

Ill Health Retirement Policy

Human Resources

Issued by HR Policy Team

Effective from 19 December 2019

**ILL HEALTH RETIREMENT POLICY**

1. **Introduction**
   1. This policy addresses requests for permanent ill health retirement and early access to pension entitlements.
   2. Deferred status applications from former employees for early access to their pension on grounds of permanent ill-health will also be handled through this policy.

**2 Determination**

2.1 A decision about whether an employee is entitled to early payment of

retirement pension on grounds of ill-health or infirmity of mind or body will be made by the council after a certificate has been obtained from an Independent Registered Medical Practitioner (IRMP).

2.2 The IRMP certificate will set out:

* + Whether the employee satisfies the conditions in regulation 35(3) and (4) of the Local Government Pension Scheme Regulations 2013
  + How long the employee is unlikely to be capable of undertaking gainful employment; and
  + Where the employee has been working reduced hours and had their pay reduced as a result, whether the employee was working part time either wholly or partly as a result of ill-health or infirmity of mind or body.

2.3 Where the council determines that the employee is entitled to early payment of retirement pension, as set out in paragraph 1.1, the council will also determine the appropriate tier of benefits which the employee qualifies for.

**3 Consideration by Occupational Health Provider**

3.1 The Council will not proceed with any case of ill-health retirement from an existing employee, without first exploring a range of options to support employees in returning to work, including redeployment possibilities.

3.2 The Occupational Health Provider (OHP) will review existing medical evidence to assess whether there appears to be a case for ill health retirement. If additional medical information is required, the employee may be requested to attend an appointment to see the OHP and/or their GP/Consultant may be asked to provide a report.

3.3 If there is medical evidence to support the case for ill health retirement, it will be referred to an IRMP who has had no prior involvement with the employee’s case.

1. **Role of the Independent Registered Medical Practitioner**

4.1 The IRMP will review the medical evidence and may request further reports from the employee’s GP/Consultant.

* 1. Where the IRMP determines that the employee is permanently incapable of performing the duties of their post on grounds of ill health or infirmity of mind or body, they will also indicate the likelihood of the employee being capable of employment in the future. This will determine the IRMP’s recommendation over which Tier the employee satisfies, in relation to the ill-health retirement benefits (see section 7).

Ill-Health Retirement Panel

4.3 Once the IRMP recommendations are received, the Council’s Ill-Health Retirement Panel will convene to consider the case.

4.4 The employee will be informed that the case is proceeding to the panel, where the case will be reviewed, and the outcome could be that their employment will be terminated on ill-health grounds.

4.5 The Ill-Health Retirement Panel will comprise a representative from HR, and the Service Director. The Strategic Pensions Manager will attend in advisory capacity.

4.6 The Ill-Health Retirement Panel will review the ill-health retirement referral, taking into account the recommendation of the IRMP, and make a decision on whether or not the employee is permanently incapable of performing the duties of their post.

4.7 If the employee is deemed permanently incapable of performing the duties of their post, the Ill-Health Retirement Panel will also decide on the

ill-health retirement benefits as recommended by the IRMP.

**5 Notifying the Employee**

5.1 Where the Ill Health Retirement Panel determines that the employee is permanently incapable of performing the duties of their post and is not immediately capable of undertaking any gainful employment, the employee will be notified in writing.

5.2 Ideally, the letter will be presented to the employee at a meeting involving the line manager, the HR advisor and the employee. This meeting could take place either at the workplace or, if necessary, at the employee's home. The employee should be informed of their right to be accompanied by a trade union representative or a work colleague.

5.3 The letter to the employee will:

(a) set out the decision that they are to be dismissed on grounds of ill health and given notice due under their contract of employment or the minimum statutory entitlement, whichever is the greater.

(b) provide the employee with an estimate of pension benefits, which HR will have obtained from the pensions administrator, in advance of the meeting.

(c) inform the employee of their right of appeal against the decision to terminate their contract of employment.

5.4 Where the Ill Health Retirement Panel determines that permanent ill-health is not applicable in the circumstances, the employee is notified in writing of this decision. There is no further right of appeal within the Council.

5.5 If an employee continues to be dissatisfied with the decision of Ill Health Retirement Panel, they can make an application through the Local Government Pension Scheme’s (LGPS) Internal Disputes Resolution Procedure, which is handled by the Council’s Pensions Administrators. See Appendix A.

1. **Appeal Against Dismissal**
   1. An employee who wishes to appeal against the Council’s decision to dismiss on grounds of permanent ill health, can do so by writing to the Director of Human Resources &OD, setting out their grounds of appeal.

6.2 The appeal must be lodged within 10 working days of receipt the outcome letter. The appeal letter, must be accompanied by a letter from a qualified medical practitioner, disputing the Council’s decision.

6.3 The question of the employee’s ability to perform the duties of their post and to undertake gainful employment shall be referred to a Medical Referee nominated by the council’s OHP.

