the employer; two remain ongoing, and the other where the employer overturned their decision after taking into consideration further evidence/information.
- 7 The reason the adjudicator gave in these cases related to ensuring up to date information was available from all the health professionals involved in the case which covered all medical ailments of the member, and also to obtain more information on the likelihood of the success of any untried treatments.
- 8 The Council's Occupational Health Team is responsible for submitting ill health retirement application cases to an independent doctor for review where the individual worked (or formerly worked) for the Council. As the Council represents around two thirds of the non-active members, most of the ill health retirement applications are initially processed by the Council's Occupational Health Team
- 9 The Council's Occupational Health Team has revised the instructions it gives to the independent doctors that provide opinions in respect of ill health retirement applicants, partly as a consequence of the comments made by the adjudicator. For example, the instructions now make it clear that the independent doctors need to be clear about the probability of success of any untried treatments if they are going to make reference to any such treatments in their report.

- 10 The Fund continues to monitor the reasons for disputes referred back for further consideration.

Stage Two Appeals and Ombudsman Rulings

- 11 From April 2020, the Pension Fund has monitored and detailed the outcome of all Stage Two Appeals, and any rulings of the Pensions Ombudsman in respect of the Fund and its employers. The Pension Fund has received 2 Stage Two Appeals and 1 Ombudsman determination.
- 12 The two Stage 2 appeals both related to the award of ill-health benefits. Both of these cases were reviewed at Stage 1 by the Adjudicator during 19/20 who upheld the employer decision, causing both individuals to initiate Stage 2 of the IDR process. One of the cases remains ongoing, however the other has been concluded at Stage 2 which again upheld the original employer decision.
- 13 Since April 2020 The Pension Fund has received one determination in which the Pensions Ombudsman reviewed a case in respect of a disputed leave date. The Ombudsman determined that the Pension Fund had followed the relevant LGPS regulations and had awarded benefits correctly and in line with the regulations. However, the Ombudsman did award a compensation amount of £500 because of inconvenience caused.

Author(s)

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Appendix 1: IDR Procedure

THE LOCAL GOVERNMENT PENSION SCHEME (LGPS)

Internal Disputes Resolution Procedure

Introduction

1. Decisions regarding your membership of the LGPS will initially be made by your employing authority in respect of such matters as the amount of your pensionable earnings, date of scheme entry etc.

2. Other matters regarding your membership will then be determined by Durham County Council in its role as administrator of the LGPS, e.g. the amount of service transferred into the scheme from a previous employment.

Note: In the case of Durham County Council employees, both items (1) and (2) will be determined by the same authority. It will however be the responsibility of the employing service to determine issues under (1) and the Pensions Group to determine issues under (2).

What should you do if you are unhappy with any aspect of your pension scheme membership?

Initially you should contact the Durham County Council Pensions Team by telephoning 03000 264322, or by email at pensions@durham.gov.uk. They will be able to explain any questions you have about scheme membership and service, and, if necessary, direct you to the contact person within your employing authority.

If you are still unhappy with the explanation you have been given, or if you have not been provided with an explanation, you may refer the matter to the adjudicator.

You must apply to the adjudicator within six months of being notified of the decision which is the cause of your complaint.

Who is the adjudicator?

The adjudicator for Durham County Council Pension Fund is **Mr Yunus Gajra, Development Manager (Strategic), West Yorkshire Pension Fund, P.O. Box 67, Bradford, BD1 1UP**

When referring your complaint to the adjudicator, you must send a signed letter and include the following information:

- Your full name, address, date of birth, National Insurance number, the name of your employer and your job title (If your complaint is on behalf of another person, you must submit all of the above details in respect of that person and explain your relationship to them).
- A statement setting out the details of the disagreement, enclosing any relevant letters or documentation.

What happens next?

Within two months of receiving your complaint the adjudicator must reach a decision and confirm his decision in writing to you, your employer and Durham County Council Pension Fund.

If he is not able to reach a decision within two months he must write to you to tell you why this is the case and to give you an estimate of when he is likely to be able to reach a decision (the expected decision date).

What should I do if I am not satisfied with the findings of the adjudicator?

If you are not satisfied with the findings of the adjudicator you may refer the matter to the Administering Authority at the following address:

Pensions Group
Resources
County Hall
Durham
DH1 5UE

When referring your complaint to the Administering Authority you must send a signed letter which includes the information in section C2 and a statement that you wish the decision to be reconsidered by the Administering Authority.

Your application must be made by the relevant date as follows:

- Within six months of the date the adjudicator's decision was received.
- If the adjudicator was unable to reach a decision within two months and he wrote to you giving you an expected decision date, you must submit your application within seven months from the expected decision date.
- If the adjudicator did not make a decision and did not provide an expected decision date, you must submit your application within nine months from the date on which your application was made to the adjudicator.

Note: You may also refer your complaint to the Administering Authority should the adjudicator fail to reply to you within the timescales set out overleaf.

What happens next?

Within two months of receiving your complaint, the Administering Authority must confirm its decision in writing to you and to your employer. If it is not possible to reach a decision within two months it must write to you to tell you why this is the case and to give you an estimate of when a decision is likely to be made.

Is there anything else I can do after referring my complaint to the Administering Authority?

When the Administering Authority gives you its decision, it will also give you details about the services provided by TPAS and the Pensions Ombudsman.

What is TPAS?

The Pensions Advisory Service (**TPAS**) is an independent non-profit organisation that provides free information, advice and guidance on all types of pension schemes. You can contact TPAS through your local Citizens Advice Bureau or in writing to:

11 Belgrave Road,
London
SW1 1RB

Or by telephone on 08456012923 Or online at www.pensionsadvisoryservice.org.uk

Note: If you want the Pensions Ombudsman to consider your complaint, you should normally contact TPAS first. If TPAS is unable to resolve your complaint and believes that maladministration has occurred, or that the decision made by the Administering Authority is incorrect, they will recommend that you refer your complaint to the Ombudsman.

You can ask TPAS for help at any time if you are having difficulties in resolving your complaint under the dispute procedure.

What is the role of the Pensions Ombudsman?

The Pensions Ombudsman can investigate complaints of maladministration or disputes of fact or law relating to decisions made about your pension. Unless your complaint relates only to maladministration, you must follow the procedure set out in this leaflet before referring your complaint to the Ombudsman. This means that you must refer your complaint to the adjudicator and then to the Administering Authority before the Pensions Ombudsman will commence an investigation.

If, however, your complaint is about maladministration, i.e. the way your case has been handled by either the adjudicator or the Administering Authority, you do not need to wait until the Internal Disputes Resolution Procedure has been completed.

You can contact the Pensions Ombudsman in writing at:

11 Belgrave Road,
London
SW1 1RB

By telephone on 020 7630 2200 or email enquiries@pensions-ombudsman.org.uk

You can find out more about the Pensions Ombudsman by visiting their web site at: www.pensions-ombudsman.gov.uk