

Bedfordshire Pension Fund

Internal Dispute Resolution Procedure (IDRP)

Guide for Employers

May 2024



Contents

1.	Introduction.....	2
2.	Decisions under the LGPS.....	3
3.	The Formal IDRP.....	7
4.	IDRP - Stage 1.....	8
5.	IDRP Stage 2	11
6.	Additional Help	13
7.	After the IDRP.....	14
8.	Time limits under the IDRP.....	15
9.	IDRP – Flowchart.....	17
	Annex A – Specimen Stage 1 application form	18
	Annex B – Specimen acknowledgement letter.....	20
	Annex C – Specimen Stage 1 decision letter	22
	Annex D – Specimen Stage 2 appeal form.....	24

1. Introduction

- 1.1 This guide has been written for employers of the Local Government Pension Scheme (the "**LGPS**") who participate in the Bedfordshire Pension Fund. [It may also be helpful for members wanting to make a complaint.]
- 1.2 The LGPS is a funded defined benefit occupational pension scheme provided for the benefit of those employed or working in local government. The LGPS is currently governed by the Local Government Pension Scheme Regulations 2013 (as amended) (the "**LGPS Regulations**").
- 1.3 The LGPS is split into separate regional funds. These funds are administered and invested by a local "administering authority". The Bedfordshire Pension Fund ("**the Fund**") is the relevant LGPS fund for your area and is administered by Bedford Borough Council (the "**Administering Authority**").

Internal Dispute Resolution Procedure ("IDRP")

- 1.4 The IDRP is a formal two stage procedure for settling complaints and disputes under the LGPS. The IDRP is set out within the LGPS Regulations.
- 1.5 This guide is intended to provide employers with a high-level understanding of the IDRP and the requirements when dealing with any disagreement regarding a pension-related decision. It does not cover every aspect and is not an interpretation of the LGPS Regulations. In the event of any unintentional differences, the LGPS Regulations will prevail.

2. Decisions under the LGPS

- 2.1 Under the LGPS Regulations, first instance decisions are generally made by either the employer or the Administering Authority, depending on the nature of the decision. The summary below shows the different first instance decisions that the employer and the Administering Authority make:

The employer makes decisions on any question concerning:

- an employee's eligibility for membership
- an employee's pensionable pay
- an employee's final pay
- an employee's contribution rate
- any entitlement to benefit on termination of membership
- any entitlement to early release of pension benefits including ill health early retirement
- any other matter relating to the person's rights or liabilities under the LGPS

The administering authority makes decisions on any question concerning:

- the payment of death grants
- the person's previous service or employment
- counting additional periods as membership or crediting additional pension
- the amount of any benefit, or return of contributions, the member becomes entitled to under the LGPS Regulations.

Exercising Discretions

- 2.2 Employers when making first instance decisions are often exercising discretions given to them under the LGPS Regulations, for example an employer's discretion to waive an actuarial reduction on early retirement. The Administering Authority also exercises various discretions with its decisions, for example the decision to pay a death grant.
- 2.3 These LGPS Regulations require that employers must prepare and publish a statement of policy stating how they exercise some (though not all) of these discretions. Failure to have such a policy statement is a breach of the employer's legal requirements.

- 2.4 Apart from it being a statutory requirement to have a published discretionary policy statement, it is also good practice to have a comprehensive and regularly updated policy statement in place to help with the decision-making process. This helps an employer to demonstrate a clear and consistent approach when making decisions and this will help to avoid future challenges.
- 2.5 In addition to having a published discretionary policy statement, general principles that employers should follow when exercising discretions have been developed by the courts. These principles include:
- 2.5.1 checking the LGPS Regulations to see whether the discretion exists, who is supposed to exercise it and in what circumstances;
 - 2.5.2 only taking relevant factors into account when exercising a discretion (and ignoring anything that is not relevant); and
 - 2.5.3 reaching a rational conclusion. This doesn't necessarily mean that the decision has to be what is best for the member concerned.

