

LGPS Employer Training – Ill health retirement for active members

This course covers ill health retirement for active members.

Please note, the content of this course only applies to ill health retirement for active members. We have a separate course covering ill health retirement for deferred members.

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The basics

If an active scheme member has to leave work because of illness, their LGPS pension may be paid straight away. This is known as ill health retirement.

- An employer will normally consider an active member for ill health retirement if they are considering terminating their employment on health grounds or if the member requests it.
- The employer decides if a member meets the criteria for ill health retirement.
- There are three levels (tiers) of ill health benefits depending on the member's ability to undertake gainful employment in the future.
- The employer must get the opinion of an independent registered medical practitioner before making their decision.

The independent registered medical practitioner (IRMP)

- The IRMP must be approved by the administering authority; and
- The IRMP must hold a diploma in occupational health medicine or an equivalent qualification; or
- The IRMP must be an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or equivalent.

The IRMP must certify whether, in their opinion, the employee meets the relevant criteria for ill health retirement.

You may want to speak to your own administering authority if you are not already familiar with the ill health retirement process. They will be able to provide you with any specific forms that need to be completed and advise you on any specific requirements for selecting an appropriate independent registered medical practitioner (IRMP).

It is ultimately the employer's decision as to whether the member meets the criteria for ill health retirement. The employer will also decide on the appropriate tier of ill health. For more information on how to reach a decision see the 'the decision' section of this course.

Consent

- The member has to provide informed consent for the IRMP to view or obtain any medical reports.
- The member must also provide consent to allow the IRMP to send the ill health certificate and narrative report to the employer.
- If the member does not consent, the application for ill health retirement cannot proceed.

Costs

Ill health retirement will result in a capital cost. You will need to speak to your administering authority to find out the potential cost, and how the cost will be recovered as this differs on a fund-by-fund basis.

Some administering authorities choose to take ill health retirements into account during the actuarial valuation process by building ill health retirement costs into the employer contribution rate.

An employer cannot take the cost of retirement into account when deciding whether or not to award ill health retirement. If the member meets the ill health retirement criteria, then the retirement must proceed.

Note: Both the employer and the IRMP should have regard to [statutory guidance on ill health retirements](#).

The employer and the IRMP may also find the [ill health retirement frequently asked questions](#) useful.

The criteria

The member must have a minimum of two years scheme membership to be eligible for ill health retirement.

The employment must be terminated by the employer on the grounds of ill health or infirmity of mind or body before the member reaches normal pension age. There is no lower age limit.

Normal Pension Age is the age that the member can take the pension that they have built up from April 2014 in full. It is linked to State Pension age, but with a minimum of age 65.

If the member simply resigns they are not eligible for ill health retirement.

The member must meet both of the following criteria:

1. Be permanently incapable of doing their job efficiently because of ill health
2. Not be capable of undertaking any gainful employment immediately

Permanently incapable means the member will, more likely than not, be incapable until their normal pension age.

Gainful employment means paid employment for at least 30 hours a week for a period of at least a year.

If the member meets the two criteria above, they have an entitlement to an ill health pension. The employer must then decide on the appropriate tier.

- **Tier one** – the member is unlikely to be capable of gainful employment before Normal Pension Age.
- **Tier two** – the member is unlikely to be capable of gainful employment within three years but is likely to be capable of gainful employment before Normal Pension Age.
- **Tier three** – the member is likely to be capable of gainful employment within three years of leaving, or before Normal Pension Age, if this is earlier.

The employer must inform the member of their decision, with reasons, as soon as is reasonably practicable.

The decision

It is ultimately the employer's decision as to whether the member meets the criteria for ill health retirement. The employer will also decide on the appropriate tier of ill health. The employer will need to consider the opinion of the IRMP when reaching a decision and the employer must be able to justify their decision.

The IRMP should provide the employer with a narrative report alongside the ill health certificate. The narrative report helps the employer understand the rationale behind the IRMP's opinion and ensure the correct tests have been applied. The employer should not blindly accept the IRMP's opinion.

