



# Ill health retirement

## A guide for active members of the LGPS

### Introduction

We have produced this fact sheet to help you understand how the rules surrounding ill-health pensions affect you, and in particular what the procedure is if you think you may meet the conditions for retiring early because of ill health.

This information is for active members who are currently paying in to the pension scheme. If you have left your employer or opted out of the pension scheme and have deferred benefits, please see [www.wypf.org.uk](http://www.wypf.org.uk) for information about claiming deferred benefits early because of ill health.

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# 1. The criteria for retiring on ill health

In the LGPS you can apply to your employer at any age, and ask them to pay your pension benefits early for health reasons. But for your employer to consider this you have to be eligible for an ill-health pension and meet certain criteria. To be eligible for an ill-health pension you must

- be under normal pension age
- be dismissed by your employer because of ill health
- at the date you leave, have been a member for at least two years (see glossary)
- meet the LGPS criteria for retiring on ill health.

## The main criteria

Your employer must consult with a specially qualified doctor to be satisfied that you meet two main conditions:

1. You are permanently incapable of doing your current job
2. You are not immediately capable of carrying out any type of gainful employment

If your employer agrees this is the case, they will class you as either a tier 1, tier 2 or tier 3 ill health case. Each means different levels of pension benefits, sometimes paid for a different length of time. More about this later.

## Notes

- The criteria we use in the LGPS to consider ill health retirement is very different to the criteria that your employer may use to determine whether they will dismiss you on medical grounds. For example, an employer could dismiss you on medical grounds because a health problem has caused an unacceptable level of sickness absence. But you still might not meet any of the LGPS criteria for retiring on ill health.
- Factors such as long service with your employer, or your financial position have no effect at all on deciding whether you are entitled to retire on ill health.

## 2. Referral to an approved doctor

This section looks at

- **why you are being referred to an approved doctor**
- **the role of your employer**
- **the role of the approved doctor**
- **what the approved doctor will consider**
- **whether you will need to go for a medical**
- **what the outcome of the process means.**

### Why am I being referred to an approved doctor?

Because your employer is not a medical expert, they should always seek the opinion of an Independent Registered Medical Practitioner (which we call the **approved doctor** in this fact sheet) to assess your case.

The approved doctor will give your employer a **certified ill-health medical certificate** to say whether or not you meet the LGPS ill-health retirement criteria. This helps your employer decide if you are entitled to an LGPS ill-health pension, and your employer will also use the information on it to manage your ill health and decide what applies in your situation.

You may well have already been seen by your employer's occupational health doctor, but under our rules your employer must not use them in the role of approved doctor. However, occupational health may provide the approved doctor with medical reports to help them understand your case (as long as you give written permission).

### What is my employer's role?

As part of your employer's ill-health dismissal process, they should explain the ill health process to you and/or give you a copy of this information.

To help the approved doctor understand your case your employer will give the doctor the relevant information about your case. If your health problem has resulted in you working fewer hours and receiving less pay, your employer will provide the approved doctor with an explanation of this and the reason why. And, if their occupational health doctor has collected information about your medical condition, they will pass this to the approved doctor, as long as you agree.

### What will the approved doctor consider?

The approved doctor will get the referral pack from your employer, as explained earlier, to help them understand the demands of your job. If you have given consent for your medical records to be released, they will also have this information.

Once the approved doctor has all the information they need to assess your case, they will use their medical knowledge, the information provided by your employer and any information you have provided, to form an opinion on whether you meet the LGPS ill health retirement criteria.

## What you can do to help

As you can imagine, it is in your interest to help the approved doctor fully understand your medical condition. So we recommend that you are fully involved in gathering together the information about your case, for example explaining to the doctor how your medical condition is affecting you and what your doctors have told you about your chances of recovery. It is also an opportunity to highlight any relevant issues that you do not think have been addressed so far, so that you can be happy the information provided is accurate and complete before it goes off to the approved doctor.

When describing your case, think about how you expect your medical condition to affect you at your normal pension age and about your ability to do any gainful employment by that age not just how it affects your current job. Therefore, you may want to get help to put this information together (for example from your GP, Consultant or employee representative).

Also, before your employer can release things like your medical records to the approved doctor, they need your written consent. You don't have to give this, but if you do, it will help the approved doctor better understand your case, and may make it easier for them to give the opinion that you do meet the LGPS ill health retirement criteria.

Remember the approved doctor is considering two issues:

- Are you permanently incapable of doing your current job, and
- Are you immediately capable of carrying out any type of gainful employment or not.

