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Mhaigh Eo, Shligigh agus Liatroma
Mayo, Sligo and Leitrim
Education and Training Board

Mayo, Sligo and Leitrim Education and Training Board

Internal Dispute Resolution (IDR) Policy and Procedures for Pension Appeals.

MSLETB,
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This document serves as a Guide/Policy/ Procedure for Staff of Mayo, Sligo and Leitrim Education and Training Board (MSLETB).

Any queries or questions arising from this document should be addressed to the HR Department.

As with all communications within MSLETB, staff are reminded to treat all information in respect of requesters in the strictest of confidence.

1. Purpose

Mayo, Sligo and Leitrim Education and Training Board (MSLETB) is committed to facilitating procedures for pension appeals as directed under Circular 16/2020. This policy is intended to ensure that measures are in place within the organisation to uphold that commitment. This policy outlines Internal Dispute Procedures (IDR) for pension appeals in relation to beneficiaries/disputed beneficiaries of pre-existing pension schemes.

2. Scope

Appellants under these IDR procedures can be beneficiaries and disputed/potential beneficiaries of pre-existing schemes.

3. Background

The Pensions Ombudsman Regulations S.I. 397 of 2003 (“the Regulations”), made under Section 132 (Part XI) of the Pensions Act, 1990 (as amended), were repealed by the Financial Services and Pensions Ombudsman Act 2017 (“the 2017 Act”) which laid down statutory requirements with regards the provision of IDR procedures by pension-providers. The repeal of the Regulations did not negate the use of IDR procedures, nor did it prevent the use of IDR procedures incorporating requirements laid out in the repealed Regulations on an administrative basis where such are considered appropriate and necessary.

4. Legal Basis

The relevant legislation is the Financial Services and Pensions Ombudsman Act 2017 / Pensions Ombudsman Regulations S.I. 397 of 2003 (repealed).

The statutory time limits (Section 51 of the 2017 Act) for pursuing pension complaints to the Financial Services and Pensions Ombudsman, whichever is the latest to expire of:

- 6 years from the date of the conduct giving rise to the complaint;
- 3 years from the earlier of the date on which the person making the complaint became aware, or ought reasonably to have become aware, of the conduct giving rise to the complaint.

5. Who can appeal

Appellants under these IDR procedures can be beneficiaries and disputed/potential beneficiaries of pre-existing schemes. An appeal under these IDR procedures may also be made or continued on behalf of a beneficiary by a representative nominated by the member, e.g. Trade Union representative or solicitor. An appeal may be made or continued on a beneficiary’s behalf when the member dies, or is a minor, or is incapable of acting for themselves.

It should be noted however that the public service employer of the member/alleged member in question is not appropriate to act on an appellant’s behalf should they pursue an appeal to Department of Public Expenditure and Reform (DPER) /Minister for Minister for Public Expenditure & Reform (PER) or should the appellant pursue the complaint further to the Financial Services and Pensions Ombudsman (FSPO).

The public service employer is bound by the rules of the relevant public service scheme and the policies/decisions of DPER and the Minister for PER.

6. What can be appealed

These IDR procedures apply where one wishes to appeal a decision directly linked to pension scheme terms and/or pension benefits. They do not apply in relation to other HR/contract/retirement-related decisions.

7. Who should the appellant contact

Appeals should be raised with the Superannuation Office HR Department Quay Street Sligo.
pensions@msletb.ie

8. Restrictions on Comment

From the time a person commences the formal appeal process until a determination has issued, the appellant should receive no communication either in writing or verbally to indicate the possible success or failure of their appeal.

9. Outline of Internal Dispute Procedure

Stage 1: Written explanation of decision

- 1) If an eligible individual (see section 5 above) has an issue or concern with regards a pension decision they should raise it with the Superannuation Officer, HR Department, Quay Street Sligo, (Step 1 Flow Chart Appendix)
- 2) the Superannuation Officer (if they have not already done so) should provide a written explanation of the decision within 1 week of the date of the matter being raised, (Step 2 Flow Chart Appendix)

The Superannuation Officer should notify the person that if they are not satisfied with the written explanation of the decision (provided at this stage or previously), they can pursue a formal appeal via Stage 2 of the IDR procedure. They should be provided with a copy of this document.

In preparing the written explanation, the relevant body/department should check records and the pension scheme rules to ensure the rules and terms have been applied correctly in the particular case. They should satisfy themselves that their interpretation of the relevant legislation/scheme rules and procedures in question are correct.

Consultation with other parties involved in the decision, like the respective pensions administrator (if separate to the HR office), may be required e.g. in the case of the civil service, consultation with the NSSO – who administer civil service pensions - may be required when the matter relates to calculations, payment or other administrative matters. Where it is accepted that an error or omission has occurred the matter should be rectified immediately.

The response should be comprehensive and should quote the relevant scheme rules and explain how and why they applied in the particular case.

Stage 2: Formal Appeal

- 1) The appellant should notify (in writing) Mark Towey Administrative Officer HR Department MSLETB Quay Street Sligo that they wish to pursue a formal appeal (Step 1 Flow Chart Appendix). They should submit a statement in writing with information including:
 - the name, address and date of birth of the beneficiary or disputed/potential beneficiary
 - a correspondence address
 - details of the dispute, including the response they received from HR at Stage 1 (or earlier)
 - a clear statement of the reasons why they are still aggrieved and the grounds on which the appeal is being continued to Stage 2. Provide detailed information e.g. relevant dates, places and times.

