

GUIDANCE ON THE LOCAL GOVERNMENT PENSION SCHEME
(NORTHERN IRELAND) ILL-HEALTH RETIREMENT PENSION
PROVISIONS

JULY 2009

**Guidance on the Local Government Pension Scheme:
Ill-Health Retirement Pension Provisions**

1. This guidance is issued under regulations 20(8) and 31(2) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations (Northern Ireland) 2009¹ (the “Benefits Regulations”) and regulation 51(3) of the Local Government Pension Scheme (Administration) Regulations (Northern Ireland) 2009² (the “Administration Regulations”), to the Northern Ireland Local Government Officers’ Superannuation Committee (the “Committee”) and the Independent Registered Medical Practitioners (IRMPs). It will also be made available to employing authorities and other relevant interested parties.

2. The Committee and the IRMPs must have regard to this guidance when carrying out their functions under regulations 20 and 31 of the Benefits Regulations and regulation 51 of the Administration Regulations.

EARLY LEAVERS: ILL-HEALTH

3. Regulations 20 and 31 of the Benefits Regulations set out provisions, which enable a member who has total membership of at least one year, to have their retirement pension come into payment before their normal retirement age due to ill-health.

4. At the request of the employing authority, the Committee may determine if the member satisfies the conditions for an ill-health retirement (Regulation 20(1)). In this case, it is the responsibility of the employing authority to

1 S.R. 2009 No. 32
2 S.R. 2009 No. 33

contact the Committee. It is important that employers should contact the Committee as soon as practicable. If the employer has made a request for a member to receive ill-health benefit it would be preferable if the employer did not terminate that member's employment before the initial ill-health decision by the Committee is known.

5. The Committee may also be asked by a member, who has left their employment with an entitlement to a deferred benefit to determine if they are entitled to the early payment of those benefits due to ill-health (regulation 31). In this case, the deferred member may apply to the Committee directly and any payment would be from the date of the application.
6. The Committee cannot make such determinations unless it has referred the case to an IRMP for assessment and the IRMP has issued a certificate.
7. The Committee in appointing an IRMP must ensure the person is:
 - a registered medical practitioner within the meaning of the Medical Act 1983³; and
 - is qualified in occupational health medicine as defined in Regulation 20(9) of the Benefits Regulations.
8. The Committee must also be satisfied that an IRMP in assessing a member does so as an independent. An IRMP, under Regulation 51 of the Administration Regulations, must include in their certification that he/she:

³ 1983 c. 54

- has not previously advised, or given an opinion on or otherwise been involved in the particular case for which the certificate has been requested; and
- is not acting, and has not at any time acted, as the representative of the member, the employing authority or any other party in relation to the same case.

The inclusion of this statement should satisfy the Committee of the IRMP's independence.

9. The IRMP must complete a certificate to state whether the member, due to their condition, is permanently incapable of discharging efficiently the duties of his employment because of ill-health or due to infirmity of mind or body. The IRMP must also state whether as a result of that condition, the member:
 - has no reasonable prospect of obtaining any other gainful employment before age 65; or
 - has a reasonable prospect of obtaining any other gainful employment before age 65.
10. The role of the IRMP in completing the certificate is to give an opinion, on the balance of probabilities, whether the criteria for entitlement to ill-health benefits are satisfied in each case.
11. Non-medical factors, such as the general availability of gainful employment in a particular area or the attitude of employers to certain conditions, would not be material factors and should not be part of the IRMP's consideration, while the effect a medical condition would have on their practical ability to

obtain gainful employment would. The same would apply to the individual's own attitude towards their condition, although it is recognised that in some cases, the member's attitude may constitute a medical condition in itself and the IRMP could be asked to make a judgement about this.