Written Notice of First Instance Decisions

- 2.6 The provision of a clear written explanation of any decision taken is an obvious and essential part of good governance and administration.
- 2.7 Employers should bear in mind, particularly when the decision results from the exercise of a discretion, that an unhappy member could, having followed the IDRP, ultimately end up taking a complaint of maladministration to the Pensions Ombudsman.
- 2.8 The following principles should be followed:
- 2.8.1 the written decision must include the grounds for the decision where it states that a member is not entitled to a benefit;
 - 2.8.2 a written decision on the amount of benefits must show how the benefit is calculated; and
 - 2.8.3 a written decision must give an address from where further information about the decision can be obtained.
- 2.9 All written decisions must include:
- 2.9.1 a reference to the right of appeal under Regulations 74 and 76 of the LGPS Regulations (being the right of appeal under the IDRP);

- 2.9.2 time limits within which the IDRP must be exercised; and
- 2.9.3 the job title and address of the person appointed to whom applications may be made.

The importance of record keeping

- 2.10 Once investigations reach the formal appeal process, evidence of how and why first instance decisions were reached will often be required. It is therefore important that employers keep detailed records any first instance decisions taken, which may include the following (but not limited to):
 - 2.10.1 dates of scheme entry;
 - 2.10.2 reductions/restrictions in pay;
 - 2.10.3 elections to opt out of, or re-enter, the LGPS;
 - 2.10.4 breaks in service and elections to pay or not to pay contributions;
 - 2.10.5 policy on exercise of discretions, including previous versions and dates of publication;
 - 2.10.6 publicity materials, publications and other notifications issued to members and the dates of issue;
 - 2.10.7 minutes of meetings to determine eligibility for benefits; and
 - 2.10.8 committee reports or minutes on release of benefits or retirement decisions.

What should a member do when notified of a decision?

- 2.11 When a member is told of a decision they should check, as far as they can, to see if they think the decision is based on the correct information and whether they agree with the decision.
- 2.12 If the member is unhappy with the information used to make the decision or the decision itself then in the first instance they should contact the person who made the decision to see if agreement can be reached informally.
- 2.13 Sometimes, informal attempts to resolve disagreements fail. The member then has a statutory right to start Stage 1 of the formal IDRP.

- 2.14 A member can also use IDRP if the employer fails to make a decision or to inform the member of a decision the employer has made.
- 2.15 No charge is made for investigating any complaint at any stage under IDRP – the only expenses a member will have to meet are their own (or their representative's) time, stationery and postage.

3. The Formal IDRP

Who can use the IDRP?

- 3.1 A person may use this procedure if they are (or have been at any time in the last six months) one or more of the following:
- 3.1.1 an existing member of the Scheme – in other words, an active member, a former member with an entitlement to deferred benefits, a member who is entitled to benefits under the LGPS as a result of a pension sharing order, or a member in receipt of a pension;
 - 3.1.2 a prospective member of the LGPS – in other words, under the terms of their contract of employment or the rules of the LGPS, the person is entitled to join the LGPS now, or will be able to do so after a certain period of time or if their employer agrees; or
 - 3.1.3 a widow, widower, surviving civil partner, surviving cohabiting partner or dependant of a deceased member, or someone who is otherwise entitled to receive benefits under the LGPS in respect of a deceased member.
- 3.2 If a person believes that they fall within any of the above categories but there is any uncertainty or dispute over whether they qualify then they may also use this procedure as a means of resolving that dispute.

Representatives

- 3.3 A person may nominate a representative to make a complaint on their behalf. A complaint may also be brought or continued by personal representatives where the member to whom the complaint relates has died, or by a family member or other appropriate person where the complainant is a child, or is otherwise incapable of acting for him/herself.

4. IDRP - Stage 1

- 4.1 The purpose of Stage 1 of the IDRP is to carry out a formal review of the initial decision by the employer which took that decision (or by the Administering Authority where it made the decision). It presents an opportunity to reconsider the decision and, where appropriate, to alter the decision if it was not a reasonable one to reach based on the relevant procedures, legislation and evidence.
- 4.2 If a person wishes to make a complaint, they need to submit it in writing within 6 months of the date they were notified of the first instance decision, or from the date of the alleged act or omission. The Stage 1 'adjudicator' (see below) may agree to extend this time limit.
- 4.3 Ideally the complaint should be made on the attached **Stage 1 Application Form** included in Annex A. The form can be found on Bedfordshire Pension Fund's website www.bedspensionfund.org
- 4.4 If the person chooses not to use the attached Application Form when submitting the complaint, all relevant information which is specified on the form is still required and must be provided when the complaint is submitted.
- 4.5 The application should be signed by or on behalf of the applicant.

