

Employee Guide

To Ill Health Retirement

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Version	Date	Detail	Author
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Links and Dependencies
Local Government Pension Regulations

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Employee Guide

Introduction

The purpose of this document is to provide you with guidance on the issues surrounding ill health retirement. While dismissal on the grounds of ill health or capability is the appropriate course of action in some cases, it should be emphasised that the focus of the Council's Employee Wellbeing Strategy is to provide a range of support mechanisms to assist you to remain at work or to return to work where you experience a health problem.

1.0 Ill Health Retirement

Under Local Government Pension Regulations (LGPS), an Independent Registered Medical Practitioner will be asked to provide an opinion on whether an employee is, on the balance of probabilities:

“permanently incapable of discharging efficiently the duties of their employment because of ill health or infirmity of mind or body”

In some circumstances the Independent Registered Medical Practitioner may certify that a permanent incapacity prevents an employee from undertaking their normal role, but does not lead to a reduced likelihood of being incapable of undertaking any *gainful employment. In these circumstances, pension benefits are **not** payable.

Where there is a reduced likelihood of undertaking *gainful employment, there are 3 Tiers of Ill Health Retirement which allow for differing levels of pension payments:

Tier 1:

Where an employee is permanently unable to carry out their own job, and has no reasonable prospect of being capable of undertaking any *gainful employment before the age of 65.

Benefits payable under Tier 1.

Based on the period of membership enhanced up to the age of 65.

Tier 2:

Where an employee is permanently unable to carry out their own job, and is unlikely to be capable of undertaking any *gainful employment within 3 years of leaving, but likely to be able to do so after that period, but before the age of 65.

Benefits payable under Tier 2.

Based on the period of membership, plus an enhancement of 25% of the remaining years up to the age of 65.

Tier 3:

Where an employee is permanently unable to carry out their own job, but is likely to be capable of undertaking any *gainful employment within 3 years of leaving, unless they have by then reached the age of 65, if this is sooner. Tier 3 is subject to review after 18 months, and will normally cease in any case after 3 years, (unless aged 65 within that 3 year period.)

Benefits Payable under Tier 3.

Based on the period of membership only, with no enhancement, and payable for a maximum of 3 years.

*Under LGPS regulations, '**Gainful Employment**' means any paid employment for not less than 30 hours a week for at least one year.

1.1 The Role of the Independent Registered Medical Practitioner

The LGPS states that a Certificate of Permanent Incapacity shall be issued by an independent registered medical practitioner who:

- Is qualified in Occupational Health medicine.
- Is approved by the appropriate Administering Authority.
- Has not previously been involved in the case.
- Is not or never has been the representative of any party in that case.

It is the role of the Independent Registered Medical Practitioner to give an opinion, having considered all the medical evidence available, on whether an employee meets the criteria for ill health retirement.

The Council will then consider all the evidence available, including the opinion of the Independent Registered Medical Practitioner, before

coming to a decision on the continuing employment of the employee and consequent payment of retirement benefits where applicable.

1.2 When Is Ill Health Retirement Considered?

The Independent Registered Medical Practitioner's opinion is normally sought before ill health capability dismissal is considered.

To reach this point, it would need to be established that:

- There is no apparent prospect of a return to the existing post in the foreseeable future.
- The possibility of redeployment has been fully explored and none has been found.

and the following actions would need to have been taken:

- Advice on a medical prognosis will have been requested from Occupational Health.
- Possible further referrals for medical guidance from Occupational Health have taken place and further reports on the employee's progress and on Equality Act implications have been considered.
- A series of reviews and meetings will have taken place under the Attendance Management and Ill Health Capability Procedure.

1.3 Can I Appeal Against the Council's Decision Not to Agree to the Payment of Ill Health Retirement Benefits, or to the Level of Benefits Payable?

If you are dissatisfied with the Council's decision, there is a **right of appeal** via the Internal Disputes Resolution Procedure under the LGPS.

You can exercise this right of appeal following confirmation of the Council's decision. The appeal considers whether the LGPS provisions have been applied correctly and whether the appropriate procedures have been followed in reaching a decision. Any appeal must be registered within 6 months of notification of the decision.

To appeal you need to follow the stages below (please see flow diagram at Appendix 1)

Stage 1

Obtain a factsheet and a form to complete from the Pensions Section at County Hall who will be able to help you with any queries you may have about your rights. You should send the form directly to the Director of Legal Services with a covering letter setting out the grounds of your appeal.

This stage is a formal review of the initial decision and an opportunity to reconsider the matter and, where appropriate, change the decision, for example where certain relevant facts or evidence were not taken into account or where there has been a mistake or oversight.

Stage 2

If you are still dissatisfied after receiving the Stage 1 decision, you should complete a second copy of the form and send it to the Council's Pensions Section.

