

# **A GUIDE TO RESOLVING DISPUTES ABOUT AN EMPLOYER'S DECISION RELATING TO DISCRETIONARY COMPENSATION**

## **About this guide**

This guide gives you help on how to resolve disputes in relation to the Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, and earlier equivalent legislation (all are referred to as the 'Compensation Regulations' in this guide). It explains the responsibility of your employer and Cambridgeshire County Council acting as the Administering Authority and what you need to do.

In the event of any unintentional differences between this guide and the scheme regulations, the scheme regulations will prevail. This guide does not confer any contractual or statutory rights.

## **Who does it apply to?**

The process applies to you if you are:

- an ex-employee of an employing authority, were eligible to be a member of the Local Government Pension Scheme in that employment and your employment has been terminated:-
  - by reason of redundancy,
  - in the interests of the efficient exercise of the employing authority's functions, or
  - in the case of a joint appointment, because the other holder of the appointment has left it;
- a dependant of the above who is, or believes they are, entitled to benefits under the 'Compensation Regulations' on the death of the ex-employee.

## **Decisions – your right to notification**

Your employer is responsible for making a range of decisions that affect the compensation benefits that may be payable. When these decisions are made you should be told about them, along with details as to how and why that decision was made. At the same time you should be told how to find out further information about the decision and how to dispute it.

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. If you do not agree this guide is for you.

## **What do I do if I disagree with the decision?**

If you are not satisfied a correct decision has been made about your compensation entitlement you have a right to have the decision looked at again and corrected if necessary. You also have a right to use the procedure if you think a decision should have been made by your employer, but it has not been.

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

The disputes process is a four stage process:

- An **informal stage** – here decisions can be explained or errors corrected that have been caused by misunderstandings, wrong information or human error;
- The **first stage of the formal internal dispute resolution procedure (IDRP)** - this is carried out by an adjudicator specified by your employer.
- The **second stage of the IDRP** - this is carried out by the LGSS Director of Law & Governance Northamptonshire and Cambridgeshire acting on behalf of the administering authority.
- Finally, if you are still not satisfied a correct decision has been made you can refer your case to the **Pensions Ombudsman**. He will not take cases until they have been through both stages of the IDRP process.

These stages are looked at in more depth later.

No charge is made at any stage for investigating a dispute. But you will have to meet your own (and/or your representative's) expenses for time, stationery, postage, telephone calls and any independent advice.

**Please note: The IDRP process is for disputing decisions relating to discretionary compensation under the 'Compensation Regulations' – for example whether you meet the criteria to receive a discretionary lump sum compensation payment or not. If your dispute relates to an employment decision – for example the fact that you have been dismissed - you need to make use of your employer's employment appeals process.**

### Getting help to resolve your dispute

At any time, if you are having difficulties in sorting out your dispute, you may wish to contact The Pensions Advisory Service (TPAS) for help. TPAS can provide free advice and information to explain your rights and responsibilities.

A TPAS adviser cannot force a pension scheme to take a particular step but, if they think your dispute is justified, they will try to resolve the problem through conciliation and mediation.

There are a number of ways of contacting TPAS to get information or guidance:

Their Helpline phone number is 0300 123 1047

Lines are open Monday to Friday 9am to 5pm.

Their website <http://www.pensionsadvisoryservice.org.uk/contacting-us>

also offers:

- a live webchat service from Monday to Friday 9am to 5pm, and also on Tuesdays from 7pm to 9pm, and
- an online enquiry form.

You can also write to them at: TPAS  
11 Belgrave Road  
London  
SW1V 1RB

## RAISING AN INFORMAL ENQUIRY

Many issues are caused by misunderstandings, wrong information or human error. These can be quickly corrected or explained by informal contact with the person who has made the decision you are disputing.

You are not required to do this but it is recommended. An informal enquiry of this kind may save you a lot of time and trouble. If an error has been made it should be dealt with as quickly and efficiently as possible. Most problems that members have are, in fact, resolved in this way.

Any query of this sort should first be directed to the person who has made the decision – you would expect to find their contact details in the written notification you have been sent informing you of the decision. If you require a technical explanation of a decision please feel free to contact the LGSS Pensions Service.

## FIRST STAGE OF THE INTERNAL DISPUTE RESOLUTION PROCEDURE (IDRP)

If you are not satisfied with the response to your informal enquiry you need to start the formal IDRP process.

**To do this you need to put the details of your dispute in writing within 6 months of the day when you were told of the decision you want to dispute.**

Use the application form, IDRP1C, in this guide to ensure you provide all of the required basic information. To the IDRP1C you should then attach:

- a copy of the relevant decision notice;
- details of why you are disputing the decision; and
- any supporting information.

