

## Guidance issued by the Staffordshire Pension Fund for Scheme Employers and Independent Registered Medical Practitioners

### Ill Health Template – deferred member (see appendix 1A)

#### Overview

LGPS members require demonstrable evidence of the decision making process used by Independent Registered Medical Practitioner (IRMP) and Scheme employer when determining any ill health retirement application. All appropriate considerations should be detailed correctly to ensure the ill health retirement process has been completed in a fair and robust manner and can stand up to scrutiny via either the LGPS's formal pension dispute process or ultimately where a complaint is lodged with the Pensions Ombudsman.

#### **IMPORTANT NOTE:**

**As part of the completion of the ill health retirement process, it is currently recommended by MHCLG (noted within the “*Statutory Ill Health Retirement guidance to accompany the Local Government Pension Scheme Regulations 2013*”) that the IRMP provides a narrative report to accompany their ill health certificate. The primary reason for this is to enable the Scheme employer to understand the reasoning behind the IRMP’s certification.**

**This template also relates to Deferred Members who may have left under previous LGPS provisions. In its original guidance note (the “*Statutory Ill Health Retirement guidance to accompany the Local Government Pension Scheme 2008*”) DCLG did not specifically recommend the provision of a narrative report by an IRMP, although it noted that there was nothing to preclude the IRMP from adding a narrative report to accompany their ill-health certificate should this be considered appropriate.**

**However, given the increased importance placed on narrative reports by the Pensions Ombudsman, it is recommended that the IRMP provides a narrative report to accompany their ill health certificate in relation to a Deferred Member in all cases.**

It is important that the narrative report provides sufficient evidence of what the IRMP has, and has not, considered when forming their opinion together with their rationale, to enable Scheme employers to make informed decisions in relation to potential ill health retirements for Deferred Members.

#### **Deferred Members**

It is important to remember that requests for a deferred ill-health pension may be received from the following types of Deferred Members:

- former employees

- active employees who have previously been members of the Scheme but who have subsequently opted out of membership of the scheme
- employees who are current members but who also have a deferred pension

When considering an application for bringing deferred benefits into payment on ill-health grounds it is important that the IRMP is considering the Deferred Member's capability of doing the job they were doing when they left employment or opted out of the Scheme. If they are still an employee this is not necessarily going to be the current job that they are doing.

If the person is in the Scheme as an active member and also holds a separate deferred benefit both benefits need to be dealt with separately and assessed against the specific rules that apply to each role. Similarly, where the person has LGPS entitlements with different employers or in different Funds each employer needs to make their own decision about the relevant job, conducting their own individual assessments.

### **The IRMP supporting report**

The IRMP supporting report has been produced to enable Scheme employers and their IRMPs to ensure a structural, evidence based process has been followed.

Part A should be completed by the relevant Scheme employer setting out details of the Deferred Member.

Part B provides the detailed narrative of the IRMP's decision making process in determining whether, in the IRMP's opinion, the relevant test is satisfied. This should include the following:

- The IRMP should document the specific evidence considered in the case, together with reasons why any evidence has been disregarded (not just "I have reviewed the file.....").
- If the IRMP's opinion differs from any significant medical opinion in this area or differs to the conclusion of any of the specialist medical consultants of the Member, an explanation for the differing view should be provided along with supporting evidence.
- In order for the Scheme employer to understand the factors that the IRMP has considered, the IRMP should provide details of all the illnesses/conditions the IRMP has taken into account and the impact of Member's illnesses/conditions on Member's state of health and level of mobility.
- Where treatment/intervention is available to assist the Member's illnesses/conditions, the IRMP should specify what treatment/intervention is available, when improvement is likely to be seen and level of improvement expected.
- In the conclusion section, the IRMP should set out the detailed decision making process they used in coming to their conclusion including current and future prognosis of the Member. Best practice in this area would also be for the IRMP to state when concluding:
  - **Supported** – Why they have come to this conclusion.
  - **Not Supported** - Why they have come to this conclusion and commentary on how the Deferred Member either (as appropriate):

- for a Deferred Member who left/opted out before 1 April 2008, was not permanently incapable of carrying out the duties of their former post by virtue of permanent ill health or infirmity of mind or body; or
  - for a Deferred Member who left/opted out between 1 April 2008 and 31 March 2014, does not have a reduced likelihood of carrying out any gainful employment before age 65 (or for at least 3 years, whichever is sooner); or
  - for a Deferred Member who left/opted out after 31 March 2014 is immediately capable of carrying out any gainful employment before normal pension age (or for at least 3 years, whichever is sooner).
- Where the IRMP considers that the Member is able to undertake work, the IRMP should advise the type of work they consider the Member could undertake, when the Member is likely to be able to undertake such work and whether any adjustments are required. **When considering the type of work, the member's salary expectation, competencies or their aptitude should NOT be taken into account.**
  - Appropriate medical evidence should be provided by the IRMP to back up their conclusion.

It is expected that the template IRMP supporting report will be completed by the IRMP. However, in the event that the IRMP produces a separate report rather than completing the template IRMP supporting report, the IRMP must answer the same questions, provide the same evidence and give the same reasons for his/her decision as those required in the template IRMP supporting report as part of any separate report produced by the IRMP.

