

Internal Dispute Resolution Procedure Guide (IDRP)



The Local Government Pension Scheme (LGPS) Regulations

For members and prospective members of the Environment Agency Pension Funds or their the spouse, civil partner or nominated cohabiting partner, their child or other dependant

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Introduction

The Environment Agency Pension Funds (EAPF) are part of the Local Government Pension Scheme (LGPS). They are governed by the LGPS regulations which change from time to time and this guide is based on the regulations in force from 1 April 2008.

The Internal Dispute Resolution Procedure (IDRP) is a formal procedure for settling disputes under the Local Government Pension Scheme (Administration) Regulations 2008 (as amended).

This guide is intended to help you to understand and use IDRP if you have a disagreement regarding a decision made about your LGPS pension.

If you are or were an EAPF member or prospective member or the spouse/dependant, civil partner or nominated cohabiting partner of a member or prospective member, you can use IDRP to settle any disagreement or complaint you may have about the decisions that have been made about your pension under the LGPS Regulations.

IDRP only applies to decisions related to your pension made by your employer (HR or Payroll), the in-house AVC providers or Capita who administer the fund on behalf of the Environment Agency under the LGPS Regulations.

If you disagree with a decision about your pension it is important that you first contact the person who made the decision to see if you can reach agreement informally. In some cases, even if you do not reach an informal agreement you may be able to resolve the issue using your employer's grievance procedure or the relevant in-house AVC provider's or Capita's complaints procedure.

If you are unable to reach an agreement and remain unhappy with the decision then you should make a formal application under IDR. You can also use IDR if your employer, Capita or in-house AVC providers fail to make a decision or inform you of a decision they have made.

No charge is made for investigating any complaint at any stage under IDR – the only expenses you will have to meet are those of your own (or your representative's) time, stationery and postage.

IDR is a two stage procedure. In stage 1 your dispute will be reviewed by a person nominated to investigate complaints regarding decisions made under LGPS regulations, known as the 'specified person' (see Section 4.1 for more details). If you disagree with the stage 1 decision you can apply to stage 2 where your dispute will be reviewed by a representative of the Administering Authority (see Section 5.1 for more details). If you still cannot agree with the decision you can apply to the Pensions Ombudsman who will make a binding decision and who has the power to award compensation if he feels this is justified. Please note that the Ombudsman will not look at your complaint unless the full Internal Disputes Resolution Procedure has been completed without agreement.

Who can use IDR

You have the right to use IDR if:

- You are an EAPF member. This includes members who are currently paying into EAPF, those who have left and are receiving a pension or whose benefits are preserved or who simply still have some old EAPF membership.
- You are a prospective EAPF member. This means that, though you are not a member now, you could become one or think you should be able to become one by opting in.
- You are the spouse, civil partner or nominated cohabiting partner, the child or other dependant of one of the above.
- You do not fall into one of the above categories now but you did at some time during the last six months.

Using someone else to represent you

Under IDR, you can if you wish ask someone else to act for you in making or handling your complaint. A trade union representative or a relative will often be happy to help in this way. You will however need to give the person you choose written authority to act for you by signing a simple statement to that effect.

If the person who is entitled to make the complaint has died, his or her personal representative (the person dealing with the estate) can make or carry on the complaint on his or her behalf.

If the person who is entitled to make the complaint is a child, or is, for some other reason, not capable of making or carrying on the complaint him or herself, the complaint can be made and carried on by a member of his or her family, or by another suitable person.

The Pensions Advisory Service (TPAS)

If you need any help in submitting or dealing with your complaint you can ask TPAS to help you at any time. TPAS can provide free advice and information to explain your rights and responsibilities. If your complaint is referred to the Pensions Ombudsman at the end of the IDR procedure, he will normally expect you to have already asked TPAS for help before he will accept the case.

See section 6 for details on how to contact TPAS.

Decisions

From the day you start your job with your employer, decisions are made under the LGPS Regulations which affect your pension within the EAPF.

