Pension Dispute Resolution Procedure
for University Defined Benefit Pension Schemes

The University, with the assistance of external professional advisors, has considerable experience in the administration of its Pension Schemes over a long period of time. The University acknowledges that a dispute may occasionally arise in relation to pension entitlements or how the detailed provisions of a specific Pension Scheme are implemented, especially if such a dispute involves an alleged loss of benefit to a member, a former member or other actual or potential beneficiary (referred to here as a ‘complainant’).

This document sets out the formal process for raising such a complaint.

There are two stages to a formal pensions appeal from a complainant, each of which is summarised below:

STAGE 1 – Internal University Pension Disputes Resolution Procedure

The University has established an Internal Disputes Resolution Procedure as required under Article 5(1) of the Pensions Ombudsman Regulations, 2003. This provides a mechanism for a more senior member of the HR team not involved in the initial calculation of benefits to review the matter in dispute afresh.

If, upon completion of this Internal Pension Disputes Resolution Procedure, you remain dissatisfied, you may formally invoke Stage 2 of the Pensions Dispute Resolution Procedure.

STAGE 2 – External Statutory Pensions Appeal to the Higher Education Authority

This is a Statutory pensions appeals mechanism provided for under the Universities Act 1997 whereby a complainant may formally refer a pensions matter in dispute to the Higher Education Authority (HEA) for a formal determination that will be made with the consent of the Minister for Public Expenditure & Reform and the Minister for Education & Skills.

If, upon completion of this External Statutory Pensions Appeal to the Higher Education Authority, you remain dissatisfied, you may have recourse to the Office of the Financial Services and Pensions Ombudsman or another statutory body. In the ordinary course of events, Stage 1 and Stage 2 of the TCD Pensions Dispute Resolution Procedure should be exhausted prior to referring a dispute to the Office of the Financial Services and Pensions Ombudsman or another statutory body.

In the first instance, if you feel that your Pension Scheme benefits or entitlements may not have been correctly calculated, you are encouraged to please informally discuss this directly with the member of the Human Resources Pensions Office who issued the correspondence in dispute to you. Thereafter, if the issue remains unresolved to your satisfaction, please refer to Stage 1 of the formal Internal Pensions Disputes Resolution Procedure that is outlined overleaf.
STAGE 1 – Internal University Pension Dispute Resolution Procedure

Two types of complaint are eligible for the Internal University Pension Dispute Resolution Procedure:

1. An allegation by an actual or potential beneficiary that they have sustained a financial loss due to maladministration, or

2. An actual or potential beneficiary has a dispute of fact or law in relation to an action taken by a person responsible for managing the Scheme.

The Complainant’s Procedure

A complaint must be submitted, in writing, to the University’s Pensions Manager, Human Resources at House 4, University of Dublin Trinity College, Dublin 2, Ireland.

The following information must be included in the initial written submission:

1. Name, Date-of-Birth, Home Address and Staff/PPS Number of the complainant;

2. Name of the University Defined Benefit Pension Scheme of which the complainant is a member of (Master/Model/Single Scheme);

3. Details of membership of the Scheme (e.g. existing employees should include date of joining, pensioners should include date of retirement, former employees should include date of leaving etc);

4. A statement of the complaint or dispute and who or what the complaint is against. If the person believes that they have suffered a potential financial loss then details, including supporting calculations, should be submitted together with the approximate date(s) of when the alleged maladministration occurred;

5. A statement that the complaint or dispute has not previously been the matter of determination by the Financial Services and Pensions Ombudsman or another statutory body;

6. Any other relevant supporting documentation.

The onus is on the complainant to promptly furnish all of the necessary information in an acceptable format to enable a complaint to be comprehensively considered.

The University’s Response

The Pensions Manager will issue an initial formal acknowledgement of a Stage 1 Complaint to the complainant’s Home Address within 5 working days. If an acknowledgement is not received within this time, the complainant should initiate contact with the Pensions Office to ensure safe receipt of correspondence.

The Pensions Manager, or a duly authorised Nominee of their choosing that was not involved in the initial calculation of benefits, will check the records to ensure that the
pension or benefit in dispute has been calculated. The pension benefits that have been, and are, in payment will also be verified if necessary.

