

The Local Government Pensions Committee
Secretary: Jeff Houston

CIRCULAR

Please pass on sufficient copies of this Circular to your Treasurer/Director of Finance and to your Personnel and Pensions Officer(s) as quickly as possible

No. 282 – JUNE 2014

CHANGES TO ILL HEALTH CERTIFICATES, CLARIFICATIONS, ETC. – ENGLAND AND WALES

Purpose of this circular:

1. [Circular 277](#) of March 2014 set out the ill-health retirement procedures that would apply in England and Wales following the introduction of a Career Average Revalued Earnings (CARE) pension scheme from 1 April 2014 (the 2014 Scheme).
2. Since issuing that Circular the LGPC Secretariat has provided further advice to individual employers and pension fund administering authorities who have sought clarification on various matters. The clarifications provided are detailed below as they may be of assistance to other employers and pension fund administering authorities.

Does an ill-health certificate for an active member have to be obtained before termination of employment?

3. For members being retired on ill-health grounds before 1 April 2014 regulation 20 of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (the '2008 Scheme') required that, for there to be entitlement to an ill-health retirement pension:
 - a) the employer had to *determine to terminate employment* on the grounds that the member's ill-health or infirmity of mind or body rendered the member permanently incapable of discharging efficiently the duties of his / her employment, and

- b) the employer had to determine that the member had a reduced likelihood of being capable of undertaking any gainful employment before his / her Normal Retirement Age, and
 - c) the employer had to determine which Tier of benefit to award, and
 - d) before making the above determinations, the employer had to obtain a certificate from an Independent Registered Medical Practitioner (IRMP) who had been approved by the administering authority showing whether, in the opinion of the IRMP:
 - the member was suffering from a condition that rendered the member 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, the member had a reduced likelihood of being capable of undertaking gainful employment before reaching his / her Normal Retirement Age, and
 - where the member had been working reduced contractual hours whether the member was in part-time service wholly or partly as a result of the condition that caused the member to be incapable of discharging efficiently the duties of his / her employment (see paragraph 20 below).
4. There has been a subtle change in the sequence of events required under the '2014 Scheme'. Regulations 35 and 36 of the LGPS Regulations 2013 (the '2014 Scheme') require that, for there to be entitlement to an ill-health retirement pension:
- a) the employer has to terminate the member's employment on the grounds of ill-health or infirmity of mind or body before the member's Normal Pension Age, and
 - b) before deciding whether the member meets the conditions for an ill-health retirement pension and, if so, which Tier of benefit to award, the employer must obtain a certificate from an IRMP who has been approved by the administering authority showing whether, in the opinion of the IRMP:
 - the member is permanently incapable of discharging efficiently the duties of his / her employment as a result of ill-health or infirmity of mind or body and, if so
 - whether as a result of ill-health or infirmity of mind or body, the member is not immediately capable of undertaking any gainful employment and, if that is the case

- how long the member is unlikely to be capable of undertaking gainful employment, and
 - where the member has been working reduced contractual hours and had reduced pensionable pay as a consequence of the reduction in working hours, whether the member was in part-time service wholly or partly as a consequence of ill-health or infirmity of mind or body (see paragraph 20 below).
5. The key difference is that under the '2008 Scheme' the employer had to get the IRMP certificate before deciding to terminate employment. Under the '2014 Scheme' there is no requirement to do so. The employer can terminate the member's employment on the grounds of ill-health or infirmity of mind or body [note that at the point of termination there is no requirement for that ill-health or infirmity of mind or body to have been determined to be permanent] and subsequently get a certificate to help them determine whether or not the member satisfies the criteria for an ill-health retirement pension and, if so, what Tier of benefit to award.
 6. So, whilst it is still advisable for employers to get all the certification in place before terminating employment (particularly as the Scheme member will wish to know before their employment is terminated whether or not they will be entitled to immediate payment of pension), there is technically nothing in the '2014 Scheme' requiring them to do so. The employer could terminate employment on the grounds of ill-health or infirmity of mind or body and subsequently get a certificate upon which to determine whether or not the member meets the criteria for an ill-health retirement pension and the Tier of benefit to award.

From what date is a deferred pension or a suspended Tier 3 ill-health pension awarded under the 2014 Scheme payable if it is subsequently brought into payment on the grounds of permanent ill-health?

