

DCU Single Public Service Pension Scheme Disputes Resolution Procedures

STAGE 2 – PROCESS OF EXTERNAL APPEAL

If after considering the outcome of an internal appeal process, the claimant is still not satisfied a process of external appeal exists. A claimant may apply to the HEA (An tÚdarás) for determination by the HEA subject to the agreement of the Minister and the Minister for Finance. The HEA will make a decision in relation to the complaint or dispute and respond in writing within three months of receipt of the required information from the claimant. For further information on this process please refer to the information below. If there is no provision for Ministerial appeal a person may refer the dispute to the Pensions Ombudsman

<http://www.pensionsombudsman.ie/cms/index.php?q=complaints/before%20complaint>

Superannuation Schemes in the Universities – Appeals Process to Higher Education Authority

Section 5 of the Fifth Schedule of the Universities Act 1997 states that

“If a dispute arises as to the claim of any person to, or the amount of, any pension, gratuity or allowance payable in pursuance of a scheme under this Schedule, it shall be submitted to An tÚdarás for determination by An tÚdarás subject to the agreement of the Minister and the Minister for Finance.”

Persons who may make an appeal

An actual or potential beneficiary, or a person acting on his or her behalf, may apply to An tÚdarás for a determination in respect of –

(a) a complaint relating to circumstances in which he or she believes he or she has sustained financial loss caused by an act of maladministration, or

(b) any dispute of fact or law that arises in relation to an act, done by or on behalf of a person responsible for the management of a Scheme or amended Scheme submitted to or approved by An tÚdarás with the consent of the Minister and the Minister for Finance under the Fifth Schedule of the Universities Act 1997. This appeals process will apply to all superannuation schemes which have been approved under the Fifth Schedule of the Universities Act 1997.

Application Process

An application shall be in writing, signed by or on behalf of the actual or potential beneficiary and shall contain the following details –

- (a) the full name, address and date of birth of the actual or potential beneficiary,
- (b) the address to be used for service of documents in connection with the application,
- (c) a statement concerning the nature of the complaint or dispute with sufficient details to show why the actual or potential beneficiary is aggrieved,
- (d) a statement confirming that all internal institutional review mechanisms have been exhausted,
- (e) a copy of correspondence between the appellant and University, and
- (f) such other information as An tÚdarás may reasonably require.

An tÚdarás reserves the right to contact the person's University for other information which it feels necessary to consider for appeal

Determination

(a) An tÚdarás with the consent of the Minister and the Minister for Finance shall make a determination in relation to an application and notify in writing the complainant of the determination within 3 months from the date on which all the details specified in paragraph (2) are received by An tÚdarás.

(b) The notification under subparagraph (a) shall include –

- (i) a statement of the determination,
- (ii) a reference to any legislation (other than this Scheme), legal precedent, ruling of the Pensions Board, ruling or practice of the Revenue Commissioners or other material relied upon in making the determination,
- (iii) a reference to the provisions of this Scheme relied upon in making the determination and, where a discretion has

been exercised, a reference to those of its provisions by which such discretion is conferred,

(iv) a statement that the determination is not binding upon any person unless, upon or after the making of the determination, the person assents, in writing, to be bound by it, and

(v) a statement that the applicant should establish whether or not the complaint or dispute is one in respect of which the Pensions Ombudsman has jurisdiction to investigate under section 131 of the Pensions Act 1990 (No. 25 of 1990) and that further information can be found in an information booklet available from the office of the Pensions Ombudsman (and the statement shall include details of the address of that office).

(c) An tÚdarás shall forward all documentation received from the appellant to the Department of Education and Science and the Department of Finance within two weeks of receipt of an application. Both Departments shall consult An tÚdarás to ensure they have the full facts of the case and the scheme rules. The role of the Departments is to make determinations, not conduct investigations.

(d) From the time a person commences the appeal process until a determination has issued, there should be no comment on the case other than confirmation that the complaint is being examined. This approach is necessary given the quasi-judicial process involved and applies to PQs, representations, FOI requests and similar requests.

The appeals process will have regard to the general requirements for an appeals process set out in Appendix 1 – this includes detailed information on internal dispute resolution procedures and referral to the Office of the Pensions Ombudsman.