

## Ill-health Pension Process: Guidance Note 4 Dealing With a Request for a Deferred Pension to be Paid on Ill-health Grounds

### PURPOSE

To provide advice on how to deal with a request for a deferred pension to be paid on the grounds of ill-health including a step-by-step referral to an independent doctor.

### KEY POINTS

- Eligibility criteria for deferred into payment on ill-health grounds are explained.
- The position regarding the provider of Fund approved IRMPs is different for the Cambridgeshire and Northamptonshire Funds due to a contractual arrangement that is currently in place.
- Ex-employees being referred need to complete an IHRC referral form and be given an information leaflet.
- Employers need to complete an IHRE1 referral form and information package for submission to Heales.
- A “Checklist for Managing a Deferred into Payment Ill-health Referral” which gives a step by step guide to action required is provided.
- An Ill-health Tool Kit, containing recommended wording for letters and all necessary forms, is available at:

<http://pensions.cambridgeshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/>

<http://pensions.northamptonshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/>

### History

This advice note covers:

- Making the decision for a deferred pensioner:
  - who left your employment with no ill-health issues, this could have been 30 or more years ago;
  - who opted out of the LGPS but is still employed by you and now has ill-health issues you are managing;
  - who has previously left your employment and has returned but has decided not to join their previous pension with their current one and now has ill-health issues you are managing;
  - who was dismissed on the grounds of ill-health but did not qualify for an ill-health pension at the time.
- The practical aspects of:
  - the referral of requests for early payment of deferred benefits on ill health grounds to the independent doctor

- the referral of cases where the individual has already been dismissed but the decision at the point of leaving is being re-considered as a result of an appeal or because treatment has now been completed and the individual is still ill.

Ill-health Guidance Notes 1 and 2 deal with ill-health pension from active employment. Ill-health Guidance Note 3 deals with Tier 3 ill-health pension reviews.

## OTHER RELEVANT DOCUMENTS

The following documents and processes have relevance to this issue.

Form IHCERTD1	The ill-health certificate to be used for those who left the LGPS before 1 April 1998
Form IHCERTD2	The ill-health certificate to be used for those who left the LGPS between 1 April 1998 and 31 March 2008 inclusive
Form IHCERTD3	The ill-health certificate to be used for those who left the LGPS between 1 April 2008 and 31 March 2014
Form IHCERTD4	The ill-health certificate to be used for those who left the LGPS after 31 March 2014
Form IHCERTDX3	The ill-health certificate to be used for those who left between 1 April 2008 and 31 March 2014 inclusive who are saying they met the criteria at the point they left
Form IHCERTDX4	The ill-health certificate to be used for those who left after 31 March 2014 who are saying they met the criteria at the point they left
Ill-health Guidance Note 2	Details the process for referring an ill-health case to the Independent Doctor.
Ill-health Toolkit	A collection of letters, flow charts and leaflets to use in the ill-health process found at: <a href="http://pensions.cambridgeshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/">http://pensions.cambridgeshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/</a> <a href="http://pensions.northamptonshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/">http://pensions.northamptonshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/</a>

## BACKGROUND

Deferred pensioners have the right to ask for their pension to be paid early on the grounds of ill-health. It is your decision whether you consent to such payment. This note has been prepared to explain what you need to do and how the pension regulations apply.

## THE REGULATIONS

Detailed regulations apply. Which ones apply depends on when the deferred pensioner left your employment/opted out of the LGPS. If in doubt contact LGSS Pensions Service to confirm the date

### 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).

An up-to-date version of the regulations for leavers up to 31 March 2014 is available on the Local Government Employers' (LGE) website: <http://timeline.lge.gov.uk/regidx.html>

There are also documents prepared by the Department for Communities & Local Government (DCLG) which support the ill-health process as it applies to the 2007/2008 regulations. These are:

- Statutory Ill-health Guidance – statutory guidance referred to in the 2007 regulations.
- Ill-health FAQs – Answers to commonly asked questions.
- Supplementary Guidance for Independent Registered Medical Practitioners qualified in occupational health medicine (IRMPs) – A joint publication with the Faculty of Occupational Medicine

The most recent versions of the above documents can also be found via the LGE site: <http://timeline.lge.gov.uk/Statutory%20Guidance%20and%20circulars/statguide.htm>

An up-to-date version of the regulations for leavers from 1 April 2014 is available here: <http://lgpsregs.org/index.php/regs-legislation/timeline-regulations-2014>

While the basis of the criteria for payment is the same i.e. the individual must be permanently incapable of doing the job they were doing when they left there are some key differences:

- Pre 1/4/98 leavers – pension is paid from the date the individual became permanently incapable. This may be well before they apply for their pension.
- Leavers between 1/4/1998 and 31/3/2008 (inclusive) – pension is paid from the date the individual applies.

