



**Provident**<sup>10</sup>  
REST ASSURED



# **NEWFOUNDLAND AND LABRADOR PUBLIC SERVICE PENSION PLAN**

Appeals Process and Procedure  
Process # PA PRO-001.v2  
March, 2021

## INTRODUCTION

Section 15 of the *Public Service Pensions Act, 2019* provides that a person may appeal a decision of Provident<sup>10</sup> (the “Administrator”) in relation to a pension benefit under the Newfoundland and Labrador Public Service Pension Plan (the “Plan”). In accordance with the Plan Text and the Joint Sponsorship Agreement, Provident<sup>10</sup> has therefore adopted this Appeals Process and Procedure to provide members with a process to appeal a decision on their pension benefits under the Plan.

This Policy does not prevent informal resolution of any issues relating to a pension benefit under the Plan. The Appellant and Administrator may resolve a matter at any time prior to or during the appeals process.

## PROCESS AND PROCEDURE – GENERAL

1. All capitalized terms have the meaning provided to them in the Plan Text, unless otherwise defined in this Policy or related policies.
2. Appeals may only be made concerning final decisions of the Administrator in a matter related to, connected with or arising out of a person’s entitlement to or payment of a pension benefit or other money under the *Public Service Pensions Act, 2019* that have been communicated in writing to a Member, Limited Member, Spouse, Deferred Pensioner or Pensioner (a “Decision”).
3. Upon request, the Administrator, or anyone delegated by the Administrator to act on its behalf, will provide a Member, Limited Member, Spouse, Deferred Pensioner or Pensioner with a letter confirming the Decision. Appeals may only be made by a Member, Limited Member, Spouse, Deferred Pensioner, or Pensioner or an agent acting for any of these (as applicable, the “Appellant”). A former Member is not entitled to appeal as the Administrator and Pension Plan has been fully discharged of all obligations in accordance with s. 10 of the *Public Service Pensions Act, 2019*.
4. Appeals may be brought in accordance with the following two-step process:  
Step 1: Appeal the decision of the Administrator to a Review Officer **OR**  
Step 1: Appeal the decision of the Administrator to the Medical Advisor where the appeal is in respect of a decision concerning an application for a disability pension  
Step 2: Appeal the Review Officer’s (medical advisor for decisions relating to a disability application) decision to the Appeal Commissioner
5. Appeals must be made in writing to the Administrator. They should be addressed to:  
Director – Pension Administration / Appeals  
Provident<sup>10</sup>  
15 International Place, Suite 200  
St. John’s, NL A1A 0L4  
Step 1 Appeals regarding a medical disability decision should be sent to the Medical Advisor at the following address:  
Manulife Case Management Centre  
P.O. Box 4606, STN A  
Toronto, ON, M5W 4Z2

Appellants are urged to use a means of delivery that provides proof and date of delivery, such as registered mail, certified mail or courier. After commencement of the appeal and with agreement of the Appellant, the Administrator, the Medical Advisor and, as applicable, the Appeal Commissioner, any requirement for notification in writing may be fulfilled by electronic mail.

### STEP 1 – REVIEW OFFICER

6. Step 1 Appeals must be received by the Administrator within 60 (calendar) days of the date of the Decision. Step 2 Appeals must be received by the Administrator within 60 days of the date of the decision on the Step 1 Appeal. A reasonable extension of this period may be granted if the Appellant shows that there was substantial delay in their receiving notification of the Decision.
7. The Administrator will acknowledge receipt of the appeal in writing within seven calendar days of receiving it and will also provide the Appellant with a copy of the Appeals Process and Procedure.
8. In the case of a Step 1 Appeal, the Administrator will provide the Review Officer with the appeal submission of the Appellant. The Review Officer will be an employee of the Administrator but will not be the person who issued the Decision.
9. The Review Officer will review the Appellant's written submissions and render a decision in writing to be provided to the Appellant within 30 days (the "Review Decision"). The Review Decision replaces the Decision.
10. The Appellant may appeal the Review Decision to the Appeal Commissioner.

### STEP 2 – APPEAL COMMISSIONER

11. Step 2 Appeals, in respect of a decision concerning the application for a disability pension, must be received by the Administrator within 60 (calendar) days of the date of the decision on the Step 1 Appeal and include a completed Consent for Release of Medical Information form.
12. In the case of a Step 2 Appeal, the Administrator, or its delegate, will conduct a review of the appeal to ensure completeness and will notify the Appellant in writing within seven calendar days of receiving the appeal of any additional information required to be submitted to initiate the appeal.
13. In the case of a Step 2 Appeal due to a medical disability decision, the Appellant will be provided with a copy of the Appeals Process and Procedure.
14. Upon receipt of the complete information required to initiate the Step 2 Appeal, the Administrator, or its delegate, will provide to the Appeal Commissioner all details of the appeal as submitted. Within 60 calendar days thereafter, the Administrator will send to the Appeal Commissioner and the Appellant a statement of the Administrator's preliminary

