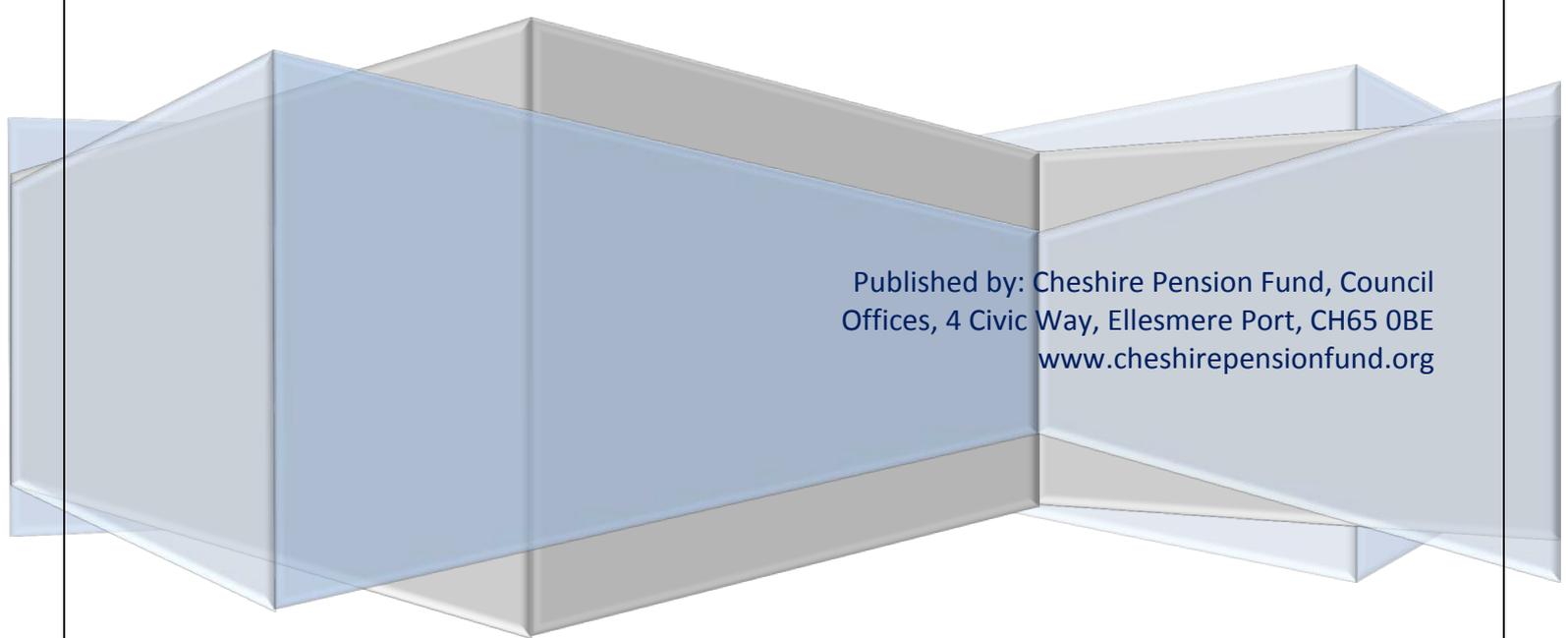


# Cheshire Pension Fund

## A Member's guide to the Internal Dispute Resolution Procedure



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## **Introduction**

This guide tells you about the complaints procedure for the Local Government Pension Scheme (LGPS) and, if you are unhappy with a decision about your pension benefits, the process to follow. We hope you find this guide helpful, and if you require further information, you are welcome to contact the Cheshire Pension Fund.

It does not cover every aspect. It is not an interpretation of the scheme regulations. In the event of any unintentional differences, the scheme regulations will prevail. This booklet does not confer any contractual or statutory rights.

### **What should you do if you have a problem with a decision regarding your benefits**

Firstly you should contact whoever made the decision, either your employer or the Pensions Team, to explain your problem. Many problems 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. An informal enquiry of this kind may save you a lot of time and trouble.

