

UNDERSTANDING THE TIER 3 ILL-HEALTH PENSION REVIEW

INTRODUCTION

This guide aims to help you understand:

- Why your tier 3 ill-health pension is being reviewed;
- The process that is about to be followed;
- What will happen depending on the result of this process;
- What to do if you are unhappy with the result.

Why am I being reviewed?

When you were dismissed on the grounds of ill-health your employer awarded you a tier 3 ill-health pension and explained that the Local Government Pension Scheme regulations required that pension to be reviewed after 18 months or when you enter employment. You have now either informed your employer you have new employment or are approaching the 18 month point, or perhaps have requested to be uprated from a tier 3 to a tier 2 pension.

What is the review process?

The following process will be followed.

Step 1:	You have received this leaflet as part of step 1. Your ex-employer is asking you to complete the questionnaire to determine whether you are already in gainful employment or not. Your ex-employer will also take the opportunity to get “Consent for Release of Medical Records to an Independent Doctor” (IHRC3) and Legal & General ill-health liability insurance forms: completed at this stage if relevant.
Step 2:	Your ex-employer will assess your response to the questionnaire and decide whether they believe you are in gainful employment: <ul style="list-style-type: none"> o If you are you go straight to step 4; o If you are not AND are neither currently approaching 18 months from your ill-health dismissal nor requesting to be uprated from a tier 3 to tier 2 pension there is no further action; o If you are not AND are either approaching the 18 month point or requesting to be uprated from a tier 3 to tier 2 pension you go to Step 3.
Step 3:	Your ex-employer will refer your case for consideration by an Independent Doctor. This may be the doctor who first made a decision on your case. The Independent Doctor will seek upto date medical information about you and will express an opinion on when they think you will be capable of undertaking gainful employment, it is unlikely that they will ask to see you. They will provide your ex-employer with a signed certificate with this information.
Step 4:	Your ex-employer will consider the information provided by you and by the Independent Doctor (if relevant) and decide what to do about your pension. They will inform you and LGSS Pensions Service of their decision.

Why will my case be sent to the Independent Doctor again?

You will only be referred to the Independent Doctor if your ex-employer needs a certificate that provides information on whether you meet the medical criteria for continued access to an ill-health pension at this time.

This occurs when you are not in gainful employment and are approaching the 18 month review point or have requested to be uprated from a tier 3 to a tier 2 pension. Your ex-employer will then use that certificate with the opinion on when you may be capable of undertaking gainful employment to make a decision about what they will do about your pension.

How does the Independent Doctor decide my capability to undertake gainful employment?

You will be asked to sign a form that gives consent for the Independent Doctor to ask your GP and Consultant for further information about your medical condition. The Independent Doctor does not normally ask to see you as they rely on the expertise of those with personal knowledge about you to provide the medical information needed.

Once the doctor has the information they use their medical knowledge, and their knowledge of how various medical conditions affect an individual's ability to work.

In doing this the Independent Doctor works out how long it would take for most people like you to recover to a point they could undertake gainful employment.

What is the role of my ex-employer?

Your ex-employer makes the decision on what to do about your pension based on information you have provided on any employment and the Independent Doctor's opinion, if relevant.

At Step 4 your employer will decide which one of four categories you fall into. If you are not already in gainful employment this decision will largely depend on the Independent Doctor's opinion on when the medical condition that led to the award of your tier 3 pension will allow you to undertake gainful employment. Gainful employment is defined as any paid employment that you could do for at least 30 hours each week for at least a year.

The four categories are:

Category 1 – you are currently in gainful employment.

Category 2 – you are currently capable of undertaking gainful employment.

Category 3 – you are not currently capable of undertaking any gainful employment but it is still believed you will be capable within three years of your dismissal date (or your 65th birthday if sooner).

Category 4 – you are unlikely to be capable of undertaking any gainful employment within three years of your dismissal date.

What happens if I am deemed to be category 1 - currently in gainful employment?

Payment of your pension will be discontinued from a date determined by your ex-employer.

The date is likely to be the date you entered or will enter gainful employment.

You will normally be required to pay back the gross pension paid between the date that pension should have been discontinued and the date it was actually discontinued; it would be for you to seek repayment of any overpaid income tax that you may have paid direct from HM Revenue and Customs – remember it was your responsibility to tell your employer when you entered employment.

What happens if I am deemed to be category 2 - currently capable of undertaking gainful employment?

Your pension will be discontinued from a date determined by your ex-employer. This will normally be 18 months after your dismissal date.

What happens if I am deemed to be category 3 - not currently capable of undertaking gainful employment but will be before the three year point?

Your pension will continue to be paid for now.