The first decision is whether or not you are eligible to join the EAPF; if eligible the rate of contributions you must pay and what pay they must be based on; the hours you work and how your membership counts towards your benefits; whether you are allowed to transfer previous pension benefits into the EAPF and what membership will be credited to you pension as a result of the transfer.

When you leave the EAPF, your employer and Capita on behalf of the EAPF will make further decisions about the pension benefits you will receive and what benefits can be paid after your death and who they can be paid to.

How and when you should be told about decisions

Every time your employer, Capita or in-house AVC providers make a decision about your pension under the LGPS Regulations they must write to you as soon as they can to tell you about it. If the decision is that you are not entitled to a benefit, they must also tell you why they have reached that decision. If the decision is about the amount of your benefit, they must tell you how they have worked it out. They must also tell you how you can apply for further information, appeal against the decision or make a complaint and give you details of IDRP. After your death, similar details will be given to your dependants about their benefits.

These requirements can apply even if the decision is entirely a matter for your employer's discretion, but only if you consider that the decision goes against your employer's latest Policy Statement which is available at www.eapf.org.uk following the link to the policies and reports.

What to do when you are told of a decision

When you or your dependants are told of a decision you should check, as far as you can, to see if you think it is based on the right details and that you agree with it. If not you should contact the person who made the decision to see if agreement can be reached informally.

If you are unable to reach an agreement and you are still not happy with the decision then you should make a formal application under IDRP. You can also use IDRP if your employer, Capita or in-house AVC providers fail to make a decision or inform you of a decision they have made.

No charge is made for investigating any complaint at any stage under IDRP – the only expenses you will have to meet are those of your own (or your representative's) time, stationery and postage.

What to do first if you are unhappy with a decision

When your employer, Capita or in-house AVC providers notify you of a decision they have made, you should get in touch with them first if you want any further explanation or if you are unhappy with the decision. You can do this by telephone or in writing. If you contact Capita, please quote your National Insurance Number.

Many problems can be resolved in this way. Problems are often caused by misunderstandings, or incorrect information, that can be explained or corrected quickly and easily.

Complaints about maladministration

It may be that your complaint is about something other than a decision, for example, if you feel that there has been some maladministration in the way your case has been dealt with.

The following are examples of maladministration:

- Unreasonable delays in letting you know about or paying your pension benefits.
- Failure to let you know about changes in your pension entitlement or changes in the scheme rules that may affect you.
- Failure to give you adequate or timely information that you need to enable you to make informed decisions about your rights and benefits in the scheme.
- A complaint due to maladministration will be dealt with under the IDRP and the reasons behind the complaint will be fully investigated. If your claim is found to be correct under stage 1 or 2, internal processes will be reviewed to ensure there is no future recurrence of the problem. If the complaint is reviewed by the Pensions Ombudsman and he feels that your loss is sufficient, he has the power to award compensation. The specified person and the administering authority representative do not have any powers to award compensation.

Stage 1 of IDRP – Applying to the Specified person

The Specified Person

Under the LGPS Regulations, the EAPF and your employer must appoint at least one specified person, who must be suitably qualified to deal with complaints about the decisions they make. The Head of Pension Fund Management has been appointed to deal with all the complaints made under IDRP about decisions made by your employer, Capita or in-house AVC providers, acting on the EAPF's and your employer's behalf.

When the specified person receives a complaint, he must gather all the facts relevant to the complaint, take professional advice and seek the views of both the complainant and the original decision maker as necessary. He must then look at all the facts and the relevant LGPS Regulations and decide whether or not the original decision was correct. If the specified person decides that it was not correct he must give a new decision of his own, that will override and replace the original decision made by your employer, In-house AVC provider or Capita.

Some decisions are made by your employer "in the exercise of discretions". This means that it has a choice about the decision it makes rather than simply looking at the LGPS Regulations and deciding how they apply.

