

Understanding ill-health retirement

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Administered in partnership





How will this webinar work?

What is Ill-health Retirement?

- Important protection
- Three tiers of protection (Actives)
- One tier of protection (Deferred)
- Strict eligibility criteria
- You make the decision



Popular subject for disputes – Important to get it right.

What this webinar will cover

- **The Theory**
- **The Practicalities**
- **Case study**

Outcomes:

- **To empower you to make decisions on ill health pension requests**
- **Confidently process ill health pension requests**
- **How to avoid disputes**

The Theory



What is the role of the employer?

- Initiate the process
- Prepare the referral pack
- Ensure each employment is assessed individually
- Appoint an Independent Registered Medical Practitioner and obtain their medical opinion
- Carry out the referral in parallel to the HR dismissal process
- Responsible for making the award and tier decision

What is the role of the IRMP?

An employer must obtain the opinion of an Independent Registered Medical Practitioner before they make a decision on ill health retirement

- must be approved by the administering authority
- should assess the member's condition based on the medical evidence available at the time of the assessment against LGPS ill health retirement criteria
- is not asked to make a decision, their role is to give a medical opinion to the employer

Decision 1: Ill-health dismissal?

- Make this decision after receiving advice from your Occupational Health advisor
- Examples:
 - Temporary illness that is taking several months to treat
 - Potentially permanent condition for which normal medical treatment regimes have not yet been exhausted
 - Permanent condition where treatment has now finished

An employee must be dismissed on the grounds of ill-health or infirmity of mind or body to be able to qualify for ill-health retirement.

Decision 2:

Are they eligible for an ill-health pension?

To be entitled to a ill-health pension they must:

- be below Normal Pension Age
- be dismissed on grounds of ill health
- Meet the qualifying period
- be **permanently incapable** of discharging efficiently, the duties of their current employment
- Not be immediately capable of undertaking **gainful employment**
- have been certified by the Independent Registered Medical Practitioner (IRMP) as meeting the ill health pension criteria

What does 'Permanently Incapable' mean?

The member must, as a result of ill health or infirmity of mind or body, be permanently incapable of discharging efficiently the duties of the employment the member was engaged in.

- This is defined as meaning: “that the member will, **more likely than not**, be incapable until at the earliest, the member’s normal pension age.”
- “more likely than not” is key.
 - Probability Test - If a member would, on the balance of probabilities, recover sufficiently to be capable of undertaking their current employment before their normal pension age, they cannot be said to be permanently incapable

What is “Gainful Employment”?

- Any paid employment of at least 30 hours a week for a period of at least a year.
- A permanent variable hours contract becomes gainful employment when a pattern of 30 hours a week has been established
- A full-time fixed-term contract of less than 12 months is not gainful employment

Decision 3: Which level of tier to award?

The Independent Registered Medical Practitioner will indicate their medical **opinion** as to which tier of benefits is appropriate.

- **Your** decision not the Practitioners

This is an important decision as it will determine the:

- level of enhancement
- length of payment



Ill-health Tiers

| Tier | Criteria | Benefit | Payment Period |
|------|---|---|---|
| 1 | Member is incapable of undertaking any gainful employment before NPA | Enhancement based on 100% of the further annual pension that would have been achieved between leaving and NPA | Permanent |
| 2 | Member is incapable of undertaking any gainful employment for at least 3 years but it is likely they will be capable of doing so before NPA | Enhancement based on 25% of the further annual pension that would have been achieved between leaving and NPA | Permanent |
| 3 | It is likely that the member will be capable of undertaking gainful employment within 3 years | No enhancement - Based on actual pension built up | Maximum 3 years but will cease if member obtains gainful employment, subject to 18 month review |



