

Certificate of Permanent Incapacity (CPI) / Ill Health retirement

Occupational Health follow a structured process to determine an individual's ability to discharge the duties of their post on health grounds. The usual process that is followed to support individuals in work is as follows:

1. Recommendations to consider reasonable adjustments in substantive role that will enable the individual to continue in that role.
2. Where adjustments *cannot* be made, consideration is given to medical redeployment on the grounds of ill health, where the individual is able to carry out duties in an alternative role and is not (usually) permanently incapacitated.
3. If medical redeployment *cannot* be found, an assessment needs to be carried out by the Occupational Health service to determine permanent incapacity (if this has not already been considered by the Occupational Health service) if the employee exercises a wish to be considered for ill health retirement.

1. Certificate of Permanent Incapacity (CPI)

- 1.1 Ill Health Retirement can only reasonably be considered if the person is permanently incapable of discharging their duties of their own or an alternative role.
- 1.2 A Certificate of Permanent Incapacity (CPI) can only be signed by an OH qualified doctor. A CPI is issued if an employee is permanently unfit to carry out their role. The criteria adopted by the Occupational Health doctor is:
 - **Tier 1.** There is no prospect of him/her obtaining gainful employment before his/her normal retirement age (age 65)
 - **Tier 2.** Although he/she cannot obtain gainful employment within 3 years of leaving his/her employment, it is likely he/she will be able to gain gainful employment before his/her normal retirement age (age 65).
 - **Tier 3.** He/she is judged capable of obtain gainful employment within 3 years of leaving his/her employment.
- 1.3 Information on Pension Regulations can be obtained from Pensions Section, within HR.
- 1.4 On receipt of a certificate (CPI), the employing manager should:
 - a. Obtain an estimate of the ill health retirement pension figures from HR.
 - Arrange an Ill Health Retirement meeting with the employee. A Trade Union Officer or representative may accompany the

employee. The representative may not act in a legal capacity. The purpose of the meeting is to discuss the fact that a CPI has been issued by Occupational Health and that they will be retired on the grounds of ill health.

- 1.5 HR will assist the manager and employee through the process and HR will provide the required template letters. The employing Service will issue the employee with written notice to terminate their employment. Such notice being contractual notice or statutory notice of one week for each continuous complete years Local Government service, up to a maximum of twelve weeks. Any outstanding annual leave up to the date the employment contract ends is paid on top of the normal notice period. The employee will be notified of their right of appeal against the decision to terminate their employment. Also the right to complain about any decision affecting his/her pension benefits. The designated HR Advisor will advise on the Internal Dispute Resolution Procedure, which applies.
- 1.6 If the employee expresses a wish to be redeployed, a meeting between the employee, their representative and the designated HR Advisor should be arranged as soon as possible. The Corporate Lead for HR will make a decision as to whether redeployment is a realistic possibility.
- 1.7 If redeployment is deemed to be realistic, the Ill Health Redeployment Policy will apply.
- 1.8 If redeployment is not deemed to be a realistic proposition, an Ill Health termination meeting will be held by the employing Head of Service. This Hearing will have the power to terminate employment on the grounds of Ill Health retirement. The employee is entitled to bring representation to this meeting if desired.

2. Ill Health retirement

- 2.1 The Local Government Pension Scheme (LGPS) in England and Wales introduced three tier ill health regulations as from 1 April 2008 for employees who are members of the LGPS. To qualify for a benefit:
 - the employee must have at least 3 months membership or have had a transfer of pension rights into the LGPS, and
 - the employer must terminate the employment on the grounds that the employee's ill health or infirmity of mind or body renders him/her permanently incapable of discharging efficiently the duties of his/her employment, and
 - the employee must have reduced likelihood of obtaining gainful employment as set out in Section 3 below.

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

2.2 Prior to making a determination as to whether the employee is entitled to a benefit under the LGPS the employer must have obtained a certificate from an approved¹ independent registered medical practitioner (IRMP) qualified in occupational health medicine as to whether, in the medical practitioner's opinion, the member is suffering from a condition that renders him/her permanently incapable of discharging efficiently the duties of his/her employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition he/she has a reduced likelihood of obtaining any gainful employment (whether in local government or elsewhere) before age 65.

2.3 If all of the conditions in paragraph 2 above have been met, and the employer has obtained the certificate referred to in paragraph 3 above, the scheme member is entitled to a tier 1, tier 2, or tier 3 pension i.e.

Tier 1 : if the member is judged to have no reasonable prospect of being capable of obtaining gainful employment before age 65, pension benefits are payable based on accrued membership plus 100% of prospective membership² between leaving and age 65.

Tier 2 : if the member is judged to be incapable of obtaining gainful employment within 3 years of leaving but is likely to be capable of obtaining gainful employment before age 65, pension benefits are payable based on accrued membership plus 25% of prospective membership² between leaving and age 65.