7. A member who has a deferred pension which was awarded under the '2014 Scheme' may, before attaining their Normal Pension Age, request that the deferred pension is paid early if he / she has, because of ill-health or infirmity of mind or body, become permanently incapable of discharging efficiently the duties of the employment he / she was engaged in at the date of becoming a deferred member and is unlikely to be capable of undertaking gainful employment before reaching Normal Pension Age or for at least three years, whichever is the sooner.
8. Before determining whether to agree to the request the former employer or, where that employer is no longer a Scheme employer, the appropriate administering authority, must obtain a certificate from an IRMP who has been approved by the administering authority showing whether, in the opinion of the IRMP, the member is suffering from a condition that renders him / her:

- permanently incapable, because of ill-health or infirmity of mind or body, of discharging efficiently the duties of the employment he / she was engaged in at the date of becoming a deferred member, and
 - whether, as a result of that condition, the member is unlikely to be capable of undertaking gainful employment before reaching Normal Pension Age or for at least three years, whichever is the sooner.
9. Similarly, a member who has a suspended Tier 3 ill-health pension which was awarded under the '2014 Scheme' may, before attaining their Normal Pension Age, request that the suspended Tier 3 pension is brought into payment early if the member is, because of ill-health or infirmity of mind or body, unlikely to be capable of undertaking gainful employment before reaching Normal Pension Age.
 10. Before determining whether to agree to the request the former employer or, where that employer is no longer a Scheme employer, the appropriate administering authority, must obtain a certificate from an IRMP who has been approved by the administering authority showing whether, in the opinion of the IRMP, the member is, as a result of ill-health or infirmity of mind or body, unlikely to be capable of undertaking gainful employment before their Normal Pension Age.
 11. Where, in either case, the former employer or, where that employer is no longer a Scheme employer, the appropriate administering authority, decides to accede to the member's request for early payment, regulation 30(10) of the LGPS Regulations 2013 provides that the pension is payable from the date on which the former employer (or, where relevant, the appropriate administering authority) decides to accede to the request (and not from the date of the member's request or the date the IRMP signed the certificate).
 12. As a result of the above, appropriate amendments have been made to the following two certificates:
 - ill-health certificate for a deferred beneficiary who ceased membership as an employee on or after 1 April 2014 [i.e. the certificate that had been included at page 20 of Circular 277], and
 - 3rd tier ill-health retirement review certificate for a suspended 3rd tier pensioner where the cessation of employment occurred after 31 March 2014 – review taking place 3 or more years after the date of cessation of the 3rd tier pension (and before Normal Pension Age) [i.e. the certificate that had been included at page 53 of Circular 277]

The revised certificates are attached to this Circular.

Can giving pay in lieu of notice (instead of paid notice) affect the amount of a member's Tier 1 or Tier 2 ill-health pension?

13. Where a member is retired with a Tier 1 or Tier 2 ill-health pension the amount of enhancement the member receives to their pension is calculated as follows:

- Tier 1 - the member's pension account is adjusted by adding the equivalent of the amount of earned pension the member would have accrued between the day following the date of termination and their Normal Pension Age. This is calculated as 1/49th of assumed pensionable pay (see paragraphs 14 to 19) for each year and fraction of a year in that period (regardless of whether the member is in the main section or the 50/50 section of the Scheme when their employment is terminated on ill-health grounds);
- Tier 2 – the member's pension account is adjusted by adding 25% of the Tier 1 adjustment described above.

It should be noted that:

- no enhancement can be added if the member has previously received a Tier 1 ill-health pension under the '2014 Scheme' or the '2008 Scheme' or has received an ill-health pension under any earlier Scheme¹;
- the enhancement for a member entitled to a Tier 1 or Tier 2 pension is adjusted if the member has previously received a Tier 2 ill-health pension under the 2014 or 2008 Schemes². The enhancement shall not exceed three quarters of the number of years between the initial ill-health retirement and the member's Normal Pension Age, less the number of years of active membership since the initial ill-health retirement; and
- members covered by regulation 20(13) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (minimum ill-health enhancement for those who were active members before 1 April 2008, were aged 45 or over at that time, have been in

¹ Administering authorities will wish to add a question to the pension application form to be completed by the member asking whether, for member's being retired with a Tier 1 ill-health pension, the member is already in receipt of an enhanced ill-health pension from the LGPS in England or Wales from another, earlier, employment.

² Administering authorities will wish to add a question to the pension application form to be completed by the member asking whether, for member's being retired with a Tier 2 ill-health pension, the member is already in receipt of an enhanced Tier 1 or Tier 2 ill-health pension from the LGPS in England or Wales from another, earlier, employment.

continuous membership since then, and have not already received any benefits in respect of that membership) will continue to have a minimum benefit underpin, calculated in accordance with regulation 12(1) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 [SI 2014/525] – see paragraphs 21 to 25 below.