When making a decision in ill health cases The Pensions Ombudsman will expect the employer to:

- Apply the law correctly
- Ask itself the right questions
- Take account of all relevant and no irrelevant information
- Make a decision that is genuine and rational

Questions that the employer should ask itself before reaching a final decision are:

- Has the IRMP applied the correct test?
- Has the IRMP considered permanent incapacity correctly?
- Has the IRMP considered gainful employment correctly?
- Is there insufficient information or uncertainty in the information provided by the IRMP? If so, the employer should clarify this with the IRMP.
- Is there any conflicting medical evidence? If so, is it clear why certain evidence has been given more weight by the IRMP?
- Have any untried treatments been considered, and is this explained in the IRMP's opinion?
- Is the ill health certificate fully complete or is anything missing?

Considering the points above and keeping a record to show this will help the employer's case in the event of a dispute about an ill health retirement decision.

For more information about disputes please see the separate 'disputes' section of this course.

The benefits

The benefits paid as a result of ill health retirement will not be reduced for early payment regardless of the member's age at retirement. In some cases, the pension will be increased.

What benefits will be payable?

The amount payable depends on which ill health tier the member qualifies for.

Tier one

The pension the member has built up to the date of leaving plus the pension they would have built up in the main section of the LGPS from their leaving date to their Normal Pension Age. The pension is payable for life.

The enhancement is calculated as follows:

Period from date of leaving to Normal Pension Age $\times 1 \div 49 \times$ assumed pensionable pay = tier one enhancement

Tier two

The pension the member has built up to the date of leaving plus 25% of the pension they would have built up in the main section of the LGPS from their leaving date to their Normal Pension Age. The pension is payable for life.

The enhancement is calculated as follows:

Period from date of leaving to Normal Pension Age $\times 25\% \times 1 \div 49 \times$ assumed pensionable pay = tier two enhancement

Tier three

The pension the member has built up to the date of leaving with no enhancement. This is a short-term benefit payable for a maximum of three years. The pension will stop if the member obtains, or becomes capable of, gainful employment within this three-year period.

The final decision regarding which tier of ill health to award is made by the scheme employer.

Example – tier one

Mary has been awarded tier one ill health retirement.

She retires on 9 November 2022.

She will reach her normal pension age on 3 December 2042 (age 67).

At her retirement date she has built up a pension of £7,538 per year.

As she has retired on tier one ill health she is also entitled to an enhancement to her pension.

The enhancement is based on the pension she would have built up from her leaving date to her normal pension age.

As she retired on 9 November 2022 and will reach her normal pension age on 3 December 2042, the period to her normal pension age is 20 years and 24 days.

The employer confirms her annual rate of assumed pensionable pay is £21,548.

Her enhancement is: $20 \text{ years and } 24 \text{ days} \times 1 \div 49 \times £21,548 = £8,824.02$

Total pension payable $£7,538.00 + £8,824.02 = £16,362.02$ per year, payable for life.

Example – tier two

If Mary was awarded tier two ill health retirement her benefits would be calculated as follows.

At her retirement date she has built up a pension of £7,538 per year.

Her enhancement is: $20 \text{ years and } 24 \text{ days} \times 25\% \times 1 \div 49 \times £21,548 = £2,206$

Total pension payable $£7,538 + £2,206 = £9,744$ per year, payable for life.

Example – tier three

If Mary was awarded tier three ill health retirement her benefits would be calculated as follows.

At her retirement date she has built up a pension of £7,538 per year.

She does not receive any enhancement to her benefits.

Total pension payable £7,538 per year, payable for a maximum of three years.

Members who were age 45 or over and paying into the LGPS on 31 March 2008 may have their benefits calculated differently if their benefits would have been higher under the LGPS Regulations 1997. The administering authority will automatically check whether this applies.

Assumed pensionable pay

Assumed pensionable pay (APP) is used to work out the enhancement to the pension when a member is awarded a tier one or tier two ill health benefit.

Calculating APP

If a member retires with an enhanced pension (tier one or two) the employer will need to calculate the annual APP figure which will then be used to calculate the ill health enhancement. The employer should provide the APP figure to the administering authority along with the usual leaver information.

Step 1: Calculate an average

Look at the member's pensionable pay in the last full three months before the date of ill health retirement.

If the member is not monthly paid, look at the member's pensionable pay in the last full 12 weeks before the date of ill health retirement.

Calculate the average of the pensionable pay in the period after removing any lump sums.

If the member was paid any arrears which do not relate to the period these should be ignored.