- Leavers between 1/4/2008 and 31/3/2014 (inclusive) - pension is paid from the date the individual became permanently incapable (this may be well before they apply for their pension) PROVIDING the condition that makes them permanently incapable also reduces their likelihood of being capable of undertaking any gainful employment before reaching age 65, or for at least three years, whichever is the sooner. This is a much tougher test than for earlier cases.
- Leavers from 1/4/2014 – pension is paid from the date that you as the employer make the determination that the member meets the criteria for payment of benefits on ill health grounds.

To understand these regulations it is particularly important to understand the key terms:

- Permanently Incapable: This is defined as meaning:
  - for pre 1/4/2014 leavers - *“that the member will, more likely than not, be incapable until, at the earliest, his 65th birthday.”*, and
  - for post 31/3/2014 leavers - *“that the member will, more likely than not, be incapable until at the earliest, the member’s normal pension age”*. Normal pension age in this context means the member’s State Pension Age, or age 65 if later.

The “more likely than not” part of this is commonly known as the probability test and is key. In practical terms it means that if you had 100 similar people who had been doing the same job with the same medical condition the doctor will only certify permanent incapability if more than 50 of these would not recover enough to do their job by age 65. There is a long history of the term **permanently incapable** causing problems with acceptance of decision, particularly among younger people or those who have not yet finished treatment as many people can not distinguish between how they are now and what they will be like approaching their 65<sup>th</sup> birthday/State Pension Age.
- Gainful Employment : This is defined as meaning “paid employment for not less than 30 hours in each week for a period of not less than 12 months”. It is important to note that this means ANY employment – it could be a minimum wage job with any employer. This is only relevant for leavers after 31 March 2008.
- Independent Registered Medical Practitioner (IRMP): For an employer to make an ill-health pension decision they must have the opinion of an IRMP, an independent doctor approved by the Pension Fund.

Cambridgeshire Pension Fund determined many years ago that, in order to maintain consistency across the Fund, there would be a sole provider of approved IRMPs,. The contract that delivers this was bound up with Cambridgeshire County Council’s contract for Occupational Health service provision, which is currently with **Heales Medical Ltd**. The principle of this approach changed following a Pension Fund Board decision with effect from 30 October 2012, however it is likely that Heales will remain the sole provider of approved IRMPs to all Cambridgeshire Fund employers until the contract under which this arrangement comes to an end on 1<sup>st</sup> December 2015.

Northamptonshire Pension Fund allows employers to seek approval for their chosen IRMP/provider of IRMPs by providing full written details to the Head of Pensions. If written approval is granted on behalf of the Fund, referrals can then be made to that IRMP/provider.

## **APPLYING THE REGULATIONS**

### **What is the relevant job?**

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

### **What if they are also in a current employment?**

If the person is in the LGPS in an active employment and holds a separate deferred benefit you need to deal with both benefits separately. You need a IHCERTA1 certificate based on the requirements of the current job and a relevant IHCERTD based on the job the deferred benefits were based on.

### **Who makes the decision?**

This decision, as with all decisions to pay a pension benefit early, rests with the ex-employer. However, as with ill-health pension from an active job it is subject to having a relevant certificate (IHCERTD) from the independent doctor, the procedures of LGSS Pensions Service and the LGPS regulations.

It is entirely possible that a member has deferred pensions with two separate employers or a deferred pension with one and an active employment with another. If the application for early payment has come through LGSS Pensions Service we will have told you if we know about another relevant pension. Each employer has to make their own decision about the relevant job but it is recommended that the two employers work together to deal with both cases together. This will be less costly and less stressful for the member.

### **What are the criteria?**

The criteria for deferred pension into payment on grounds of ill-health are much simpler than for dismissal on grounds of ill-health. In reality, if the Independent Doctor signs the certificate to say the person meets the medical criteria you will award the individual their pension.

The complexity comes from the fact of working out which set of regulations to apply (and therefore which IHCERTD form to use) and what date to use if early payment is granted.

