

Local Pension Board

14 June 2018



Internal disputes cases, and Pensions Ombudsman cases

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Purpose of 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 2015.

Background

2. 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. 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 scheme members about the procedure is enclosed as Appendix A.

Review of internal disputes cases

3. The first stage of the process is an application to the adjudicator. Over the three years from 1 April 2015 to 31 March 2018 there a total of 47 applications to the adjudicator (15 in the first two years and 17 in 2017/18). Of these, all except seven related to complaints about an individual not being awarded an ill-health pension. The other seven complaints related to the following:
 - An inaccurate benefit estimate being supplied prior to retirement (two instances of this)
 - A request that the individual should be able to have their benefits without early retirement reductions applied
 - A decision regarding the beneficiary of a death grant
 - An appeal from the family of a deceased member that the member should have been treated as dying in service not from deferred status
 - A dispute that a refund was paid
 - A dispute over the recovery of overpaid pension paid to a deceased pensioner
4. Of the 47 applications in 37 cases the adjudicator upheld the Council's decision. In one case (the dispute over the recovery of overpaid pension) the adjudicator recommended the Council reverse its decision (which it did). The remaining 9 (all relating to ill-health retirement applications) were referred back by the adjudicator to the scheme employer to obtain additional information and make a further decision on the ill-health retirement application.

5. The reasons the adjudicator gave in these cases related to ensuring up to date information was available from all the health professionals involved in the case and obtaining more information on the likelihood of success of any untried treatments.
6. 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 active membership of the Pension Fund and a higher proportion of non-active members, most of the ill health retirement applications are initially processed by the Council's Occupational Health Team. 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 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. There has been a reduction in cases being referred back to Council by the adjudicator – in the last two years only 3 ill-health appeal cases out of 27 were referred back (around 11%), compared with 5 out of 13 (around 38%) in the previous year.
7. The number of stage two appeals has increased over the last three years. In 2015/16 there were 2, in 2016/17 there were 5 and in 2017/18 there were 9. Of these stage two cases that have been completed, two were referred back to the original employer to reconsider their decision, in the other cases the original decision was upheld.

Pensions Ombudsman Cases

8. Since 1 April 2015 there have been no Pensions Ombudsman rulings made in respect of the Pension Fund or its employers.

Recommendation

9. The Board is asked note this report.

Contact: Nick Orton Tel: 03000 269798

Appendix A – Internal Dispute Resolution Procedure information

The Local Government Pension Scheme Internal Dispute Resolution Procedure

A. 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 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 items in (2).

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

1. 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.
2. 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.
3. You must apply to the adjudicator within 6 months of being notified of the decision which is the cause of your complaint.

C. Who is the adjudicator?

1. The adjudicator for Durham County Council Pension Fund is:

Mr Yunus Gajra
Development Manager (Strategic)
West Yorkshire Pension Fund
PO Box 67
Bradford
BD1 1UP

2. When referring your complaint to the adjudicator, you must send a signed letter and include the following information:
 - (a) Your full name, address, date of birth, National Insurance number, the name of your employer and your job title.

- (b) 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.
- (c) A statement setting out the details of the disagreement, enclosing any relevant letters or documentation.

D. What happens next?

1. 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
2. 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 give you an estimate of when he is likely to be able to reach a decision (the expected decision date).

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

1. 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

2. 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.
3. Your application must be made by the relevant date as follows:
 - a. Within six months of the adjudicator's decision was received.
 - b. If the adjudicator was unable to reach a decision within two months, and he wrote to give you an expected decision date, you must submit your application within seven months from the expected decision date.
 - c. 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 detailed in Section (D).

F. 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.

G. 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 advise you about the services provided by TPAS and the Pensions Ombudsman.

H. 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 0300 123 1047

Or online by visiting their website 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 a 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.

I. 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

By emailing: 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