You should also ignore any reduction in pay due to strike or authorised leave.

Use any previously calculated APP figure if it falls into the period.

Step 2: Convert to an annual figure

Convert the average you have calculated into an annual figure.

Multiply by 12 if the member is monthly paid, or by the relevant number of weeks (i.e. 52.142 if this is what you would normally use) if the member is not monthly paid.

Step 3: Add regular lump sums

Consider any lump sum payments paid in the last 12 months before the pay period in which the member retired on ill health grounds.

Decide whether those lump sum payments were regular. A lump sum is classed as regular if you would expect it to be paid on a regular basis.

Regular lump sums should be added to the annual amount.

Any lump sums which are not regular should be ignored.

Points to note

- If APP is materially lower than the pay the member normally received the employer can substitute it with a higher figure. The employer must take into account the employee's pensionable pay in the previous 12 months.
 - A separate APP calculation is needed for each employment.
 - Check if the member reduced their hours. If an Independent Registered Medical Practitioner certifies the hours were reduced because of the ill health condition that led to retirement you can ignore the hours change when calculating APP.
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Example

Calculating APP for ill health retirement

Kim retires on ill health tier one on 12 July.

The pensionable pay for the last three full months was:

April: £1,600
May: £1,630
June £1,630

A regular bonus of £1,500 had been paid the previous September.

Average of the last three months' pay

The employer must calculate the average of the last three full months and then convert this to an annual figure.

April: £1,600
May: £1,630
June £1,630

$$£4,860 \div 3 \times 12 = £19,440$$

Add regular lump sums

As the £1,500 bonus paid in the previous September was a regular payment made in the last 12 months, it should be added on to the annual figure to work out the APP amount.

Kim's assumed pensionable pay is therefore:

$$£19,440 + £1,500 = £20,940$$

Where a member is awarded tier one or tier two ill health retirement and has been working reduced hours and had reduced pay wholly or partly as a consequence of the condition that led to the ill health retirement the IRMP can certify that this is the case. This would allow the employer to recalculate the assumed pensionable pay figure ignoring the reduction in hours.

Please see the separate assumed pensionable pay course on lgpsregs.org if you require more information about how assumed pensionable pay is calculated.

Tier three benefits

A tier three ill health pension is a reviewable benefit. It must be reviewed whilst it is in payment. It is the employer's responsibility to carry out the review.

A tier three pension is paid for a maximum of three years. The member must notify the employer if they obtain gainful employment at any time during the three year period and the pension will stop.

The member has a duty to answer any reasonable enquiries about their employment status including questions about the pay and hours worked.

If the member fails to answer reasonable enquiries the employer can decide to stop the pension payments.

If you are made aware that a member who has been awarded a tier three pension has taken up gainful employment, you must notify the administering authority immediately so that they can stop further pension payments being made.

Gainful employment means paid employment for at least 30 hours a week for a period of at least a year.

It is the employer's responsibility to review a tier three ill health pension.

This must be done after the pension has been in payment for 18 months.

The employer must check the member's employment status.

If the member has not taken up gainful employment, the employer must obtain another opinion from an independent registered medical practitioner (IRMP).

This can be the same IRMP that provided the initial opinion, or it can be a different IRMP.

After obtaining an opinion from the IRMP at the tier three review the employer can decide to:

- Continue paying the pension up to the three-year maximum limit
- Uplift the pension to a tier two pension if they decide the member is not capable of gainful employment within the three-year period
- Stop the pension if they decide the member is immediately capable of gainful employment

The employer should inform the administering authority of the outcome of the tier three review as soon as possible.

Once a tier three pension payment has stopped the member becomes a deferred pensioner member. The deferred pension is payable from the member's Normal Pension Age, or from age 55 with reductions for early payment.

A member can ask their employer to review a tier three pension when it is in payment, or within three years of it stopping. The employer must obtain a further IRMP opinion.

Following the review, the employer can decide to uplift the benefit to a tier two pension if it is satisfied that the member is:

- Still permanently incapable of doing their former job efficiently, and
 - Unlikely to be capable of undertaking any gainful employment within three years of leaving employment or normal pension age, whichever is sooner.
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Disputes

The employer must ultimately decide whether to award ill health retirement after seeking the opinion of an independent registered medical practitioner.