14. In order to calculate the amount of ill-health enhancement, assumed pensionable pay (APP) will need to be calculated by the employer when terminating an active member's employment on the grounds of ill-health with a Tier 1 or Tier 2 ill-health pension³.
15. The APP figure is calculated as follows:
 - (a) calculate the average of the pensionable pay for the 12 complete weekly pay periods, or for monthly paid employees, 3 complete monthly pay periods prior to the date of leaving after removing any lump sums, but including any assumed pensionable pay already credited in and relating to those 12 weeks / 3 months. Note that the calculation can include pensionable pay paid prior to 1 April 2014 (i.e. where the 12 weeks / 3 months goes back beyond 1 April 2014). If so, the pre 1 April 2014 pensionable pay to be included is pensionable pay as defined under the 2008 Scheme. If 12 complete weeks / 3 months do not exist, use whatever number of complete periods are available;
 - (b) gross up the figure in (a) to an annual figure.
16. The employer can then add back into APP any lump sums paid in the 12 months prior to the date of leaving if the employer, at its sole discretion, determines there is a 'reasonable expectation' that such a payment would be paid on a regular basis.
17. As APP is calculated as shown above, a decision to give pay in lieu of notice rather than paid notice can impact on the calculation. Take, for example, a member on £20,004 per annum who goes onto half-pay due to sickness on 1 April 2015. APP would be the pay for January 2015 (£1,667) + February 2015 (£1,667) + March 2015 (£1,667) = £5,001 / 3 x 12 = £20,004 (£1,667 per month). Let's assume that a 1% pay award was granted from 1 April 2015 (taking basic pay to £20,204 per annum). If the member is retired on ill-health grounds from 1 August 2015 with,

³ The same applies where an active member dies in service, or where a Tier 3 ill-health pension is awarded which is subsequently changed to a Tier 1 or Tier 2 ill-health pension following an appeal or changed to a Tier 2 pension following the 18 month review of a Tier 3 pension or following a request for a review made by the scheme member at any time up to 3 years after the Tier 3 pension has been suspended.

say, three months' pay in lieu of notice, the APP for the Tier 1 of Tier 2 enhancement calculation will be £20,004 (i.e. APP of £1,667 for May, June and July 2015 / 3 x 12). However, if three months' paid notice is given, taking the date of leaving to 31 October 2015, the APP for the Tier 1 of Tier 2 enhancement calculation will be £20,204 (i.e. pay of £1,683.67 for August, and for September and for October / 3 x 12). There is, in this example, a difference of £200 in the APP figure used to calculate the amount of Tier 1 or Tier 2 enhancement which is caused purely by whether or not the employer had given paid notice or pay in lieu of notice.

When can a reduction in contractual hours be ignored when calculating ill-health benefits under the '2014 Scheme'?

18. Where the Independent Registered Medical Practitioner (IRMP) certifies that the member was, as at the date of termination on the grounds of ill-health or infirmity of mind or body, working reduced contractual hours wholly or partly as a consequence of ill-health or infirmity of mind or body then, in calculating the APP figure upon which the Tier 1 or Tier 2 ill-health enhancement under the '2014 Scheme' is to be based, the APP figure is to be calculated on the pay the member would have received during the relevant 12 week / 3 month period prior to retirement if they had not been working reduced hours⁴.
19. Unlike the situation that would have applied had the member retired on ill-health grounds under the '2008 Scheme', accrued benefits to the date of leaving (even those accrued prior to 1 April 2014) are not calculated as if there had been no reduction in contractual hours. The reduction in contractual hours is only ignored for the purposes of calculating the APP figure upon which the Tier 1 or Tier 2 ill-health enhancement is to be calculated.
20. Furthermore, it should be noted that under the '2014 Scheme' the IRMP only has to certify that the member was, as at the date of termination on the grounds of ill-health or infirmity of mind or body, working reduced contractual hours wholly or partly as a consequence of ill-health or infirmity of mind or body. Under the '2008 Scheme' the IRMP had to certify that, as at the date of termination on the grounds of ill-health or infirmity of mind or body, the member was in part-time service wholly or partly as a result of the condition that caused the member to be incapable of discharging efficiently the duties of his / her employment. There is no requirement under the '2014 Scheme' for the condition that caused the reduction in hours to be the same as that for which employment is terminated. As a result, appropriate amendments have been made to the ill-health retirement certificate for current employees

⁴ Note that there is no equivalent of this adjustment to APP where the person dies in service rather than being retired on health grounds.

[i.e. the certificate that had been included at page 15 of Circular 277].
The revised certificate is attached to this Circular.

How is the ill-health enhancement underpin calculated for those members who were active members before 1 April 2008, were aged 45 or over at that time, have been in continuous membership since then, and have not already received any benefits in respect of that membership?

