

Armed Forces Pension Schemes - Dispute Resolution Procedures

A guide for members of AFPS 75, AFPS 05, RFPS and NRPS who wish to pursue a dispute through the statutory pensions appeals process covering the Internal Dispute Resolution Procedures (IDRP).



This booklet explains how to use the MOD's Internal Dispute Resolution Procedures (IDRP). It is a new, simplified decision making system for resolving pension disputes including disputes relating to discretionary pension awards under a single process located within the Services Personnel and Veterans Agency, Glasgow (SPVA (GL)). It unifies the old IDRP process and the two-stage Discretionary Award Process (DAP) and Discretionary Award Appeals Process (DAAP). This arrangement was introduced for cases received on or after 3 August 2009 and will also apply to those submitted under the old procedures which have not been resolved before that date.

The aim of the new IDRP process is to resolve pensions disputes that used to arise under the old IDRP and DAP/DAAP arrangements. It therefore covers:

- old IDRP: disagreements between the scheme administrators, managers and individual members of the Armed Forces pension schemes over the interpretation of scheme rules or when the member believes that a mistake has been made over a calculation or entitlement. Where the dispute concerns the application of the rules rather than the exercise of a discretion (see second bullet), the role of IDRP is to ensure that the rules were properly applied. There is no discretion to apply different rules from those set out in the relevant pension scheme;
- old DAP/DAAP: scheme members who are automatically considered for discretionary awards in some circumstances or may apply for certain attributable benefits. If unhappy, members may seek a review of an automatic or requested discretionary decision through DAP/DAAP. The types of issues dealt with include decisions on the attributable nature of invalidating conditions under AFPS 75; early payment of preserved pensions; early payment of annual pension increases before age 55; attributable benefits for surviving spouses/dependants following death in service or death in retirement and appeals against ill health tiers under AFPS 05 /RFPS.

This booklet also describes the role played by the Pensions Ombudsman (PO) and The Pension Advisory Service (TPAS).

The process for disputes under the Armed Forces Compensation Scheme (AFCS) is separate and is set out in the booklet "Your Armed Forces Compensation Scheme Explained" (MMP/125).

The process for disputes under the War Pensions Scheme (WPS) is separate and is set out in a leaflet available through the SPVA website at http://www.veterans-uk.info/about_us/about_us.html. There is also a free Veterans telephone helpline on 0800 169 2277 which deals with a wide range of enquiries.

The process for raising a complaint about the service or treatment you have received from MOD in relation to dealing with your pension is entirely separate from the IDRP and is covered by the SPVA Complaints Procedure – see details on page 7

There are some special terms you need to know: you can find them on pages 2 to 5 and refer to them as you go along. They appear in ***bold italics*** the first time they are used in the booklet.

IMPORTANT: This booklet only provides basic guidance on the appeals process available to scheme members. It's not a definitive guide on scheme rules or legal entitlements.

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TERMS YOU NEED TO UNDERSTAND

Here is a list which explains the meaning of some special terms used in this booklet.

AFCS – Armed Forces Compensation Scheme

This is a compensation scheme for all members of the Regular and Reserve Forces. It provides compensation for all injuries, ill-health and deaths mainly due (attributable) to service, the cause of which occurred on or after its introduction on 6 April 2005. See AFCS booklet – MMP/125. This is administered by SPVA (Norcross).

AFPS 75 – Armed Forces Pension Scheme 1975

This is the pension scheme for regular Service personnel which was introduced in 1975 and was closed to new entrants from 6 April 2005.

AFPS 75-FTRS – Armed Forces Pension Scheme 1975 – Full Time Reserve Service

AFPS 75-FTRS was introduced in 1997 to cater for pensions in respect of FTRS personnel. This pension scheme was closed to Reservists who started a new commitment on or after 6 April 2005.

AFPS 05 – Armed Forces Pension Scheme 2005

This is the pension scheme for regular Service personnel which was introduced for new entrants from 6 April 2005.