The employer must also decide which tier of ill health retirement will be awarded.

This decision is known as a 'first instance decision'.

If the member is unhappy with a first instance decision, they can use the internal dispute resolution procedure (IDRP) to appeal.

The appeal must be made within six months of the original decision.

The initial appeal is known as a 'stage one appeal' and will go back to the employer, or to an adjudicator appointed by the employer.

At the stage one appeal the initial decision must be reviewed.

The adjudicator can uphold or replace the original decision.

The adjudicator must respond to the former employee, in writing, within two months of the appeal.

The response must include:

- A statement of the decision.
- A reference to any legislation relied on in making the decision.
- A statement that Moneyhelper is available to help.
- A statement that the member can take their complaint to the appropriate administering authority, and the time limit for doing this.

The employer must also provide the administering authority with a copy of the outcome of the stage one appeal.

[Moneyhelper](#) is impartial and free to use. It is provided by the Money and Pensions Service – a body sponsored by DWP.

If the member is still unhappy after the stage one appeal they can submit a stage two appeal.

The administering authority deals with all stage two appeals.

The member has six months from the date of the stage one decision to make a stage two appeal.

If the member is still unhappy after the stage two appeal, they can take their case to The Pensions Ombudsman.

This is an independent organisation set up to investigate complaints about pension administration.

Complaints must be made to The Pensions Ombudsman within three years of the original decision.

Knowledge check

Question

Who is responsible for carrying out the tier three review?

- a. The Independent Registered Medical Practitioner
- b. The employer
- c. The administering authority

Answer

The answer is b. The employer is responsible for carrying out the tier three review.

Question

For a monthly paid employee, what period should be taken into account when calculating assumed pensionable pay (APP)?

- a. The last 365 days before the ill health retirement
- b. The last three years before the ill health retirement
- c. The last three full months before the ill health retirement

Answer

The answer is c. APP is calculated using the last three complete months, or twelve complete weeks for weekly paid employees.

Question

What is the minimum length of membership required for an employee to be eligible for ill health retirement?

- a. Two years
- b. One year
- c. Three months

Answer

The answer is a. The employee should have a minimum of two years membership.

Question

What is gainful employment?

- a. Paid employment for a minimum of 30 hours per week for at least a year
- b. A permanent employment of 35 hours per week or more
- c. Any paid employment

Answer

The answer is a. Gainful employment is paid employment for a minimum of 30 hours per week for at least a year.

Question

When should an employer undertake a review of a tier three pension?

- a. After one year
- b. After 18 months
- c. After two years

Answer

The answer is b. The employer must review the tier three pension after 18 months.

Question

Who decides if a member is entitled to ill health retirement benefits?

- a. The administering authority
- b. The Independent Registered Medical Practitioner
- c. The employer

Answer

The answer is c. It is the employer's responsibility to decide whether the member is entitled to ill health retirement benefits.

Question

Which tier of ill health would be awarded to a member who is unlikely to be capable of gainful employment before Normal Pension Age?

- a. Tier one
- b. Tier two
- c. Tier three

Answer

The answer is a. A member who is unlikely to be capable of gainful employment before Normal Pension Age will be awarded tier one ill health retirement.

Question

What is the maximum period a tier three ill health pension can be paid?

- a. 18 months
- b. One year
- c. Three years

Answer

The answer is c. The maximum payment period for a tier three ill health retirement is three years.

Question

Can the employer use the same IRMP at both the initial ill health decision and at the tier three review?

- a. Yes
- b. No

Answer

The answer is a. The employer can use the same IRMP or they can use a different IRMP.

Question

Select all that apply.

A tier three pension will stop _____

- a. After 18 months
- b. When a member takes up gainful employment
- c. After three years
- d. If the member takes up part time employment
- e. If the employer decides the member is capable of gainful employment

Answer

A tier three pension will stop:

- When a member takes up gainful employment
 - After three years
 - If the employer decides the member is capable of gainful employment.
-

Question

Can the employer take cost into account when deciding if a member is entitled to an ill health pension?

- a. Yes
- b. No

Answer

The answer is b. Cost cannot be a factor in the employer's decision. If the member meets all of the criteria, ill health retirement must be awarded.

You can get more information on ill health retirement and other employer responsibilities from www.lgpsregs.org.