12. If, after conducting an assessment, of a member's condition, the IRMP has issued a certificate stating that in their opinion that the member has no reasonable prospect of obtaining any gainful employment before his normal retirement age. The Committee may determine that the member qualifies to receive full pension benefits prior to their normal retirement age.
13. If, however, an IRMP issues a certificate stating that in his/her opinion, the member has a reasonable prospect of obtaining any gainful employment before his normal retirement age: the Committee may determine that the member qualifies to receive a pension award. That award is calculated as if the date on which he leaves his employment (or the date on which an application was received) was his normal retirement age and 25% of the period between that date and their normal retirement date was added to their total membership at that date.
14. For people who satisfy the following conditions-
 - aged 45 or more before 1 April 2009; and
 - a member of the Local Government Pension Scheme before that date;if the ill-health the additional benefit for which they qualify is less than the enhancement that would have been awarded under the Local Government Pension Scheme Regulations (Northern Ireland) 2002 (the 2002 Regulations), then the member's benefits are increased as if the 2002 Regulations still applied.

15. In the case of such members the IRMP would give his/her opinion as regards whether the criteria for entitlement to ill-health benefits are satisfied i.e. the member has no reasonable prospect of obtaining any gainful employment before the member's normal retirement age; or the member has a reasonable prospect of obtaining any gainful employment before the member's normal retirement age.
16. The Committee would then calculate the ill-health retirement benefits under the Benefits Regulations and the 2002 Regulations and the member is awarded whichever is the greater period of increase.
17. Where a member is awarded ill-health retirement benefits but prior to their leaving employment it is necessary for them to reduce their hours due to their ill-health, no account is taken of the reduction of hours and their previous terms (prior to the reduction of hours) shall be used for the calculation of their award. The IRMP has to certify that the reduction in hours is a result of the condition, which has led to the member being permanently incapable of the relevant local government employment and have a reduced likelihood of obtaining gainful employment in accordance with regulation 20 of the Benefits Regulations. If this is certified, the Committee can make a determination, and the ill-health pension will be calculated based on accrued service with no reduction in hours. This applies to past service and service enhancement for a tier 1 or tier 2 award.
18. If a member who is employed at the outset on a part-time basis because of an ill-health condition, further reduces their hours as a result of that ill-health condition, is being considered for ill-health retirement and the IRMP certifies

that the reduction is due to the ill-health condition, no account is taken of the further reduction when calculating the ill-health benefits.

TRANSITIONAL PROTECTIONS

19. There is a transitional period until 30 September 2009. During this time if an ill-health determination under regulation 20(1) of the Benefits Regulations would place the member in a worse position than he or she would have been if the 2002 Regulations still applied then the member is treated as if the 2002 regulations were still in force.
20. During this period the IRMP should give an opinion on whether the criteria under the Benefits Regulations have been satisfied. It will be for the Committee to compare the benefits that could be awarded under the two sets of regulations and award whichever is the better.
21. In the case of a member whose retirement pension is in payment, the Committee may pay a lump sum equal to five times the retirement pension of a pensioner member provided that the IRMP has certified that that member's life expectancy is less than one year. This provision will lapse after 30 September 2009.

EMPLOYERS' DUTIES

22. Employers should note that the Committee, in receiving a request for a member to receive ill-health benefit, will ask if all other processes available to the employer have been exhausted. Employers have a responsibility to manage sick absences in the workplace and arrangements for doing so will vary amongst employers but it is important that employers refer an employee for an ill-health determination as soon as practicable. If the employer has

requested an ill-health benefit for a member it would be preferable if the employers did not terminate the member's employment until the initial ill-health decision is made by the Committee.

23. Employers should demonstrate that they have tried to accommodate the member remaining in employment, in line with the requirements of the Disability Discrimination Act 1995 (as amended), through such measures as redeployment, making reasonable adjustments to the workplace or flexible working.

ADDITIONAL MEDICAL EVIDENCE

24. If a case is severe enough for the employer to make a request for ill-health benefit to be awarded to a member, it would generally be expected that the member would have had the benefit of specialist opinion during their illness. It would greatly aid the Committee, if the member's specialist could provide any relevant medical information. Similarly, if no specialist advice were available, any copies of hospital reports or notes from the member's GP would also be of benefit.