



**CRONFA BENSIWN
POWYS
PENSION FUND**

**Scheme Employers' Guide to the
Internal Dispute Resolution Procedure (IDRP)
in the Local Government Pension Scheme
(LGPS)**

June 2023

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Background

This guide is intended to assist Powys Pension Fund Employers with the Internal Dispute Resolution Procedure (IDRP) in the LGPS. (It may also be helpful for members wanting to make a complaint.)

The process originates from section 50 of the [Pensions Act 1995](#), requiring occupational pension schemes to resolve disagreements between the trustees or managers of the scheme, and one or more persons with an interest in the scheme. This process was enshrined in the LGPS through the Local Government Pension Scheme (Internal Dispute Resolution Procedure) Regulations 1997 and has subsequently been provided for in regulations 72 – 79 of the [Local Government Pension Scheme Regulations \(2013\)](#).

The IDRP route is available to a member who disagrees with a decision made and/or actions taken or omitted (as applicable) which affects their (potential) membership.

The actions/omissions in question will have been made by *either*:

1. The Administering Authority (i.e. Powys Pension Fund), on matters such as:
 - i. amount of benefit entitlement calculated
 - ii. eligibility for survivor benefits etc

or

2. The Employing Authority (i.e. a Powys Pension Fund Employer), on matters such as:
 - i. employee contribution rate
 - ii. an ill health decision etc

depending on the nature of the matter in question, as per the examples given above.

This guide is in relation to 2. above and is therefore intended to be read by Powys Pension Fund Employers where the appeal is relevant to an action carried out by that Employer.

If you (the Employer) are approached by the member informally - prior to any IDRP being initiated - it is advisable that you ensure that any complaint is fully documented, as a matter of good administrative practice; however, these records will also be of assistance in dealing with any subsequent IDRP. Should the member wish to proceed in raising an IDRP, please refer them to the Powys Pension Fund website for our [IDRP Application form](#).

IDRP Stage 1 (& Appeals for consideration by an Employer)

The applicant can be:

- a member (or prospective member)
- a deceased member's dependants
- a widow or widower of the member
- a surviving civil partner of the member
- a cohabiting partner
- a representative of the member whom they have nominated to make the application on their behalf.

They must appeal within 6 months of notification of the original decision (or omission) made by the Employer that they are disputing, by completing and returning the form mentioned in the previous paragraph to the Employer. The matter will then be passed to the "adjudicator" at the Employer, who will be the person responsible for considering the appeal.

The Adjudicator, their duties & timescales

The regulations do not specify who the adjudicator should or might be but it is advisable to ensure that they have sufficient relevant expertise (they do not have to be an employee or elected member of the Employer). The adjudicator's decision should be fair and impartial having regard to the following principles: 1) not representing any party or interest; and 2) no previous personal involvement with the case; They must:

- Check that the application is received within 6 months of the relevant date and send an acknowledgement letter (see sample at [Appendix A](#)); however the adjudicator can extend this time limit at their own discretion.
- Consider all facts, reports and background information before reaching a determination.
- Request further information if necessary.
- Provide a determination within two months of the appeal and issue a copy of the determination to the applicant and the Administering Authority.
- Write immediately to the applicant if unable to reach a determination within the two months' timescale, specifying the reason and the date by which a determination will be made. If no determination is forthcoming after the prescribed or extended time limits expire then the applicant may refer the dispute directly to the Administering Authority (under Stage 2).

Decision-making

The purpose of Stage 1 is to carry out a formal review of the initial decision by the Employer that took that decision. It is an opportunity to reconsider the question and, where appropriate, to alter the decision if it was not a reasonable one to reach based on the relevant procedures, legislation and evidence (where certain relevant facts or evidence were not taken into account, or where there has clearly been a mistake or oversight, for example). Therefore it is important to reconsider all facts, reports and background

information before reaching a determination – see the timescale information above. It is important to note the following points:

- The adjudicator cannot make a determination outside the provisions of the regulations.
- The adjudicator cannot consider cases of alleged maladministration.
- The adjudicator cannot make an award of compensation.
- A right of appeal against a decision on entitlement to a benefit only arises after the earlier of:
 - o the date employment ends, *or*
 - o the date specified in a notice to opt out.
- A successful appeal only applies to that particular case.
- Unless the applicant refers the decision of the adjudicator to the Administering Authority for determination under [regulation 60](#) the decision reached by the adjudicator is final and binding on the scheme Employer.

Exercise of discretions

Sometimes in making decisions that affect a member's entitlement, an Employer exercises one of the various discretions under the LGPS Regulations. A number of these discretions are mandatory and therefore should be available to members and copied to your Administering Authority; therefore if you have not published your policies on the mandatory discretions this is a breach of your statutory obligation. If you need further advice on this, please contact Megan Price, the Pensions Administration Manager at Powys Pension Fund (megan.price@powys.gov.uk) and we can assist you in ensuring you are meeting the requirements.