Tier 3: if the member is judged to be capable of obtaining gainful employment within 3 years of leaving, short-term reviewable pension benefits are payable based on accrued membership only.

3. Tier 3 Provisions: Advice from Pension Fund under Review Regarding Procedure for Local Arrangements

3.1 The pension payable to a 3rd tier member will be payable for such time as the member does not obtain gainful employment, or until the employer stops payments following the "review" (see below) or, in any event, at the end of 3 years.

¹ Approved by the Pension fund Administering Authority

² If the member is part time, the enhancement is pro-rated based on their hours at the date of leaving but ignoring any reduction in hours directly resulting from the employee's ill health or infirmity of mind or body.

- 3.2 The 3rd tier member will be required to notify the previous employer when employment is found providing details, including pay and working hours, and the employer would then stop payments if this was gainful employment.
- 3.3 The (ex) employer will be required to undertake a review when payments have been made for 18 months if payments are still continuing at that point.
- 3.4 At the review, the previous employer will ask the 3rd tier member if their circumstances have changed, seeking full details. If the employer decides from the information provided that gainful employment has been obtained the 3rd tier payments will be topped. The (ex) employer is required to notify the administering authority without delay when payments should be stopped.
- 3.5 If, as a result of the (ex) employer's enquiry, it is found that a 3rd tier member has not found gainful employment, the (ex) employer will be able to seek a further opinion from an independent registered medical practitioner (IRMP) concerning the condition which resulted in the 3rd tier pension. If, as a result of the new medical certificate, the (ex) employer considers that the member is capable of obtaining gainful employment, the 3rd tier payments will be stopped. The (ex) employer will be required to notify the administering authority without delay when payments should be stopped.
- 3.6 Where a 3rd tier pension is stopped, it is suspended from that point onwards. However, if the employer believes the person was in gainful employment before the date of suspension, the employer can seek to recover any "overpayment" from the 3rd tier member.
- 3.7 If, however, at the review, the IRMP certifies that, in his/her opinion, the member is not now likely to be capable of obtaining gainful employment within 3 years of the date of leaving, the employer can determine that the 3rd tier member should become a 2nd tier member and the date of the employer's further determination will decide the date from which the uplift to the 2nd tier (plus enhancement) will be put into payment.

4. Protections

- 4.1 Benefits Regulation 20(13) provides that a member being retired on health grounds who was a member of the scheme before 1 April 2008, and who was aged 45 or over before that date, should get no less an amount of enhancement than he/she would have received under the 1997 Regulations.

Calderdale Council Internal Dispute Resolution Procedure – Pension Benefits

Introduction

The Internal Resolution Procedure is the official name for the Council's complaints procedure for processing complaints about decisions affecting an employees/past employees pension benefits arising from the Local Government Pension Scheme. The person to whom you address your complaint is known as the nominated person and the nominated person in Calderdale Council is the Corporate Lead for HR. If you are unhappy with the decision of the Corporate Lead for HR you can make a complaint to the West Yorkshire Pension Fund.

Many problems can be resolved in the first instance. The problem might have been caused by a misunderstanding or the wrong information which can be explained and put right quite easily. An informal enquiry in the first instance could save you a lot of time and trouble. You are advised to speak to the Council's Superannuation Officer (Diane Eastwood Tel: 01422 288315) in the first instance before making a formal complaint.

The Procedure (A-C)

- A. Stage 1
You need to make a formal complaint to the Council in writing. This must be made within six (6) months from being notified of the decision you want to complain about. Your complaint will carefully be considered by a person appointed by the Corporate Lead for HR who will provide you with a written response in respect of the decision that has been made.
- B. Stage 2
You can ask the West Yorkshire Pension Fund to take a fresh look at your complaint if it falls within the following set of circumstances:
- You are not satisfied with the stage 1 decision.
 - You have not received a decision or a holding letter from the Corporate Lead for HR and it is three (3) months since you made your complaint.
 - It is one (1) month after the date by which the Corporate Lead for HR notified you (in an initial letter) that he/she would give you a decision and you have still not received that decision.
- C. If you are still unhappy with the decision reached at Stage 2 you can take your case to the Pensions Ombudsman provided you do so within three (3) years from the date of the original decision (or lack of decision) about which you are making your complaint.
- At any time during the formal complaints procedure you can contact the Pensions Advisory Service (OPAS) for information and advice. The address and contact details are listed below.
 - You have the rights to representation in raising your complaint. This might be a solicitor, a trade union official, welfare officer, your husband/ wife/partner or a friend.
 - Your personal situation and type of complaint has set time limits for lodging an appeal and these are detailed overleaf.

