

Report To: LOCAL PENSIONS BOARD

Date: 30 March 2016

Reporting Officer: Peter Morris, Executive Director of Pensions

Subject: INTERNAL DISPUTE RESOLUTION PROCEDURE (IDRP)

Report Summary: The report provides information about the LGPS's statutory dispute resolution procedure.

Recommendations: The Local Board is recommended to note the report.

Policy Implications: None.

Financial Implications: Not applicable.
(Authorised by the Section 151 Officer)

Legal Implications: (Authorised by the Solicitor to the Fund) The IDRPs are an integral part of the Scheme and as such must be applied as rigorously as any other part of the Scheme.

Risk Management: The appeal process can occasionally highlight areas for system or process improvement.

ACCESS TO INFORMATION: **NON-CONFIDENTIAL**

This report does not contain information which warrants its consideration in the absence of the Press or members of the public.

Background Papers: The LGPS Regulations 2013 may be found here:
<http://www.lgpsregs.org/index.php/regs-legislation/timeline-regulations-2014>
Further information can be obtained by contacting Ged Dale, Assistant Executive Director – Pensions Administration, on 0161 301 7227 or via email at ged.dale@gmpf.org.uk

1 REPORT

- 1.1. All public sector pension schemes are required to have an internal dispute resolution procedure. The LGPS's is a two stage process and is prescribed in the LGPS Regulations 2013, by regulations 74 to 79 inclusive.
- 1.2. Regarding Stage 1 each Scheme employer and each administering authority must each appoint at least one person to consider disputes arising from a disputed decision or act, or omission. Different sets of Regulations have referred to such people differently, eg. "appointed person", "person" and in the current version of the Scheme, "adjudicator". For the sake of consistency and ease of comprehension however, the Fund's literature speaks of pension referees.
- 1.3. Disputes relating to employer matters, eg. the failure to award an incapacity pension, are considered by the employer's Stage 1 pensions referee, and administering authority matters, eg. the refusal to accept a transfer from the private sector, are considered by GMPF's Stage 1 pensions referee.
- 1.4 Applications under Stage 1 are to be made within six months of the act, decision or omission that is in dispute, albeit referees have the discretion to allow longer. The referee should reply within two months of receiving an appeal, and if they are not able to do so, they must send an interim reply that sets out the reasons for the delay and also an expected date for the determination.
- 1.5 To quote from regulation 75, the notice of a determination by a referee must include:
 - (a) *a statement of the decision;*
 - (b) *a reference to any legislation on which the adjudicator relied;*
 - (c) *in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of these Regulations conferring the discretion;*
 - (d) *a reference to the right of the applicant to refer the disagreement for reconsideration by the appropriate administering authority under regulation 76 (reference of adjudications to administering authority) and to the time within which the applicant may do so; and*
 - (e) *a statement that the Pensions Advisory Service is available to give assistance in connection with any difficulty with the Scheme that remains unresolved including the address at which it may be contacted.*
 - (4) *A decision under paragraph (1) takes effect as a decision of the Scheme employer or administering authority, as the case may be, except where the matter concerns the exercise of a discretion, in which case, if the adjudicator does not uphold the decision, the matter must be referred back to the body which made the decision under adjudication for reconsideration or, where that body would have been the Scheme employer but that body is no longer a Scheme employer, to the appropriate administering authority.*
- 1.6 If the appellant is not satisfied by a Stage 1 determination he may make a Stage 2 appeal. These are to pensions referees that are appointed by Tameside MBC in its capacity as the administering authority for the Fund.
- 1.7 To quote from regulation 76, a Stage 2 appeal must:
 - (a) *be made before the relevant date;*
 - (b) *set out the applicant's full name, address and date of birth;*

- (c) *if the applicant is not a member of the Scheme, set out the applicant's relationship to any relevant member of the Scheme and give that member's full name, address, date of birth, national insurance number and the name of the member's Scheme employer;*
- (d) *include a statement that the applicant wishes the decision to be reconsidered by the administering authority;*
- (e) *set out the details of the grounds on which the applicant relies;*
- (f) *be accompanied by a copy of any written notifications under regulations 73 (notification of first instance decisions) and 75 (decisions of the adjudicator); and*
- (g) *be signed by or on behalf of the applicant.*

(3) *The relevant date for the purposes of paragraph (2)(a) is—*

- (a) *in a case where notice of a decision has been given under regulation 75(1), six months from the date the notice is received;*
- (b) *in a case where an interim reply has been sent under regulation 75(2), but no notice has been given under regulation 75(1), seven months from the expected decision date; and*
- (c) *in a case where no notice have been given under regulation 75(1) and no interim reply was sent under regulation 75(2), nine months from the date on which the application was made.*

1.8 Unlike Stage 1, there is no discretion for a Stage 2 referee to extend the six months during which a Stage 2 appeal may be made.

1.9 The effect of a Stage 2 determination and what it should contain are similar to Stage 1, except that in addition it must include a statement that the Pensions Ombudsman "...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...", together with a note of the Ombudsman's address.

2. FREQUENCY OF APPEALS

2.1 The Pensions Administration Working Group received a report relating to IDRP appeals at its November 2015 meeting. This considered appeals made during the 12 months ending June 2015.

2.2 Twelve Stage 1 appeals had been registered regarding disputes with the administering authority. These were for various reasons, with a perennial cause of appeals being where former members claim not to have received refunds of contributions many years ago (sometimes 40+ years ago), when in fact they did. Members can also object to actuarial reductions being applied when benefits are being paid early. All twelve appeals were rejected.

2.3 Over the same period 23 Stage 2 appeals were received, mainly relating to refusals by employers to bring benefits into payment early on the grounds of incapacity. Of these 23 cases 17 were rejected, 1 case was upheld and 5 were referred back to the employer as the Stage 1 process had not been undertaken satisfactorily.

2.4 Bearing in mind that the GMPF has over 350,000 members, it can be seen that the incidence of IDRP appeals involving the administering authority, both at Stage 1 and at Stage 2, is very low.

3. RECOMMENDATION

3.1 These are set out at the front of the report.