If you make a complaint about a discretionary decision, the specified person will investigate it in the same way as any other complaint but, in this case, his role is not to change the decision. What the specified person can do however, is ensure that the discretion has been exercised reasonably and in accordance with your employer's Statement of Policy on Discretions, and insist on the decision being reconsidered by the original decision maker, with account being taken of all proper considerations, if he finds that it was not taken in a reasonable and transparent manner in the first place.

When to apply to the specified person

You must apply to the specified person within 6 months of being told of the decision you are complaining about. The specified person can extend this if he thinks an extension is reasonable. If your complaint is that a decision has not been made, you must make your application within 6 months of the time the decision ought to have been made. This means you should not leave things too long before writing to the specified person. If you have not had a reply to an informal enquiry in a reasonable length of time, you should make your formal complaint to the specified person without waiting any longer for a reply.

How to apply to the specified person

Your application to the specified person must be made in writing, using the application form at the back of this guide, and should be sent to:

Deputy Director Head of Pension Fund Management
The Environment Agency
Horizon House, Deanery Road, BRISTOL, BS1 5AH

If you prefer, a word version of the form is available on the website at www.eapf.org.uk

What details the specified person needs from you

In all cases, you must explain your complaint as fully as possible and provide any documents you think may be helpful. In particular, if you are complaining about a decision that has been made, you must send a copy of the letter or notice you received from your employer, Capita or in-house AVC providers telling you about that decision.

If you are an EAPF member or prospective member, you must state in your application your full name, address, date of birth and national insurance number.

If you are the spouse, child or other dependant of an EAPF member you must include in your application your full name, address, date of birth, relationship to the member and the member's full name, address, date of birth and national insurance number.

If you are the member's representative or spouse/dependant you must state in the application the member's or spouse/dependant's details as above together with your own name and address and the appropriate address for correspondence. You must also send evidence of your authority to act on behalf of the complainant.

Finally, either you, as the complainant, or your representative, on your behalf, must sign the application.

What else you may be asked to do or provide

The specified person may need to write to you to ask you for more information or explanation so that he can be sure that he understands your complaint and is able to make a proper decision.

If the state of your health has a bearing on your complaint, you may also be asked to have an independent medical examination or to give consent for your medical records to be released to a doctor chosen by the specified person. You will not have to pay any medical charges.

When you can expect the specified person's decision

The specified person should either give you a decision within two months of receiving your written complaint, or write to you at the end of that period, telling you the reasons for the delay in reaching a decision and giving you the date he expects to be able to let you know the outcome.

If you receive neither a letter giving the specified person's decision, nor a letter giving the reason for the delay within three months from the date your complaint was received, or if you do not receive the specified person's decision within one month of the date he said he expected to let you know his decision, you can apply directly to the Administering Authority under stage 2 of the procedure without waiting any longer.

What the specified person must tell you

The specified person must write to you, or your representative, to let you know his decision. He must also write to your employer. In his letter the specified person must state:

- What his decision is - the specified person could either confirm the original decision or replace it with a new decision of his own.
- The particular LGPS Regulations and any other legislation he has taken into account in reaching his decision.
- That you have the right to ask the Administering Authority to review his decision within the next 6 months.
- That TPAS is available to assist you, together with their address.

What power the specified person's decision has

Unless, and until, an application is made to the Administering Authority representative, the specified person's decision is legally binding. This means that, if the specified person's decision is contrary to your employer's decision, your employer must deal with your case on the basis of the decision made by the specified person.

Stage 2 of IDRП – Applying to the Administering Authority representative

The Administering Authority representative

If you are unhappy with the specified person's decision, you can ask the Administering Authority representative to take a further look at the facts of the case.

The Administering Authority representative is totally independent of the original decision maker, Capita and the specified person. To ensure independence, in the event that anyone normally involved in the stage 2 process was involved in the original decision, someone else will be appointed to consider the case. When a complaint is made to the Administering Authority representative, he will ask the specified person for copies of all evidence, correspondence and other documents he obtained during his investigation. The Administering Authority representative will also gather whatever other information, views and professional advice he thinks is necessary.