### **If you do satisfy these two conditions**

This means that in the opinion of the approved doctor you meet the LGPS ill-health retirement criteria and the approved doctor will then give an opinion on when you are likely to be capable of gainful employment in the future and whether they class you as a tier 1, tier 2 or tier 3 case. This will help your employer determine the type of pension benefits you will be entitled to, as explained later.

### **If you don't satisfy these two conditions**

This means that in the opinion of the approved doctor you do not meet the LGPS ill-health retirement criteria and you cannot retire because of ill health. So you might have a physically demanding job, and a health condition renders you permanently unable to do that job. But if you are fit enough to carry out a less demanding job, this would prevent you retiring on ill health.

## Will I need to go for a medical?

In many cases, the approved doctor will not ask you to go for a medical, although this will depend on their preferred method and the nature of your individual case.

Under the LGPS rules, the approved doctor is allowed to simply carry out a paper review of your case, rather than seeing you in person. They can do this if they feel they can form an opinion and certify on your ill health, simply by referring to various letters, reports, and so on.

However, if you would prefer to see the approved doctor in person, please tell your employer. This shouldn't be necessary if you have provided full information and the consent to the release of your medical records/information from your GP and consultant as part of the referral process. The doctor should have enough information to be able to give an opinion on whether you meet the LGPS ill health retirement criteria.

## What if I'm waiting for treatment or just had treatment for a serious condition?

This could mean that you are not immediately capable of gainful employment but you would be expected to be capable in time. If you are still waiting for treatment, it is recommended that your employer waits until you have had the treatment, before considering you for ill health retirement.

And if you have had treatment, but are recovering from it, it is recommended that your employer waits until a reasonable recovery period has passed before considering you for ill health retirement.

**Remember to keep your employer up to date with how your treatment or recovery is going.**

## More about the role of the approved doctor

When the approved doctor is considering whether you are permanently incapable, they aren't just looking at whether you are currently incapable of doing your job. They also have to consider whether you will, more likely than not, be incapable of doing that job right up to your normal pension age – and that could be many years away.

The more likely than not part of this is commonly known as the balance of probabilities test and is key. In practical terms it means that the approved doctor considers how likely it would be for most people like you to recover before your normal pension age if they had the same medical condition. To take a simple example, if there were 100 similar employees in the same job as yours with the same medical condition, the approved doctor will only certify permanent incapability if more than 50 of these would not recover enough to do their job by your normal pension age. If more people would recover than would remain ill, you would not meet this criteria.

This could be relevant if you are waiting for further tests or treatments, or are only part way through treatment for your illness. It might not be clear at the time of the assessment if you are likely to be in the group of people who will recover. If your condition means that most people do recover then the approved doctor would give the opinion that you do not meet the LGPS ill health retirement criteria. But as your treatment progresses it may become clearer if you will be one of the people who will recover or not.

So the approved doctor should consider whether you would be capable following further treatment, (including whether it is readily available/appropriate for you) and whether, with treatment, you are likely to become capable before your normal pension age. You choosing not to accept such treatment is irrelevant.

The approved doctor will be assessing you based on the knowledge available at the time. Therefore, we recommend that any issues around treatment not yet exhausted are provided and explained to the approved doctor and clarified where necessary as part of the referral process.

Remember, an opinion given by the approved doctor does not in itself entitle you to ill health benefits. An approved doctor should not indicate to you whether such benefits should be paid. This is a decision for your employer.

## How long will the referral process take?

Each case varies depending on a number of factors. For example, how complicated it is, whether the referral package contains everything the approved doctor needs, or whether they need further information. It also depends how long it takes people such as your GP or consultant to respond to requests they are sent.

# 3. Once your employer reaches a decision

Once the approved doctor has formed an opinion, they will write to your employer with a medical certificate. It is your employer who must then decide whether or not to release your pension benefits early - and normally they will go along with the approved doctor's findings, as long as they are satisfied the approved doctor has applied the criteria for retiring on ill health correctly. Please note, your employer can give more weight to some pieces of evidence than others – for example preferring the approved doctor's opinion to that of your own GP/consultant. They should also take note of the statutory guidance issued by the Ministry of Housing, Communities and Local Government (MHCLG) and any non-medical factors that will affect your ability to carry out gainful employment.

## **If your employer decides to release your benefits early**

Your employer will write to you directly with their decision, and will notify us. Your employer will also confirm whether you have been classed as a tier 1, tier 2 or tier 3 case. This is important, as it affects the level of benefits we will pay you, and sometimes for how long. You can read more about this in the next section. If you are unhappy with the tier of pension given, you can appeal this decision. The letter from your employer will include details about the appeals process.

