

HERTFORDSHIRE PENSION FUND ILL HEALTH POLICY ON BEHALF OF A DEFUNCT SCHEME EMPLOYER

April 2022

Hertfordshire Pension Fund

Local Government Pension Scheme

Contents

	Page
1. Introduction	3
2. LGPS III Health Retirement three tier system	3
3. Deferred Benefits	4
4. The Review Mechanism for Third Tier	5

1. Introduction

This policy sets out how Hertfordshire County Council, as Administering Authority of the Hertfordshire Pension Fund, will exercise its responsibilities regarding the awarding of ill health benefits to a deferred member where the former employer no longer exists.

2. LGPS III Health Retirement

If a member has left local government employment without accessing their pension they may be entitled to a deferred benefit. If they subsequently become permanently incapable of efficiently rendering the duties of the post of their former employment, because of ill-health or infirmity of mind or body, and meet certain specific requirements they may request payment of their retirement benefits, regardless of age.

The decision to release deferred benefits on ill-health grounds is usually made by the member's former employer. Before making the decision, the employer must seek the opinion of an Independent Medical Practitioner ("IRMP").

However, from time to time a member's former employer may no longer exist. In such cases, the decision to grant ill-health retirement will fall to Hertfordshire County Council, having first obtained the opinion of an IRMP.

Where an employee wishes to request ill-health retirement and their employer no longer exists, they should contact the Hertfordshire Pension Fund requesting release of their deferred benefits on ill-health grounds. The Hertfordshire Pension Fund will request that an IRMP provides a medical opinion,

The exact criteria under which deferred benefits can be released on ill-health grounds will depend on which regulations were in place when the member left employment.

Definitions

Throughout this document the following definitions apply;

"permanently incapable" means that the member will, more likely than not, be incapable until at the earliest, the member's normal pension age

"gainful employment" means paid employment for not less than 30 hours in each week for a period of not less than 12 months

The 2013 Regulations

The LGPS Regulations 2013 apply for members who left active service on or after 1 April 2014.

Under the 2013 Regulations, in order to qualify for release of deferred benefits on ill-health grounds, the following criteria must be met;

Because of ill-health or infirmity of mind or body, the member must be;

- permanently incapable of discharging efficiently their previous role with their former employer, and
- unlikely to be capable of undertaking gainful employment¹ before normal pension age, or for at least three years, whichever is the sooner.

Before making a decision Hertfordshire County Council will obtain a certificate from an IRMP on whether the above conditions are met.

If awarded, the ill-health pension would be paid from the date of the member's request.

The 2007 Regulations

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 apply to members who left service on or after 1 April 2008 and before 1 April 2014.

Under the 2007 Regulations, in order to qualify for release of deferred benefits on ill-health grounds, the following criteria must be met;

Because of ill-health or infirmity of mind or body, the member must be;

- permanently incapable of discharging efficiently their previous role with their former employer, and
- unlikely to be capable of undertaking gainful employment² before normal pension age, or for at least three years, whichever is the sooner.

Before making a decision Hertfordshire County Council will obtain a certificate from an IRMP on whether the above conditions are met.

If awarded, the ill-health pension would be paid from the date the above conditions first applied.

The 1997 Regulations

The 1997 Regulations pertaining to the period from 1st April 1998 – 31st March 2008, would mean that members who then become permanently incapable of efficiently rendering the duties of the post of their former employment, can elect to have their pension benefits put into payment if they satisfy the 1997 definition of being permanently unfit (the 1997 certificate would have to be completed). Provided certification is obtained, the members' pension would be put into payment on the date of election/ request.

The 1995 Regulations

The 1995 Regulations pertaining to the period from 2nd May 1995 – 31st March 1998, would mean that members who then become permanently incapable of efficiently rendering the duties of the post of their former employment, can elect to have their pension benefits put into payment if they satisfy the 1995 definition of being permanently unfit (the 1995 certificate would have to be completed). Provided certification is obtained, the members' pension would be put into payment on the date that they became permanently unfit.

Right of Appeal

If any member disagrees with the tier of pension awarded, they can appeal by following the LPPA's [complaints procedure](#).

3. The Review Mechanism for Third Tier

Third Tier Definition

If an active member;

- leaves employment because their medical condition makes them permanently incapable of carrying out their current employment;
- they are incapable of immediately carrying out gainful employment, and
- they are likely to be capable of any gainful employment* within three years of leaving their employment;

then the benefits accrued at the date of leaving are put into payment.

The pension would be discontinued if:

- The member obtains gainful employment; **or**
- A medical review certifies that they are capable of obtaining such employment

In any event, the payment of 3rd tier benefits is stopped after 3 years the Pension benefits are deferred until Normal Pension Age.

The 3rd tier member will be required to notify the LPPA when employment is found providing details, including pay and working hours of that employment. Payments would then stop if this was deemed to be 'gainful employment'.

18 Month Review

When 3rd tier payments have been made for 18 months, the Administering Authority will request that an IRMP undertakes a review. There are three possible outcomes of this review:

1.) Member moved to second tier ill health package

The member could be moved to the second tier of the Local Government Pension Scheme three-tier ill health benefits, if the assessment indicates that it is unlikely that the member will obtain gainful employment within 3 years but likely to obtain gainful employment before Normal Pension Age. The 2nd tier benefits are uplifted from the date of determination, i.e. the date the Administering Authority determined that the member's pension tier should be uplifted.

2.) Member remains on third tier ill health retirement package

The member could remain on the third tier of the Local Government Pension Scheme three-tier ill health retirement package. The member will still be required to notify the LPPA if they find employment, and must provide details, including pay and working hours of the employment. The LPPA would then stop payments if this is deemed to be 'gainful employment'.

No further review will be automatically carried out although the employee is entitled to request a further review be undertaken within 3 years after payment of 3rd tier benefits has been discontinued.

The payment of third tier is limited under the regulations. At the end of three years the payment of the third tier will be automatically stopped. The member has the right to request a further review up to three years after the 3rd tier pension has ceased.

3.) Third tier payments stopped

If the Hertfordshire Pension Fund decides, from the information provided that gainful employment had been obtained, the 3rd tier payments will be stopped. The Administering Authority will notify the LPPA when payments should be stopped. If payments have continued when gainful employment has been found, the Administering Authority will recover any overpayment from the 3rd tier member.

If following the 18 month review it is apparent that the members' health is improving, the 3rd tier payment may also be stopped.

Right of Appeal

If any member disagrees with the tier of pension awarded, they can appeal by following the LPPA's [complaints procedure](#).

For further information on your pension, please contact the LPPA using their secure [contact form](#).

Contact Us

If you have any queries regarding this policy document please don't hesitate to contact the Fund from the contact details provided below:

Email – Pensions.Team@hertfordshire.gov.uk