### **Decisions**

From the day a person starts a job with an employer, to the day when benefits or dependants' benefits are paid, the employer and Cheshire Pension Fund has to make decisions under the pension scheme rules that affect you (or your dependants). When you (this includes dependants) are notified of a decision, you should check, as far as you can, that it is based on the correct details and that you agree with the decision.

When a decision is made you should be informed of the outcome, told who to contact if you are unhappy with the decision reached and provided with details of the rights of appeal under the LGPS Regulations. Similar information will be given to dependants and/or personal representatives upon the death of a LGPS member.

### **What is the appeals procedure?**

Regulations 72 to 79 of the Local Government Pension Scheme Regulations 2013 set out the formal dispute procedure. The complaints procedures official name is the Internal Dispute Resolution Procedure (IDRP). This procedure has two stages but complaints are often resolved at the first stage of the process. Full details of each stage are covered later in this guide. If you are unhappy with a decision, or a decision has not been made in reasonable time under the dispute rules, you have the right to have it looked at afresh by a "nominated person" through the 1st stage procedure. This is a person specified for this purpose by either your employer or the administering authority, depending upon who made the initial decision.

You also have the right to use IDRP if a decision should, but has not been made, by your employer/former employer or administering authority. If you wish to complain about a non- decision or a delay, you must first use the IDRP procedure for this type of complaint. Even if it is decided that there has been an issue with maladministration, neither your employer nor the administering authority has the power to award compensation for any loss you may have suffered. However, you can take your complaint to the Pensions Ombudsman who does have the power to award compensation in such cases.

You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, your husband, wife or partner, or a friend.

There are also a number of other regulatory bodies such as The Pensions ombudsman, which may be able to help you at any stage during the formal complaints procedure. At any stage during the formal complaint procedure you can contact The Pensions Ombudsman for information and advice (see 'Additional Help' section).

If a decision has been made by either your employer or administering authority using a discretionary power and you are disputing that decision, your complaint would follow the standard two stage dispute process. However, at neither stage of the process can the original decision be overturned, instead it would be assessed whether the discretion had been exercised reasonably accordingly to either bodies policy. If it was found not to have been exercised reasonably or not in line with policy the original decision maker would be asked to revisit their decision.

**Please remember that, before going to the trouble of making a formal complaint, the Pension Fund welcome the opportunity to try to resolve the matter about which you are dissatisfied in an informal way. It may be worth checking again that they know you are concerned, and why.**

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that you will have to meet are your own (and/or your representative's) time, stationery and postage.

### **Who can use the IDR procedure?**

You have the right to use the formal complaint procedure if:

- You are a member of the LGPS including;
- if you are currently paying into the scheme or;
- if you have now left and receive a pension from the scheme or;
- if you have deferred benefits in the scheme or;
- are a prospective member\* of the scheme

\*A 'prospective member' means that, although you are not a member now you could become one by opting in, or by your employer bringing you into the scheme.

- You are the widow, widower, civil partner, child or other dependant of a person who fell into one of the categories above before he or she died
- You think that you either might or should fall into one of the above categories
- You do not fall into one of the above categories now but you did at some time during the last six months.

### **Why use the IDR process?**

IDR is here to formalise the complaints procedure and to help you through a dispute. **However, the IDR process should only be used if you have spoken to either your employer or the administering authority to try to resolve your issue and you still disagree.**

Can someone make a complaint on my behalf? You can ask someone to take your complaint forward on your behalf. This could be, for instance, a trade union official, welfare officer, spouse, partner or friend and you will need to give the person you have chosen written authority to act on your behalf.

In circumstances where the prospective complainant has died, his or her personal representative (the person dealing with the estate) can make or continue the complaint on the behalf of the deceased complainant. If the person who is entitled to make the complaint is a child, or is for some other reason not capable of making and carrying out the complaint on their own behalf, then the complaint can be made and enacted by a member of their family or by another suitable person.

## **What decisions can be made and by who?**

### **Examples of employer decisions:**

- Deciding whether you meet the grounds for an ill-health retirement and what tier of benefits is to be awarded
- Deciding the final pay to be used to work out your benefits
- Deciding the contribution rate you pay
- Deciding how and when to apply the discretions available to employers in the LGPS

Remember, if you are unhappy with any decision made by your employer you should contact them first before beginning the IDR process.