Please see [www.wyph.org.uk/Member/Publications/Booklets/IDRP/pdf/IDRPBooklet.pdf](http://www.wyph.org.uk/Member/Publications/Booklets/IDRP/pdf/IDRPBooklet.pdf) on our website if you disagree with the decision made by your employer for further information about the complaints procedure.

## **If your employer decides not to release your benefits early**

Your employer will write to you directly with their decision, and to explain the reason for this. The letter will also include full details of how to appeal against this decision if you are unhappy with it. Please see the section If you disagree with the decision made by your employer for further information about the complaints procedure.

## **Termination/dismissal by your employer because of ill health**

If your employer decides not to release your benefits early on health grounds, that doesn't mean that they have to continue your employment. Instead they may terminate your employment and dismiss you on the grounds of ill health. In other words, they will no longer employ you, because you are unable to do your job to the required standard.

If you are dismissed because of ill health but don't qualify for an ill-health pension, your benefits will normally be deferred – in other words put on hold for you to draw at a later time. (The same two-year requirement already described applies for this). You can draw your deferred benefits from age 55, although they may be reduced for early payment. You can also apply to draw your deferred benefits early due to ill health if you become permanently incapable of your job due to a further illness or a worsening of the current condition. Further details about this are available at [www.wyph.org.uk](http://www.wyph.org.uk). If you are already age 55, you have the choice of deferred benefits or taking your pension voluntarily immediately, (though it may be reduced for early payment). Or, you could have a transfer to a personal pension arrangement (as long as you have more than one year to your normal pension age).

**Note:** the LGPS rules permit your employer to terminate your employment on the grounds of ill health and subsequently get an ill health medical certificate from an approved doctor to help determine whether or not you satisfy the LGPS ill-health retirement criteria and, if so, what tier of benefit to give. So the process may be slightly different than described in this leaflet if your employer does this rather than handling the employment and LGPS pension processes at the same time.

Employment matters such as this are between you and your employer, and we can't get involved in them.

Also, if you were to simply resign/leave voluntarily, once again you would normally have your benefits put on hold. Even if you were then able to draw these deferred benefits on ill health, the amount we would pay may be less than we would pay to you as an employee retiring on ill health. So please think carefully before resigning/going voluntarily, before you have been through the full ill-health process and your employer has reached a decision.

## 4. More about the three ill-health tiers

If your employer decides to let you retire on ill health, then they will decide which of the following three tiers applies to you.

### Tier 1

You are **unlikely** to be capable of carrying out employment before your normal pension age.

#### Level of benefits

Your benefits will be based on your pension built up to your date of retirement, plus an ill-health enhancement based on 100% of the further annual pension that you would have built up between leaving and your normal pension age.

#### Payment period

Permanent – paid for your lifetime.

#### Tier 1 example

Bill is 47 and his normal pension age is 67. This means there is 20 years between his leaving and his normal pension age. So his tier 1 enhancement will be  $\frac{1}{49}$ th of his assumed pay (see later) multiplied by 20. His pension will be paid for his lifetime.

### Tier 2

You are not entitled to Tier 1 benefits, you are unlikely to be capable of carrying out any gainful employment within three years of leaving but it is likely you will be capable of doing so before your normal pension age.

#### Level of benefits

Your benefits will be based on your pension built up to your date of retirement, plus an ill health enhancement. This is based on 25% (a quarter) of the further annual pension that you would have built up between leaving and your normal pension age.

#### Payment period

Permanent – paid for your lifetime.

#### Tier 2 example

Sumi is 54 and her normal pension age is 66. So there is 12 years between her leaving and her normal pension age. This means her tier 2 enhancement will be  $\frac{1}{49}$ th of her assumed pay (see later) multiplied by 12 multiplied by  $\frac{1}{4}$ . Her pension will be paid for her lifetime.

### Tier 3

You are **likely** to be capable of carrying out gainful yment within **three** years of leaving, or before your normal pension age if sooner.

## Level of benefits

Your benefits will just be based on your pension built up to your date of retirement. There is no ill health enhancement.

**Note:** no tier 3 benefits can be given if you have previously been given a tier 3 pension after 31 March 2008.

In that case, you would only be entitled to a deferred benefit but could apply to your employer to have the deferred benefit brought into payment, without an ill-health enhancement.

## Payment period

Immediate but temporary payment of retirement benefits, which must be reviewed by your employer. If you have a lump sum, this is yours to keep, but the pension will normally be stopped after 3 years. It will stop before then if

- you are in gainful employment, or
- a medical review after 18 months decides you are capable of carrying out any gainful employment.