Notice of a Stage 1 Decision

When providing the written notice of the adjudicator's decision, ensure that it includes the following:

- The question for determination.
- The evidence received and considered.
- The decision.
- A reference to any legislation or scheme provision that it relies upon.
- Where relevant, a reference to the scheme provisions conferring the discretion whose exercise has caused the disagreement.
- A reference to the applicant's right to have the disagreement reconsidered by the Administering Authority, and the time limits for doing this.
- A statement that TPO (The Pensions Ombudsman) is available to assist the member with any difficulty with the scheme which remains unresolved, and the address for TPAS (The Pensions Advisory Service).

Please see [Appendix 2](#) for a sample Stage 1 determination letter.

IDRP Stage 2 (Re-consideration by the Administering Authority)

If the applicant disagrees with the decision of the adjudicator under a Stage 1 decision (or the adjudicator failed to issue a decision within the time limit) then they may refer to the Administering Authority (i.e. Powys Pension Fund) for reconsideration. The Administering Authority will need to satisfy themselves that the Stage 1 decision was reasonable, had considered all relevant facts and regulations, was consistent with other decisions reached and that it would stand up to external scrutiny. They will check that the regulations were applied correctly and that sound, impartial procedures were used to reach the decision, particularly important where the dispute concerns the exercise of a discretion by a scheme Employer.

It is important to note:

- The Administering Authority cannot replace an Employer first instance decision, it can only instruct the Employer to reconsider where discretion is exercised.
- The Administering Authority cannot make any awards for maladministration even where found.
- The Administering Authority has no power to act outside of the regulations, nor to instruct any party to do so.
- The Administering Authority has no power to award compensation for any reason, including where an appeal is upheld against the amount of a benefit due; limited to placing the affected party in the position they would have been in.
- The decision of the Administering Authority is binding and can only be overturned by the Pensions Ombudsman or the High Court. The Administering Authority will not enter into further correspondence in relation to the appeal.

The Administering Authority must adhere to timescales and procedures akin to those carried out by the Employer at Stage 1.

Beyond IDR – the external appeal to The Pensions Ombudsman

Where the applicant is still dissatisfied after the IDR has been exhausted, they can seek independent review of their case through TPO (The Pensions Ombudsman), who:

- will consider cases after the member's case has been through the scheme's two stage IDR
- may investigate and determine any complaint or dispute of fact or law in relation to the scheme, made or referred in accordance with the Pension Schemes Act 1993, *and*
- can make awards of compensation for loss and for distress and inconvenience.

TPO's determination is final and binding on all parties, subject only to an appeal on a point of law to the Chancery Division of the High Court.

Where the Ombudsman does make a determination about a case that they feel can and should be before them, the possible outcomes are the same as at Stage 2 of the IDR.

The appeal may be wholly or partially upheld or they may determine that the appeal should not be upheld against the respondents at all. When making the determination, the Ombudsman will have regard to former cases, but these are not precedent, as at law. Consequently, parties to an Ombudsman investigation should concentrate on the facts and law applicable in their circumstances rather than rely upon the outcome of previous cases that were prima facie the same. A history of former determinations is available on the Pensions Ombudsman's website.

The Ombudsman's determination can only be challenged on a point of law. The appeal against the decision of the Ombudsman needs to be made to the High Court within 28 days of the date of the decision that is being appealed against.