Pensions Committee will consider appeals at this stage or, where the Committee has some previous involvement in the case, members of the Licensing and Appeals Committee will consider the appeal. The Committee will reconsider the decision and check that the Regulations have been applied correctly and that sound impartial procedures were used to reach the decision.

Further Stages – if you are still dissatisfied you may choose to contact:

1. The Pensions Advisory Service (TPAS) which is available to assist you with a difficulty you have been unable to resolve with the Council.
2. The Pensions Ombudsman who settles disputes and investigates complaints that TPAS has not been able to resolve.

2.0 Preserved Benefits

If you leave your job and have preserved pension benefits you will be notified of the value at the date of leaving by Pensions Section. Preserved benefits can be paid from the age of 60, but may be actuarially reduced, depending on your age and the number of years service in the Pension Scheme.

Payment of preserved pension benefits before the age of 60 can be made on the grounds of permanent ill-health. If you develop a medical condition, or you have a medical condition that deteriorates following the end of your employment, a medical assessment will be undertaken to determine whether you have a permanent incapacity which would prevent you from undertaking the role in which you were working when you left the Council.

You should contact the Pensions Section at County Hall for details of how to proceed with a request for payment of preserved benefits on the grounds of ill health.

If the application is refused, you may appeal under the Internal Dispute Resolution Procedure as set out in Section 1.3 and Appendix 1.

Useful Addresses:

Pensions Section
Finance Division
Corporate Resources Department
Derbyshire County Council
County Hall
Matlock
DE4 3AG

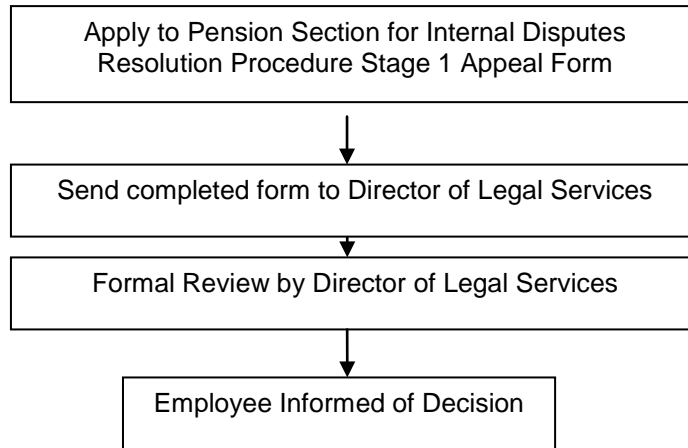
Director of Legal Services
Corporate Resources Department
Derbyshire County Council
County Hall
Matlock
DE4 3AG

The Pensions Advisory Service (and Pensions Ombudsman)
11 Belgrave Road
London
SW1V 1RB

THIS GUIDE IS PROVIDED TO ASSIST AND INFORM EMPLOYEES ABOUT ILL HEALTH RETIREMENT. NOTHING IN IT OVERRIDES THE REGULATIONS OF THE LGPS, THE PROVISIONS OF WHICH MAY BE AMENDED FROM TIME TO TIME.

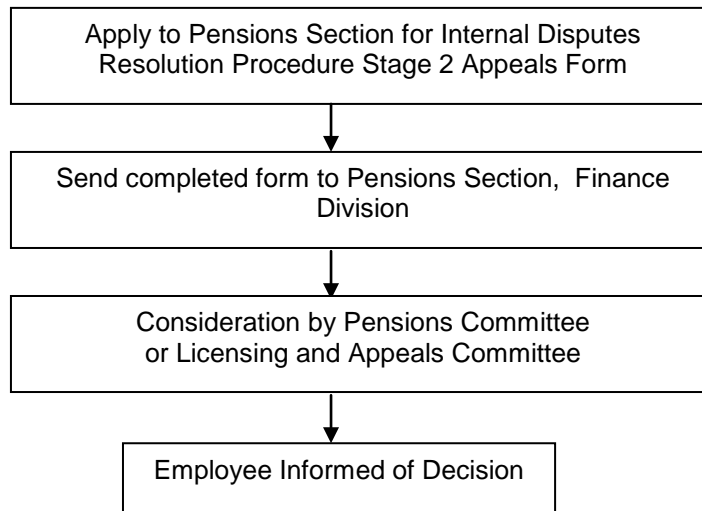
LOCAL GOVERNMENT PENSION SCHEME
Internal Disputes Resolution Procedure
Employee Appeals against IHR Decision

Stage 1

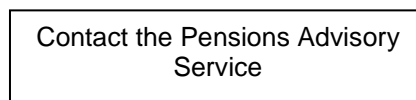


Still Dissatisfied?

Stage 2



Still Dissatisfied?



Still Dissatisfied?