If the payment is stopped it will normally become payable again from your normal pension age but there are provisions to allow it to be paid from your 55th birthday though reductions may apply. Details will be provided at the time.

If you are classed as a tier 3 ill-health retirement, we will send you information about this.

## More about assumed pay

Whichever of the three tiers applies to you, we will need a pay figure to work out the pension benefits you will receive. If you have a period of reduced contractual or no pay due to sickness absence then the pay figure your employer needs to provide us with is called **assumed pay**. This is a notional pay figure – in other words it is an attempt to recreate the pay you would have been earning, had you been working as normal at that time.

## More about ill-health enhancement

As explained earlier, if you are classed as a tier 1 or tier 2 ill-health case, your pension will be enhanced.

If you are part-time when you leave, the assumed pay used to work out your ill-health enhancement will normally be based on your part-time hours and reduced pay. But if the approved doctor certifies that you were working reduced contractual hours as a result of the health issue which led to your retirement, the assumed pay figure is worked out on the pay you would have received during the relevant pay periods if you had not been working reduced hours.

## Were you a member before April 2008?

If you retire on ill health under tiers 1 or 2 and were a member before 1 April 2008, and were 45 or over on this date, you will be given the enhancements from the 'old rules' if they are better (but the same rules about gainful employment apply).

## Caps on enhancements

Important note for members retiring on tier 1 or tier 2 – if you have previously received any LGPS ill-health pension before 1 April 2008 or a tier 1 or tier 2 LGPS ill-health pension after 31 March 2008, then any

enhancement will be capped. This means that you may not be given an enhancement at all, or that we must reduce the amount of your enhancement.

We will send further details if this applies.

## Tax implications

If you retire on ill health under tiers 1 or 2 you may be subject to an annual allowance test unless the approved doctor certifies that you are suffering from ill health which makes it unlikely that you will be able (otherwise than to an insignificant extent) carry out gainful work before reaching your state pension age. This is known as the severe ill health criteria.

If the approved doctor certifies that you do not meet the severe ill health criteria, then you will be subject to the annual allowance test and we will work out the growth in your pension savings in the year you retire and compare this to the annual allowance limit.

**Note:** an ill-health enhancement may cause a significant growth in the value of your pension savings in the year you retire. If this causes you to exceed the limit, we will write to you with more details of the tax charges due.

For more information about annual allowance see [www.wypf.org.uk](http://www.wypf.org.uk) or the 'Tax on your private pension contributions' page on the GOV.UK website at [www.gov.uk/tax-on-your-private-pension](http://www.gov.uk/tax-on-your-private-pension)

# 5. How we work out your pension benefits

The way we work out your pension benefits depends how long you've been a member.

## **Membership from April 2014**

For each year from April 2014 you've been a member, you get a pension of 1/49th of your career average pay.

## **Membership between April 2008 and March 2014**

For each year you were a member between April 2008 and March 2014, you get a pension of 1/60th of your final salary pay.

## **Membership before and up to March 2008**

For each year you were a member up to March 2008 you get a pension of 1/80th of your final salary pay **plus** a one-off tax-free lump sum of three times this part of your pension.

Did you know, you can choose to create a lump sum or boost your lump sum by swapping some pension for lump sum. Every £1 of yearly pension you give up creates £12 of tax free lump sum. We will write to you about this as part of the retirement process. See our website at [www.gmpf.org.uk](http://www.gmpf.org.uk) for more about working out benefits.

No matter what age you retire on ill health, once you are drawing your pension it will normally go up each April in line with the cost of living (currently the Consumer Prices Index).

## 6. If you disagree with a decision made by your employer

It is for your employer to make the formal decision about whether you qualify for an ill health pension, having considered the opinion from the approved doctor, having taken account of the Statutory Guidance issued by DCLG and taking into account any non-medical factors that may apply.

Once your employer has made their formal decision, they must notify you of this. If you disagree with any decision, you have a right to challenge it.

If you wish to do this you should complain to your employer by using our two stage complaints procedure, as explained on the next page.

### **Note**

- If the decision is that you do not qualify for an ill-health pension, to be successful in your appeal against the decision you would need to show that a suitable and correct process has not been followed or that there is new medical evidence to take into account that has not been looked at by the approved doctor.
- If you want to appeal a decision not to give you an ill health retirement you must be dismissed because of ill health.
- If the decision is that you qualify for an ill-health pension but you are unhappy with the tier of pension given, to be successful at appeal you will need to show there is new medical evidence not looked at by the approved doctor or that your employer has not considered certain circumstances in making their tier decision.

