

WARWICKSHIRE

pension fund



2021

Warwickshire Local Government Pension Scheme

Internal Dispute Resolution Procedure

This booklet provides a straightforward guide to how the Internal Dispute Resolution Procedure operates and is provided for general information only. It does not cover every aspect. It is not an interpretation of the relevant legislation. In the event of any unintentional differences, the relevant legislation will prevail. This booklet does not confer any contractual or statutory rights.

Internal Dispute Resolution Procedure

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Introduction

During the employment relationship and afterwards, certain decisions may be made in respect of Local Government Pension Scheme (LGPS) members which can impact upon their benefits.

The law provides an opportunity to challenge any decisions which individuals disagree with, through an Internal Dispute Resolution Procedure (IDRP) which is a formal complaints procedure designed to resolve disputes locally and avoid recourse to the Pensions Ombudsman.

The purpose of this guide is to explain how decisions are made and to set out Warwickshire's Local Government Pension Scheme's Internal Dispute Resolution Procedure.

Who may use the Internal Dispute Resolution Procedure

The following people may use the Internal Dispute Resolution Procedure:

- members of the Warwickshire LGPS who currently pay into the scheme
- people who have deferred benefits in the Warwickshire LGPS
- people who receive a pension from the Warwickshire LGPS
- prospective members of the Warwickshire LGPS
- widows, widowers, civil partners, children or other dependants of a person who fell into one of the categories above before he or she died;
- people who think that they either might or should fall into one of the above categories;
- people who do not fall into one of the above categories now but did at some time during the previous six months.

Informal Enquiries

It is important to remember that most problems or queries can be dealt with informally and put right where necessary, without recourse to the Internal Dispute Resolution Procedure. If you are not sure about which benefits you are entitled to, or if you have a problem or query over your benefits, please either phone the number on the letter your employer or administering authority has sent you or contact the Pensions Section in the first instance:

Warwickshire Pension Fund

Pension Services

Shire Hall

Market Square

Warwick CV34 4RL

(01926) 412984

Email: vickyjenks@warwickshire.gov.uk

Please also refer to the "Additional Help" section for other sources of advice.

Decision making

Throughout your membership of the Warwickshire LGPS, the scheme rules require decisions to be taken by scheme employers or by Warwickshire County Council as the administering authority of the Warwickshire LGPS.

Such decisions may affect the benefits that you or your dependants may be entitled to receive and are referred to as **'first decisions'** in this document.

The key first decisions and who makes them are summarised below:

Employer decisions

- Whether an employee is eligible to join the scheme;
- What elements of a person's pay are to be treated as pensionable;
- Calculating final pay to be used in calculating pension benefits;
- Deciding an employee's contribution rate;
- Deciding an employee's entitlement to benefits on leaving the scheme for whatever reason;
- Exercise of a number of employer specific discretions (e.g. entitlement to early release of pension benefits, waiving actuarial reductions).

Employers may also *"decide any question concerning any other matter relating to the person's rights or liabilities under the Scheme"*.

It is for scheme employers to decide who should make first decisions.

Administering authority decisions

- Questions concerning an individual's previous pensionable service or employment
- Questions regarding the counting of additional periods as membership or crediting additional pension;
- The amount of any benefit, or return of contributions, an individual or their dependants become entitled to under the regulations;
- The exercise of a number of discretionary elements to the scheme that have impact across all scheme employers (e.g. payment of lump sum death grants).

Administering Authority first decisions will usually be made by Warwickshire County Council's Strategy and Commissioning Manager – (Treasury, Pensions, Audit, Insurance and Risk).

First Decisions

When you (or your dependents) are notified of a first decision you should check insofar as possible, that it is based on the correct details and that you agree with the decision. First decisions should be notified in writing and should contain details of who to contact if you are unhappy with the decision and details of the IDR. Similar information will be given to dependants and/or personal representatives upon the death of a LGPS member.

Complaints

If you are not satisfied with a first decision made in relation to membership of the LGPS, you have the right to ask for it to be looked at under the IDR. You also have the right to use the Internal Dispute Resolution Procedure if a first decision should have been made by your employer or the administering authority, but it has not been.

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

No charge is made at any stage for investigating a complaint under the Internal Disputes Resolution Procedure but you will have to meet your own expenses (or those of your representative) including travel costs and postage.

The Internal Dispute Resolution Procedure has two stages. Many complaints are resolved at the first stage.

