

**DERBYSHIRE COUNTY COUNCIL  
PENSIONS AND INVESTMENTS COMMITTEE**

**21 July 2020**

**Report of the Director of Finance**

**Local Government Pension Scheme (LGPS)**

**Appointment of Adjudicator for AADP Stage 1 applications  
and establishment of an Appeal Sub-committee for AADP Stage 2  
applications**

**1. Purpose of the Report**

To ask Committee to:

- note the appointment of a new adjudicator for the administering authority of Derbyshire Pension Fund (the Fund) to consider applications from any person who is dissatisfied with a decision of the Fund regarding their pension benefits, and
- establish a sub-committee to whom decisions relating to applications at Stage 2 of the Applications for Adjudication of Disagreements Procedure (AADP) may be delegated on time-critical occasions

**2. Information and Analysis**

**2.1 Appointment of a new adjudicator**

The Local Government Pension Scheme Regulations 2013 (2013 Regulations) require that an administering authority appoints an adjudicator to consider applications from any person whose rights or liabilities under the Scheme are affected by a decision of the administering authority.

Under Regulation 74 of the 2013 Regulations Derbyshire County Council (DCC), as the administering authority of Derbyshire Pension Fund, and each of the participating employers in the Fund (including DCC in its role as a scheme employer), are required to appoint an adjudicator to consider applications by pension scheme members for adjudication of any formal disagreement with first instance pension decisions made by the administering authority or the relevant scheme employer.

The adjudicators make decisions on each application at Stage 1 of the 'Applications for Adjudication of Disagreements Procedure' (AADP).

The current adjudicator for applications at AADP Stage 1 against decisions made by the administering authority, is Mrs Kay Riley, Assistant Director of Legal Services, Derbyshire County Council. Due to the impending retirement of Mrs Riley, it is necessary for the Fund to appoint a new adjudicator.

The LGPS regulations do not prescribe who the adjudicator should or might be. In practice, the appointed person needs to be able to: understand the details of the disagreement; to interpret the relevant parts of the LGPS regulations; to make unbiased decisions based on the evidence; and to articulate decisions to all parties in a comprehensible manner. LGPS funds and scheme employers appoint a range of expertise to this role, including internal and external legal personnel and human resources and payroll managers.

The appointment of a senior solicitor from DCC's Legal Services Department as the administering authority's adjudicator has, to date, ensured that disagreements against the Fund have been properly considered, with the required level of impartiality, and that decisions have been well articulated.

In order to maintain continuity of the role within the Legal Services Department of the County Council, it is proposed that Mrs Riley's successor in post as Assistant Director of Legal Services be appointed to the role of administering authority adjudicator for the consideration of applications at AADP Stage 1. The recruitment process is currently in train and it is proposed that the successful candidate will commence his/her role as adjudicator on appointment.

## **2.2 Establishment of an Appeals Sub-committee**

Where a scheme member remains dissatisfied with the adjudicator's decision made in respect of their AADP Stage 1 application (against either a scheme employer or administering authority decision), they have the right to refer that decision to the administering authority for reconsideration at Stage 2. This is set out in Regulation 76 of the 2013 Regulations.

In the case of Derbyshire Pension Fund, the Pensions and Investments Committee acts as the administering authority's Stage 2 adjudicator, reconsidering decisions made by the adjudicator at Stage 1 of the process.

Regulation 77 of the 2013 Regulations requires that a person who has submitted an application to the Committee at AADP Stage 2 must be provided with a written notice of the decision within 2 months of the date their application was received. Interim replies are permitted, setting out the reasons for the delay in providing a final decision and setting out an expected date for the giving the decision. Interim replies are usually utilised when the adjudicator needs to seek further information.

To date, Committee's cycle of 8 meetings per year has enabled AADP Stage 2 applications to be considered within the timeframe allowed, however, that may not always be possible in the adjusted future cycle of 6 meetings per year.

In order to reduce the likelihood of an application being considered outside the 2 months' timeframe, Committee is asked to establish an Appeals Sub-committee.

The sub-committee's terms of reference would be to solely consider AADP Stage 2 applications which could not be determined within the 2 months limit by the revised meetings cycle of the main Committee.

The sub-committee would be comprised of three members of the main Committee and would be chaired by the Chair of the main Committee.

A summary of all cases determined by the Committee and sub-committee would be reported to Committee after each year ending on 31<sup>st</sup> March.

### **3. Legal Considerations**

The legislation which requires the administering authority to appoint a new adjudicator is Regulation 74 of the 2013 Regulations.

The legislation which relates to the specific timeframe during which a person who has submitted an application to the Committee must be provided with a decision is Regulation 77 of the 2013 Regulations.

Each Regulation is referred to in the main body of the report.

### **4. Other Considerations**

In preparing this report the relevance of the following factors has been considered: financial, human rights, human resources, equality and diversity, health, environmental, transport, property and prevention of crime and disorder.

### **5. Officer's Recommendation**

That Committee:

- i. Notes that Mrs Riley's successor in post as Assistant Director of Legal Services will be appointed as the adjudicator for AADP Stage 1 appeals where scheme members disagree with a decision of the Pension Fund.
- ii. Approves the establishment of an Appeals Sub-committee to consider cases which would otherwise be determined by Committee outside of the 2 months' timeframe allowed.
- iii. Determines the composition of the Appeals sub-Committee subject to its establishment being approved.

**Peter Handford**  
**Director of Finance & ICT**