If you get employment you must tell your ex-employer and they will assess whether they consider you to be in gainful employment. If they consider that you are, payment of your pension will then be discontinued. If you do not get gainful employment within three years of being dismissed, your pension is automatically discontinued on the third anniversary of your dismissal.

What happens if I am deemed to be category 4 - it will be more than three years after I was dismissed before I will be capable of undertaking gainful employment?

Normally your pension will be uprated to a tier 2 ill-health pension from the date your employer makes the decision. This means:

- your pension will be increased to take account of one quarter of the further membership that you would have counted between the date your pensionable employment ended and age 65.
For example, if you were age 55 when your pensionable employment ended, and were working full time, your pensionable service would be increased by $2\frac{1}{2}$ years ($65 - 55 \times \frac{1}{4} = 2\frac{1}{2}$) and the additional pension paid from the date of uprating.
- your pension will now become permanent and therefore not subject to review.

If my pension is discontinued when can I get it again?

This depends:

- Your pension automatically comes back into payment at age 65.
- You can apply to have it paid from age 60 voluntarily, or from age 55 with employers consent. It may be permanently reduced for early payment, unless your ex-employer was to determine on compassionate grounds that the reduction should not apply.
- You may ask to have your case reconsidered to establish whether a tier 2 pension is appropriate. If the outcome is a tier 2 pension, the increased rate will be payable from the date of the decision that a tier 2 award was appropriate. This decision must be made either before payment of your tier 3 pension is discontinued or within 3 years of payment of your pension being discontinued so long as this is still before age 65.
- If you suffer from a medical condition unconnected with the one for which you were awarded the tier 3 pension, you can apply to have the pension brought back into payment early on grounds of ill-health.

What happens next?

Once your ex-employer receives your completed questionnaire and the IHRC3 and Legal & General ill-health liability insurance forms (if relevant) they will decide whether to proceed immediately to Step 4 in the process and inform you of their decision or whether they need to refer you to the Independent Doctor.

To do the referral they will need the IHRC3 form: Consent for Release of Medical Records to an Independent Doctor. If you did not complete this and the Legal & General ill-health liability insurance form at Step 1 your ex-employer will ask for these before referring you at

Step 3. The IHRC3 form is crucial in your referral – if you do not consent or do not provide contact details for your GP AND consultant it is highly unlikely that the Independent Doctor will be able to get sufficient information to satisfy them that you meet the criteria. This means your ex-employer will assume you are capable of undertaking gainful employment and will discontinue your pension immediately at the 18 month point. The Legal & General ill-health liability insurance form is important in the process too, as the cover provided by Legal & General protects the Pension Fund from the additional costs of the enhancement to benefits where a tier 3 pension is uprated to a tier 2 pension.

How quickly will I hear?

If you are in gainful employment the decision should be within a month. If you are being referred to the Independent Doctor the timescales will depend on how quickly other medical professionals respond – if you have asked to see reports before they are sent this may delay the process also.

You should be aware that some GPs and Consultants can take several weeks to supply necessary information.

What happens if I do not respond?

If you do not return the questionnaire or a completed IHRC3 and Legal & General ill-health liability insurance form to your ex-employer by the 18 month anniversary of your dismissal your pension will be suspended until such time as the necessary information is available. If this decision requires a certificate from the Independent Doctor the pension will not be re-instated until that certificate is obtained. This could mean several months of suspended pension. It is not, therefore, in your interest to not respond.

What do I need to do now?

- Complete the questionnaire and, if relevant, the Consent to Release Medical Records to an Independent Doctor (IHRC3) and Legal & General ill-health liability insurance forms and return them to your ex-employer. You are encouraged to clearly state your medical case to the Independent doctor. However, please remember this is about how your medical condition is affecting your ability to undertake gainful employment at the moment. You may want to take advice on doing this from your GP, specialist or a Trade Union representative.
- Be patient:** How long this takes will depend on whether your case goes to the Independent Doctor and whether the doctor needs to ask for additional investigation from your specialist - it can take several months.

Your ex-employer should not discontinue your pension until the results of the independent doctor's referral is known unless you are already in gainful employment, or have not responded appropriately to requests for information or completion of forms within the given timescales.

FOR FURTHER INFORMATION

Your ex-employer is responsible for all decisions regarding your continuing entitlement to your tier 3 pension. In the first instance any queries should be directed to the person who wrote to you regarding the tier 3 review.

However, if you want general information on ill-health pension or to check information you have been given you can contact the LGSS Pensions Service as follows:

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

Tel: 01604 366537 (9am-5pm)
Email: pensions@northamptonshire.gov.uk

