



Department  
for Education

# Teachers' Pension Scheme Dispute Resolution Procedure

February 2018

## Legal Requirements

1. Scheme Managers are required to make and implement dispute resolution arrangements, which comply with the requirements of the law and support the resolution of pension disputes between the scheme manager and a person with an interest in the scheme.
2. A person has an interest in the scheme if :
  - i. They are a member or beneficiary of the scheme
  - ii. They are a prospective member of the scheme
  - iii. They have ceased to be a member or beneficiary
  - iv. They claim to be in one of the categories above and the dispute relates to whether they are such a person.
3. There are certain exempted disputes to which the internal dispute resolution procedure does not apply (Section 50(9) of the Pensions Act 1995). These include those where proceedings in respect of the dispute have begun in any court or tribunal, or where the Pensions Ombudsman (see Annex 1) has started an investigation in respect of it.

## Purpose

4. Within the Teachers' Pensions Scheme (TPS) the purpose of the Internal Dispute Resolution Procedure (IDRP) is to give members (and other potentially affected individuals such as beneficiaries) and employers, a formal route by which they can pursue a complaint or dispute.

## Complaint Handling Process

### 5. Step 1 – Teachers' Pensions Complaints Procedure

- i. Where a member, beneficiary or employer is unhappy with service, a decision, or the way in which a provision of the regulations has been applied, they can complain to Teachers' Pensions (TP).
- ii. Complaints can be raised either in writing by post or by completing the on-line form on TP's website. A dedicated team within TP deals with them.
- iii. The complaint will be acknowledged within 3 working days, which includes details of The Pensions Advisory Service (see Annex 2). It will be reviewed against the relevant regulations and policy, and TP will aim to issue a full response to the complainant within 10 working days of receipt.

- iv. Complainants can contact TP if they are unclear about the response and TP will provide further explanation. If resolution is not achieved, and TP conclude that they cannot proceed any further with the case, the complainant will be advised that they can take the dispute further by appealing to the department in writing under the Internal Dispute Resolution Procedure (IDRP).
- v. In terms of the IDRP, a complaint is correspondence that relates to an individual personally. A nominated representative can raise the complaint on behalf of the individual, (for example a family member, union representative or independent adviser), and an appointed representative can raise the complaint on someone's behalf where they are too incapacitated.

## **6. Step 2 - Internal Dispute Resolution Procedure (IDRP)**

- i. The IDRP considers complaints, which cannot be resolved by investigation and/or explanation, against the relevant regulations and processes.
- ii. Where a complainant does not accept the final response provided by TP, they can write to the department under this procedure. This should be done within six months of receiving the final response from TP, although late applications can be considered on a case-by-case basis, where the complainant has provided a good reason as to why they have not met the timeline.
- iii. However, where the department feels that TP have not fully explored all avenues or fully considered the issue, they will refer the case back to TP for further review and response instead of instigating IDR. The complainant will then be able to approach the department again, within six months of TP's further response, if they remain unhappy.
- iv. Once the department is satisfied that the case is fully addressed by TP, they will determine whether the TPR have been applied correctly, draft and issue a response to the complainant, signposting them to the Pensions Ombudsman Service if they remain dissatisfied with the outcome.
- v. Where the department believes a change to process or regulations should be considered, following consideration of a complaint, they will take this forward through discussions with the relevant TP administrative or departmental policy teams.

## **7. Step 3 – Pensions Ombudsman Service**

- i. If the complainant remains dissatisfied, they can take their case to the Pension Ombudsman regardless of whether the original decision has been upheld or changed by the department. The reply to the individual will make this clear and provide contact details.

- ii. The Pensions Ombudsman's office will only accept a case referred to them providing a decision has been issued under the IDRPs, and that it is raised to them within three years of the individual becoming aware of the problem. They aim to complete an investigation, on average, within ten months.
- iii. The Pensions Ombudsman's office cannot override the scheme rules but they will review the case, establish the facts and try to resolve the problem informally, if all parties can agree on an outcome.
- iv. Once the Pension Ombudsman's office has completed its consideration of the case, it will write to the individual issuing a determination. This sets out the decision and explains the rationale for reaching that conclusion.
- v. Where an individual's complaint is upheld, the Pensions Ombudsman's determination will include instructions to put things right, this may include directions to pay a sum of money or to take certain action within a specified period.

### **III-Health Appeals**

- 8. Ill Health appeals follow a two-stage IDRPs. These decisions are balance of probability decisions, based on information available and expert advice. There is, therefore, more scope for argument about interpretation and therefore the decisions, which is why two appeal reviews on top of the original decision is valued.
- 9. For ill health appeals, TP will access the services of a medical services provider who is contracted by the department to provide a medical advice service.
- 10. TPS members (or their nominated representative) are invited to submit evidence to support their appeal. The medical advisors will consider the case, review all evidence submitted and make a recommendation regarding the appeal. It is the member's responsibility to collect and submit supporting evidence – the department will not commission evidence gathering unless there are exceptional circumstances.
- 11. Once the medical advisers have provided a recommendation, TP will consider the case and make a decision based upon this recommendation, writing to the member (or their nominated representative) with their decision.
- 12. Where a member is dissatisfied with the outcome, they are able to invoke the second stage appeal to the department. Officials at the department will review the case; usually liaising with the medical advisers regarding the evidence submitted and reach a considered decision.
- 13. Additional evidence can be submitted at any stage in the process but its value depends on what it shows about the state of the individual's health, and their likely future prognosis, at the time the application was submitted.

14. Members are at liberty to make a further application for ill health retirement, and may provide additional information at this point. This is often the case where medical conditions have worsened over time or where therapeutic or remedial activities have proved inadequate.

15. Guidance, advice and templates can be accessed via TP's website.

### **Annex 1 - The Role of the Pensions Ombudsman**

16. The Pensions Ombudsman is responsible for investigating complaints regarding pensions in the United Kingdom. His brief is to resolve disputes of fact or law and to investigate claims of maladministration. The Pensions Ombudsman's determinations are binding on the parties and enforceable in the County Court. There is a right of appeal to the High Court on a point of law.

17. By law, the Ombudsman must be impartial and look at a problem without taking sides. During an investigation they will share all the information received with all parties and give them an opportunity to comment

### **Annex 2 - The Role of TPAS**

18. The role of the Pensions Advisory Service (TPAS) is to make pensions accessible and understandable by providing independent and impartial information and guidance about pensions, free of charge, to members of the public.

19. TPAS can act as mediators in disputes and can help individuals, or employers, with pension disputes provided they have already attempted to resolve the complaint or dispute in writing.

20. Individuals, or employers, may seek assistance and guidance from TPAS at any point during their dispute up to the point that the Pensions Ombudsman Service or Financial Ombudsman Service issues a determination.