### **Examples of Administering Authority decisions:**

- Whether or not to accept a transfer from another scheme
- Decide who receives any death grant that may be payable
- Calculating your benefits

If you are unhappy with any decision made by the administering authority you should contact the Pension Fund before initiating the IDR process.

## **Stage1: Formal complaint**

### **What to do first**

You need to put your complaint in writing, using the Appeals Form to whomever you think is at fault - either your employer, or the administering authority. Ask yourself “who made the decision I am unhappy with?” The answer should tell you who to appeal to.

The appeal should be made normally within six months of the day when you were told of the decision you want to complain about.

Your complaint will be considered carefully by a person nominated by the body that took the decision against which you wish to complain. This guide calls them the ‘nominated person’ that person is required to give you their decision in writing.

The ‘Appeals Form’ to use is available on the website: [www.Cheshirepensionfund.org](http://www.Cheshirepensionfund.org) or can be requested by calling: 01244 976000

### **What information should be included on the 1st stage appeal form?**

Anything you feel relevant to your complaint about the decision or issue you are appealing should be included. However, it is important to stick to the facts. You can attach any related information to the form including copies of letters you have been sent. Your complaint will be looked at by the person nominated by your employer or the administering authority that took the original decision you wish to appeal against. This individual is referred to as the ‘nominated person’. The nominated person will not have been involved in the initial decision or issue that you are appealing and therefore you must ensure that you provide them with all relevant information. The regulations do not stipulate who should be the nominated person at the first stage of the dispute process. It could be, for example, the human resources manager, or the pensions or payroll manager. It is for each employer and administering authority to decide who should fulfil this role.

### **Where should I send the 1st stage appeal form?**

For complaints against your employer please send your form to your employer’s nominated person. Your employer should have told you who their nominated person is or how to find this information in the letter that contained the decision you are appealing. If you do not know who your employer’s nominated person is, please contact the organisation who made the decision you are appealing against.

For appeals against the administering authority, please send your form to the Cheshire Pension Fund – Pension Manager.

### **What happens next?**

The facts of your case that have been provided on the 1st stage Appeal Form and any other supporting documentation will be examined, alongside the Scheme rules, and any legislation that is applicable. It is possible that you may be asked for more details, to help the nominated person fully understand your case. Your complaint will then be considered carefully by the nominated person and you should receive a written reply within two months of the date your complaint arrived. The letter will either provide you with a decision, or will acknowledge your complaint.

### **What happens if a decision cannot be made within 2 months?**

Where it has not been possible for the nominated person to issue his/her decision within the two month period, a letter will be sent to you explaining the reasons for the delay and provide an expected date for issuing a decision. Although in most cases the decision should be made within 2 months, there may be circumstances where the specified person may wish to seek the views of the interested parties, in particular, those of the relevant administering authority before a final decision is taken which may take longer.

Receiving a reply from the nominated person The LGPS regulations require the nominated person's decision to provide you with the following in their reply:

- a statement of their decision;
- a reference to any legislation on which the nominated person relied;
- if your case relates to the exercise of a discretion, a reference to the provisions of these Regulations conferring the discretion\*
- if your appeal is not upheld, a reference should be made to your right to refer the disagreement for reconsideration by the appropriate administering authority and the time within which you may do so;
- contact details for the 'Pensions Ombudsman' who are available to give assistance with any issues that remain unresolved

\*If the decision you are appealing against concerns the exercise of a discretion by your employer or the administering authority, and the nominated person decides that your employer or the administering authority should reconsider how they exercised their decision, they will write to notify them of their decision. In such cases, the nominated persons cannot overturn the initial decision but can determine whether the discretion has been exercised reasonably and, in cases where this is found not to be the case, can refer the decision to be reconsidered. If you are still not satisfied with this decision after reconsideration then you can take your appeal to stage 2.

#### **What power does the nominated person's decision carry?**

The nominated persons decision is final and binding on the employer or administering authority, unless you refer the decision of the nominated person to the administering authority for determination under a 2nd stage appeal. The only exemption to this is a decision of your employer or administering authority, where the matter concerns the exercise of a discretion, in which case, if the nominated person does not uphold the decision, the matter must be referred back to the body which made the decision for reconsideration or, where that body would have been the employer but that body is no longer a Scheme employer, to the appropriate administering authority.