21. Members covered by regulation 20(13) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 (minimum ill-health enhancement for those who were active members before 1 April 2008, were aged 45 or over at that time, have been in continuous membership since then, and have not already received any benefits in respect of that membership) will continue to have a minimum benefit underpin, calculated in accordance with regulation 12(1) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014.
22. Regulation 20(13) of the LGPS (Benefits, Membership and Contributions) Regulations 2007 only protected the amount of enhancement that would be added upon ill-health retirement. It made no reference to final pay (but did not need to because the '2008 Scheme' was still a final salary scheme) and did not require that the member's post 31 March 2008 membership should be counted as if it had accrued at 1/80th (rather than the 1/60th it actually had accrued at). The protected enhancement generated a 1/60th pension.
23. Regulation 12(1) of the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 carries the protection forward and is similarly meant to only protect the amount of enhancement to be added. Under that regulation administering authorities have to work out and pay the greater of:
 - a) the Tier 1 or Tier 2 benefit the member would get under the LGPS Regulations 2013 and the LGPS (Transitional Provisions, Savings and Amendment) Regulations 2014 (ignoring the regulation 12(1) ill-health underpin protection), and
 - b) the Tier 1 or Tier 2 benefit the member would get under the LGPS Regulations 2013 based on the member's pre 1 April 2008 membership counting at 1/80th pension plus 3/80^{ths} lump sum, their 1 April 2008 to 31 March 2014 membership counting at 1/60th pension, their post 31 March 2014 membership counting at 1/49th pension and the amount of enhancement they would have got under the LGPS Regulations 1997 counting at 1/60th pension.

There is nothing that protects the pay upon which the enhancement is worked out. Thus, the calculation is the greater of:

- a) pension =
- pre 1 April 2008 membership x $1/80^{\text{th}}$ x final pay ('2008 Scheme' definition), plus
 - 1 April 2008 to 31 March 2014 membership x $1/60^{\text{th}}$ x final pay ('2008 scheme' definition), plus
 - 1 April 2014 to date of leaving membership x $1/49^{\text{th}}$ x pensionable pay ('2014 Scheme' definition), plus
 - Tier 1 or Tier 2 enhancement of $1/49^{\text{th}}$ x APP x *period from day after date of leaving to day before Normal Pension Age (or 25% of this enhancement for Tier 2)*

Plus lump sum of pre 1 April 2008 membership x $3/80^{\text{th}}$ x final pay ('2008 Scheme' definition)

AND

- b) pension =
- pre 1 April 2008 membership x $1/80^{\text{th}}$ x final pay ('2008 Scheme' definition), plus
 - 1 April 2008 to 31 March 2014 membership x $1/60^{\text{th}*}$ x final pay ('2008 scheme' definition), plus
 - 1 April 2014 to date of leaving membership x $1/49^{\text{th}*}$ x pensionable pay ('2014 Scheme' definition), plus
 - Tier 1 or Tier 2 enhancement of $1/60^{\text{th}}$ x APP x *period of enhancement the member would have been entitled to under regulation 28 of the LGPS Regulations 1997*

Plus lump sum of pre 1 April 2008 membership x $3/80^{\text{th}}$ x final pay ('2008 Scheme' definition).

* One could potentially read regulation 12(1) as saying that the accrual rate should be that applying under the '1998 Scheme' (i.e. $1/80^{\text{th}}$) but that is not, in the view of the LGPC Secretariat, the correct interpretation or intention behind regulation 12(1).

24. So, as can be seen from the fractions and wording shown in italics in the final bullet point in (a) and (b) in paragraph 23, the only difference between the two calculations is in determining the amount of pension to be added due to ill-health enhancement. Under (a) it is Tier 1 or Tier 2 enhancement of $1/49^{\text{th}}$ x APP x *period from day after date of leaving to day before Normal Pension Age (or 25% of this enhancement for Tier 2)*; and under (b) it is Tier 1 or Tier 2 enhancement of $1/60^{\text{th}}$ x APP x *period of enhancement the member would have been entitled to under regulation 28 of the LGPS Regulations 1997*.
25. As the ill-health (and hence the amount of enhancement) is occurring post 31 March 2014 the enhancement is based on APP not final pay under the '2008 Scheme' definition.

Definitions

26. Unless stated otherwise within the Circular, the following words / phrases contained in this Circular have the meaning prescribed below:

(Former) Employer

This means the employer the member worked for before cessation of active membership (or the Pension Fund administering authority if that employer has since ceased to be a Scheme employer).

Gainful employment

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

Independent Registered Medical Practitioner (IRMP)

IRMP means an independent registered medical practitioner who is registered with the General Medical Council and either holds a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA state (within the meaning given by section 55(1) of the Medical Act 1983); or is an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA state.

Normal Pension Age (NPA)

Normal Pension Age (NPA) means the member's Normal Pension Age under the 2014 Scheme which is linked to the member's State Pension Age (SPA) but with a minimum of age 65.

State Pension Age is currently age 65 for men. State Pension Age for women is currently being increased to be equalised with that for men and will reach 65 by November 2018.

State Pension Age equalisation timetable for women

Date of Birth	New State Pension Age
Before 6 April 1950	60
6 April 1950 - 5 April 1951	In the range 60 - 61
6 April 1951 - 5 April 1952	In the range 61 - 62
6 April 1952 - 5 April 1953	In the range 62 - 63
6 April 1953 - 5 August 1953	In the range 63 - 64
6 August 1953 - 5 December 1953	In the range 64 - 65

The State Pension Age will then increase to 66 for both men and women from December 2018 to October 2020.