Attributable

The term used to describe circumstances where:

- an injury or illness was caused or significantly aggravated by service in the Armed Forces;
- a death was caused or significantly hastened by service in the Armed Forces.

C1

This is a civilian grade that used to be referred to as a Senior Executive Officer (SEO).

Dependants

A member's spouse, civil partner or eligible children. For AFPS 05, AFCS, RFPS and attributable awards before 6 April 2005, this also includes eligible partners.

EDP – Early Departure Payments

Payments to personnel (excluding AFPS 75, AFPS 75-FTRS, RFPS and NRPS members) who leave service before age 55, after completing a minimum of 18 years' service AND who are at least age 40 (the EDP 18/40 Point).

Eligible Partner

This applies to AFPS 05, RFPS and pre-6 April 2005 attributable benefits. For a partner to be eligible he or she must be cohabiting with the member in an exclusive relationship. Neither partner may be married or in a civil partnership with someone else and they should be eligible to marry or enter into a civil partnership should they so wish. They must be able to demonstrate financial dependence or interdependence. The following list, which is not exhaustive, gives examples of financial interdependence:

- Joint bank or building society accounts;
- Joint financial agreements;
- Provisions for each other in wills or valid life insurance policies;

- Joint ownership, lease or rental of a dwelling or other property of a substantial nature;
- Joint responsibility for children.

IDRP – Internal Dispute Resolution Procedures

The Pensions Act 1995 required all occupational pension schemes to have IDRP. IDRP can be used for all cases where there is a pension dispute.

Medical Discharge

The process whereby an individual is discharged from the Armed Forces because they do not meet the fitness standards required. Being medically discharged does not necessarily mean that the individual is unfit for full or part-time civilian employment.

Member

A person who has joined AFPS 75, AFPS 75-FTRS, AFPS 05, RFPS or NRPS and who is earning benefits under the scheme, has a preserved pension under the scheme or is receiving a pension under the scheme.

NRPS – Non-Regular Permanent Staff Pension Scheme

This is the pension scheme for non-regular permanent staff, the terms of which are set out in chapter 9 of the TA Regulations.

OF4

This is a NATO military rank level at: Commander, Lieutenant Colonel or Wing Commander.

OF5

This is a NATO military rank level at: Captain (RN), Colonel or Group Captain.

Preserved Pension

A pension which is kept for a member who leaves the Armed Forces before becoming eligible to receive a pension immediately.

For AFPS 75 members who have not reached the Immediate Pension Point but have a minimum of two years' reckonable service or a transfer in from another scheme, the preserved pension is payable from age 60 for service before 6 April 2006 and from age 65 for service on or after 6 April 2006. This last element may be paid from age 60 with an actuarial reduction in value.

The preserved pension is normally payable from age 65 for AFPS 05 members who leave before age 55, who have a minimum of two years' reckonable service or a transfer in from another scheme, but can be paid from age 55 (with an actuarial reduction in value).

For RFPS members who leave before age 60, the preserved pension is payable from age 65, but can be paid from age 55 (with an actuarial reduction in value).

RFPS – Reserve Forces Pension Scheme

Those who start or restart on Full Time Reserve Service (FTRS), including Additional Duties Commitment (ADC) terms, on or after 6 April 2005, will automatically be members of RFPS. Personnel called out for service under sections 32, 43, 52, 54 or 56 of the Reserve Forces Act 1996, (or corresponding section of the Reserve Forces Act 1980) from that date may choose to become members of RFPS.

Scheme Manager/ Scheme Administrator

The Service Personnel and Veterans Agency (SPVA) has day-to-day responsibility for the administration and certain management responsibilities for the armed forces pension schemes.

SPVA – Service Personnel and Veterans Agency

The MOD Executive Agency with day-to-day responsibility for the administration and certain management responsibilities for the Armed Forces Compensation Scheme (AFCS), War Pensions Scheme (WPS) and Armed Forces Pension Schemes (AFPS) and authority for payments under these schemes. SPVA Glasgow deals with AFPS, RFPS and SPVA Norcross deals with WPS and AFCS.