# 7. The two stage complaints procedure

## Stage 1

you disagree with a decision made by your employer, or if no decision is made, the first stage is for you to refer the matter to the person at your employer. The letter informing you of the decision should have included the name and address details of who to contact. You must complain in writing and do so within six months of the date of your employer's decision letter. The specified person should respond within two months of your complaint, giving you a full reply, or at least an acknowledgment.

## Stage 2

You can proceed to stage 2 of the complaints procedure if

- You are not satisfied with the stage 1 decision, or
- If the specified person has failed to issue a decision, or
- If you have not had a decision within the specified time limits.

Our booklet at [www.wypf.org.uk/Member/Publications/Booklets/IDRP/pdf/IDRPBooklet.pdf](http://www.wypf.org.uk/Member/Publications/Booklets/IDRP/pdf/IDRPBooklet.pdf) gives further details of the complaints procedure, and includes a form to help you explain your complaint clearly.

Stage 2 is our responsibility, and we will refer your case to one of two local stage 2 referees. You must complain in writing and do so within six months of the stage 1 decision. We recommend you supply as much information and evidence as possible, along with a copy of the stage 1 decision.

The referee should respond within two months of your application, giving you their decision, or at least an acknowledgment.

## 8. Help from outside organisations

If you remain dissatisfied with the decision made by our stage 2 referee, you may refer the matter to the Pensions Ombudsman and/or to the High Court. The Pensions Ombudsman expects you to have made use of the services of The Pensions Advisory Service (TPAS). At any stage of the dispute procedure, you can turn to TPAS for free confidential help.

### **The Pensions Advisory Service (TPAS)**

Phone **0300 123 1047**

The Pensions Advisory Service

11 Belgrave Road

London SW1V 1RB

**[www.pensionsadvisoryservice.org.uk](http://www.pensionsadvisoryservice.org.uk)**

### **The Pensions Pmbudsman**

Phone **020 7630 2200**

10 South Colonnade

Canary Wharf

E14 4PU

**[www.pensions-ombudsman.org.uk](http://www.pensions-ombudsman.org.uk)**

# 9. Further information on ill health and the LGPS

## Your employer

The person responsible for you at your employer should be the first person to contact if you have a query about ill health. This is because your employer is responsible for decisions about your employment and whether you qualify for an ill health pension. You should also contact your employer if you want an ill health retirement estimate.

### The MHCLG

Local Government Pension Scheme Statutory Ill Health Guidance to Accompany the Local Government Pension Scheme Regulations 2013 is available at [www.lgpsregs.org](http://www.lgpsregs.org).

## Contact us

If you contact us, please quote your member number or National Insurance number.

Remember to let us know your new address if you move house.

Email [pensions@wypf.org.uk](mailto:pensions@wypf.org.uk)

Phone **01274 434999**

Visit [www.wypf.org.uk](http://www.wypf.org.uk) to find out more.

## Disclaimer

The information in this booklet is based on the Local Government Pension Scheme Regulations. This fact sheet is only designed to give you a simple guide, and may not cover all situations. The information given in this booklet was up-to-date when this booklet was updated in November 2018 and confers no contractual or statutory rights. In the event of any dispute or disagreement, it is the appropriate legislation that will be used to reach a decision.

## Glossary

- **Normal pension age:** for your current scheme benefits this is 65 or your State pension age if later. Find yours at [www.gov.uk/calculate-state-pension](http://www.gov.uk/calculate-state-pension)
- **Permanently incapable:** this means you have a medical condition which will, more likely than not, prevent you from carrying out your job, until at least normal pension age. The more likely than not part is known as the balance of probabilities test. More about this later.
- **Gainful employment:** this means paid employment - with any organisation - of at least 30 hours a week for a period of at least 12 months.
- **Two year requirement:** this means you have paid in for two years or more. You also meet this requirement if you have have paid in for less than two years, but brought in a transfer of any type.
- **Approved doctor:** we have used this term for simplicity, but the correct term is an Independent Registered Medical Practitioner. This is a practitioner who is approved by GMPF to carry out medical

assessments for pension purposes, and to provide the necessary Medical Certificates. The practitioner must be suitably qualified in Occupational Health, be registered with the General Medical Council, and have an understanding of the ill health regulations in the LGPS.

- The approved doctor must not have previously advised, or given an opinion on, or had any previous involvement in your particular case.

December 2018

West Yorkshire Pension Fund