

**HR Guidance**

**LGPS - ILL HEALTH RETIREMENT Process – What to Expect**

**Introduction**

The purpose of this guidance is to help you understand the steps involved with the process for Ill Health Retirement (IHR) and the rules and regulations which should be applied. IHR may only be considered in the case of serious illness and should be a last resort once all reasonable avenues for support have been exhausted, and you are unable to maintain sustainable attendance. Please note, it does not apply to short-term illness(s)/absence cases.

The Council aims to support the health and wellbeing of its employees and will support you to remain in work; however, this may not always be possible and some of you may no longer be fit to continue working as a result of ill health. In this case, you may ask to be considered for Ill Health Retirement and/or your manager should initiate this discussion with you to identify if you would like to begin the process.

It is important to note the decision as to whether you may be eligible for early release of pension benefits under the Ill Health Retirement Scheme is separate to the decision regarding your ongoing employment with the Council. The IHR request process may take some time and the manager may continue terminating your employment on the grounds of capability due to ill health if you are unable to return to work in the foreseeable future. Please note, IHR can only be considered at the point of dismissal, i.e., the Council must terminate your employment. You cannot be dismissed and then considered for IHR as your pension will have become a deferred pension and different rules apply.

**Scope**

This applies to active members of the Local Government Pension Scheme only. (There is a separate process for early payment of deferred pensions).

**What should be happening before I am considered for Ill Health Retirement?**

You should already be having discussions with your manager during Wellbeing Support Meetings about the reason(s) for your absence and the supportive options available to enable you to return to work as soon as possible. For further information on what this might include, please refer to the Long Term Absence Guidance. Your manager may have made a referral to the Occupational Health Service to seek advice about the support you will need in the workplace.

You may also have had an appointment with an Occupational Health Physician or an Occupational Health Advisor and may have support from a Trade Union representative.

If you, your manager, and/or the Occupational Health Service consider you are unable to fulfil the duties of your role and where a return to work is not foreseeable due to ill health an IHR referral should be considered. Your manager is able to submit this referral using the Occupational Health Service Portal with the support from your People Management/HR Provider.

Please note there is a ‘Fast Track’ process if you are terminally ill, and time is a critical factor.

**What does the IHR referral to the Occupational Health Service involve?**

Your manager will make a referral to Occupational Health Service and provide the following:

* Details about your job role and the circumstances in which you perform your job such as any physical aspects like lifting or carrying.
* Your sickness absence dates and reasons.
* Details of the medical condition(s) that are known to your manager.
* Steps taken to support your return to work or to remain in work.
* An LGPS IHR certificate with Section One completed.

Your manager will ask the Occupational Health Service to provide a medical opinion on your fitness for work, the likelihood of you being able to return to work, and to complete the medical sections of the pension certificate which is based on the IHR criteria.

Your manager will discuss this referral with you and should provide you with a copy.

**The Occupational Health Service**

The Occupational Health Service will send you a medical consent form (if you have not already completed one) so they can approach your GP and/or specialist(s) involved in your medical care to obtain the relevant medical information. Your GP and/or specialist(s) are busy people and don’t always respond to requests for information and reports in a timely manner. Therefore, it would be helpful if you could talk to your GP and consultant about the referral and ask them to respond to requests for information as soon as possible. It may also help to speed up the process if you can send copies of any relevant and/or recent medical reports to the Occupational Health Service so they can be taken into account.

You will be asked to complete a Functional Assessment Form.

Once the Occupational Health Service has received all relevant information from the GP and/or specialist(s) and the Functional Assessment Form, they may arrange an appointment for you to see them if you haven’t already had a face-to-face appointment.

The Occupational Health Service will review your case and if they consider IHR is an option, they will refer your case and medical information to an Independent Registered Medical Practitioner (IRMP). Both OHS Physicians and IRMP’s are Doctors who are additionally qualified and must be registered to practice in Occupational Health.

IRMP’s have to be fully conversant with the rules and regulations of the Local Government Pension Scheme (LGPS) as there is strict criteria for IHR; the IRMP will provide their medical opinion in relation to the criteria. Their role and responsibilities are detailed in these pension regulations.