Further important points to note

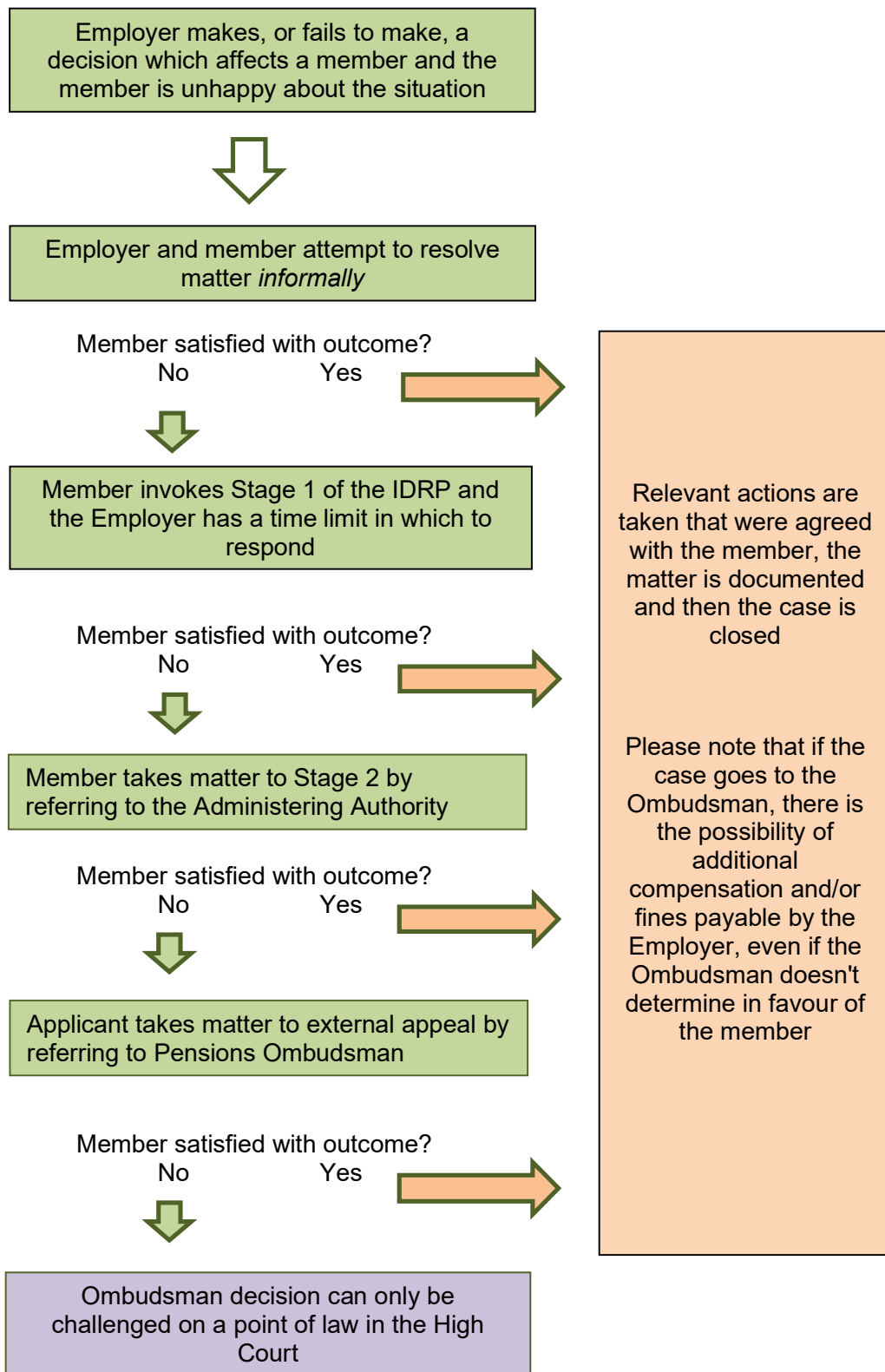
- Powys Pension Fund can assist Employers with information on the process and regulations that may be involved but cannot draft responses, advise upon decisions or become otherwise directly involved with an Employer's decision.
- Ensure that you keep comprehensive records in the event of an appeal from members.
- Members must not be discouraged from submitting an appeal.

Special points – Medical appeals

If a dispute over ill health has emerged, it would be sensible for an Employer to first check that all the regulatory requirements have been complied with. If they have not, a fresh decision needs to be made.

- Has a qualified, approved medical practitioner been used to assess the member's eligibility?
- Has the medical practitioner clearly stated that the member is not assessed as permanently incapable?
- Has the medical practitioner paid due consideration to the duties of the post?
- Has the medical practitioner considered reports from the member's GP, consultants etc. in arriving at that decision?
- Has the medical practitioner made a recommendation in accordance with the LGPS regulations?
- Has the Employer made their decision having considered all relevant evidence?
- Has the Employer asked all of the necessary questions to have satisfied themselves before reaching any decision?
- It is not the role of the adjudicator to question the opinion of a suitably qualified, approved medical practitioner. But the assessment must be in accordance with the eligibility criteria in the regulations.

IDRP – Flowchart of the process



Appendix 1

Sample acknowledgement letter for IDRP Stage 1 appeal:

Dear Mrs Evans

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

Thank you for your application received on [date], enclosing information on your disagreement with [name of relevant body]. I have been appointed by [name of body] to make the Stage 1 decision under the Internal Dispute Resolution Procedure.

I am required to make a decision within two months of receiving your application. If, for some reason, I am unable to comply with that timescale, I will write to you explaining the reason and the date by which I expect to make my final determination.

At any time during the IDRP process you can contact TPO (The Pensions Ombudsman) who can help if you have a complaint or dispute about the administration and/or management of personal and occupational pension schemes. Their address is:

TPO
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 0800 917 4487

Website: www.pensions-ombudsman.org.uk

Yours sincerely

[Include Job title or Office held below your name]

Appendix 2

Sample Stage 1 decision letter

Dear Mrs Evans

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

I have looked at the details of your disagreement and reached a decision under Stage 1 of the IDRP.

Details should include

- Question for determination

Details of the disagreement

- My decision

The decision itself

- Relevant facts
- Evidence received/considered
- Regulations considered and reason for decision

If the decision is based on a discretionary power contained in a policy made by the Employer, include a copy of the policy or the relevant part of it, and a reference to the scheme regulation that allows the policy.

This concludes the first stage of the Internal Dispute Resolution Procedure (IDRP). If you are not happy with my decision, you have the right to ask Powys Pension Fund to look at your complaint under Stage 2 of the IDRP. You must do this in writing, within six months from the date of the letter.

At any time during the IDRP process you can contact TPO (The Pensions Ombudsman) who can help if you have a complaint or dispute about the administration and/or management of personal and occupational pension schemes. Their address is:

TPO
10 South Colonnade
Canary Wharf
London
E14 4PU

Tel: 0800 917 4487

Website: www.pensions-ombudsman.org.uk

Copies of this determination have been sent to your Administering Authority.

Yours sincerely