6.4 The appeal panel will be set up in accordance with the Employment Dismissal Appeal Policy. In most circumstances the Director of HR & OD will consider the appeal, taking into account the opinion of the medical referee and determine whether or not the original decision to dismiss the employee on grounds of ill health was appropriate.

Outcome

6.6 Where the Council’s decision is that the appeal is rejected, the employee will be informed in writing and the dismissal decision will apply as previously notified.

6.7 If the Council upholds the employee’s appeal, the notice of dismissal will be withdrawn, and consideration given to action which may be necessary to support the employee in their continued employment.

6.8 There is no further right of appeal within the council.

6.9 Employees, who continue to be dissatisfied with the outcome, may be able to make an application for the disagreement between them and the Council to be addressed via the LGPS Internal Disputes Resolution Procedure as set out in Appendix A.

**7 Ill-health retirement benefits**

7.1 An employee will be eligible for early payment of pension benefits, on grounds of ill health, if:

* they have at least two years’ pensionable service in the LGPS, or have equivalent transferred rights from another pension scheme; *and*
* they have been certified by the Council as being permanently incapable of performing the duties of their post on grounds of ill health or infirmity of mind or body and as a result of ill-health or infirmity of mind of mind or body, is not immediately capable of undertaking any gainful employment.

7.2 Where the Council has determined that the employee is permanently incapable of performing their duties due to ill-health and as a result of ill-health or infirmity of mind of mind or body, is not immediately capable of undertaking any gainful employment, the Ill Health Retirement Panel will also establish which Tier of benefits the employee should be retired on:

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| **Tier 1** | Applies where the employee is not capable of undertaking any gainful employment [[1]](#footnote-1) before their normal retirement date. Their benefits will be based on their accrued rights plus an enhancement on their prospective service up to their normal retirement date. |
| **Tier 2** | Applies where the employee is not capable of undertaking any gainful employment within three years of leaving employment but is likely to be able to undertake gainful employment before normal pension age. Their benefits will be based on their accrued rights plus an increase of 25% of their prospective service up to their normal retirement date. |
| **Tier 3** | Applies where the employee is not immediately capable of undertaking any gainful employment but is deemed capable of obtaining gainful employment within 3 years of leaving employment or before normal pension age if earlier. They will be entitled to immediate payment of benefits without an enhancement. This outcome is subject to an Occupational Health review after 18 months.  Payments are payable either:   * Until the employee returns to gainful employment (within 3 years of date of termination) * Until the employee is considered capable of obtaining gainful employment at the 18-month review * For three years * The benefits are enhanced to Tier 2 further to a review by the Council |

7.3 An employee should contact the Council’s pension’s administrator (details can be found on the intranet under Pensions) for any information regarding their ill-health retirement benefits.

**Appendix A**

**1. LGPS Internal Dispute Resolution Procedure**

1.1 If a member is not satisfied with any decision made in relation to the Local Government Pension Scheme, they have the right to ask for that decision to be looked at again under a formal complaint procedure. The complaint procedure's official name is the "internal dispute resolution procedure".

The formal complaint procedure has two stages. Many complaints are resolved at the first stage. Any complaint made should be treated seriously and considered thoroughly and fairly.

A member may ask someone to take their complaint forward on their behalf. This could be, for instance, a trade union official, welfare officer, a spouse or partner, or a friend.

No charge is made at any stage for investigating a complaint under the internal dispute resolution procedure. But expenses that a member will have to meet are their own (and/or their representative's) time, stationery and postage.

1.2 First stage

If a member needs to make a formal complaint, it should be in writing, normally within 6 months of the day when they told of the decision they want to complain about, to:

London Borough of Hounslow Pension

West Yorkshire Pension Fund

PO Box 67   
Bradford   
BD1 1UP

The complaint will be considered carefully by the adjudicator who is required to give a decision in writing. If the adjudicator finds in favour of the member, the body that made the original decision about which the member made the complaint will be required to reconsider their decision.

1.3 Second Stage

The member can ask the pension scheme administering authority to take a fresh look at your complaint in any of the following circumstances:

* they are not satisfied with the adjudicator's first-stage decision,
* they have not received a decision or an interim letter from the adjudicator, and it is 3 months since they lodged their complaint,
* it is one month after the date by which the adjudicator told them (in an interim letter) that they would give them a decision, and they have still not received that decision.

This review would be undertaken by a person not involved in the first stage decision. The member will need to send their complaint in writing to the pension scheme administering authority:

* within 6 months of the date of the adjudicator’s decision, or
* within 9 months from the date they submitted their complaint if the adjudicator has not given them a decision within 3 months of the date they originally submitted their complaint, or
* if the adjudicator gives them an interim decision but not a final decision, within 7 months of the date the adjudicator had promised to give them a final decision.

1.4 The administering authority will consider the complaint and give their decision in writing. If the member is are still unhappy following the administering authority's second stage decision, they can take their case to the Pensions Ombudsman provided they do so within 3 years from the date of the original decision (or lack of a decision) about which they had complained.

1. Gainful employment means paid employment for not less than 30 hours a week in each week for a period of not less than 12 months. [↑](#footnote-ref-1)