WPS – War Pensions Scheme

The WPS may pay benefits to an individual when they have left the Armed Forces, where an injury, illness or death was caused by service in the Armed Forces before 6 April 2005.

INTRODUCTION

This booklet covers complaints and appeals procedures for **members**, their representatives, their **dependants** and potential members of **AFPS 75**, **AFPS 05**, **RFPS** and **NRPS**.

There is a single, internal dispute resolution procedure (IDRP) for all pension disputes. It covers:

- i. disputes about whether the non-discretionary rules were applied properly. For such cases, the role of IDRP is to ensure that the rules have been properly applied. There is no discretion to apply different rules from those laid down in the relevant pension scheme;
- ii. disputes about the exercise of discretion within the rules (where the individual argues that the discretion should have been exercised differently).

These are decisions involving, for example, the early payment of **preserved pension** or **eligible partner** status.

Both types of case will be dealt by **SPVA (GL)** under a single IDRP process. The first level of consideration is by a deciding officer at IDRP Stage 1. If the decision made at Stage 1 does not satisfy the applicant then he/she may take the matter forward for re-consideration by a deciding officer at IDRP Stage 2. If the applicant remains unsatisfied after the Stage 2 decision, he/she may refer their case to the Pensions Ombudsman (PO) for external independent review.

The Pensions Act 1995 makes it compulsory for **scheme managers** to provide IDRP arrangements. The legislation underpinning IDRP is set out in sections 50, 50A and 50B of the Pensions Act 1995 and Statutory Instrument (SI) 649/2008 – The Occupational Pension Schemes (Internal Dispute Resolution Procedures Consequential and Miscellaneous Amendments) Regulations. This legislation is available on www.opsi.gov.uk. Under this framework, pension disputes can also be considered independently by the PO if the complaint cannot be resolved internally. The PO can rule on issues of fact and law, but is not able to enforce changes to scheme rules except in areas of ambiguity. He will not consider complaints where an individual is unhappy with a pension scheme rule. Pages 8 to 10 explain how to make a complaint under IDRP.

If your complaint is in relation to information provided about a pension scheme but the information was not provided by the SPVA (GL) (e.g. advice was provided by unit administrators) then you should use the usual redress of complaint procedure through the chain of command.

BEFORE INVOKING IDR

Before invoking the IDR process, you are strongly encouraged to write to the SPVA (GL), explaining your pensions problem and asking for your complaint to be considered. It may be that your problem can be resolved without IDR being involved. The address is:

**SPVA JPA Complaints, Mail Point 600, Kentigern House,
65 Brown St, Glasgow, G2 8EX**

Enquiry service: 0800 085 3600

Military: 94560 3600

Internal email address: SPVA-JPA-COMPLAINTS

External email address: jpa-complaints@SPVA.mod.uk

Fax (Civ): 0141 224 2605, **Fax (Mil):** 94561 2605.

WHO CAN COMPLAIN AND HOW TO DO IT?

The following can make a complaint:

- a serving member of **AFPS 75**, **AFPS 05**, **RFPS** or **NRPS**;
- a member of **AFPS 75**, **AFPS 05**, **RFPS** or **NRPS** who has left service;
- a dependant of a deceased scheme member;
- potential member of the scheme;
- someone with a pension credit (as a result of a Pension Sharing Order) in **AFPS 75**, **AFPS 05**, **RFPS** or **NRPS**

You can have an appointed representative (e.g. friend or solicitor) pursue your complaint on your behalf, but before doing so, you need to write to SPVA giving your permission to release your personal information to them.

IDRP complaints should be forwarded to the SPVA (GL) at the following address:

**C1 Armed Forces Pensions
MOD Authority Pensions
SPVA (GL) Mail Point 600
Kentigern House
65 Brown Street
Glasgow G2 8EX**

It would help with the processing of your complaint if you made clear whether:

- i. you were complaining against the application of the pension scheme rules
or
- ii. the exercise of a discretion within the rules.