## THE PRACTICALITIES

### Ill-health Toolkit

The deferred pension into payment ill-health pension process relies on a number of forms, letters and leaflets. LGSS Pensions Service has put together a toolkit that includes everything that should be needed. This toolkit can be found at:

<http://pensions.cambridgeshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/>  
<http://pensions.northamptonshire.gov.uk/index.php/employers/looking-after-members/leavers/ill-health-retirement-for-deferred-members/>

Included are:

- Flow charts which outline:
  - the steps of the independent doctors referral process for current employees and deferred pensioners;
  - how to choose the correct option on the IHRE1 and which ill-health certificate to attach.
- Suggested wording to be used in a variety of circumstances. The wording can be tailored into your organisations style and be put into standalone letters or can be incorporated into other standard letters you already use.
- A checklist for use by the individual managing a deferred pension into payment ill-health case. This, combined with the flow charts, takes you through all of the practical steps that are involved from the point you identify that an application has been made to the point where the member, and LGSS Pensions Service, are informed of the employer's decision on whether payment is to be made.
- A leaflet for deferred pensioners to accompany the IHRC – this can be edited to make it relevant to your organisation.

## When to Start

The deferred into payment process starts as soon as a deferred pensioner member makes contact regarding early payment of deferred pension benefits. Be aware that it is not always obvious that the member has made contact or is asking for early payment on grounds of ill-health.

The following should help determine whether the deferred pension into payment on ill-health grounds procedure applies:

Deferred Pensioner Member Contact Circumstance	Employer Action
<p>Current employee with deferred pension benefits as a result of an opt out from:</p> <ul style="list-style-type: none"> <li>• their current job; or</li> <li>• a previous job,</li> </ul> <p>who you are dealing with on a health issue.</p>	<p>Discuss the deferred pension benefit with them and, if appropriate, suggest they apply to have the deferred pension benefit paid on grounds of ill-health.</p> <p>If the deferred pension benefit is with a different employer liaise with the other employer to reduce referral costs and streamline the process.</p> <p><b>Note:</b> some people will be eligible for a deferred pension benefit to be paid on grounds of ill-health who are not entitled to have an ill-health pension from their current job.</p>
<p>Written request that specifically and only asks for benefits to be paid on grounds of ill-health.</p>	<p>Straight into deferred pension into payment on ill-health grounds process.</p>
<p>Written request where deferred pensioner member asks for release of pension on compassionate or other grounds but mentions their own health as a justification.</p>	<p>Contact member and ask if they want to be put into either the deferred pension into payment on ill-health grounds process or the deferred pension into payment with employer's consent process.</p>
<p>Written request where deferred pensioner member asks for release of pension on compassionate or other grounds.</p>	<p>As part of data collection in preparation for making this decision under the deferred into payment with employer's consent process, address health issues. If it appears that they are part of the case ask if they want to be put into the deferred pension into payment on ill-health grounds process.</p>

<p>Contact (written or verbal) comes from someone who was dismissed on the grounds of ill-health relatively recently who did not qualify for an ill-health pension at the time where there were clear issues of treatment not yet exhausted or investigation not yet complete.</p>	<p>Make sure you are clear what is being requested and act appropriately:</p> <ul style="list-style-type: none"> <li>• deferred pension into payment on ill-health grounds from the current date (there will be no enhancement to pension) – in which case treat this as a standard case;</li> <li>• a revisit of the original decision not to award an ill-health pension at the point of leaving – in this case take advice from LGSS Pensions Service on how to handle this. If they are successful and get tier 1 or 2 there would be enhancement to benefits and pension would be backdated.</li> </ul>
<p>Contact (written or verbal) comes from someone who was dismissed on the grounds of ill-health relatively recently who did not qualify for an ill-health pension at the time BUT there were no clear issues of treatment not yet exhausted or investigation not yet complete.</p>	<p>Make sure you are clear what is being requested and act appropriately:</p> <ul style="list-style-type: none"> <li>• deferred pension into payment on ill-health grounds from the current date (there will be no enhancement to pension) – in which case treat this as a standard case;</li> <li>• a revisit of the original decision not to award an ill-health pension at the point of leaving – in this case take advice from LGSS Pensions Service on how to handle this. In principle you should avoid a backdated decision so you will need to manage expectation and direct the individual to straightforward deferred pension into payment on ill-health grounds from the current date.</li> </ul>
<p>Conversation with individual asking about early payment of pension.</p>	<p>Make sure you ask about health issues and if there appears to be a case suggest the individual makes a written request for benefit to be paid on grounds of ill-health.</p>
<p>The results of an appeal decision require referral of a case to a second Independent Doctor.</p>	<p>Straight into deferred pension into payment on ill-health grounds process.  <b>Note:</b> due to a recent Deputy Pensions Ombudsman <a href="#">determination</a> please use a different provider for the second Independent Doctor.</p>
<p>Contact from a tier 3 ill-health pensioner asking for uprating to a tier 2 pension.</p>	<p>See Ill-health Pension Process: Guidance Note 3.</p>