The statement must be in writing and signed by or on behalf of the actual or disputed/potential beneficiary. Copies of documents referred to, and evidence being relied upon e.g. contracts, scheme rules, statements, emails, letters, invoices and receipts should be included also.

- 2) MSLETB will prepare a detailed response to the appellant's statement and documentation (Step 2 Flow Chart Appendix).
- 3) MSLETB will coordinate the necessary appeals documentation.

The necessary documentation required is listed in a checklist in the appendix (Checklist for IDR).

Where multiple parties played a role in the decision (e.g. a local HR office, a payroll/pension administrator), all parties will be notified of the appeal by MSLETB and a statement, along with any documentary evidence being relied upon, from all parties will be included in the submission prepared by MSLETB

- 4) Submission of papers (Step 3 Flow Chart Appendix) :

a. The appeal documents will be submitted by MSLETB to the line department of the referring Minister specified in the scheme rules/governing legislation within 2 weeks of receiving the appellant's appeal.

b. The line Department must then ensure that there is all the necessary information and details to present the complete appeal, both from the appellant's point of view and the relevant body's point of view (Step 4 Flow Chart Appendix).

Any additional information deemed necessary should be requested from the appellant by the line department, with a copy also sent to the body.

c. The line Department should set out a factual description of the circumstances surrounding the appeal, the appellant's case, the relevant body's case, the relevant legislation/scheme rules in question and any notable features – in essence crystallising all the issues so that they can be adjudicated upon by the Minister for Public Expenditure & Reform (PER).

d. The papers and completed checklist - signed by the line department – should be submitted to Department of Public Expenditure and Reform (DPER) within 2 weeks of receiving the papers from the public service body.

A copy of the submission papers should be sent to the appellant at the same time (save for legal advice should it be decided to withhold on the basis of legal privilege) and the line department should notify them that they have 10 days in which to forward comments to the Pension Appeals Team in Department of Public Expenditure and Reform (DPER).

The appeal papers should be addressed to the Pension Appeals Team, Public Service Pensions Policy Unit in DPER and sent by post and in soft copy to the email address pensions@per.gov.ie.

DPER can only accept and progress an appeal where the checklist provided in the appendix has been completed and signed by a representative of the referring line department in the public service category.

- 5) In the course of examining the appeal, (Step 5 Flow Chart Appendix) the advice of an expert in the relevant area, such as a lawyer, actuary, pension consultant or accountant, who is not involved in the matter at issue, may be sought by DPER. If such is being sought, the DPER appeals officer will:
 - inform the parties of their intention to ask for expert advice;
 - on receipt of the advice, inform the parties of the nature of the advice obtained; and
 - give the parties an opportunity to make submissions in regard to the advice.

- 6) A “notice of determination” will be given in writing to the appellant within 3 months from the date all particulars (Step 6 Flow Chart Appendix) required to make the determination have been furnished. The notice of determination will include:
 - a statement of the determination;
 - the reasons for the determination, and any findings of fact that were material to the determination;
 - a reference to such parts of any rules of the scheme relied upon and, where a discretion has been exercised, a reference to such parts of the rules of the scheme by which such discretion is conferred ;
 - a reference to any legislation, legal precedent, ruling or other material relied upon; and
 - a statement that the appellant should check whether the complaint or dispute is one in respect of which the Financial Services and Pensions Ombudsman has jurisdiction to investigate and that further information can be found at the website of, or by contacting, the Office of the Financial Services and Pensions Ombudsman.

- 7) The determination will also be shared with the referring line department in the case of public service appeals above. If it is a public service appeal, the line Department should forward this to the public service employer involved and instruct them to make any necessary changes/revisions to the pension as result of the determination. (Step 7 Flow Chart Appendix).

10.

Appendix

Checklist for IDR: Appeal papers required	Yes	No	Explanation if No
A copy of the written explanation of the decision, as provided to the appellant when the matter was raised initially (see Stage 1 above)			
Appellants' appeal statement submitted at Stage 2 (see Stage 2, Step (1) above)			
A copy of any documentary evidence being relied upon by the appellant			
Response to the appellant's statement by all parties involved in original decision (see Stage 2, Step (2) and (3) above)			
Copy of any documentary evidence being relied upon by any parties involved in original decision (see Stage 2, Step (2) and (3) above)			
Factual description of the case crystallising the issues arising by the office/body referring appeal to DPER pension appeals team (for details required see Stage 2, Step (4) above)			
A copy of the rules of the scheme, and any relevant statutory provisions/Circulars/Letter to Personnel which are in question/being relied upon			
Legislative provision/scheme rule that dictates that the Minister for Public Expenditure and Reform is responsible for making the determination. (This is required for all public service appeals submitted to DPER)			
Any further information (such as personnel records, contract of employment, consent/option forms, contribution records, related correspondence). Please list same.			
<p>To be signed by representative of the referring line department in case of public service appeal, or of the civil service HR office of the relevant body/department in case of civil service appeal: I certify that the appellant has been made aware of all information being submitted as part of their appeal and has been advised that they have 10 days in which to forward any additional comments/information in response to this submission to the Pensions Appeals Team of Public Service Pensions Policy Unit, Department of Public Expenditure and Reform.</p> <p>Signature: _____ Date: _____</p>			

Overview of Internal Dispute Resolution Procedures for disputes involving pre-existing schemes in (ii) public service when Min/PER makes a determination - MSLETB