### **The relevant Regulations**

Which Regulations apply in relation to a Deferred Member will depend on when the Deferred Member left employment or opted out of membership of the Scheme. In summary:

- Leavers Prior to 1 April 1998 - These are covered by Regulation D11 of the Local Government Pension Scheme Regulations 1995 (as amended)
- Leavers Between 1 April 1998 and 31 March 2008 - These are covered by Regulation 31 of the Local Government Pension Scheme Regulations 1997 – (as amended)
- Leavers Between 1 April 2008 and 31 March 2014 - These are covered by regulation 31 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended)
- Leavers After 31 March 2014 - These are covered by regulation 38 of the Local Government Pension Scheme Regulations 2013 (as amended)

### **The relevant test**

In the case of Deferred Members, the criteria for deferred pension benefits being brought into payment on the grounds of ill-health are simpler than for an active member being dismissed on the grounds of ill-health and subsequently awarded a pension. As a Deferred Member can only be awarded unenhanced benefits there are no decisions to be made over which tier of pension to apply.

The relevant test is whether:

- the Deferred Member is as a result of a medical condition permanently incapable of doing the job that they were doing at the time they left membership of the Scheme;

- plus:
  - if the Deferred Member left/opted out between 1 April 2008 and 31 March 2014, as a result of the medical condition, the Deferred Member must have a reduced likelihood of carrying out any gainful employment before age 65 (or for at least 3 years, whichever is sooner); or
  - if the Deferred Member left/opted out after 31 March 2014, as a result of the medical condition, the Deferred Member must not be immediately capable of carrying out any gainful employment before normal pension age (or for at least 3 years, whichever is sooner).

For these purposes, 'permanently incapable' means:

- for leavers before 1 April 2014, that the member will, more likely than not, be incapable until, at the earliest, his 65th birthday
- for leavers after 31 March 2014, that the member will, more likely than not, be incapable until at the earliest, the member's normal pension age

For these purposes, 'gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months. This is only relevant for leavers after 31 March 2008.

'Normal pension age' is defined as the pensionable age of a person as specified from time to time in Schedule 4 to the Pensions Act 1995, or if higher, age 65.

### **The role of the Scheme employer**

The decision regarding a Deferred Member's deferred pension benefits into payment on the grounds of ill-health ultimately resides with the Scheme employer and not the IRMP. Consequently, the Scheme employer must be satisfied that the conclusion reached by the IRMP is both appropriate to the evidence presented and effectively aids their decision. The template supporting report will provide the documentary evidence of the IRMP's decision making and should enable the Scheme employer to making an informed decision based on the IRMP's report. However, the Scheme employer should seek further clarification from the IRMP where the report does not provide sufficient detail in relation to the points set out above or does not satisfy their own review of the evidence provided in a case.

The Scheme employer should, within their decision letter to the Deferred Member, set out the evidence they have considered and demonstrate the clear decision making process they have completed when reaching their conclusion.

## Appendix 1A

Local Government Pension Scheme (LGPS) – Ill Health Template to be completed by the Scheme Employer and the Independent Registered Medical Practitioner (IRMP) Independent Registered Medical Practitioners. Please note this template must not be forwarded to Staffordshire Pension Fund, but the leavers form and Ill Health Medical Certificate must be sent.

<b>PART A – DETAILS OF THE DEFERRED MEMBER (To be completed by the Scheme Employer <u>before</u> submission to the IRMP)</b>	
Name of Employer	
Name of Deferred Member	
Date of birth of Deferred Member	
Role of Deferred Member at time left/opted out	
Employer of Deferred Member at time left/opted out	
Date last worked	
Brief summary of the case	
Medical evidence/documents provided to IRMP (list author and date of document)	
<b>SECTION B – MEDICAL ANALYSIS OF ILL-HEALTH REQUEST (to be completed by the IRMP upon assessment of the ill-health early retirement request)</b>	
Consideration of medical evidence relevant to the Member's ability to work	<b><i>Evidence considered (List author and date of document):</i></b>
	<b><i>Evidence <u>not</u> considered/used (List author and date of document along with reasons why such evidence has been</i></b>

	<i>disregarded):</i>
	<b><i>Please provide a detailed explanation with supporting evidence if your opinion differs to any significant medical opinion in this area or differs to the conclusion of any of the specialist medical consultants of the Deferred Member:</i></b>
List of all the illnesses/conditions suffered by the Deferred Member relevant to their ability to work	
Impact of Deferred Member's illnesses/conditions on Deferred Member's state of health and level of mobility	
Is there any treatment/intervention available to assist the Deferred Member's illnesses/conditions that has not already been exhausted/considered? If so, please specify what treatment/intervention is available, when improvement is likely to be seen and level of improvement expected	
Conclusion	<b><i>Conclusion reached (detail decision making process used):</i></b>
	<b><i>Current and future prognosis of the Deferred Member based on your conclusion:</i></b>
	<b><i>If you consider the Deferred Member is able to undertake "gainful employment", please advise of the type of work you consider the Deferred Member could undertake, and when the Deferred Member is likely to be able to undertake such work. Please also advise whether any adjustments are required</i></b>

	<b><i>and, if so, what adjustments should be expected:</i></b>	
	<b><i>Any additional notes/comments to aid the Scheme employer's decision:</i></b>	
References used		
Opinion	<b>Supported</b> <input type="checkbox"/>	<b>Not Supported</b> <input type="checkbox"/>

IRMP Signature

Print Name

Date