

APPENDIX B

REPORT TO:	MERSEYSIDE FIRE & RESCUE AUTHORITY
DATE:	28th MAY 2009
REPORT NO.	CFO/095/09
REPORTING OFFICER:	CLERK TO THE AUTHORITY
CONTACT OFFICER:	DAVE WRIGHT, CLERK TO THE AUTHORITY, EXTN. 4108
OFFICERS CONSULTED:	
SUBJECT:	PENSION SCHEME – INTERNAL DISPUTE RESOLUTION PROCEDURE

**APPENDIX A TITLE INTERNAL DISPUTE RESOLUTION PROCEDURE –
PENSIONS ACT 1995**

ATTACHED – HARD COPY

Purpose of Report

1. To request the Authority to consider adoption of a revised procedure, taking into account updated regulations.

Recommendation

2. That the Occupational Pensions Schemes Internal Dispute Resolution Procedure attached as Appendix A is adopted by the Authority.

Information & Background

3. The Authority has, since 1997, been required to adopt formal internal dispute resolution procedures for dealing with disputes under the Firefighters' Pension Schemes.
4. The Authority adopted the procedure and forms suggested in Fire Service Circular 2/1997 in 1997.
5. The relevant pensions legislation and regulations have recently changed slightly, and the Authority is accordingly requested to adopt the revised

procedure attached as Appendix A, which the Clerk recommends as compliant with the relevant updated legislation.

6. The main differences in the revised draft procedures are :-
 - (a) The addition of a requirement to notify the complainant of the availability of The Pensions Advisory Service (TPAS) on the initiation of the complaint.
 - (b) Removal of a reconsideration/appeal process to the Appeals Committee (as no reconsideration is now required).
 - (c) More explicit provisions as to those disputes which are not covered by the procedure.
 - (d) Addition of a time limit for applications (i.e. within 6 months of the decision the subject of the dispute).

Equality & Diversity Implications

7. The revised Policy applies equally to all members of the Scheme and has been the subject of an equalities impact assessment.

Financial Implications & Value for Money

8. None arising out of this report.

Health & Safety and Environmental Implications

9. None arising from this report.

Contribution to Achieving the Vision:

“To Make Merseyside a Safer, Stronger, Healthier Community”

10. The adoption of an updated policy will result in a more streamlined process that will enable opinions to continue to be aired and considered, minimising the internal processes that can divert time and attention away from substantive activity towards achieving the Authority’s vision.

BACKGROUND PAPERS

None.

INTERNAL DISPUTE RESOLUTION PROCEDURE - PENSIONS ACT 1995

Application

1. On receipt of a written application for a decision :-
 - (a) Check whether application is made under S.50 of the Pensions Act 1995 or H2 of the Firefighters' Pension Scheme Order 1992, Rule 2 of Part 6 of Schedule 1 to the Firefighters' Compensation Scheme (England) Order 2006; Rule 4 of Part 8 of Schedule 1 to the Firefighters' Pension Scheme (England) Order 2006 (appeals relating to medical evidence/issues), and if so, notify applicant that the IDR Procedure does not apply to those issues.
 - (b) If under S.50 of the 1995 Act, check application contains full name, address, date of birth and National Insurance Number of complainant; that the complainant is a person with an interest in the Scheme; the full name and address of any representative acting on behalf of the complainant and whether the address is the address to be used for service of the documents in connection with the disagreement and a statement as to the nature of the disagreement with sufficient details to show why the complainant is aggrieved. Also check to ensure application is signed by the complainant or his representative. If any of the above have not been complied with the application should be returned to the applicant indicating that the application will not be accepted until it is returned complete with all such details.
2. As soon as reasonably practicable on receipt of an application under the procedure :-
 - (a) Inform the applicant that TPAS (the Pensions Advisory Service) is available to assist members and beneficiaries of the Scheme in connection with any difficulties with the Scheme, and
 - (b) Give the applicant the contact details for TPAS.

Decision

3. Chief Fire Officer (or his nominee) to make a decision on the application and notify the applicant (and representative) in writing of decisions within a reasonable period of receipt of the properly completed application.

4. The written notification of decision should include :-
 - 4.1. A statement of the decision;
 - 4.2. Reference to any legislation relied on;
 - 4.3. Reference to such parts of any scheme rules relied upon and, where a discretion has been exercised, reference to such parts of the Scheme rules by which such discretion is conferred.
 - 4.4. A statement that OPAS (The Pensions Advisory Service) is available to assist members and beneficiaries of the Scheme in connection with any difficulties which they have failed to resolve and the address at which it may be contacted; and
 - 4.5. A statement that the Pensions Ombudsman may investigate and determine any complaint or dispute of fact or law in relation to a scheme and the address at which they may be contacted.

Out of Scope Disputes

- 4.6. This procedure shall not apply :-
 - 4.6.1. to a dispute if proceedings in respect of it have been commenced in any Court or tribunal, the Pensions Ombudsman has commenced an investigation in respect of it as a result of a complaint made or dispute referred to them, or if it is a dispute in respect of which a notice of appeal has been issued in respect of an appeal against an opinion or a medical issue, or appeal to a medical referee;
 - 4.6.2. if the complaint is not with the managers of the relevant occupational pension scheme;
 - 4.6.3. if the complaint is not made by one or more persons with an interest in the relevant occupational pension scheme for this purpose a person has an interest in the relevant occupational pension scheme if :-
 - (a) They are a member of the Scheme;
 - (b) They are a widow, widower or surviving non-dependent beneficiary of a deceased member of the Scheme;
 - (c) They are a surviving non-dependent beneficiary of a deceased member of the Scheme;

- (d) They are a prospective member of the Scheme;
- (e) They have ceased to be within any of the categories of persons referred to in paragraphs (a) to (d), or
- (f) They claim to be such a person as is mentioned in paragraphs (a) to (e) and the dispute relates to whether they are such a person.

4.6.4. to a dispute relating to a decision made more than 6 months (i.e. 183 days) prior to the date upon which notification of a dispute is given to the Authority under this procedure. In the case of a person with an interest in the relevant Scheme as mentioned in paragraph 4.6.3 (e) above, the time limit for making an application is the end of the period of 6 months beginning immediately after the date upon which they ceased to be a person with an interest as mentioned in paragraphs 4.6.3 (a) to (d).

In the case of a person with an interest in the relevant Scheme as mentioned in paragraphs 4.6.3 (f) above, who is claiming to be a person as is mentioned in paragraph 4.6.3 (e), the time limit for making an application is the end of the period of 6 months beginning immediately after the date upon which they claim that they ceased to be a person with an interest as mentioned in paragraph 4.6.3 (a), (b), (c) or (d).

4.6.5. Where, after an application for the resolution of a pension dispute has been made, the dispute becomes a dispute falling within a category in paragraph 4.6.1. above, then this procedure shall cease to apply.