<p>Contact from a tier 3 ill-health pensioner whose tier 3 pension has been suspended asking for it to be paid again.</p>	<ul style="list-style-type: none"> <li>• If it is less than three years since suspension see Ill-health Pension Process: Guidance Note 3 regarding upgrading from tier 3 to tier 2.</li> <li>• If it is more than three years since suspension treat this as a deferred pension into payment on ill-health grounds process case.</li> </ul>
---	---

Be aware that who is contacted will vary. Deferred Pensioner members often contact the following:

- LGSS Pensions Service – if we receive a request we will forward it to our main contact in your organisation;
- Their ex-manager or the manager of the team they used to work in;
- The chief executive or other senior manager;
- Human Resource sections;
- Payroll.

Your organisation needs to have a clear method of making sure all requests received are dealt with correctly, irrespective of where they initially arrive in the organisation. We recommend that they come to a central place for management.

Whatever process you use, you need to be clear on when the member first made contact about the issue. This date will be relevant in some cases.

### **Prepare the Deferred Pensioner Member for Referral**

Once it has been identified that this is an application for payment of a deferred pension benefit on the grounds of ill-health LGSS Pensions Service recommends the following is sent to ensure the person has been prepared for the referral. The suggested wording for the covering letter is included in the ill-health toolkit.

- A copy of the leaflet “Claiming Your Deferred Pension Benefit Due To Ill-Health” as early as possible.
- The member consent form (IHRC). It is essential that the member returns a correctly completed IHRC. You should remind the member and check the form when received to make sure consent has been received and the member has named BOTH a GP and a consultant.
- Details of the job you intend to provide to the Independent Doctor. If you have limited information use the opportunity to ask the member for more information about the duties of the job they were doing when they left.

### **Preparing the Referral Pack**

Once the need for an independent doctor’s referral is identified you have to put together a referral pack to send to the independent doctor. It is your choice on who does this (e.g. an HR officer, your Occupational Health Advisor (OHA)) but, in all cases, this should consist of:

- A completed referral form (IHRE1) (see below for completion advice).

- A purchase order/purchase order number.
- A copy of the relevant IHCERTD form, with part A completed and the applicants name on all pages. Follow the “Which Option On The IHRE1 And Which Form To Attach” flow chart to identify which form is needed and which box to tick in Part C on the IHRE1.
  - If the person has more than one deferred benefit there needs to be an appropriate IHCERTD for each one.
  - For IHCERTD2 cases make sure that the “Date of Application” is correctly completed as if the member’s application is successful, pension will be paid from this date. Generally the date is the day the individual first made contact with your organisation or LGSS Pensions Service on this issue.
- A job description (if available) or a full description of the requirements of the job for each of the member’s former jobs.
  - If this is someone who opted out, the relevant job is the one they opted out from not their current or last job.
- General job hazard and necessary physical/mental attributes assessments plus any job or person specific risk assessments.
- The member’s medical consent form (IHRC) plus any additional information supplied by them in response to Part D of the form.
  - It is important that when the referral pack goes to the independent doctor the signature is no more than 4 weeks old as medical consents only last for 3 months and the independent doctor will need time to get through the process.
- A pack of any new information your occupational health advisor has collected about the current medical situation. If there is none this is fine.

### **Your Occupational Health Advisor’s (OHA) Role**

It is your choice on how to involve your OHA. Best practice for long deferred cases where no previous work has been done is to refer the case, as it currently stands, directly to the independent doctor with no further preparation (though including any medical information collected to date).

For Cambridgeshire Pension Fund employer cases, LGSS Pensions Service has instructed Heales Medical Limited that as soon as they receive a deferred pension referral the independent doctor should deal directly with the applicants medical professionals for any further medical information, not the employer’s OHA. In doing this Heales will assume that by referring the case to them for the Independent Doctor decision a Cambridgeshire Pension Fund employer will have also consented to them getting one report from the member’s GP and one from a consultant if needed which the employer will pay for if it is needed. If further reports or investigations are required these will be discussed with the employer first. If additional reports or investigation are required it will extend the length of time that is needed to determine the case.

Northamptonshire Fund employers will have their own arrangements with their chosen approved IRMP provider.