## **Stage2: further appeal**

The 2nd stage procedure applies when you ask the administering authority to take a fresh look at your complaint if:

- you are not satisfied with the nominated person's first stage decision
- you have not received a decision or an interim letter from the nominated person, and it is more than two months since you lodged your 1st stage appeal
- it is one month after the date by which the nominated person told you (in an interim letter) that they would give you a decision, and you have still not received that decision

Each administering authority must appoint a person ("the adjudicator") to consider applications under the 2nd stage appeal. The adjudicator is appointed by the Funds administering authority (Cheshire West and Chester Council). The name and address of the adjudicator should be up-to-date on the Appeals Form.

### **What details should be sent with a 2nd stage form?**

All the information and details that were required for the 1st stage application should be resubmitted at the 2nd stage via the Appeals Form. Additionally, where you have received a 1st stage decision a copy of the decision letter and most importantly, an explanation of why you are dissatisfied with it should be explained on the Appeals Form. As with appeals at the 1st stage of the dispute rules, the person considering your application should acknowledge receipt of the Appeals Form and may request further information so that they can fully understand your complaint. If your health is a factor in the complaint, you may be asked to attend a medical examination or consent to the release of your medical details to another IRMP for a further medical opinion. The review at the 2nd stage would be undertaken by an IRMP not involved in the 1st stage decision.

The person nominated by the administering authority must then decide on the basis of the Scheme rules, and by taking into account the facts and evidence they have obtained, whether or not the nominated persons decision reached at the 1st stage of the process was correct. If they decide that it was not, they must replace the nominated person's decision in the 1st stage with a new decision of their own.

As is the case at stage 1, if the original decision was made in the exercise of a discretion and the administering authority decides that it was not exercised in a reasonable manner, they can only insist the employer or administering authority reconsider its discretion - they cannot replace their original decision with a decision of their own.

When you can expect the adjudicator's decision At the 2nd stage the adjudicator must either write to you to let you know their decision within two months of the date they receive your 2nd stage Appeals Form, or they must write to you at the end of two months to let you know when a decision is likely to be reached and the reason for any delay.

When they write to inform you of the decision, they will also tell you whether the decision confirms or replaces the nominated person's decision and they will tell you the particular legislation used in reaching their decision.

If you are still unhappy following the adjudicators 2nd stage decision you can refer your complaint to the Pension Ombudsman provided you do so within three years from the date of the original decision (or lack of decision) about which you are complaining.

## Additional help

### Pensions Ombudsman

You have the right to refer your complaint to The Pensions Ombudsman free of charge.

The Pensions Ombudsman deals with complaints and disputes which concern the administration and/or management of occupational and personal pension schemes.

Contact with The Pensions Ombudsman about a complaint needs to be made within three years of when the event(s) you are complaining about happened – or, if later, within three years of when you first knew about it (or ought to have known about it). There is discretion for those time limits to be extended.

**The Pensions Ombudsman can be contacted at  
10 South Colonnade,  
Canary Wharf,  
E14 4PU.**

Tel: 0800 917 4487.

Email: [enquiries@pensions-ombudsman.org.uk](mailto:enquiries@pensions-ombudsman.org.uk)

Website: [www.pensions-ombudsman.org.uk](http://www.pensions-ombudsman.org.uk)

You can also submit a complaint form online:

[www.pensions-ombudsman.org.uk/our-service/make-a-complaint/](http://www.pensions-ombudsman.org.uk/our-service/make-a-complaint/).

If you have general requests for information or guidance concerning your pension arrangements contact:

**The Pensions Advisory Service  
11 Belgrave Road,  
London,  
SW1V 1RB**

Telephone: 0300 123 1047

Website: [www.pensionsadvisoryservice.org.uk/](http://www.pensionsadvisoryservice.org.uk/)

## Contact Us

If you require any further information please contact us using the details below.



01244 976000



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[www.cheshirepensionfund.org](http://www.cheshirepensionfund.org)



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