

Determinations Committee Terms of Reference



1. Role

1.1 The Committee executes the powers delegated to it by the NEST Corporation Governing Body. It must ensure that there is regular reporting back to the NEST Corporation Governing Body on these matters as set out below. The Committee will not report back to NEST Corporation on the specifics of any cases still under consideration but exceptionally may use its discretion to report to NEST Corporation on any issues raised by a case being considered which may have wider consequences.

1.2 The Committee's role is to:

- make determinations on disputes received about the NEST Scheme at Stage 2 of the Internal Disputes Resolution Procedure (IDRP) **(DRR)**
- ensure that the procedures and processes for dealing with Stage 2 IDRP disputes are fit for purpose and comply with the principles adopted for the NEST Scheme's complaints handling processes **(DRR)**
- make recommendations to the executive on lessons learned from Stage 2 IDRP disputes to help improve the effectiveness of the NEST Scheme (including process improvements) **(DRR)**.

2. Responsibilities

Determination of Stage 2 IDRP disputes

- 2.1 Consider whether a dispute meets the criteria to be considered as a Stage 2 IDRP dispute **(DRR)**.
- 2.2 Ensure that IDRP disputes receive a prompt written acknowledgement of their dispute, are aware of the process to be followed, including timescales, and are kept up-to-date with progress in resolving their dispute **(DRR)**.
- 2.3 In making the determinations, refer to relevant past determinations of NEST IDRP stage 2 disputes where a precedent has been identified. Use any precedent identified from Pensions Ombudsman determinations in relation to specific cases and/or learnings in relation to the complaints handling process more generally.
- 2.4 Make determinations on disputes received about the NEST Scheme at Stage 2 of the IDRP, within the statutory deadlines for dealing with such disputes. The response to be sent to the complainant will be approved by the Committee and will be signed by the Chair of the Committee **(DRR)**.

Determinations Committee Terms of Reference



- 2.5 Determine the appropriate actions to be taken to remedy the issues raised in the IDRP dispute, while acknowledging that a remedy will not always be relevant.
- 2.6 Determine the amount and route of compensation to be paid where it is decided that recompense should be made to the complainant. Ensure that payment of compensation is made in a timely fashion **(DRR)**.

Procedures and processes for Stage 2 IDRP disputes

- 2.7 Approve and periodically review the procedures and processes for Stage 2 IDRP disputes **(DRR)** recommended by the NEST Corporation executive.
- 2.8 Receive and monitor data on NEST Scheme complaints and disputes at Stage 2 of the IDRP **(DRR)**.

3. Membership, quorum, attendance, procedures, resources

- 3.1 The Committee will meet according to a schedule agreed by the Committee Members. Apologies for absence shall be given in advance to the Secretariat. Individuals who are unable to attend are invited to raise any points with the Chair in advance of the meeting.
- 3.2 The quorum for the Determinations Committee is **two** Committee Members. A duly convened meeting of the Committee at which a quorum is present shall be competent to exercise all or any of the authorities, powers and discretions vested in or exercisable by the Committee.
- 3.3 In the absence of the Chair the remaining Committee Members present shall elect one of their number to Chair the meeting.
- 3.4 Decisions will normally be reached by consensus but any Committee Member may call for a vote. Where necessary voting will be by a show of hands and in any equality of voting the Committee Chair of the meeting shall have a vote and a casting vote. This will not apply at Committee meetings where only two Committee Members are present where a consensus must be reached before a decision can be taken.
- 3.5 All Trustee Members have attendance rights but have no voting rights unless they are a member of the Committee.
- 3.6 A member of the NEST Corporation Legal Team shall be present at each Determinations Committee meeting.

Determinations Committee Terms of Reference



4. General powers and duties

- 4.1 The Committee must ensure regular reporting back to the NEST Corporation Governing Body on matters within its remit **(DRR)**.
- 4.2 The Committee will include a report on the Committee's activities, including Stage 2 IDRPs data, in the Annual Reports and Accounts for NEST Corporation and the NEST Scheme **(DRC)**.
- 4.3 Liaison with third parties: ensure effective communications and liaison (on both general issues and individual disputes) with the Pensions Ombudsman, the Pensions Advisory Service (TPAS) and other dispute resolution systems.
- 4.4 The Committee may undertake any other task or activity which it considers is conducive to supporting the NEST Corporation Governing Body in the effective discharge of their duties in relation to Stage 2 IDRPs disputes **(DRR)**.
- 4.5 The Committee will make whatever recommendations to the NEST Corporation Governing Body it deems may be appropriate within its remit where action or improvement is needed **(DRR)**.
- 4.6 In line with the Schedule of Reserved Powers, Delegations and Authorisation Framework, the Committee may seek advice from professional advisers in relation to the responsibilities set out in its terms of reference.
- 4.7 The Committee may delegate to an individual executive such of its delegated powers as it sees fit but must document these delegations **(DRO)**.
- 4.8 The Committee may only enter into agreements relating to matters which have been delegated to them **(DRR)**.
- 4.9 The Committee may set its own operating procedures and monitor the effectiveness of its processes in line with its terms of reference and may review and make recommendations to the NEST Corporation Governing Body on changes to its terms of reference **(DRR/ DRC)**. The Committee shall adhere to the IDRPs requirements set out in legislation and relevant guidance issued by the Pensions Regulator when determining IDRPs stage 2 disputes.
- 4.10 The Committee will review and approve individual NEST Corporation policies as set out in the policy list and its terms of reference **(DRR)**.
- 4.11 Committee Members must make a judgement on whether they are able to consider a matter objectively or whether a conflict of interest may apply.

Determinations Committee Terms of Reference



The Committee will determine whether a potential conflict of interest raised by a Committee Member precludes that Committee Member from participating in a particular discussion or involvement in taking a decision on a particular case. The Committee must resolve unanimously that a conflict may be disregarded (In the Pensions Act 2008, the relevant sections refer to “disqualification for acting, Schedule 1 paragraph 13(3) - 13(5) (DRR).

5. Types of delegation

There are three types of delegations for which abbreviations are used in the terms of reference:

- Delegation of an activity, retaining control, where the delegate determines all the actions required to fulfil the delegation but can only execute the actions with the approval of the delegator (NCGB).

(Delegation retaining control = DRC)

- Delegation of an activity, retaining oversight, where delegate is responsible and accountable for determining and executing all the actions required to fulfil the delegation but must report back i.e. provide the information and assurance agreed with the delegator (e.g. via Committee minutes) (NCGB).

(Delegation retaining oversight = DRO)

- Delegation of an activity, retaining review, where delegate is again responsible for determining and executing all the actions required to fulfil the delegation, but the extent to which the requirement to report back is much lighter (e.g. in NEST's case this could be via the CEO report, Business Report and Corporate Dashboard) (NCGB)

(Delegation retaining review = DRR).

Version:	Recommended by:	Approved by:	Effective From:
V1	Determinations Committee	NEST Corporation Governing Body	14 October 2015
V2	Secretariat	NEST Corporation Governing Body	25 July 2017