Please ensure that your letter is clearly headed "IDRP Complaint" and that you indicate in which category you consider your dispute should be considered. You need to provide full details of your complaint and evidence of why you consider the rules have been incorrectly applied in relation to your pension or why a discretion should be exercised in a different way.

MORE ON IDRП COMPLAINTS

If you have a complaint about how **AFPS 75**, **AFPS 05**, **RFPS** or **NRPS** rules are interpreted by the scheme administrator you can use IDRП. Disputes can be disagreements concerning fact or law. You must have reason to believe that the decision was not properly made or implemented.

The second broad area of dispute concerns the exercise of a discretion within the rules where the individual argues that the discretion should have been exercised differently. There are some **AFPS 75**, **AFPS 05**, **RFPS** or **NRPS** rules that give MOD discretion in the awarding of certain benefits. On occasions, individuals feel that the wrong decision has been made and wish to appeal against that decision.

There are some circumstances when scheme members are automatically considered for discretionary awards, i.e. if you are medically discharged from service. In these cases SPVA (Norcross) will automatically consider whether the condition for which you were medically discharged was caused or made worse by service and if you are therefore eligible for an **AFCS** or **WPS** award. Attributable benefits under the AFPS 75 are only awarded for conditions which occurred before 6 April 2005. The Pensions Ombudsman may only consider attributable benefits which arise from injuries or conditions which were caused before 6 April 2005. Attributable injuries or conditions which were caused on or after that date are considered under the AFCS, which has its own separate appeals procedures. If you are not provided with an award, you may invoke a review of the decision using IDRП.

The two stages of IDRП are described below.

IDRП Stage 1

Your complaint will be considered by an officer at **C1/OF4** level, who will take the necessary medical or legal advice as appropriate. If the complaint is straight forward this normally takes up to two months, although in more complex cases where further advice is sought, it may take longer than this.

IDRP Stage 2

If you are not content with the outcome of your IDRP Stage 1 you can invoke Stage 2. You need to do this within six months of the date of your Stage 1 decision letter. You should write to SPVA (GL) stating that you are invoking IDRP Stage 2. You need to provide a clear statement as to why you disagree with the Stage 1 decision and the outcome you are seeking. Your Stage 2 complaint will normally be considered by an officer at **OF5** level who will take the necessary medical or legal advice as appropriate, which will normally be separate from the advice provided at Stage 1. This process will take up to two months, although more complex cases can take longer. You will be informed if it is likely that your case will take longer than two months.

Important note

On submitting a complaint under IDRP it is important to provide evidence to show why you are challenging a decision or ruling. On going to the second stage, it is important that you provide a clear statement of why you disagree with the first stage finding, offer new evidence or point out where evidence or a point was not fully considered at Stage 1. Invoking Stage 2 simply on the grounds that you are not content with the Stage 1 finding is unlikely to result in a change of decision.

PENSIONS OMBUDSMAN

With effect from 6 April 1997, the PO has the power to investigate complaints and to settle disputes between a pension scheme and a complainant. The PO will usually only become involved if IDRPs and The Pension Advisory Service (TPAS) have been unable to sort the problem out. You may contact TPAS for advice at any stage during IDRPs, but you must have raised your complaint in writing to SPVA (GL) before contacting TPAS for help. A TPAS adviser will assist you through and, if necessary, beyond the process. The PO can only investigate cases on the basis of fact or law. Complaints must normally go to the PO within three years of whatever event caused the dispute. The PO cannot investigate a dispute once formal legal proceedings have started.

The PO has the power to compel the disclosure of documents and may approach the scheme managers to assist in their investigation of the complaint. If the PO finds that a benefit has not been paid when it was due then the PO has the power to award interest.