Role of the Adjudicator

- 4.6 Each employer in the Fund (as well as the Administering Authority) must appoint a person to consider appeal cases at Stage 1 of the IDRP. This person is known as the 'adjudicator'.
- 4.7 The LGPS Regulations do not state who the adjudicator should or might be. However, in practice, as the person will need to understand the details of the dispute and is likely to be someone with relevant background or expertise. This could be an employee or officer of the employer, for example a HR manager or in-house lawyer. Alternatively the adjudicator could be an independent person who is not an employee or officer of the employer.
- 4.8 The adjudicator's decision should be fair and impartial having regard to the following principles:
 - 4.8.1 not representing any party or interest; and
 - 4.8.2 no previous personal involvement with the case.

Stage 1 IDR Points for the Adjudicator to consider:

- 4.9 The adjudicator should:
 - 4.9.1 check that the application has been submitted within six months of the relevant date and send an acknowledgement to the applicant. A specimen acknowledgement letter is included in Annex B.
 - 4.9.2 consider all facts, reports, background information before reaching a determination.
 - 4.9.3 request further evidence if necessary.
- 4.10 The Stage 1 determination must be issued within two months of receiving the appeal.
- 4.11 If this timescale cannot be met, the adjudicator must write immediately to the applicant with an interim reply explaining the reason and the expected decision date.
- 4.12 The adjudicator cannot make a determination outside the provisions of the L GPS Regulations or make an award of compensation.
- 4.13 Subject to any right of appeal under Stage 2, a decision of the adjudicator takes effect as a decision of the employer, except where the matter concerns the exercise of a discretion. In the case of a discretion, if the adjudicator does not uphold the decision, the matter must be referred back to the employer for reconsideration.

Notice of Stage 1 decision

- 4.14 Within two months of receiving the application, written notice of the adjudicator's decision must be sent to:
 - 4.14.1 the applicant (and/or his/her personal representative);
 - 4.14.2 the scheme employer; and
 - 4.14.3 the Administering Authority.
- 4.15 The decision notice must include:
 - 4.15.1 a statement of the adjudicator's decision;

- 4.15.2 a reference to any legislation which the adjudicator relied upon e.g. the specific LGPS Regulations;
 - 4.15.3 where the disagreement relates to the exercise of a discretion, a reference to the provisions of the LGPS Regulations conferring the discretion;
 - 4.15.4 a reference to the right of the applicant to refer the disagreement for reconsideration by the Administering Authority and the time limits for doing so; and
 - 4.15.5 a statement that the Money and Pensions Service is available to provide information and guidance concerning the LGPS including contact information for the Money and Pensions Service. We also recommend including information about the role of the Pensions Ombudsman.
- 4.16 A specimen Stage 1 decision notice is included at Annex C.

5. IDRPS Stage 2

- 5.1 Where the applicant is unhappy with the adjudicator's decision under Stage 1 of the IDRPS, an appeal may be made to the Administering Authority under Stage 2 within 6 months of the Stage 1 decision.
- 5.2 A disagreement may also be referred in cases where:
 - 5.2.1 an interim reply was sent but no decision was issued by the adjudicator - within 7 months of the Stage 1 expected decision date; or
 - 5.2.2 no decision (or interim reply) was issued the adjudicator - within 9 months of the original Stage 1 application.
- 5.3 A specimen IDRPS Stage 2 appeal form is included in Annex D.