## Checking the Consent to Release Medical Records to an Independent Doctor form (IHRC)

You should check:

- Part A is fully complete.
- Part B: The member has completed Yes for all questions.
- Part C: The member has chosen ONE option.
- Part D: The member has chosen ONE option. If it is the second one they should have attached the additional information.
- Part E: The member has chosen ONE option and has supplied both a GP and Consultant name AND has given contact details on the attached sheet for them. There is no need to have additional medical professionals.
- Part F: The member has signed the form (But see below if the member is not able to do so).
- The form has been signed no more than 4 weeks before the independent doctor referral.

If the member is not able to sign the form personally, a person with one of the following powers can:

- If someone has a power of attorney for the individual covering health and welfare powers they can sign the form providing they attach the original document;
- If someone is a Court of Protection Deputy with the healthcare and personal welfare powers (having property and affairs powers is not sufficient) they can sign the form providing they attach the original document;

If neither of the above exist contact LGSS Pensions Service – other arrangements can be made but a different form is needed.

## Completing the Referral Form (IHRE1)

### Part A

Enter details of the person dealing with the case who the independent doctor should contact with any questions. Include details of where invoices should be sent to and an Email address for them to use. As the employer you are responsible for the bill not LGSS Pensions Service and not the member; by referring a case to Heales Medical Limited, Cambridgeshire Pension Fund employers are agreeing to pay the following with no further referral:

- Cost of Independent Doctor Referral  
PLUS
  - Cost of a GP report if required by the Independent Doctor  
PLUS
  - Cost of consultant report if required by Independent Doctor
- Any additional costs will be agreed with the employer before they are incurred.

### Part B

Details of the applicant, including their home address. Include details of the job associated with each deferred pension. If a person has more than one deferred pension the doctor needs to make a separate decision for each one.

### Part C (i)

Select the statement that applies by writing in the job number from Part B, choosing carefully between which of the forms is needed. If there is more than one job all need referring to. The “Which Option On The IHRE1 And Which Form To Attach” flowchart in the ill-health toolkit can be used to guide you in this choice. Please note the statement at the bottom – by signing this form you are agreeing to this.

Issues to look at particularly are:

- If this is an ex-employee (even if they only left a week ago!) and consideration is being given to backdating the pension to the date of leaving special care is needed. For all of these types of case they should have been discussed with LGSS Pensions Service before being referred:
  - C3 if it is as a result of an appeal decision.
  - C4 if it is because an incorrect process was followed at the point of leaving.
  - C5 if the individual was a “treatment not yet exhausted” case where the treatment is now complete and recovery is incomplete and so the case needs looking at again.
- For a straightforward deferred pension into payment on ill-health grounds use C7.

### Part C (ii)

This only needs completing for a IHCERTDX3 or IHCERTDX4 case. Otherwise leave this blank.

### Part C (iii)

For each of the eight statements there are various options to tick. You must tick one option for each statement. You will note: for several of the statements you must either have attached something or the independent doctor already has it.

### Signature

The form should be signed by whoever is authorised to refer cases to the Independent doctor.

## **Sending the Case**

Cambridgeshire Fund cases should be sent to:

Heales Medical Ltd  
Citibase  
101 Lockhurst Lane  
Coventry  
CV6 5SF

Telephone: 0844 842 1755 - Extension: 5000

They do not require any prior notice of the case.

**Please note:** Heales Medical Ltd will subsequently deal with, and invoice, the person who has submitted the case and will send the completed IHCERT form and report to them. If you wish them to deal direct with you rather than your OHA, you must submit the IHRE1 yourself.

Northamptonshire Fund employers will have their own arrangements with their chosen approved IRMP provider.

### **What to do when you have the completed IHCERTD form**

First of all you make the decision on whether to award an ill-health pension or not.

Once you have made the decision you complete the employer's declaration at Part D of the IHCERTD1, 2, 3 or 4 and tell the deferred pensioner member what you have decided. Letters for the various types of notification are included in the ill-health toolkit.

You now need to inform LGSS Pensions Service of your decision by completing the Notification of Employer Decision form (EMPLOYDEC), with a copy of the relevant IHCERTD form. Keep the original on the member's file.

### **SPECIFIC GUIDANCE**

#### **Treatment Not Yet Exhausted/Investigation Not Yet Complete**

Employers are increasingly dismissing individuals at an earlier stage of ill-health absence. This inevitably means that individuals are now often dismissed before their treatment is complete or even before investigation is complete. In assessing these people the Independent Doctor applies a probability test to the medical evidence. This means that if more than 50% of people in similar circumstances would make a recovery to the point that they would be able to do their job before age 65/normal pension age the doctor will decide they do not meet the criteria.