In preparing information please be specific on what you are actually disputing and why you believe it is incorrect. You should focus on the decision that has been made under the 'Compensation Regulations'.

Once completed your application should be sent to the person whose details were provided in your decision notice otherwise referred to as the adjudicator who deals with disputes. If you do not know who this is please contact the LGSS Pensions Service who will identify the person for you.

We recommend that your application is sent by recorded delivery so that you are certain it has been received.

Once the adjudicator has received your dispute they should consider it carefully. They may ask you, your managers or others involved in your case for further information.

You should receive a full written response within two months or an interim response telling you when to expect a full response.

Once your employer's adjudicator has reached a decision you will be notified in writing. This decision notification should:

- Be clear about the issue that has been considered;
- Inform you of the decision itself;
- Detail the evidence received and considered;
- Detail any 'Compensation Regulations' considered, and the reasons for the decision;

- If the decision is based on a discretionary power contained in a policy, a copy of the policy or the relevant part of it, and a reference to the scheme regulation that allows the policy;
- Provide details of the second stage of the IDR process.

#### What happens next:

The decision letter will inform you that either:

- The adjudicator has upheld the original decision and that decision will apply. You have to decide if you will escalate your dispute to the second stage of the IDR; or
- The adjudicator has decided part or all of the original decision is incorrect and has amended the decision. Your employer will now have to deal with your case in accordance with the adjudicator's decision; If you are still not happy with the decision you will need to decide if you will escalate your dispute to the second stage of the IDR;

### **SECOND STAGE INTERNAL DISPUTE RESOLUTION PROCEDURE (IDRP)**

You can ask Cambridgeshire County Council, acting as the administering authority, to take a fresh look at your dispute in any of the following circumstances:

- you are not satisfied with the adjudicator's first-stage decision,
- you have not received a decision or an interim letter from the adjudicator, and it is 3 months since you lodged your dispute,
- it is one month after the date by which the adjudicator told you (in an interim letter) that they would give you a decision, and you have still not received that decision.

This will be done by the LGSS Director of Law & Governance Northamptonshire and Cambridgeshire acting on behalf of the administering authority.

**To do this you need to put the details of your dispute in writing within the time limits set out in the attached table.**

Use the application form, IDR2C, to ensure you provide all of the required basic information. You should then attach:

- a copy of the relevant decision notice;
- details of why you are disputing the original decision (a copy of the information you provided for the first stage will be sufficient unless you wish to provide further information);
- details of why you are disputing the first stage decision; and
- any supporting information.

As in the first stage, please be specific on what you are actually disputing and why you believe it is incorrect.

Once completed your application should be sent to:

Head of Pensions  
LGSS Pensions Service  
PO Box 202  
John Dryden House  
8-10 The Lakes  
Northampton  
NN4 7YD

We recommend that your application is sent by recorded delivery so that you are certain it has been received.

Once the LGSS Head of Pensions has received your dispute, appropriate details will be gathered and forwarded to the LGSS Director of Law & Governance Northamptonshire and Cambridgeshire, who will:

- reconsider the decision, taking full account of the facts of the case and of any evidence submitted, or relied on, by either party in the determination at Stage 1;
- check that the regulations were applied correctly;
- check that sound, impartial procedures were used to reach the decision. This is particularly important where the dispute concerns the exercise of a discretion by the employing authority;
- satisfy themselves that the first stage decision was reasonable and consistent with other decisions made by the employing authority, and that it would stand up to external scrutiny.

As for the first stage you will be given the decision in writing.

#### What happens next -

The decision letter will inform you that either:

- the LGSS Director of Law & Governance Northamptonshire and Cambridgeshire has upheld the original decision and that decision will apply. You have to decide if you will escalate your dispute to the Pensions Ombudsman; or
- The LGSS Director of Law & Governance Northamptonshire and Cambridgeshire has decided part or all of the original decision is incorrect and has amended the decision. Your employer will now have to deal with your case in accordance with the new decision; If you are still not happy with the decision you will need to decide if you will escalate your dispute to the Pensions Ombudsman.

#### PENSIONS OMBUDSMAN

If you are still unhappy following the second stage decision, you can take your case to the Pensions Ombudsman provided you do so within 3 years from the date of the original decision (or lack of a decision) about which you are complaining or within 3 years of when you first became aware of the problem.

The Ombudsman investigates complaints and settles disputes about pension schemes. However, before contacting the Ombudsman, the Pensions Ombudsman's Office would normally expect you to have:

- been given first-stage and second-stage internal dispute resolution procedure decisions by the Local Government Pension Scheme; and
- sought the help of TPAS.

The Pensions Ombudsman is completely independent and acts as an impartial adjudicator. The role and powers have been decided by Parliament. There is no charge for using the Pensions Ombudsman's services.