Role of the Administering Authority under Stage 2

- 5.4 The person determining appeals at Stage 2 on behalf of the Administering Authority will, in many respects, undertake that function in a similar way to the adjudicator under Stage 1. The appeal must be considered in a fair and impartial manner. No person who was involved in the making of a first-instance decision or the adjudicator's decision can be involved in a decision on reconsideration.
- 5.5 The Administering Authority will:
 - 5.5.1 reconsider the Stage 1 decision, taking full account of the facts of the case and any evidence submitted, or relied on, by either party in the determination at Stage 1;
 - 5.5.2 check that the LGPS Regulations were applied correctly; and
 - 5.5.3 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 employer.
- 5.6 Important points to note:
 - 5.6.1 a decision of the Administering Authority takes effect as a decision of the employer, except where the matter concerns the exercise of an employer discretion. Its decision can only be overturned by

appeal to the Pensions Ombudsman or the High Court. The Administering Authority will not enter into further correspondence in relation to the appeal.

- 5.6.2 in the case of a discretion, if the adjudicator does not uphold the decision, the matter must be referred back to the employer which made the decision under adjudication for reconsideration.
- 5.6.3 the Administering Authority cannot make any awards for maladministration even where found.
- 5.6.4 the Administering Authority has no power to act outside of the LGPS Regulations, nor to instruct any party to do so.
- 5.6.5 the Administering Authority has no power to award compensation.

Notice of a Stage 2 decision

- 5.7 The Administering Authority must respond to a Stage 2 appeal within the same time limits that apply to Stage 1 appeals, so within two months of receipt.
- 5.8 A notice of the Stage 2 decision must be in writing and contain:
 - 5.8.1 a statement of the Stage 2 decision;
 - 5.8.2 a reference to any legislation on which the Administering Authority relied;
 - 5.8.3 in a case where the disagreement relates to the exercise of a discretion, a reference to the provisions of the LGPS Regulations conferring the discretion;
 - 5.8.4 a statement that the Pensions Ombudsman is available to deal with complaints and disputes which concern the administration and/or management of the LGPS including the address at which the Pensions Ombudsman can be contacted; and
 - 5.8.5 a statement that the Money and Pensions Service is available to provide information and guidance concerning the LGPS including the address at which the Money and Pensions Service can be contacted.

6. Additional Help

- 6.1 The Money and Pensions Service is a not-for-profit financial guidance service which aims to help people make the right financial decisions. The Money and Pensions Service includes MoneyHelper which is a service giving impartial help that's backed by government and free to use.

If you have any general requests for information or guidance you can contact MoneyHelper:

Pensions Helpline: 0800 011 3797 (open from 9am to 5pm Monday to Friday)

Website: www.moneyhelper.org.uk

Address of The Money and Pensions Service:

The Money and Pensions Service

Borough Hall

Cauldwell Street

Bedford

MK42 9AP

7. After the IDRП

- 7.1 If a member has received a decision from the Administering Authority under Stage 2 of the IDRП but is still not satisfied with the decision then the member may refer the complaint to the Pensions Ombudsman free of charge.

The Pensions Ombudsman

- 7.2 The Pensions Ombudsman deals with complaints and disputes which concern the administration and/or management of the LGPS (and other pension arrangements).
- 7.3 The Pensions Ombudsman provides a formal adjudication service which will normally require both stages of the IDRП process to have been completed before the Ombudsman will investigate a complaint.
- 7.4 The Pensions Ombudsman also offers a more informal Early Resolution Service where it is not necessary to have followed the IDRП if the parties to the complaint are happy with that.
- 7.5 A complaint to the Pensions Ombudsman will need to be made within three years of when the event(s) the member is complaining about happened – or, if later, within three years of when the member first knew about it (or ought to have known about it). There is discretion for those time limits to be extended.
- 7.6 The Pensions Ombudsman can be contacted at:

The Pensions Ombudsman
10 South Colonnade
Canary Wharf
E14 4PU

Telephone: 0800 917 4487
Email: enquiries@pensions-ombudsman.org.uk
Website: <https://www.pensions-ombudsman.org.uk/>

Complaints can also be submitted online at:

<https://www.pensions-ombudsman.org.uk/making-complaint>

8. Time limits under the IDRP

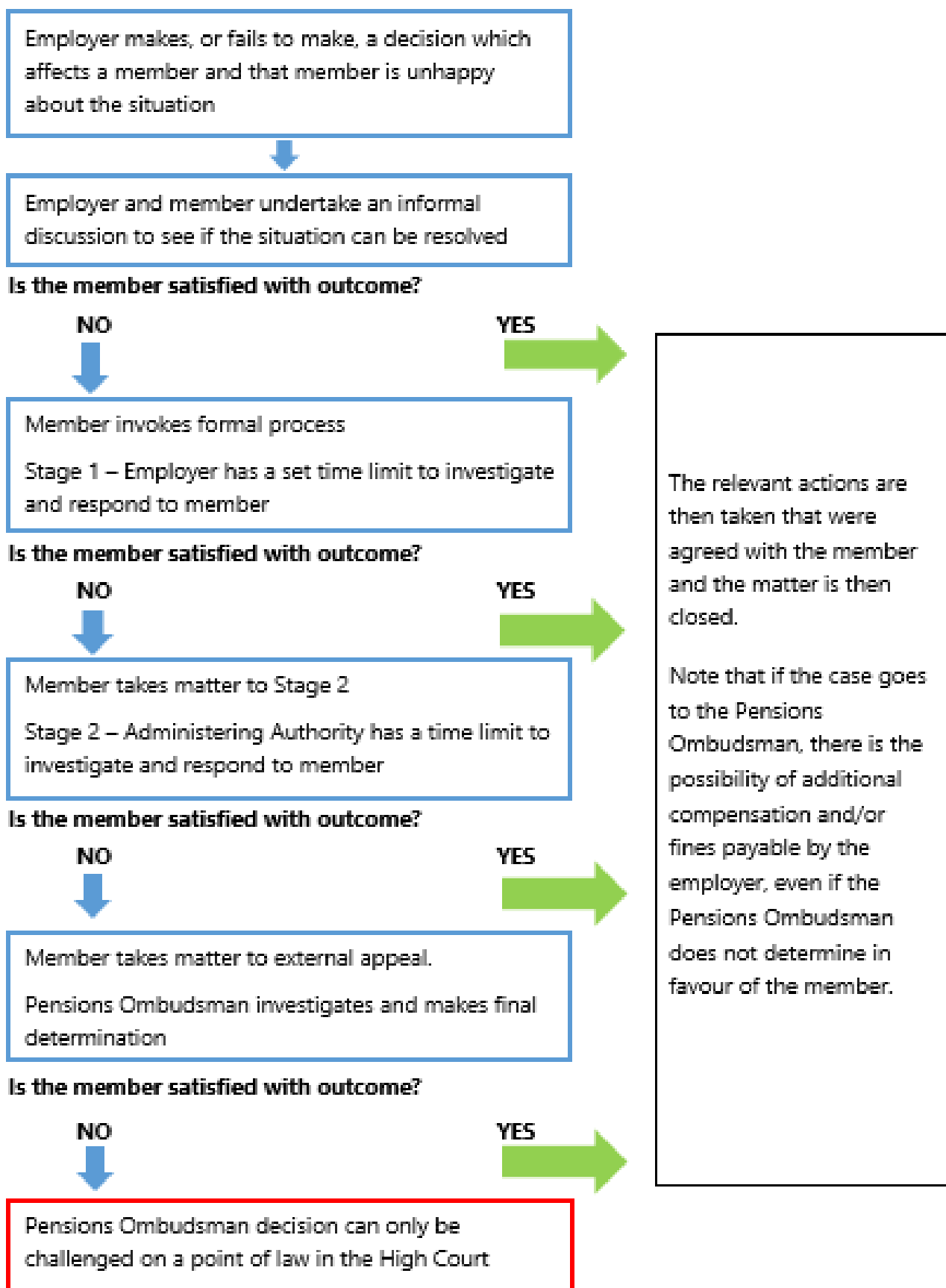
Member situation	Complaint to be sent to	Time limit for submitting a complaint
Member is unhappy with a decision made regarding their pension	The nominated person under Stage 1 of the procedure	6 months from the date the member was notified of the decision
A member's employer or administering authority has failed to make a decision about the member's benefits under the pension scheme	The nominated person under Stage 1 of the procedure	6 months from the date when the decision should have been made
A member is not satisfied with the Stage 1 decision	Administering Authority representative	6 months from the date of the specified person's decision
A member has not received a Stage 1 decision on their complaint or any interim reply within 2 months of their application	Administering Authority representative	9 months from the date when the member submitted their complaint
A member has received an interim reply to their Stage 1 complaint but one month after the date the nominated person specified the member still has not received the nominated person's decision	Administering Authority representative	7 months from the expected decision date
The member is still not satisfied following a Stage 2 decision	The Pensions Ombudsman	3 years from the date of the original decision that the member is complaining about