The IRMP will review the paperwork and determine whether or not there is sufficient medical information on which to form a medical opinion and complete the IHR pension certificate.

This stage of the process is normally a paper-based assessment as you will have previously been seen by the Occupational Health Service, or you are too unwell to be able to attend an appointment.

The IRMP will decide whether they need to:

* Contact your doctor(s) for more information

and/or

* See you in person to undertake further medical assessments. In this case, you will be asked to attend a medical appointment.

The IRMP will provide a report setting out their medical opinion, the reasons for it and complete the IHR pension certificate. Please note this report is for pension purposes.

The report and certificate will be sent to your manager and your People Management/HR Provider.

**The Medical Opinion**

The IRMP is required to provide a medical opinion only. It is the employer who makes the decision on IHR and, if approved, the Tier to be awarded.

**The Local Government Pension Scheme – Ill Health Retirement Regulations**

The LGPS has criteria which must be met before IHR can be approved. These are:

1. You must be an active member (i.e., paying into the LGPS) immediately prior to the termination of your employment.
2. You must have paid into the LGPS for at least 2 years.
3. Your employment is terminated by the employer.
4. Your employment is terminated on the grounds of ill health or infirmity of mind or body.
5. Your termination takes effect before your normal pension age.
6. You are permanently incapable of discharging efficiently the duties of your employment as a result of ill health or infirmity of mind and body; **and**
7. You are not immediately capable of undertaking any ‘gainful employment’ as a result of ill health or infirmity of mind and body.

‘Gainful employment’ means paid employment for not less than 30 hours in each week for a period of not less than 12 months. Non-medical factors such as your knowledge and skills to undertake certain types of work or the general availability of work in a particular area are not relevant. The assessment would be made on the basis of whether or not you would be capable of undertaking gainful employment**, not** whether or not you would want to or someone would employ you.

**How will I be informed of the outcome of my IHR referral?**

Normally (unless Fast Track process) you will be invited to a meeting with your Senior Manager (this may be a manager more senior to your line manager) to discuss the outcome of the IHR referral; the meeting is part of the Absence Procedure, and you can choose to have the support of a Trade Union representative or co-worker at this meeting. If you have a carer they may also attend to support you, however they cannot take an active part in the discussions.

The manager will check all other relevant options have been fully explored as IHR should be a last resort. This should include:

* A phased return
* Reasonable adjustments to the job
* Reasonable adjustments to working hours / arrangements
* Other reasonable support where available e.g., equipment
* Search for alternative employment

The manager will also check with you to ensure you have provided all the necessary information you consider relevant.

The manager will then consider all the relevant factors and make the necessary decisions. The decisions will be made in relation to the LGPS regulations only. Managers are unable to make decisions about IHR or the Tiers on compassionate grounds.

You will either be informed at the end of the meeting of the decision, or it may be necessary to reconvene if further information is required.

If the decision is to terminate your employment on the grounds of capability due to ill health and you qualify for Ill Health Retirement benefits, you will be given notice of termination of employment.. You will receive written confirmation of the outcome.

**The Employer Decision**

It is the employer’s decision whether the criteria above are met and if so, the tier should be awarded. The regulations state that before the employer makes these decisions, they must have obtained a certificate from an IRMP.

However, the employer is not bound by the IRMP’s opinion and should consider all other relevant evidence when arriving at their decision. Therefore, the Council is entitled to take other factors into account when making the decision. For example:

* Is the certification / basis of opinion provided by the IRMP complete or is anything missing or incorrect?
* have all appropriate treatment options been explored?
* have you cooperated with the medical treatment options available?
* have you made lifestyle changes which might improve your health condition such as weight management, stopping smoking or using harmful products such as alcohol or non-prescribed drugs?
* are there any other medical factors which the IRMP has not known about?
* has the IRMP applied the criteria correctly?
* have non-medical factors affecting the ability to carry out gainful employment been considered?
* are there any other sources of evidence, which might contrast the medical opinion e.g. social activities?