- response to the appeal (the submitted appeal and the Administrator’s preliminary response together constitute the “Initial Submissions”).
15. Where the Appeal is in respect of a decision concerning an application for a disability pension, the Appeal Commissioner may request all information considered in the decision, and Step 1 Appeal, directly from the Medical Advisor.
  16. The Appeal Commissioner has the power to determine and control the appeal process, subject to the terms of this Appeals Process and Procedure. The Appeal Commissioner may extend the time for the taking of any step in this Appeals Process and Procedure if the Appeal Commissioner is satisfied that there are reasonable grounds for the extension and the opposite party will not be substantially prejudiced by the extension.
  17. The Appeal Commissioner may decide the appeal on the basis of the paper record and written submissions before it, or the Appeal Commissioner may, at its sole discretion, convene an in-person or electronic hearing, provided that any electronic means allows for simultaneous transmission of audio information.
  18. The Appellant must provide to the Appeal Commissioner and the Administrator, except in the case of a medical disability decision appeal, any statements, documents or other evidence that the Appellant intends to rely upon by a date fixed by the Appeal Commissioner. The Administrator will acknowledge receipt of this documentation in writing.
  19. Where the appeal is in respect of a decision concerning an application for a disability pension, the Appellant must provide to the Appeal Commissioner any statements, documents or other evidence that the Appellant intends to rely upon by a date fixed by the Appeal Commissioner. The Appeal Commissioner will acknowledge receipt of this documentation in writing.
  20. The Administrator must provide to the Appellant and the Appeal Commissioner any statements, documents or other evidence that the Administrator intends to rely upon by a date fixed by the Appeal Commissioner. The Appellant will acknowledge receipt of this documentation in writing.
  21. The Appeal Commissioner may, at its discretion or upon request by the Appellant, the Medical Advisor or the Administrator, require reasonable supplementary information to be provided by any party, at any time. Each party has a duty to cooperate with requests of the Appeal Commissioner. Failure to cooperate may be grounds for dismissal of an appeal.
  22. An appeal hearing shall not be open to the public and no person shall be present other than the parties to the appeal, their legal counsel (if any), and any other person the Appeal Commissioner may require or permit to be present. A person may be represented by someone other than a lawyer, with permission of the Appeal Commissioner.
  23. In the event of an oral hearing, no later than 21 calendar days before the hearing date, the Appellant must file with the Appeal Commissioner, with copy to the Administrator, the name of any person who will represent the Appellant at the hearing and the name of any person or persons who will be called to give evidence at the hearing.

24. In the event of an oral hearing, no later than 21 calendar days before the hearing date, the Administrator must file with the Appeal Commissioner, with copy to the Appellant, the name of any person who will represent the Administrator at the hearing and the name of any person or persons who will be called to give evidence at the hearing.
25. The Appeal Commissioner, the Appellant and all persons associated with the appeal will respect the confidentiality of all documents and records.
26. The Appeal Commissioner may have any evidence filed before, or introduced during, the appeal hearing reviewed by any other persons it considers appropriate.
27. The Appeal Commissioner, at its discretion, may set a process for receiving submissions from the parties, either orally or in writing.
28. Where the appeal is in respect of a decision concerning an application for a disability pension, the Appeal Commissioner may require the Appellant to be examined by a health care professional who has expertise in the subject area under review. The health care professional will make and deliver a report to the Appeal Commissioner upon completion of the examination. Any fee charged by the health care professional for such an examination will be the responsibility of the Fund. Any reasonable costs incurred by the Appellant to attend the examination will be reimbursed from the Fund in accordance with the Pension Plan's policy for disability pension applications.
29. The Appeal Commissioner may adjourn a hearing anytime, and from time to time, but no adjournment will cause undue delay in rendering a decision.
30. The Appeal Commissioner may, at any time, refer a matter to the Administrator for reconsideration where, in the opinion of the Appeal Commissioner, the quantity or nature of new or additional evidence or the disposition of the appeal merits the referral. Where a matter is referred back to the Administrator, the appeal will be adjourned.
31. The Appeal Commissioner will decide all questions arising during a hearing in respect of procedure or admissibility of evidence.
32. The Appeal Commissioner will make a written decision, including reasons, and deliver it to all parties to the appeal within 90 calendar days from the date the hearing is completed.
33. The Appeal Commissioner will retain all records relating to an appeal for a period of twelve months following its decision, or for such other time as may be required by the Administrator.
34. If the Appellant is successful in their appeal, all actual and reasonable out of pocket disbursements incurred by the Appellant will be reimbursed from the Fund, excepting legal fees. Reasonable costs related to the appeal incurred by the Appeal Commissioner and the Administrator will be administrative costs under the Plan and will be charged to the Fund.

35. The Appeal Commissioner retains jurisdiction to deal with any issues arising after the issuance of its decision, including matters relating to costs, for a period of 30 days from the date of the Appeal Decision.
36. All logistical arrangements required for a hearing will be made by the Administrator.