The Administering Authority representative must then decide, on the basis of the LGPS Regulations, and taking due account of the facts and evidence he has obtained, whether or not the specified person's decision was correct. If he decides that it was not, he will replace the specified person's decision with a new decision of his own which then becomes legally binding on you and your employer.

As in the case of the specified person, if the original decision was made in the exercise of a discretion, and the Administering Authority representative decides that it was not taken in a reasonable manner, he may insist on your employer reconsidering its decision but he cannot replace the original decision with a decision of his own.

When and how to apply to the Administering Authority representative

If you want to refer your complaint to the Administering Authority representative, you must do so within 6 months of the date of the specified person's letter telling you of his decision. If you are referring your complaint to the Administering Authority representative because you have not had a reply from the specified person within the appropriate time limits you should do it as soon as you can after the specified person's time limit is up. Unlike the specified person the Administering Authority representative cannot extend his time limit in any circumstances.

You should make your application to the Administering Authority representative in writing, using the application form at the back of these notes. The person appointed to this role by the EAPF is:

Chairman of the Pensions Committee
C/o Pension Fund Management
Horizon House, Deanery Road, Bristol BS1 5AH

What the Administering Authority representative needs from you

The Administering Authority representative will need the same personal details about you (or your representative) and/or the EAPF member as the specified person required.

If you are an EAPF member or prospective member, you must state in your application your full name, address, date of birth and national insurance number.

If you are the spouse, a child or other dependant of an EAPF member you must state in your application your full name, address, date of birth, relationship to the member and the member's full name, address, date of birth and national insurance number.

If you are the representative of a member or dependant you must state in the application the member's or dependant's details as above together with your own name and address and the appropriate address for correspondence. In addition, you must provide written evidence of your authority to act for the complainant.

You must enclose a copy of the letter you received from the specified person telling you of his decision about your complaint. You must also state in your letter to the Administering Authority representative that you wish him to reconsider the specified person's decision and explain why you are unhappy with the decision.

As with a complaint to the specified person, it is possible that the Administering Authority representative will write to you to ask for more information, so that he can fully understand your complaint, or if your health is a factor in the complaint, he may ask you to undergo an independent medical examination or to consent to the release of your medical details to another doctor.

When you can expect the Administering Authority's decision

The Administering Authority representative must either write to you to let you know his decision within two months of the date he receives your complaint or he 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 the delay.

What the Administering Authority must tell you

When the Administering Authority representative writes to let you know his decision he must also tell you whether his decision confirms or replaces the specified person's decision and he must tell you the particular LGPS Regulations he used in reaching his decision.

He must also point out that TPAS are able to assist with problems that have not been resolved under IDRPs and the Pensions Ombudsman can investigate and determine any complaint or dispute of fact or law in relation to the Scheme and give you both of their addresses.

Contacting TPAS

If you want further information or guidance you can contact TPAS by phone, post, email or fax. The **Pensions Helpline phone number** is 0845 6012923 (local call rate). Lines are manned Monday to Friday 9am to 5pm - outside of these times, you can leave your number and someone will call you back later.

You can write to:

TPAS
11 Belgrave Road
London
SW1V 1RB
Website: www.pensionsadvisoryservice.org.uk

Applying to the Pensions Ombudsman

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 LGPS.
- Asked for the help of TPAS.

The Pensions Ombudsman is completely independent and acts as an impartial adjudicator. His 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, subject to that, he can settle disputes about matters of fact or law as they affect occupational pension schemes. He can also investigate and decide any complaint or dispute about the maladministration of a pension scheme. See page 3 for more details about maladministration.

The Ombudsman's decision is final and binding on all the parties, subject to any appeal made to the High Court on a point of law. You must refer your complaint to the Ombudsman within 3 years of the event about which you are complaining, or within 3 years of when you first became aware of the problem.