The Ombudsman cannot investigate matters where legal proceedings have already started but he can settle disputes about matters of fact or law as they affect occupational pension schemes.

The Pensions Ombudsman can also investigate and decide upon any complaint or dispute about the maladministration of a pension scheme. "Maladministration" is about the way that a decision is

taken, rather than about the merits of the decision. Examples of maladministration would be unreasonable delay, neglect, giving wrong information and discrimination.

The Ombudsman's decision is final and binding for all parties, subject to any appeal made to the High Court on a point of law.

The Ombudsman is at the same address as the TPAS:

The Pensions Ombudsman  
11 Belgrave Road  
London  
SW1V 1RB

Tel: 020 7630 2200

Fax: 020 7821 0065

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

Website: <http://www.pensions-ombudsman.org.uk>

### CONTACTING THE LGSS PENSIONS SERVICE

Please contact the Pensions Service if you:

- are not sure which benefits you are entitled to;
- have a problem with your benefits;
- need an explanation of a decision;
- need more information about the disputes process.

LGSS Pensions Service  
PO Box 202  
John Dryden House  
8-10 The Lakes  
Northampton  
NN4 7YD

Telephone: (01604) 366537

Email: [pensions@northamptonshire.gov.uk](mailto:pensions@northamptonshire.gov.uk)

Website: <http://pensions.cambridgeshire.gov.uk>

## Time limits under the Internal Dispute Resolution Procedure

<b>Your situation</b>	<b>To contact</b>	<b>Time Limit</b>
You have received a decision on benefits under the 'Compensation Regulations', and there seem to be good grounds for a dispute.	The adjudicator given in the original decision notice.	6 months from the date when you were notified of the decision <sup>1</sup>
You have received a first stage decision on your dispute from the adjudicator, but you are not satisfied.	LGSS Head of Pensions to escalate to a second stage dispute.	6 months from the date of the adjudicator's decision
You made your dispute in writing to the adjudicator, with all the information they needed but, 3 months after it was received, you have not received their decision on your dispute or any interim reply.	LGSS Head of Pensions to escalate to a second stage dispute.	9 months from the date when you submitted your dispute.
You received an interim reply to your dispute to the adjudicator, within 2 months of applying to them. Their reply promised you a decision by a specified date but one month has passed since the expected decision date and you still have not received their decision.	LGSS Head of Pensions to escalate to a second stage dispute.	7 months from the date by which you were promised you would receive a decision
Your dispute is that your employer have failed to make any decision about your benefits under the 'Compensation Regulations'	The adjudicator – contact the Pensions Service for details.	6 months from the date when the employer should have made the decision <sup>1</sup> .
Your dispute went to the administering authority under the second stage of the procedure. You received their decision but you are still not satisfied.	The Pensions Ombudsman. Note that the Ombudsman will normally expect you to have asked TPAS for help first.	3 years from the date of the original decision about which you are complaining.
You have taken your dispute to the administering authority under the second stage of the procedure but, 2 months after your dispute was received by the authority, you have not received their decision on your dispute or any interim reply.	The Pensions Ombudsman. Note that the Ombudsman will normally expect you to have asked TPAS for help first.	3 years from the date of the original decision about which you are complaining.
You received an interim reply to your second stage dispute to the administering authority, within 2 months of applying to them. Their reply promised you a decision by a specified date but the expected decision date has passed and you still have not received their decision..	The Pensions Ombudsman. Note that the Ombudsman will normally expect you to have asked TPAS for help first.	3 years from the date of the original decision about which you are complaining.

<sup>1</sup> The adjudicator can extend the 6 month time limit for a reasonable period where there are special circumstances.



**Local Government Pension Scheme**  
**IDRP1C - STAGE 1 APPLICATION UNDER THE INTERNAL DISPUTE**  
**RESOLUTION PROCEDURE**

You should use this form to apply to the adjudicator at **stage 1** of the internal dispute resolution procedure if you want them to investigate a dispute concerning benefits under the '**Compensation Regulations**'

**The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, and earlier equivalent legislation**

**Please write clearly in ink, and use capital letters in sections 1, 2 and 3.**

**Section 1 Ex-employee's Details**

If you are the ex-employee, please give your details in this Section. You can then go straight to Section 4.

If you are the ex-employee's dependant (for example, their husband, wife or child), please give the ex-employee's details in this Section, and then go to Section 2.

If you are representing the person with the complaint, please give the ex-employee's details in this Section, and then go to Section 3.

Surname: \_\_\_\_\_ Title: \_\_\_\_\_

Forenames: \_\_\_\_\_ Previous Surname(s): \_\_\_\_\_

Address: \_\_\_\_\_

Post Code: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Employer: \_\_\_\_\_ National Insurance No: \_\_\_\_\_

**Section 2 Dependant's Details**

If you are the ex-employee's dependant and the complaint is about a benefit for you, please give **your** details in this Section and then go to Section 4.