Increase in State Pension Age from 65 to 66 for men and women

Date of Birth	New State Pension Age
6 December 1953 - 5 October 1954	In the range 65 - 66
After 5 October 1954	66

Under current legislation the State Pension Age is due to rise to 67 between 2026 and 2028 and to 68 between 2044 and 2046. However, the government has announced plans to link rises in the State Pension Age above age 67 to increases in life expectancy. For full details of legislated and announced proposals for increases to State Pension Age see

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/181343/spa-timetable.pdf.

Permanently incapable

Permanently incapable means that the member will, more likely than not, be incapable until, at the earliest, the member's Normal Pension Age.

Actions

27. Administering authorities in England and Wales may want to use the updated sample certificates as the basis for the certificates they wish employers in their Fund to use.
28. Employers in England and Wales should not use the updated sample certificates without checking with their Pension Fund administering authority. This is because the administering authority may well have their own certificates / forms which they wish employers in their Fund to use.
29. Administering authorities in England and Wales may wish copy this Circular to employers in their Fund or bring the Circular to the attention of employers by directing them to the [Circular on the LGA website](#).

Terry Edwards
Senior Pensions Adviser
June 2014

Example Medical Certificate for a Current Employee – England and Wales

Part A: To be completed by the employer

Surname of employee:

Forenames:

Mr / Mrs / Miss / Ms*

Date of birth:

NI Number:

Home address:

Employer:

Place of work:

Nature of employment (job description and full information on requirements of the job are attached):

Hours of employment (i.e. whole-time or part-time and, if part-time, show proportion of whole-time hours or weeks):

Has the employee been working reduced contractual hours and had reduced pensionable pay as a consequence of the reduction in working hours due to their ill health or infirmity or mind or body? Yes / No * (If 'Yes', please attach a statement providing background details e.g. factors that led to the reduction in hours, number of hours by which the employee's hours were reduced, date(s) reduction(s) in hours occurred. This is to assist the registered medical practitioner when answering questions B8/B9).

(*delete as appropriate)

Part B: To be completed by the approved (1) registered medical practitioner.

Please tick either B1 or B2

I certify that, in my opinion, the employee named in Part A

B1: IS B2: IS NOT

suffering from a condition that, more likely than not, renders him / her permanently incapable (2) of discharging efficiently the duties of his / her employment with his / her employer because of ill health or infirmity of mind or body

If B2 has been ticked please move to Part D of this form, otherwise please tick B3 or B4.

I certify that, because of that ill health or infirmity of mind or body, the employee

B3: IS B4: IS NOT

immediately capable of undertaking (3) any gainful employment (4).

If B3 has been ticked please move to Part D of this form, otherwise please indicate which one of the following (boxes B5 to B7) applies.

I certify that, in my opinion, as a result of that ill health or infirmity the employee named in Part A:

B5: **IS LIKELY** to be capable of undertaking (3) gainful employment (4) within the next three years (or before his / her normal pension age (5), if earlier). (TIER 3)

OR

B6: **IS UNLIKELY** to be capable of undertaking (3) any gainful employment (4) within the next three years but **IS LIKELY** to be capable of undertaking gainful employment (4) at some time thereafter and before his / her normal pension age (5). (TIER 2)

OR

B7: **IS UNLIKELY** to be capable of undertaking (3) gainful employment (4) before his / her normal pension age (5). (TIER 1)

If B6 or B7 have been ticked and the employee has been working reduced

contractual hours and had reduced pensionable pay as a consequence of the reduction in working hours (as indicated by the employer in Part A) please tick B8 or B9

I certify that, in my opinion, the employee named in Part A

B8: IS B9: IS NOT

in part-time service and working reduced contractual hours wholly or partly as a result of ill health or infirmity of mind or body.

Part C: To be completed by the approved registered medical practitioner. Severe ill health test statement - as required by HMRC.

If B5, B6 or B7 have been ticked I further certify that, in my opinion, the employee

B10: DOES B11: DOES NOT **satisfy the following statement:**

As a result of his / her ill health or infirmity, the employee is unable to continue in his / her current job and is unlikely to be capable of taking on any other paid work in any capacity, otherwise than to an insignificant extent (6) before State pension age (7). (Note: the answer to this question is used to determine whether or not the person could be subject to a tax charge in accordance with the annual allowance test under the Finance Act 2004).

Please now complete Part D.

Part D: General statement to be completed by the approved (1) registered medical practitioner.

I do / do not* attach a copy of my full report / assessment and I certify that:

I have not previously advised, or given an opinion on, or otherwise been involved in this case

AND I am registered with the General Medical Council

AND I hold a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State (with 'competent authority' having the meaning given by Section 55(1) of the Medical Act 1983), or I am an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or of an equivalent institution in an EEA State

(* delete as appropriate)

AND I have given due regard to the guidance issued by the Secretary of State when

completing this certificate**.