The Ombudsman is at the same address as TPAS:

The Pensions Ombudsman
11 Belgrave Road
London
SW1V 1RB
Tel : 020 7630 2200
Fax : 020 7821 0065

Email : enquiries@pensions-ombudsman.org.uk
Website: www.pensions-ombudsman.org.uk

Time limits under the Internal Dispute Resolution Procedure		
Your situation	To complain to	You must submit your claim in writing before
You are unhappy with a decision made regarding your pension.	Stage 1 specified person	6 months from the date you were notified of the decision
Your employer or administering authority has failed to make a decision about your benefits under the pension scheme.	Stage 1 specified person	6 months from the date when the decision should have been made.
You are not satisfied with the stage 1 decision.	Administering Authority representative	6 months from the date of the specified person's decision.
You have not received a stage 1 decision on your complaint or any interim reply within 3 months of your application.	Administering Authority representative	9 months from the date when you submitted your complaint.
You received an interim reply to your stage 1 complaint but one month after the date they specified you still have not received their decision.	Administering Authority representative	7 months from the date by which you were promised you would receive a decision.
You are still not satisfied following a stage 2 decision.	The Pensions Ombudsman	3 years from the date of the original decision about which you are complaining.
You have not received a decision or any interim reply from the stage 2 specified person within 2 months of your application to them.	The Pensions Ombudsman	3 years from the date of the original decision about which you are complaining.
You received an interim reply to your stage 2 complaint but one month after the date they specified you still have not received their decision.	The Pensions Ombudsman.	3 years from the date of the original decision about which you are complaining.

Notes

The person specified in stage 1 of the procedure can allow a longer period if he feels this is reasonable.

The Pensions Ombudsman will normally expect you to have asked TPAS for help before he is asked to look at your complaint.

The Local Government Pension Scheme (LGPS) Regulations for members of the Environment Agency Pension Funds (EAPF)

Application under the Internal Dispute Resolution Procedure (IDRP)

You can use this form:

- To apply to the specified person at stage 1 of the internal dispute resolution procedure if you want them to investigate a complaint concerning your pension.
- To apply to the administering authority at stage 2 if you want them to reconsider a determination made by the nominated person.

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

Member's details:

If you are the member (the person who is or was in the Scheme), or prospective member (a person who is eligible to be a member of the Scheme), please give your details in this box. You can then go straight to box 4.

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

If you are representing the person with the complaint, please give the member's details in this section, and then go to box 2.

Full Name	
Address	
Date of Birth	
Employer	
National insurance number	

Dependant's details

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

Full Name	
Address	

Date of Birth	
Relationship to member	

Representative's details

If you are the member's or dependant's representative, please give your details in this box.

Full Name	
Address	
The address response letters should be sent to	

Your complaint

Please give full details of your complaint in this box. Please try to explain exactly why you are unhappy, giving any dates or periods of Scheme membership that you think are relevant.

If you are completing by hand and there is not enough space, please go on to a separate sheet and attach it to this form. Remember to write your name and national insurance number at the top of any separate sheet if you are a member. Or, if you are not a member, put the member's name and national insurance number at the top of any separate sheet.

Your signature

I would like my complaint to be considered and a decision to be made about it. I agree to the EAPF and/or its agents/representatives, processing my information for this purpose. I understand this will involve EAPF passing information about my case which may include medical, financial or general information, as appropriate, to the specified person (and in the case of further appeal to the Administering Authority), for this purpose.

I am a: Scheme member/former member/prospective member * Dependant of a former member * Member's representative/dependant's representative * * <i>delete as appropriate</i>	
Signed :	Date :

Please enclose a copy of any notification of the decision you are complaining of which has been issued by the employer or administering authority. Also enclose any other letters or notifications that you think might be helpful.

Please send this form to:

Stage 1 of the internal dispute resolution process	Stage 2 of the internal dispute resolution process
Deputy Director Head of Pension Fund Management The Environment Agency Horizon House Deanery Road Bristol BS1 5AH	Chairman of the Pensions Committee C/o Pension Fund Management The Environment Agency Horizon House Deanery Road Bristol BS1 5AH