The PO's decision is final and binding on you as the complainant and on the scheme, subject only to an appeal to the High Court on a point of law. TPAS and PO are co-located. Details are as follows:-

Pensions Ombudsman (PO)

11 Belgrave Road
London
SW1V 1RB

Tel: 0207 8349144

Website: www.pensions-ombudsman.org.uk

Email: enquiries@pensions-ombudsman.org.uk

The Pensions Advisory Service (TPAS)

11 Belgrave Road

London

SW1V 1RB

Tel: 0845 6012923

Website: www.pensionsadvisoryservice.org.uk

E-Mail: enquiries@pensionsadvisoryservice.org.uk

SOURCES OF HELP AND ADVICE

Veterans' organisations and charities

There are many veterans' organisations and charities that can give you help and advice on Armed Forces pensions. If you want to appeal against a decision made on your pension benefits, the following can help you if you fall within their particular membership criteria:

Forces Pension Society

68 South Lambeth Road
London
SW8 1RL

Tel: 020 7820 9988

Website: www.forpen.co.uk

The society protects the pension interests of ex-Service personnel of all ranks and their dependants.

The Royal British Legion

199 Borough High Street
London
SE1 1AA

Tel: 0845 7725725

Website: www.britishlegion.org.uk

E-Mail: pensions@britishlegion.org.uk

The Royal British Legion Scotland

The Earl Haig Fund Scotland and the Officers' Association Scotland
New Haig House
Logie Green Road
Edinburgh
EH7 4HR

Tel: 0131 5572782

Website: www.rblscotland.org.uk

E-Mail: info@rblscotland.org.uk

The Legion is Britain's main organisation for the welfare of ex-Service personnel and their dependants. It provides advice on pensions and welfare matters.

White Ensign Association

HMS Belfast
Tooley Street
London
SE1 2JH

Tel: 0207 407 8658

Website: www.whiteensign.co.uk

E-Mail: office@whiteensign.co.uk

The Association is a charitable organisation that is a source of free help to current and former RN and RM personnel on all matters of personal finance, including pensions.

Independent pensions organisations

The Pensions Regulator

Napier House
Trafalgar Place
Brighton
BN1 4DW

Tel: 0870 6063636

Website: www.thepensionsregulator.gov.uk

E-Mail: customersupport@thepensionsregulator.gov.uk

The Pensions Regulator is the UK regulator of work-based pension schemes. It is able to intervene in the running of pension schemes where the scheme manager has failed to comply with the law.

FURTHER INFORMATION

If you require more information about your pension entitlement from the Armed Forces, you should contact:

SPVA
Pensions Division
Mail Point 480
Kentigern House
65 Brown Street
Glasgow G2 8EX

Tel : 0800 085 3600 (Mon – Fri 0700 – 1900)

E-mail: JPAC@spva.mod.uk

Information is also available on the Defence Internet and Intranet sites at the following addresses:

Internet: www.armedforcespensions.mod.uk

Intranet: <http://defenceintranet.diiweb.r.mil.uk/DefenceIntranet/Admin/FindOutAboutArmedForcesPensions>

Other booklets in this series

Other booklets also available in this series can be ordered from the Forms and Publication Section, Bicester Operation Centre, C16 Site, Ploughley Road, Arncott, Bicester, OX25 1LP by quoting the relevant MMP number.

Relating to **AFPS 75**:

- **Your Pension Scheme Explained – MMP/106**
- **Family Pension Benefits – MMP/114**
- **Invaliding – MMP/115**

Relating to **AFPS 05**:

- **Your Pension Scheme Explained – MMP/124**
- **Family Pension Benefits – MMP/126**
- **Ill-health Benefits – MMP/127**

Relating to **RFPS**:

- **Reserve Forces Pension and Compensation Benefits – MMP/123**
- **Your Pension Scheme Explained – MMP/146** (available from late-2009)

Relating to **AFCS**:

- **Your Armed Forces Compensation Scheme Explained – MMP/125**

Relating to **AFPS 75**, **AFPS 05** and **RFPS**:

- **Re-employment – MMP/116**
- **Increasing Benefits – MMP/128**
- **Transferring Benefits – MMP/129**
- **Pensions on Divorce – MMP/131**
- **The Armed Forces Redundancy Schemes – MMP/138**
- **Taxation of Pension Benefits – MMP/144** (available from late-2009)