The Practicalities

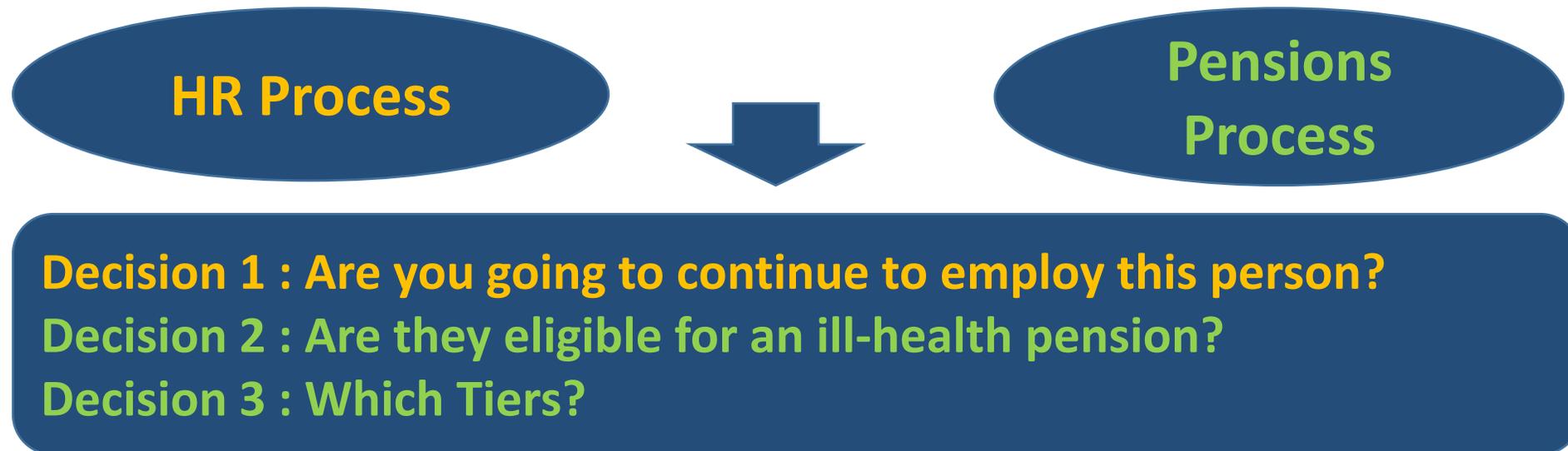
Ill-health Toolkit

- Our ill-health toolkit is available online
- In the toolkit you will find:
 - detailed guidance notes
 - wording for letters
 - a full suite of ill health pension forms
 - flowcharts
 - ill health pension checklist

Managing Ill-health

- Employment vs Pension issues

- Two separate processes that come together towards the end



- For success you have to manage the employees expectations
- No promises!

Preparing referral to IRMP

- Meet with employee to explain ill-health process
- Provide a copy of “Understanding your referral” leaflet
- Ensure the Ill-health Retirement Consent (IHRC) form is completed by the employee
- Prepare the referral pack and complete IHRE1 or equivalent
- Complete Part A of the Ill-health Certificate (IHCERTA1)
- Send the referral pack to the IRMP

Ensure your IRMP is on our approved list! It will be rejected if not!

Referral to the IRMP

- The referral pack should include:
 - completed IHRC, IHCERTA1 and IHRE1 forms
 - job description(s) for current pensionable employment
 - general job hazard report/specific risk assessments
 - all relevant medical information
 - Occupational Health advisor notes and reports
 - Any further relevant details of the case



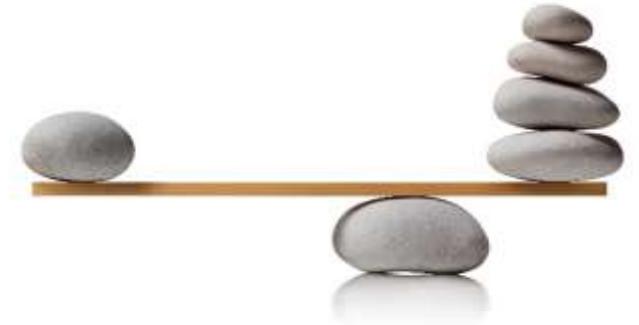
Referral tips

- Be clear!
- Focus on those duties the employee finds difficult with their medical condition
- Be specific!
- Ensure all relevant medical information is included
 - audit before referral and check with employee
- Any issues around “treatment not yet exhausted” are carefully communicated to both the IRMP and member and clarified accordingly
- No delays!



Why it matters - Mr White

- Is a groundsman
- He is suffering from a relatively minor but permanent balance problem which means he can't walk in a straight line
- Job description = care of the school playing fields including grass mowing, rolling, maintenance of pitches and associated equipment.
- Do you think he is permanently incapable?
- Does your opinion change if you're told 50% of his time is spent maintaining the pitch markings using a white line machine?



Timing is Essential

- Make the decision to refer as quickly as possible
- Keep the time between the employee's consent form being received and referral to a minimum
- Once the IHCERTA1 has been received move to dismissal quickly



Independent Doctors Opinion

Received the IHCERTA form back from IRMP:

- **Step 1:** Inform the employee of the outcome of the referral to the IRMP and agree a dismissal date
- **Step 2:** Make formal decision regarding pension entitlement
- **Step 3:** Inform Pensions Service of your decision

Step 1: Inform your Employee

- Consult with the employee as soon as possible after IRMP opinion received
- Inform them of the IRMP medical opinion including likely tier if appropriate
- Offer them the opportunity to provide further information for your tier decision
- Agree a dismissal date
- Contact Pensions Service to discuss difficult cases



Step 2: Formal Decision

- Consider the IRMP opinion on tier
- Capable of undertaking NOT capable of obtaining
- Look at things the Dr can't – non-medical factors, e.g. skills and competencies
- IHCERTA1 Decision Making flowchart will help you
- Once you have made your decision you will need to issue an entitlement award to the member
 - Specified wording available in the ill health toolkit