..... Date:
Signature of independent registered medical practitioner

.....
Printed name of independent registered medical practitioner

Registered medical practitioner's / company's official stamp
(Optional)



(** the guidance document is available at <http://www.lgpsregs.org/index.php/dclg-publications/dclg-stat-guidance>)

Explanatory notes to accompany certificate

Meaning of terms used

- (1) The independent registered medical practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.
- (2) 'Permanently incapable' means that the person will, more likely than not, be incapable of discharging efficiently the duties of their employment with the employer because of ill health or infirmity of mind or body until, at the earliest, their 'normal pension age' – see (5).
- (3) The independent registered medical practitioner is providing an opinion on the person's capability of undertaking gainful employment based solely on the effect the medical condition has on the person's ability to undertake gainful employment.
- (4) 'Gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with that of the person's current employment.
- (5) 'Normal pension age' means the employee's individual State pension age at the time the employment is to be terminated, but with a minimum of age 65. For a full breakdown of individual State pension ages please see <http://www.pensionsadvisoryservice.org.uk/state-pensions/know-your-state-pension-age>
- (6) 'Insignificant extent' means, for example, that the person could undertake voluntary work or unpaid work where out of pocket expenses are reimbursed or small amounts of travelling or subsistence payments are made. Any paid work should be insignificant, for example it should be infrequent or only for a few days during the year and the payment must be small in amount, not just as a proportion of the pay or salary they are earning in their current job.
- (7) State pension age is currently age 65 for men. State pension age for women is currently being increased to be equalised with that for men. Women's State pension age will reach 65 by November 2018. The State pension age will then begin to increase further for both men and women from December 2018 onwards. To determine an individual's State pension age please go to

General – notes for employers

If B2 or B3 have been ticked, this means that the employee does not, in the medical opinion of the approved registered medical practitioner, meet the criteria for an ill health pension under the LGPS.

If B1, B4 and B5 have been ticked, this means that the employee, in the medical opinion of the approved registered medical practitioner, meets the criteria for a tier 3 ill health pension under the LGPS.

If B1, B4 and B6 have been ticked, this means that the employee, in the medical opinion of the approved registered medical practitioner, meets the criteria for a tier 2 ill health pension under the LGPS.

If B1, B4 and B7 have been ticked, this means that the employee, in the medical opinion of the approved registered medical practitioner, meets the criteria for a tier 1 ill health pension under the LGPS.

The opinion given by the approved registered medical practitioner does not, in itself, give entitlement or otherwise to an ill health award. Nor should the medical practitioner indicate to the employee that such an award will or will not be made. It is for the employer to make the formal ill health award determination.

If B8 has been ticked (i.e. the employee is in part-time service and working reduced contractual hours wholly or partly as a result of ill health or infirmity of mind or body) the employer can calculate the assumed pensionable pay upon which the member's enhancement to benefits is to be calculated as if the reduction in contractual hours and pay had not occurred.

If B10 has been ticked this means that there is no pension input amount for the purposes of the annual allowance test under the Finance Act 2004 as the person meets the 'severe ill health condition' under section 229 of that Act.

These notes were up-to-date when this form was updated in June 2014 and are provided for information only. They confer no contractual or statutory rights and in the event of any dispute the appropriate legislation will prevail.

This is a medical certificate provided in respect of a current employee by an independent, approved, duly qualified registered medical practitioner in accordance with regulation 36 of the Local Government Pension Scheme Regulations 2013 and for the purposes of section 229(4) of the Finance Act 2004.

Example Medical Certificate for a Deferred Beneficiary who ceased membership as an employee on or after 1 April 2014 – England and Wales.

Part A: To be completed by the former Scheme employer

Surname of former employee:

Forenames:

Mr / Mrs / Miss / Ms*

Date of birth:

NI Number:

Home address:

Employer at date of becoming a deferred Scheme member:

Position (post title) at date of becoming a deferred Scheme member:

Nature of employment at date of becoming a deferred Scheme member**:

Date ceased to be an active Scheme member:

(*delete as appropriate)

(** please give full description of the requirements of the job and / or attach copy of job description if available)

Part B: To be completed by the approved (1) registered medical practitioner.

Please tick either B1 or B2

I certify that, in my opinion, the person named in Part A

B1: IS

B2: IS NOT

permanently incapable (2), because of ill health or infirmity of mind or body, of discharging efficiently the duties of his / her former employment which gave rise to the deferred benefits in the Local Government Pension Scheme.

If B2 has been ticked please move to Part C of this form.

If B1 has been ticked, please tick B3 or B4

I certify that, in my opinion, as a result of their ill health or infirmity, the person named in Part A

B3: IS

B4: IS NOT

unlikely to be capable of undertaking (3) gainful employment (4) before reaching normal pension age (5), or for at least three years, whichever is the sooner.

If B4 has been ticked please move to Part C of this form.

If B3 has been ticked and the person named in Part A is under age 55, please tick B5 or B6 (otherwise please move to Part C of this form).