Additional Help

West Yorkshire Pension Fund

PO Box 67

BRADFORD BD1 1UP

Telephone: 01274 434999

Fax: 01274 723228

Minicom Textphone: 01274 724472

Website: www.wypf.org.uk

The Pensions Ombudsman is at the same address as OPAS:

The Pensions Advisory Service (OPAS)

11 Belgrave Road

LONDON SW1V 1RB

Telephone: 020 7834 9144

Fax: 020 7821 0065

Email: enquiries@pensions-ombudsman.org.uk

Website: www.pensions-ombudsman.org.uk

TIME LIMITS UNDER THE INTERNAL DISPUTE RESOLUTION PROCEDURE

Your Situation	To complain to	Time limit
You have received a decision on your benefits under the pension scheme from your employer, and there seem to be good grounds for complaining.	The Corporate Lead for HR under the Stage 1 of the procedure.	six months from the date when you were notified of the decision. ¹
You have received a stage 1 decision on your complaint from the nominated person, but you are not satisfied.	The West Yorkshire Pension Fund under the stage 2 of the procedure.	six months from the date of the Corporate Lead for HR's decision.
You made your complaint in writing to the Corporate Lead for HR, with all the information they needed but, three months later, you have not received their decision on your complaint or any interim reply.	The West Yorkshire Pension Fund under the stage 2 of the procedure.	nine months from the date when you submitted your complaint.
You received a holding reply to your complaint to the Corporate Lead for HR, within two months of applying to them. Their reply promised you a decision by a specified date but, one month after the specified date, you still have not received their decision.	The West Yorkshire Pension Fund under the stage 2 of the procedure.	seven months from the date by which you were promised you would receive a decision.
Your complaint is that the Corporate Lead for HR has failed to make any decision about your benefits under the pension scheme.	The West Yorkshire Pension Fund under the stage 2 of the procedure.	six months from the date when the employer should have made the decision. ¹
Your complaint went to the West Yorkshire Pension Fund under the stage 2 of the procedure. You received their decision but you are still not satisfied.	The Pensions Ombudsman. Note that the Ombudsman will normally expect you to have asked OPAS for help first.	three years from the date of the original decision about which you are complaining.
You have taken your complaint to the West Yorkshire Pension Fund under the stage 2 of the procedure but, two months after your complaint was received by the authority, you have not received their decision on your complaint or any holding reply.	The Pensions Ombudsman. Note that the Ombudsman will normally expect you to have asked OPAS for help first.	three years from the date of the original decision about which you are complaining

Your Situation	To complain to	Time limit
You received a holding reply to your stage 2 complaint to the West Yorkshire Pension Fund, within two months of applying to them. Their reply promised you a decision by a certain date but, by that date, you still have not received their decision.	<p>The Pensions Ombudsman.</p> <p>Note that the Ombudsman will normally expect you to have asked OPAS for help first.</p>	three years from the date of the original decision about which you are complaining

¹ The nominated person (Corporate Lead for HR) can extend the six month time limit for a reasonable period where there are special circumstances.

Internal Dispute Resolution Procedure

2. Dependant's details:

If you are the member's dependant and the complaint is about a benefit for you, please give **your** details in this box and then go to box 4.

If the complaint is about a benefit for a dependant and you are the dependant's representative, please give the dependant's details in this box and then go to box 3.

Full name							
Address							
Date of birth							
Relationship to member							

3. Representative's details:

If you are the member's or dependant's representative, please give your details in this box.

Full name			
Address			
What address should response letters be sent to?			

4. Your complaint

Please give full details of your complaint in this box. Please try to explain exactly why you are unhappy, giving any dates or periods of Scheme membership that you think are relevant.

If there is not enough space, please go on to a separate sheet and attach it to this form.

Remember to write your name, and national insurance number at the top of any separate sheet if you are a member. Or, if you are not a member, put the member's name and national insurance number at the top of any separate sheet.

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5. Your signature

I would like my complaint to be considered and a decision to be made about it. I am a:

- Scheme member/former member/prospective member *
 - Dependant of a former member *
 - Member's representative/dependant's representative *
- * delete as appropriate

Signature		Date	
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6. Please enclose a copy of any notification of the decision you are complaining of which has been issued by the employer or administering authority.

Also enclose any other letter or notification that you think might be helpful.

Please send this form to:

Stage 1 of the internal dispute resolution procedure	Stage 2 of the internal dispute resolution procedure
If your complaint is about a decision made by your employer, please send this form to: Jackie Addison Corporate Lead for HR Calderdale MBC Human Resources 3 rd Floor Westgate House Westgate Halifax HX1 1PS	The Stage 2 contact is: Tony Reeves Chief Executive Chief Executive's Office City of Bradford MDC City Hall Bradford BD1 1HY