In some cases, the manager may decide they need further medical information from the IRMP before making the decision. (The IRMP will then determine whether or not they need to go back to your GP or other medical professionals for any further information).

Although the decision is based on your medical situation there may be significant cost to the Council for Ill Health Retirement and the Senior Manager making the decision must have the authorisation from the Assistant Director for the release of the monies to pay for the Ill Health Retirement costs.

**What are the Ill Health Retirement tiers?**

**Tier 1**

You are unlikely to be capable of undertaking any gainful employment before reaching your normal pension age.

Ill Health benefits are based on your pension already built up at the date of leaving plus your pension is increased up to your normal pension age (NPA). This means your pension is calculated as though you had continued to work until your NPA. This pension is paid for life.

*(This generally applies to circumstances where the employee is terminally ill or has a serious medical condition and significantly affects the employee’s day-to-day functions).*

**Tier 2**

* You do not meet the criteria for Tier 1.
* You are unlikely to be capable of undertaking any gainful employment within 3 years.
* You are likely to be capable of undertaking gainful employment before your normal pension age.

Ill Health benefits are based on your pension already built up at the date of leaving plus an additional period of membership amounting to 25% of the membership that could have been accrued had you continued in employment until your normal pension age (NPA). This pension is paid for life.

*(This generally applies to circumstances where the employee has a condition, which may take some time to improve, or the treatment options are lengthy and / or recovery prolonged).*

**Tier 3**

You are likely to be capable of undertaking gainful employment within three years.

Ill Health benefits are based on your pension already built up at the date of leaving. There is no enhancement of your pension. Payments of benefits are stopped if you obtain gainful employment or after a maximum of 3 years. A Tier 3 pension is also subject to an 18-month review. Tier 3 pension payments will cease at the end of the 3 years or earlier if you obtain gainful employment or become capable of gainful employment provided you have not reached your NPA. In some cases, a Tier 3 pension may be uplifted to a Tier 2 pension.

*(This generally applies to circumstances where the employee has a condition which means they are permanently unfit for their current role and also unable to work in an alternative role at the moment, but there are still treatment options to explore and / or they may recover sufficiently within 3 years).*

**Estimates of Pension Benefits**

When IHR is being considered, your manager will arrange to obtain estimates of your Ill Health pension benefits, based on the Tier most likely to be applicable. You can also ask for estimates of these benefits by going direct to LPPA at <https://www.lppapensions.co.uk/contact/>

If you have signed up to My Pension Online you can obtain your own estimates, but this is for Tier 2 only.

**Fast Track Process**

If you are terminally ill with a life expectancy of less than a year, your manager, People Management/HR Provider, and the Occupational Health Service will do all they can to expedite this process. Provided that the IRMP can obtain the relevant medical reports quickly, they will prepare their report and complete the IHR pension certificate. Your manager will then contact you or your representative to discuss and agree a termination date.

**Restrictions**

If you have previously received an IHR pension there may some restrictions on your entitlement to receive a new ill health pension.

**Appeals**

You will be given clear reasons for the decision in writing. You can appeal against the decision not to grant IHR or the tier awarded. The Internal Disputes Resolution (Appeal) Procedure is available on the HR pages of the intranet at <http://www.intouch.ccc/hr/pay_benefits/default.asp> or from LPPA at <https://www.lppapensions.co.uk/contact/>

An appeal regarding Ill Health Retirement should not be confused with the separate right of appeal against dismissal.

Staffing Committee hear appeals against dismissal, the remedy available to Staffing Committee should an appeal be successful is to overturn the decision to dismiss. This would result in you being reinstated to your role.

Staffing Committee are not able to make any decisions or findings around Ill Health Retirement or the level of tier awarded. Their sole considerations will be around whether the dismissal was reasonable and conducted in line with the Absence Procedure.

You should fully consider the implications for a pension appeal if you wish to also pursue an appeal against dismissal, if you are claiming management made the incorrect decision to dismiss you on the grounds of capability due to ill health, as this may be contradictory.

**If you have any queries or require further information, please contact:**

* Your line manager.
* Your People Management/HR Provider.