If the complaint is about a benefit for a dependant and you are the dependant's representative, please give the dependant's details in this Section and then go to Section 3.

Surname: \_\_\_\_\_ Title: \_\_\_\_\_

Forenames: \_\_\_\_\_ Previous Surname(s): \_\_\_\_\_

Address: \_\_\_\_\_

Post Code: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Relationship to member: \_\_\_\_\_ National Insurance No: \_\_\_\_\_

**Section 3 Representative's Details**

If you are the ex-employee's or dependant's representative, please give your details in this Section and then go to Section 4.

Surname: \_\_\_\_\_ Title: \_\_\_\_\_

Forenames: \_\_\_\_\_ Previous Surname(s): \_\_\_\_\_

Address: \_\_\_\_\_

Post Code: \_\_\_\_\_

## Section 4 Your Complaint

Please summarise your complaint in this Section and then, on an attached sheet, give details of exactly why you are unhappy.

## Section 5 Your Signature

I would like my complaint to be considered and a decision to be made about it.

I am :

- An ex-employee \*
- Dependant of an ex-employee \*
- Ex-employee's representative / dependant's representative \*

\* Tick one box and delete words as appropriate

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

**Please enclose a copy of any notification of the decision you are complaining about which has been issued by the employer.**

Also enclose any other letter or notification that you think might be helpful.

The information which is collected on this form will be held and processed in line with the Data Protection Act. The information will be shared between Cambridgeshire and Northamptonshire County Councils for the purposes of pensions administration.

This information can be made available in other languages and formats upon request such as Braille, large print and audio cassette. Please phone (01604) 366537 for further information.

**Local Government Pension Scheme**  
**IDRP2C - STAGE 2 APPLICATION UNDER THE INTERNAL DISPUTE**  
**RESOLUTION PROCEDURE**

You should use this form to apply to the LGSS Director of Law & Governance Northamptonshire and Cambridgeshire at **stage 2** of the internal dispute resolution procedure if you want them to investigate a dispute concerning your benefits under the '**Compensation Regulations**' having been through stage 1 of the process.

**The Local Government (Early Termination of Employment) (Discretionary Compensation) (England and Wales) Regulations 2006, and earlier equivalent legislation**

**Please write clearly in ink, and use capital letters in sections 1, 2 and 3.**

**Section 1 Ex-employee's Details**

If you are the ex-employee), please give your details in this Section. You can then go straight to Section 4.

If you are the ex-employee's dependant (for example, their husband, wife or child), please give the ex-employee's details in this Section, and then go to Section 2.

If you are representing the person with the complaint, please give the ex-employee's details in this Section, and then go to Section 3.

Surname: \_\_\_\_\_ Title: \_\_\_\_\_

Forenames: \_\_\_\_\_ Previous Surname(s): \_\_\_\_\_

Address: \_\_\_\_\_

Post Code: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Employer: \_\_\_\_\_ National Insurance No: \_\_\_\_\_

**Section 2 Dependant's Details**

If you are the ex-employee's dependant and the complaint is about a benefit for you, please give **your** details in this Section and then go to Section 4.

If the complaint is about a benefit for a dependant and you are the dependant's representative, please give the dependant's details in this Section and then go to Section 3.

Surname: \_\_\_\_\_ Title: \_\_\_\_\_

Forenames: \_\_\_\_\_ Previous Surname(s): \_\_\_\_\_

Address: \_\_\_\_\_

Post Code: \_\_\_\_\_ Date of Birth: \_\_\_\_\_

Relationship to member: \_\_\_\_\_ National Insurance No: \_\_\_\_\_

**Section 3 Representative's Details**

If you are the ex-employee's or dependant's representative, please give your details in this Section and then go to Section 4.

Surname: \_\_\_\_\_ Title: \_\_\_\_\_

Forenames: \_\_\_\_\_ Previous Surname(s): \_\_\_\_\_

Address: \_\_\_\_\_

Post Code: \_\_\_\_\_

## Section 4 Your Complaint

Please summarise your complaint in this Section and then, on an attached sheet, give details of exactly why you are unhappy.

## Section 5 Your Signature

I would like my complaint to be considered and a decision to be made about it.

I am a:

- Ex-employee \*
- Dependant of ex-employee \*
- Ex-employee's representative / dependant's representative \*

\* Tick one box and delete words as appropriate

Signed: \_\_\_\_\_ Dated: \_\_\_\_\_

**Please enclose a copy of any notification of the decision you are complaining about which has been issued by the employer.**

Also enclose any other letter or notification that you think might be helpful.

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