I certify that, in my opinion, the person named in Part A

B5: IS

B6: IS NOT

permanently incapable by reason of disability caused by physical or mental infirmity of engaging in any regular full-time employment.

Please now complete Part C.

Part C: General statement to be completed by the approved (1) registered medical practitioner.

I am registered with the General Medical Council

AND

I hold a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State (with 'competent authority' having the meaning given by Section 55(1) of the Medical Act 1983), or I am an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or of an equivalent institution in an EEA State

AND

I have given due regard to the guidance issued by the Secretary of State when completing this certificate**.

..... Date:
Signature of independent registered medical practitioner

.....
Printed name of independent registered medical practitioner

Registered medical practitioner's / company's official stamp
(Optional)



(* delete as appropriate)

(** the guidance document is available at <http://www.lgpsregs.org/index.php/dclg-publications/dclg-stat-guidance>)

Explanatory notes to accompany certificate

Meaning of terms used

- (1) The independent registered medical practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.
- (2) 'Permanently incapable' means that the person will, more likely than not, be incapable of discharging efficiently the duties of their former employment with the employer because of ill health or infirmity of mind or body until, at the earliest, their normal pension age - see (5).
- (3) The independent registered medical practitioner is providing an opinion on the person's capability of undertaking gainful employment based solely on the effect the medical condition has on the ability to undertake gainful employment.
- (4) 'Gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with that of the person's former employment which gave rise to the deferred benefits in the Local Government Pension Scheme.
- (5) 'Normal pension age' means the employee's individual State pension age at the time the deferred benefit is to be brought into payment, but with a minimum of age 65. State pension age is currently age 65 for men. State pension age for women is currently being increased to be equalised with that for men. Women's State pension age will reach 65 by November 2018. The State pension age will then begin to increase further for both men and women from December 2018 onwards. To determine an individual's State pension age please go to <http://www.pensionsadvisoryservice.org.uk/state-pensions/know-your-state-pension-age>

General – notes for employers

If B2 or B4 have been ticked, the deferred member does not, in the medical opinion of the approved registered medical practitioner, meet the criteria for early release of the deferred pension benefits under the LGPS.

If B1 and B3 have been ticked, the deferred member does, in the medical opinion of the approved registered medical practitioner, meet the criteria for early release of the deferred pension benefits under the LGPS.

The opinion given by the approved registered medical practitioner does not, in itself, give entitlement or otherwise to early release of the deferred pension benefits under the LGPS. Nor should the medical practitioner indicate to the deferred member that such an award will or will not be made. It is for the former employer to make the formal award determination. If the former employer agrees to bring the deferred pension into payment early, the pension is payable from the date of the former employer's determination that the member meets the criteria for early release of the deferred pension benefits under the LGPS (and not from the date of the member's application for early payment or from the date the IRMP signs this certificate).

These notes were up-to-date when this form was updated in June 2014 and are provided for information only. They confer no contractual or statutory rights and in the event of any dispute the appropriate legislation will prevail.

This is a medical certificate provided in respect of a deferred member by an independent, approved, duly qualified registered medical practitioner in accordance with regulation 36 of the Local Government Pension Scheme Regulations 2013.

Example 3rd Tier Ill Health Retirement Review Certificate for a Suspended 3rd Tier Pensioner where the cessation of employment occurred after 31 March 2014 – England and Wales – Review taking place 3 or more years after the date of cessation of the 3rd tier pension (and before normal pension age (1)).

Part A: To be completed by the employer

Surname of employee:

Forenames:

Mr / Mrs / Miss / Ms*

Date of birth:

NI Number:

Home address:

Employer at date became a tier 3 ill health pensioner:

Position (post title) at date became a tier 3 ill health pensioner:

Nature of employment at date became a tier 3 ill health pensioner**:

Date of leaving:

Date member asked for early payment of suspended 3rd tier ill health pension:

The person named above was, at the date of cessation of their former position, certified as being permanently incapable (2) of discharging efficiently the duties of his / her employment with his / her employer because of ill health or infirmity of mind or body and that, although not immediately capable at that time of undertaking other gainful employment (3), it was nevertheless likely that he / she would be capable of undertaking gainful employment (3) within 3 years of the date of cessation of employment (or by his / her normal pension age (1), if earlier). He / she was awarded a short-term, reviewable, 3rd tier pension which was subsequently suspended. The person has applied for early reinstatement of the suspended pension and so it is now necessary, in accordance with regulation 38 of the Local Government Pension Scheme Regulations 2013, to determine whether he / she is unlikely to be capable of undertaking (5) gainful employment (3) before his / her normal pension age (1).

(*delete as appropriate)

(** please give full description of the requirements of the job and / or attach copy of job description if available)

Part B: To be completed by the approved (4) registered medical practitioner.

Please tick either B1 or B2

I certify that, in my opinion, having considered their ill health or infirmity, the person named in Part A

B1: **IS LIKELY** to be capable of undertaking (5) gainful employment (3) before his / her normal pension age (1)

B2: **IS UNLIKELY** to be capable of undertaking (5) gainful employment (3) before his / her normal pension age (1).