Member situation	Complaint to be sent to	Time limit for submitting a complaint
The member has not received a decision or any interim reply from the Stage 2 specified person within 2 months of the member's application to them	The Pensions Ombudsman	3 years from the date of the original decision that the member is complaining about
The member received an interim reply to their Stage 2 complaint but one month after the date specified by the Administering Authority representative the member has still not received their decision	The Pensions Ombudsman	3 years from the date of the original decision that the member is complaining about

Notes to the above:

The nominated person under Stage 1 of the procedure can allow a longer period if he feels this is reasonable.

9. IDRP – Flowchart



Annex A – Specimen Stage 1 application form

Bedfordshire Pension Fund ("the Fund")

Internal Dispute Resolution Procedure: APPLICATION FORM – for use at STAGE 1

Details of Fund member
Full name:
Address, including postcode:
Telephone number:
Email:
Date of birth:
National Insurance number:

Details of person making the complaint To be completed only if the person making the complaint is the spouse, civil partner, dependant or other beneficiary of a deceased member
Full name:
Address, including postcode:
Telephone number:
Email:
Date of birth:
Relationship to member:

Details of representative acting on behalf of complainant (if any)
Full name:
Address, including postcode:
Telephone number:
Email:
Address to be used for correspondence? Yes/No (Delete as applicable)
Details of the complaint Please provide details of your complaint, together with copies of any supporting documents or correspondence (continue on a separate piece of paper if necessary).
<div></div>
Signed: <div></div> (by or on behalf of the complainant)
Date:

NOTE:

This complaint cannot be dealt with under the IDRP if the Pensions Ombudsman has started an investigation into this matter or court or tribunal proceedings have begun. By signing and returning this form, you are confirming that, so far as you are aware, no such investigation or proceedings have commenced.

You may wish to keep a copy of your completed form, in case you need it for future reference (for example, if the nominated person has any questions about what you have written).

Annex B – Specimen acknowledgement letter

Dear [Insert Name]

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

Thank you for your application received on [INSERT DATE], enclosing information on your disagreement with [INSERT NAME of EMPLOYER].

I am writing to you as the adjudicator appointed by [INSERT NAME of EMPLOYER] for the purposes of Stage 1 of the IDRP.

I am required to make a decision within two months of receiving your application. If, for some reason, I am unable to comply with that timescale, I will write to you explaining the reason and the date by which you can expect to receive my final determination.

The Money and Pensions Service

The Money and Pensions Service is available to provide information and guidance to members and beneficiaries about the LGPS (and other pension arrangements). The Money and Pensions Service includes MoneyHelper which is a service giving impartial help that's backed by government and free to use.

If you have any general requests for information or guidance you can contact MoneyHelper:

Pensions Helpline: 0800 011 3797 (open from 9am to 5pm Monday to Friday)

Website: www.moneyhelper.org.uk

Address of The Money and Pensions Service:

The Money and Pensions Service, Borough Hall, Cauldwell Street, Bedford MK42 9AP.

The Pensions Ombudsman

The Pensions Ombudsman deals with complaints and disputes which concern the administration and/or management of the LGPS (and other pension arrangements).

The Pensions Ombudsman provides a formal adjudication service which will normally require Stages 1 and 2 of the IDRP process to have been completed before the Ombudsman will investigate a complaint.

The Pensions Ombudsman also offers a more informal Early Resolution Service where it is not necessary to have completed the IDRP if the parties to the complaint are happy with that.