The Internal Dispute Resolution Procedure will not apply in circumstances where the matter is already being investigated by the Pensions Ombudsman or is the subject of existing court or tribunal proceedings.

Stage 1

If you need to make a formal complaint, you should do so within 6 months from the date when you were notified of the decision. The timescale for referring the matter to Stage 1 is also set out at Appendix A.

Your complaint will be considered carefully by an independent person (i.e. someone who has not previously been involved in the matter for consideration) nominated by the body that took the first decision against which you wish to complain. This person is referred to as the **nominated person** in this document.

Each scheme employer has a nominated person. You should contact your employer for details of their 'nominated person'. Alternatively, you can contact the Pension Administration team who will get this information for you.

For employers that no longer exist, Warwickshire County Council's Assistant Director - Finance (Deputy Section 151 Officer) is the nominated person.

You should make your complaint in writing, to the relevant nominated person using the Stage 1 application form at Appendix B.

You should include any information that you consider relevant to your complaint and you can attach any relevant documents including copies of letters you have received.

The nominated person will assess your complaint in light of the scheme rules and the applicable law. You may be asked to provide more information about your case.

The nominated person's decision should be given in writing. They will usually communicate their decision within two months of receiving the complaint. Where this is not possible, you should receive a letter which explains the reasons for the delay and gives an estimated timescale for a decision. This letter is referred to as an **interim letter**.

If the nominated person upholds your complaint, their decision is binding on the employer or the administering authority who made the first decision, unless you refer the matter under Stage 2 of the Internal Disputes Resolution Procedure.

However, if the decision you complained about concerned the exercise of a discretion by the employer or administering authority, the nominated person may not overturn the first decision but

shall decide whether discretion was exercised reasonably. If the nominated person decides that discretion was not exercised reasonably, then they shall notify the person who made the first decision and the decision shall be reconsidered.

Stage 2

You can ask the administering authority to review your complaint where:

- you are not satisfied with the nominated person's first-stage decision
- If you have not received a decision or an interim letter from the nominated person at Stage 1 and more than three months have passed since you lodged your Stage 1 complaint
- If the nominated person told you in an interim letter that they would give you a decision under Stage 1 and more than one month has passed without receipt of that decision.

The relevant timescales for referring the matter to Stage 2 are also set out at Appendix A.

The review shall be undertaken by an **adjudicator** appointed by the administering authority. The adjudicator is the Chief Executive of Warwickshire County Council (or their nominee) who may seek advice or guidance from external advisers.

You will need to send the administering authority your complaint in writing, using the Stage 2 application form at Appendix B. You should include all of the information that was supplied for Stage 1, together with the outcome letter. You should also set out the reasons why you are dissatisfied with the Stage 1 decision.

The adjudicator will consider your complaint and give you their decision in writing. They will, within two months of the date they receive your Stage 2 application form, either confirm their decision, or confirm when a decision is likely to be reached and the reason for any delay.

When the adjudicator writes to inform you of the decision, they will also confirm whether the decision upholds or replaces the first stage decision and shall refer to any particular legislation relied upon in reaching their decision.

However, if the decision you complained about concerned the exercise of a discretion by the employer or administering authority, the adjudicator may not overturn the first stage decision but shall decide whether discretion was exercised reasonably. If the adjudicator decides that discretion was not exercised reasonably, then they shall notify the person who made the first stage decision and the decision shall be reconsidered.

The adjudicator's decision is final, unless subsequently overturned by the Pensions Ombudsman or High Court.

The Pensions Ombudsman

If you are still unhappy following the Stage 2 decision, 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

London, E14 4PU

Tel: 0800 917 4487

Email: enquiries@pensions-ombudsman.org.uk

Website: www.pensions-ombudsman.org.uk

You can also submit a complaint form online:

www.pensions-ombudsman.org.uk/our-service/make-a-complaint/

Additional Help

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

The Pensions Advisory Service

11 Belgrave Road

London, SW1V 1RB

Tel: 0800 011 3797

Website: www.pensionsadvisoryservice.org.uk/

Appendix A – Table of timescales

| Your situation | To complain to | Time limit |
|---|---|---|
| You have received a decision on your benefits under the pension scheme from your employer/administering authority, and there seems to be good grounds for complaining. | The nominated person under the first stage of the procedure. | 6 months from the date when you were notified of the decision ¹ . |
| You have received a first stage decision on your complaint from the nominated person, but you are not satisfied. | The relevant administering authority under the second stage of the procedure. | 6 months from the date of the nominated person's decision. |
| You made your complaint in writing to the nominated person, with all the information they needed but, 3 months later, you have not received their decision on your complaint or any interim reply. | The relevant administering authority under the second stage of the procedure. | 9 months from the date when you submitted your complaint. |
| You received an interim reply to your complaint to the nominated person, within 2 months of applying to them. Their reply promised you a decision by a specified date but, 1 month after that specified date, you still have not received their decision. | The relevant administering authority under the second stage of the procedure. | 7 months from the date by which you were promised you would receive a decision. |
| Your complaint is that your employer or administering authority has failed to make any decision about your benefits under the pension scheme. | The nominated person under the first stage of the procedure. | 6 months from the date when your employer or administering authority should have made the decision ² . |
| Your complaint 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. | 3 years from the date of the original decision about which you are complaining. |

¹ The nominated person can extend the 6-month time limit for a reasonable period where there are special circumstances.

² The nominated person can extend the 6-month time limit for a reasonable period where there are special circumstances.

| | | |
|---|--------------------------------|--|
| <p>You have taken your complaint to the administering authority under the second stage of the procedure but, 2 months after your complaint was received by the authority, you have not received their decision on your complaint or any interim reply.</p> | <p>The Pensions Ombudsman.</p> | <p>3 years from the date of the original decision about which you are complaining.</p> |
| <p>You received an interim reply to your second stage complaint to the administering authority, within 2 months of applying to them. Their reply promised you a decision by a certain date but, by that date, you still have not received their decision.</p> | <p>The Pensions Ombudsman.</p> | <p>3 years from the date of the original decision about which you are complaining.</p> |

Appendix B – Application forms

Application under the Internal Dispute Resolution Procedure (STAGE 1)

Please use this form to: apply to the person nominated by your employer at stage one of the internal dispute resolution procedure if you want them to investigate a complaint concerning your pension.

YOUR EMPLOYER/FORMER EMPLOYER.....

My disagreement is with a decision made by – (tick one box only)

The employer named above

Warwickshire Pension Fund

1. Member's details:

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

If you are a member's dependant (for example, their husband, wife, civil partner, cohabitee 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 3.

| | |
|---------------------------|--|
| Full Name | |
| Date of Birth | |
| Address | |
| National Insurance Number | |

2. 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 dependants details in this box and then go to box 3.

| | |
|---------------------------|--|
| Full Name | |
| Date of Birth | |
| Address | |
| National Insurance Number | |

3. Representative's Details:

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

| | |
|---------------------------|--|
| Full Name | |
| Date of Birth | |
| Address | |
| National Insurance Number | |

4. 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 there is not enough space, please go onto 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.

5. Your signature

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

- | |
|---|
| <ul style="list-style-type: none">• Scheme member/former member/prospective member*• Dependant of a former member*• Member's representative/dependant's representative* |
|---|

*delete as appropriate

| | |
|---------|-------|
| Signed: | Date: |
|---------|-------|

Please remember to 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 letter or notification that you think might be helpful.

PLEASE SEND THIS FORM TO:

Warwickshire County Council

Pension Services

The Shire Hall

Market Square

CV34 4RL

Application under the Internal Dispute Resolution Procedure (STAGE 2)

Please use this form to: apply to the adjudicator at stage two of the internal dispute resolution procedure if you want them to investigate a complaint concerning your pension.

YOUR EMPLOYER/FORMER EMPLOYER.....

My disagreement is with a decision made by – (tick one box only)

The employer named above

Warwickshire Pension Fund

1. Member's details:

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

If you are a member's dependant (for example, their husband, wife, civil partner, cohabitee 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 3.

| | |
|---------------------------|--|
| Full Name | |
| Date of Birth | |
| Address | |
| National Insurance Number | |

2. 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 dependants details in this box and then go to box 3.

| | |
|---------------------------|--|
| Full Name | |
| Date of Birth | |
| Address | |
| National Insurance Number | |

3. Representative's Details:

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

| | |
|---------------------------|--|
| Full Name | |
| Date of Birth | |
| Address | |
| National Insurance Number | |

4. 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 there is not enough space, please go onto 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.

5. Your signature

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

- Scheme member/former member/prospective member*
- Dependant of a former member*
- Member's representative/dependant's representative*

*delete as appropriate

Signed:

Date:

Please remember to 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 letter or notification that you think might be helpful.

PLEASE SEND THIS FORM TO:

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