Please now complete Part C.

Part C: General statement to be completed by the approved (4) registered medical practitioner.

I do / do not* attach a copy of my full report / assessment and I certify that:

I am registered with the General Medical Council

AND

I hold a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State (with 'competent authority' having the meaning given by Section 55(1) of the Medical Act 1983), or I am an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or of an equivalent institution in an EEA State

AND

I have given due regard to the guidance issued by the Secretary of State when completing this certificate**.

..... Date:
Signature of independent registered medical practitioner (6)

.....
Printed name of independent registered medical practitioner (6)

Registered medical practitioner's / company's official stamp
(Optional)

(* delete as appropriate)

(**the guidance document is available at <http://www.lgpsregs.org/index.php/dclg-publications/dclg-stat-guidance>)

Explanatory notes to accompany certificate

Meaning of terms used

- (1) 'Normal pension age' means the employee's individual State pension age at the time the deferred benefit is to be brought into payment, but with a minimum of age 65. State pension age is currently age 65 for men. State pension age for women is currently being increased to be equalised with that for men. Women's State pension age will reach 65 by November 2018. The State pension age will then begin to increase further for both men and women from December 2018 onwards. To determine an individual's State pension age please go to <http://www.pensionsadvisoryservice.org.uk/state-pensions/know-your-state-pension-age>
- (2) 'Permanently incapable' means that the person was, more likely than not, incapable of discharging efficiently the duties of their employment with the employer because of ill health or infirmity of mind or body until, at the earliest, their normal pension age – see (1).
- (3) 'Gainful employment' means paid employment for not less than 30 hours in each week for a period of not less than 12 months. It does not have to be employment that is commensurate in terms of pay and conditions with that of the person's former employment.
- (4) The independent registered medical practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.
- (5) The independent registered medical practitioner is providing an opinion on the person's capability of undertaking gainful employment based solely on the effect the medical condition has on the ability to undertake gainful employment.
- (6) The independent registered medical practitioner signing the certificate does not have to be a different independent registered medical practitioner to the one who originally certified the scheme member's permanent incapacity at the date of leaving i.e. the same practitioner can sign this certificate too.

General – notes for employers

If B1 is ticked, the 3rd tier ill health pension remains suspended as, in the independent registered medical practitioner's opinion, the member does not satisfy the requirements to have it brought back into payment.

If B2 is ticked, the employer can determine to bring the suspended 3rd tier ill health pension back into payment from the date they so determine. Pensions Increase will be payable under the Pensions (Increase) Act 1971 even if the member is under age 55.

The opinion given by the approved registered medical practitioner does not, in itself, determine whether the suspended pension is brought back into payment. Nor should the medical practitioner indicate to the individual that a benefit under the LGPS will be payable. It is for the former employing authority to make the formal determination. If the former employer agrees to bring the suspended Tier 3 ill health pension into payment early, the pension is payable from the date of the former employer's determination that the member meets the criteria for early release of the suspended Tier 3 ill health pension under the LGPS (and not from the date of the member's application for early payment or from the date the IRMP signs this certificate).

These notes were up-to-date when this form was updated in June 2014 and are provided for information only. They confer no contractual or statutory rights and in the event of any dispute the appropriate legislation will prevail.

This is a medical certificate provided by an independent, approved, duly qualified registered medical practitioner in respect of a 3rd tier pensioner whose pension is currently suspended and who requests early reinstatement on health grounds in accordance with regulation 38 of the Local Government Pension Scheme Regulations 2013.

Distribution sheet

Local authorities who have registered for notification of Circulars
Pension managers (internal) of administering authorities
Pension managers (outsourced) and administering authority client managers
Officer advisory group
Local Government Pensions Committee
Trade unions
DCLG
COSLA
SPPA
Regional Directors
Private clients

Website

Visit the LGA's website at: www.lge.gov.uk

Copyright

Copyright remains with the LGA. This Circular may be reproduced without the prior permission of the LGA provided it is not used for commercial gain, the source is acknowledged and, if regulations are reproduced, the Crown Copyright Policy Guidance issued by OPSI is adhered to.

LGE Disclaimer

The information contained in this Circular has been prepared by the LGPC Secretariat, a part of the LGA. It represents the views of the Secretariat and should not be treated as a complete and authoritative statement of the law. Readers may wish, or will need, to take their own legal advice on the interpretation of any particular piece of legislation. No responsibility whatsoever will be assumed by the LGA for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in this Circular. Whilst every attempt is made to ensure the accuracy of the Circular, it would be helpful if readers could bring to the attention of the Secretariat any perceived errors or omissions. Please write to:

LGPC
Local Government House
Smith Square
London
SW1P 3HZ

or email: terry.edwards@local.gov.uk
Tel: 01954 232834