A complaint to the Pensions Ombudsman will need to be made within three years of when the event 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

Telephone: 0800 917 4487

Email: enquiries@pensions-ombudsman.org.uk

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

Yours sincerely

[Insert Name]

[Insert Position]

Annex C – Specimen Stage 1 decision letter

Dear [Insert Name]

Local Government Pension Scheme: Internal Dispute Resolution Procedure (IDRP)

I am writing to you as the adjudicator appointed by [INSERT NAME of EMPLOYER] for the purposes of Stage 1 of the IDRP.

I have reviewed the details of your application dated [INSERT DATE] and reached a decision under Stage 1 of the IDRP.

Then include paragraphs to confirm:

- *a statement of the decision with reasons;*
- *a reference to any legislation relied upon e.g. the precise LGPS Regulations;*
- *where the disagreement relates to the exercise of a discretion, a reference to the provisions of the LGPS Regulations conferring the discretion;*

This concludes Stage 1 of the IDRP. If you are not happy with my decision, you have the right to ask Bedford Borough Council as the Administering Authority of Bedfordshire Pension Fund within the Local Government Pension Scheme to reconsider your complaint under Stage 2 of the IDRP. You must do this in writing within six months of the date of this letter.

The Money and Pensions Service

The Money and Pensions Service is available to provide information and guidance to members and beneficiaries about the LGPS (and other pension arrangements). The Money and Pensions Service includes MoneyHelper which is a service giving impartial help that's backed by government and free to use.

If you have any general requests for information or guidance you can contact MoneyHelper:

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Address of The Money and Pensions Service:

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Borough Hall
Cauldwell Street
Bedford
MK42 9AP

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The Pensions Ombudsman provides a formal adjudication service which will normally require Stages 1 and 2 of the IDRP process to have been completed before the Ombudsman will investigate a complaint.

The Pensions Ombudsman also offers a more informal Early Resolution Service where it is not necessary to have completed the IDRP if the parties to the complaint are happy with that.

A complaint to the Pensions Ombudsman will need to be made within three years of when the event 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

Telephone: 0800 917 4487
Email: enquiries@pensions-ombudsman.org.uk
Website: <https://www.pensions-ombudsman.org.uk/>

A copy of this determination has been sent to [INSERT NAME of EMPLOYER] as your [employer/former employer] and to Bedford Borough Council as the administering authority of Bedfordshire Pension Fund.

Yours sincerely

[Insert Name]

[Insert Position]

Annex D – Specimen Stage 2 appeal form

Bedfordshire Pension Fund (“the Fund”)

Internal Dispute Resolution Procedure: APPEAL FORM – for use at STAGE 2

Note – provided that none of the relevant information has changed, you may enclose a copy of your original complaint form instead of completing the first page of this appeal form, if you wish.

Details of Fund member
Full name:
Address, including postcode:
Telephone number:
Email:
Date of birth:
National Insurance number:

Details of person making the complaint
To be completed only if the person making the complaint is the spouse, civil partner, dependant or other beneficiary of a deceased member
Full name:
Address, including postcode:
Tel:
Email:
Date of birth:
Relationship to member:

Details of representative acting on behalf of complainant (if any)
Full name:
Address, including postcode:
Telephone number:
Email:
Address to be used for correspondence? Yes/No (Delete as applicable)

Reasons for dissatisfaction with original decision - to be completed in all cases

Please provide details of the reason(s) why you are dissatisfied with the response made and notified to you at Stage 1 of this procedure (continue on a separate piece of paper if necessary).

I wish Bedford Borough Council as the administering authority of the Fund to reconsider the decision made at Stage 1 of this procedure.

Signed:

(by or on behalf of the complainant)

Date:

Please return the completed form, together with a copy of the Stage 1 decision and any other supporting documentation which you wish Bedford Borough Council to consider, to:

Bedfordshire Pension Fund, Borough Hall, Cauldwell Street, Bedford, MK42 9AP

NOTE: You may wish to keep a copy of your completed form, in case you need it for future reference (for example, if Bedford Borough Council has any questions about what you have written).