At the point of dismissal the employer is therefore correct to award deferred benefits as they do not meet the balance of probability test which is contained in the definition of "permanently incapable". However, once treatment is exhausted, it may turn out that they

are in the group of people for whom treatment is not successful or only partially successful. Following legal advice to the Cambridgeshire Pension Fund, LGSS Pensions Service is adapting its procedure to deal with these cases in a fair way.

Ill-health Guidance Note 2 provides details of how to handle these cases at the point of dismissal. This includes the issuing of a specific entitlement award letter that has been developed to deal with these circumstances; it is issued with the dismissal letter.

If one of these member's comes back to ask for their case to be re-considered following the conclusion of treatment or completion of investigation, the same basic process is followed as with a straightforward deferred pension into payment on ill health grounds case. The difference from the employer's perspective is that an IHCERTDX3 is used for leavers between 1 April 2008 and 31 March 2014 (inclusive), and an IHCERTDX4 for leavers after 31 March 2014. We are calling these hindsight applications.

When the Independent Doctor looks at a hindsight application he gathers new medical information and looks at both the current situation and what the situation actually was at the point of dismissal with the benefit of hindsight.

On receipt of the IHCERTDX3 or IHCERTDX4, the employer decides whether to make an entitlement award based on deferred pension into payment on ill-health grounds or dismissal on the grounds of ill-health. If an award is made based on the latter the pension will be backdated to the date of leaving with enhancements as appropriate.

## **Appeals**

If an employee is dismissed on the grounds of ill-health without access to an ill-health pension, the employee will be awarded a deferred benefit. If they successfully appeal this decision, it follows the same basic process as is followed with a straightforward deferred pension into payment case. The difference from the employer's perspective is that an IHCERTDX3 is used for leavers between 1 April 2008 and 31 March 2014 (inclusive), and an IHCERTDX4 for leavers after 31 March 2014. .

When the Independent Doctor looks at an appeal cases he collects fresh information and looks at both the current situation and what the situation actually was at the point of dismissal. On receipt of the IHCERTDX3 or IHCERTDX4, the employer makes a fresh decision based on the dismissal on the grounds of ill-health process. If the award is changed and an ill-health pension granted the pension will be backdated to the date of leaving with enhancements as appropriate. A special entitlement award letter is included in the ill-health toolkit – deferred pension into payment.

## **Disputes**

The member may appeal the employer's pension decision. This is done through the pension scheme's Internal Dispute Resolution Procedure (IDRP). The employer must include the right of appeal when notifying the member of their decision

The IDRP has two steps:

Step 1: The case is reviewed by a person nominated by you, the employer. The nominated person (or Adjudicator) looks at whether the correct procedure has been

followed and whether a decision has been correctly taken according to LGPS Regulations.

When looking at the IHCERTD the nominated person is strictly concerned with whether the form that has been completed by the independent doctor supports the decision made by the employer not about whether the independent doctor's medical opinion is correct. However, s/he will be concerned if there are:

- any apparent discrepancies in the process; or
- if it appears that a proper reconciliation has not been done between the member's doctors and the independent doctor, and the employer's occupational health advisor if they have been involved; or
- there is medical evidence not considered (e.g. there is no report from the consultant or the report used is old).

Step 2: If the Adjudicator determines the correct procedure was followed, the member may then take the case to the administering authority for consideration by the Director of LGSS Law & Governance Northamptonshire and Cambridgeshire.

A second independent doctor's opinion could be sought at either stage. However, it is recommended that this only happens if the member can produce written evidence from an appropriate GP or consultant which demonstrates what has changed since the information used by the Independent Doctor was produced. If a second independent doctor's opinion is sought, they should come from a different provider to the first independent doctor; this is due to a recent Deputy Pensions Ombudsman [determination](#).

If the member is still not happy, they have a final right of appeal to the Pensions Ombudsman (PO). The PO will take an overview of the case and, in particular, look at any issues of maladministration. The PO also has the option of yet another medical opinion but is unlikely to require one if there has been consistency throughout the whole process.

**LGSS Pensions Service**  
**John Dryden House**  
**8-10 The Lakes**  
**Northampton**  
**NN4 7YD**

Tel: 01604 366537

Email:[pensions@northamptonshire.gov.uk](mailto:pensions@northamptonshire.gov.uk)

April 2014