In the event that the Pensions Manager has had an active involvement in the decision in dispute, they will refer the matter to the University's Director of Human Resource. The Director of Human Resources, or a duly authorised Nominee of his/her choosing that was not involved in the initial calculation of benefits, will review the case in place of the Pensions Manager.

In assessing a complaint, the University reserves the right to seek additional documentation relevant to the matter in dispute from the complainant and to seek independent professional advice at its absolute discretion.

**DETERMINATION – STAGE 1**

**The University’s Response**

A full and comprehensive written response in the form of a *University Notice of Determination* will ordinarily be provided to a claimant within six weeks of receipt of all necessary documentation required to allow a comprehensive consideration of a complaint by the University. If there is expected to be a delay, howsoever arising, this delay and the reasons for this delay will be communicated at the earliest opportunity to the complainant.

**The Claimant’s Response**

*Within four weeks* of the University issuing a Notice of Determination to a complainant, the complainant should confirm in writing to the University’s Pensions Manager their acceptance or otherwise of the findings under the Internal University Pension Dispute Resolution Procedure.

Where a claimant does not accept the findings under the Internal University Pension Dispute Resolution Procedure, they should progress their grievance under Stage 2 of the Pension Dispute Resolution Procedure by invoking the *External Statutory Pensions Appeal to the Higher Education Authority* – as detailed overleaf.

The University reserves the right to at any time amend the above procedures, but any revised procedures will be made in full conformity with the Pensions Act and any regulations made under that Act.
STAGE 2 – External Statutory Pensions Appeal to the Higher Education Authority

If, after considering the outcome of the Stage 1 Internal University Pension Dispute Resolution Procedure, a complainant is still not satisfied and has provided written notice to the Pensions Office within 4 weeks of the date of the University’s Notice of Determination issuing, an External Statutory Appeals mechanism to the Higher Education Authority (HEA) exists.

This is as provided for under Section 5 of the Fifth Schedule of the Universities Act 1997:

“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 tÚdarás¹ for determination by An tÚdarás subject to the agreement of the Minister² and the Minister for Finance³.”

Further information on this External Statutory Pensions Appeal Mechanism to the Higher Education Authority (HEA), as previously notified to the University by the Higher Education Authority, is detailed overleaf.

The Complainant’s Procedure

Please note that an application under the External Statutory Pensions Appeal mechanism, in the prescribed written format and enclosing all supporting material as noted in HEA Guidance Notes overleaf, should be made directly to:

The Chief Executive
Higher Education Authority
Brooklawn House
Crampton Avenue
Shelbourne Road
Dublin 4
Ireland

Tel: 01-231 7100 | Fax: 01-231 7172| Email: info@hea.ie

¹ An tÚdarás um Ard-Oideachas – Higher Education Authority
² Minister for Education and Skills
³ The relevant functions of the Minister for Finance transferred to the Minister for Public Expenditure and Reform under the Minister and Secretaries (Amendment) Act 2011.
DETERMINATION – STAGE 2

The Response of the Higher Education Authority

As is noted overleaf in the HEA Guidance Notes, the Higher Education Authority will endeavour to issue to the complainant directly a Notice of Determination in relation to the complaint or dispute within three months of receipt of the required information from the claimant.

The Claimant’s Response

The Notice of Determination of the Higher Education Authority is not binding upon a claimant unless, upon or after the making of the determination, the claimant assents, in writing, to be bound by it.

Where a claimant does not accept the findings of the Notice of Determination of the Higher Education Authority, the claimant should check whether or not the complaint or dispute is one in respect of which the Financial Services and Pensions Ombudsman has jurisdiction to investigate under Section 131 of the Pensions Act 1990 (No. 25 of 1990).

Further information can be found at the website for the Financial Services and Pensions Ombudsman (www.fsfo.ie).
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.”

1. 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.

2. 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.

1 An tÚdarás um Ard-Oideachas – Higher Education Authority
2 Minister for Education and Science
An tÚdarás reserves the right to contact the person’s University for other information which it feels necessary to consider for appeal

3. 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 check 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.