Step 3: Inform the Pensions Service

- We need a:
 - Leavers certificate
 - Copy of the entitlement award letter
 - Copy of the IHCERTA1 with Part E completed
 - The accompanying narrative report from the IMRP
- Keep the originals on the employee's file



Tier 3 Review

- Tier 3 ill health pensions are a temporary award for a maximum 3 years
- Requirement for review:
 - after 18 months
 - The 18-month review is mandatory, and the employer should instigate the review.
- A Tier 3 pension could be uprated to Tier 2
- If you are stopping a Tier 3 pension at the 18-month review, please tell us promptly

Ill Health Requests: Deferred members

- You may receive an ill-health pension request from:
 - Former employees
 - Active employees who have opted out of the scheme
 - Employees who are current members but also have a deferred pension
- Your decision to award
- Only receive unenhanced benefits – no Tier!



Deferred ill health pension - Eligibility

- Different regulations apply, depending on date of leaving.

Which ill-health certificate should I use:

IHCERTD1 – if the member left before 01/04/1998

IHCERTD2 – if the member left between 01/04/1998-31/03/2008

IHCERTD3 – if the member left between 01/04/2008-31/03/2014

IHCERTD4 - if the member left after 01/04/2014

- Simpler process
- If the IRMP signs the certificate to say the person meets the criteria, you will award the pension

Processing Deferred Ill Health Pension Requests

- Referral process is almost identical to active employees
- Referral pack must include:
 - a job description for former job or the job from which they opted out
 - the appropriate IHCERTD form depending on when they left the scheme
 - IHRC member consent form
 - general job hazard report and any specific risk assessments

Are there any other deferred benefits either with yourself or another employer for that (ex)employee?

No Job Description?

– Deferred Ill Health Pension

- A common problem for deferred ill-health referrals
- Don't delay
- Start by asking the ex-employee if they have a copy
- Use a current JD for an employee doing something that sounds similar
- Get the ex-employee to agree the JD
- This doesn't have to be something you'd use for a job evaluation – it simply needs to list the key duties



Member appeals!

– Internal dispute resolution procedure (IDRP)

- Member has a right to appeal every pension decision.
- You must appoint an adjudicator to deal with IDRP applications.
- All decision letters should include details of the right of appeal, details of the adjudicator and leaflet 'Checking and disputing your employer's pension decision'.
- If a member lodges a complaint the 'Full Guide – decision made by a employer' should be sent.
- The guidance notes take you through the IDRP process with suggested letters
- You must appoint an adjudicator to deal with IDRP applications.

Case Study



Mrs Stairs – active member

- 55-year-old clerical assistant who must climb stairs to access files in racking
- She can no longer do this because of her hip
- Her consultant tells the Occupational Health doctor:
 - Major damage only cured by hip replacement
 - On a waiting list for a hip replacement hopefully in 4 months
 - Pre-operative tests still to be carried out.
 - It will be 4 months after the operation before she is fit enough to return to work if it is successful
- This is too long for the employer, and they will dismiss



Mrs Stairs

- Case is referred to the IRMP three months later along with the consultant's report.
- What do you expect the result to be?
- **Not Permanently incapable – There is a 94% probability she will be able to do her job within a year**

BUT

- In the meantime, **you** are informed the consultant has done the pre-operative tests – it's bad news there is only a 40% chance of success



Mrs Stairs

- If the Independent Doctor knew this, what do you expect the result to be?
- Permanently incapable – There is now a 60% probability the operation will not be successful, and she will never be able to do her job again – the balance of probabilities has now shifted
- What next?
- Your choice, there are several options



Mrs Stairs

- Option 1: Dismiss on grounds of ill health with no pension
 - Mrs S can appeal and is likely to be successful as employer knew about the change and the case should have been referred to IRMP
- Option 2: Dismiss without pension immediately
 - Don't wait for appeal, refer back to independent doctor immediately.
- Option 3: Do not dismiss
 - Refer back to independent doctor immediately – ask him to gather new information – and wait for new IHCERTA before dismissal

What option would you choose?

Mrs Stairs – Learning Points

- Audit before referral to make sure the referral contains everything
- If developments are likely, make this clear to the Independent Doctor
- Consider delay for developments. In this case:
 - three of the four months to the op had already passed before referral
 - reasonable expectation that further results were available
- If developments occur, make sure Independent Doctor knows.



Further Information

For more information on ill-health retirement please refer to the below link:

<https://pensions.northamptonshire.gov.uk/lgps/my-responsibility/my-responsibilities-ill-health-retirement/>

The password to access the link is: **Orange**

You can contact the Employers team for support at:

penemployers@westnorthants.gov.uk

01604 364621



Any questions?