

## **The basics**

1. Ill health retirements require 2 years' LGPS pensionable service and the employer to dismiss the employee on grounds of incapability
2. Ill health retirements must meet 2 independently assessed medical tests:
  - a. Permanently incapable of doing own job AND
  - b. Immediately incapable of undertaking any gainful employment
3. Ill health retirements come in 3 Tiers:
  - a. Tier 1 where the member is unlikely to work until State Pension age (SPa) and receives their unreduced LGPS benefits earned to date plus the unreduced LGPS benefits that would have been earned from their prospective service to SPa
  - b. Tier 2 where the member is unlikely to work in the next 3 years but is likely to work by SPa and receives their unreduced LGPS benefits earned to date plus one quarter of the unreduced benefits that would have been earned from their prospective service
  - c. Tier 3 where the member is likely to work in next 3 years and receives their unreduced LGPS pension earned to date for a max of 3 years subject to a review after 18 months
4. Pension increases for inflation are granted at any age on ill health retirements
5. Useful references:
  - a. P42/123 of our Guide to the LGPS at <http://www.worcestershire.gov.uk/worcestershirepensionfund/>
  - b. The LGPS member's website at <https://lgpsmember.org/tol/thinking-leaving-illhealth.php>
  - c. The current regulations at <https://www.lgpsregs.org/schemeregs/lgpsregs2013/timeline.php> reg35 NB deferred ill health retirements come under their respective regs

## **There are consequences of letting an employee leave**

1. You should not let an employee leave your employ if an ill health retirement is on the cards, as once s/he has left the s/he becomes a deferred member of the LGPS and loses all prospective LGPS pensionable service enhancements
2. If an employee does not meet the requirements for an ill health and has left, other options e.g. redundancy will not be available

## **You are in charge of the decision**

1. Employers determine whether an ill health benefit award is to be made, based on medical evidence and the criteria set in the LGPS regulations. After obtaining an opinion from an approved Independent Registered Medical Practitioner (IRMP) on the appropriate Medical Certificate, employers determine which Tier (1, 2, or 3) is to be awarded and should make their decision having considered all relevant evidence and asked all the necessary questions
2. The Pensions Ombudsman has highlighted the importance of scheme employers obtaining narrative reports from independent registered medical practitioners (IRMPs) in dealing with ill-health retirement cases. Narrative reports are reports that help employers to understand the reasoning behind the medical opinion the IRMP has given. As the decision to award an ill-health retirement is that of the employer, a full understanding of the IRMP's reasoning will be important to minimise the risk of the employer making a poor or flawed decision, potentially resulting in a maladministration claim from the member

3. It is not the role of the employer adjudicator to question the opinion of a suitably qualified, approved medical practitioner. But the assessment must be in accordance with the eligibility criteria in the regulations. Accordingly, to prevent disputes, check that all the regulatory requirements have been complied with:
  - a) Has a qualified, approved medical practitioner been used to assess the member's eligibility?
  - b) Has the medical practitioner clearly stated that the member is / is not assessed as permanently incapable?
  - c) Has the medical practitioner paid due consideration to the duties of the post?
  - d) Has the medical practitioner considered reports from the member's GP, consultants etc. in arriving at that decision?
  - e) Has the medical practitioner made a recommendation in accordance with the LGPS regulations?

### **You pay for ill health retirements in the end**

1. Employers do not pay strain for ill health retirements up front but do pay at the next actuarial valuation and there is an ill health allowance assumption in the valuation.
2. The cost can be significant For example, an employee aged 30 earning £49,000 who retires on Tier 1 ill health is being 'promised' an immediate extra annual pension paid for the rest of their life of  $(49,000 \div 49 * ( \text{years between State Pension age of 68 less 30})) = £38,000 \text{ p.a.}$  If that extra £38,000 p.a. pension is paid for 50 years (until the employee dies at 80) the total extra pension paid out would be £1,900,000
3. From 1/4/2008 to 30/11/2019 the Fund had 532 ill health retirements with 3 > £500,000 and 122 > £100,000

### **Processes**

1. An ill health retirement needs an ill health form PLUS a copy of the notice letter issued to the member (which must confirm the level of ill health benefits awarded and the appeal information) PLUS a Cessation Leavers form:  
<https://www.worcestershire.gov.uk/worcestershirepensionfund/info/5/employers/28/employer-forms-excel-spreadsheets>
2. We remind employers about reviewing Tier 3 ill health retirements after 18 months. There is a Tier 3 review form:  
<https://www.worcestershire.gov.uk/worcestershirepensionfund/info/5/employers/28/employer-forms-excel-spreadsheets> Employers must notify us to recover any overpayment of benefits following a discovery of gainful employment whilst receiving Tier 3. The situation can occur where a member is awarded a Tier 3 pension and appeals under IDR, resulting in a fresh medical opinion being sought. In some cases that appeal coincides with the 18-month review of the Tier 3 pension and then the employer must not wrap the two processes together e.g. by seeking one opinion from the IRMP to cover both
3. Previous employees who are deferred can use our sample letter to ask for early release of benefits We have 4 deferred ill health forms at  
<https://www.worcestershire.gov.uk/worcestershirepensionfund/info/5/employers/28/employer-forms-excel-spreadsheets>

### **Further info**

<http://lgpslibrary.org/assets/statgui/ew/201506IHFAQ.pdf> and the Pensions Ombudsman case study: <http://lgpslibrary.org/assets/bulletins/2020/199AppB.pdf>