

Ill Health retirement in the Local Government Pension Scheme

A guide for active members

This guide is to help explain how the rules surrounding ill health pensions affect you, and in particular, what the procedure is if you think you may meet the conditions for retiring early on the grounds of ill health.

The guide is for 'active members' – an employee currently paying in to the scheme. Remember though your employer decides any entitlement, and the rules are different when you leave due to permanent ill health compared to seeking early payment for a pension after you have left your job or opted out of the scheme. Contact your employer for guidance on those procedures.

What happens if I have to leave work due to ill health?

If you have at least two years qualifying service (or 'vesting' meaning you are not entitled to claim a refund of your pension contributions) and you have to give up work because of illness, you may be able to receive the immediate payment of your benefits. You can be any age and the tier 1 or tier 2 pension, if payable, would not be reduced for early payment. Tier 3 is unreduced but is not payable for life.

To qualify for ill-health benefits your employer must be satisfied

1. you are permanently incapable¹ of doing your current job due to ill-health or infirmity of mind or body until your Normal Pension Age² and
2. you are not immediately capable of undertaking any gainful employment.³

Your employer refers to the opinion of an appropriately qualified doctor to help make that decision (referred to in the LGPS Regulations as an "Independent Registered Medical Practitioner"⁴)

¹ **Permanently incapable:** this means you have a medical condition which will, more likely than not, prevent you from carrying out your job until at least normal pension age.

² **Normal Pension Age** is linked to your state pension age (with a minimum of age 65) and is the age at which you can take the pension you have built up in full.

³ **Gainful employment:** This means paid employment - with any organisation - of at least 30 hours a week for a period of at least 12 months.

⁴ **Independent Registered Medical Practitioner (IRMP):** This is a practitioner who is approved by the Pension Fund to carry out medical assessments for pension purposes, and to provide the necessary Medical Certificates. The practitioner must be suitably qualified in Occupational Health, be registered with the General Medical Council, and have an understanding of the ill health regulations in the LGPS. The IRMP must not have previously advised, or given an opinion on, or had any previous involvement in your particular case.

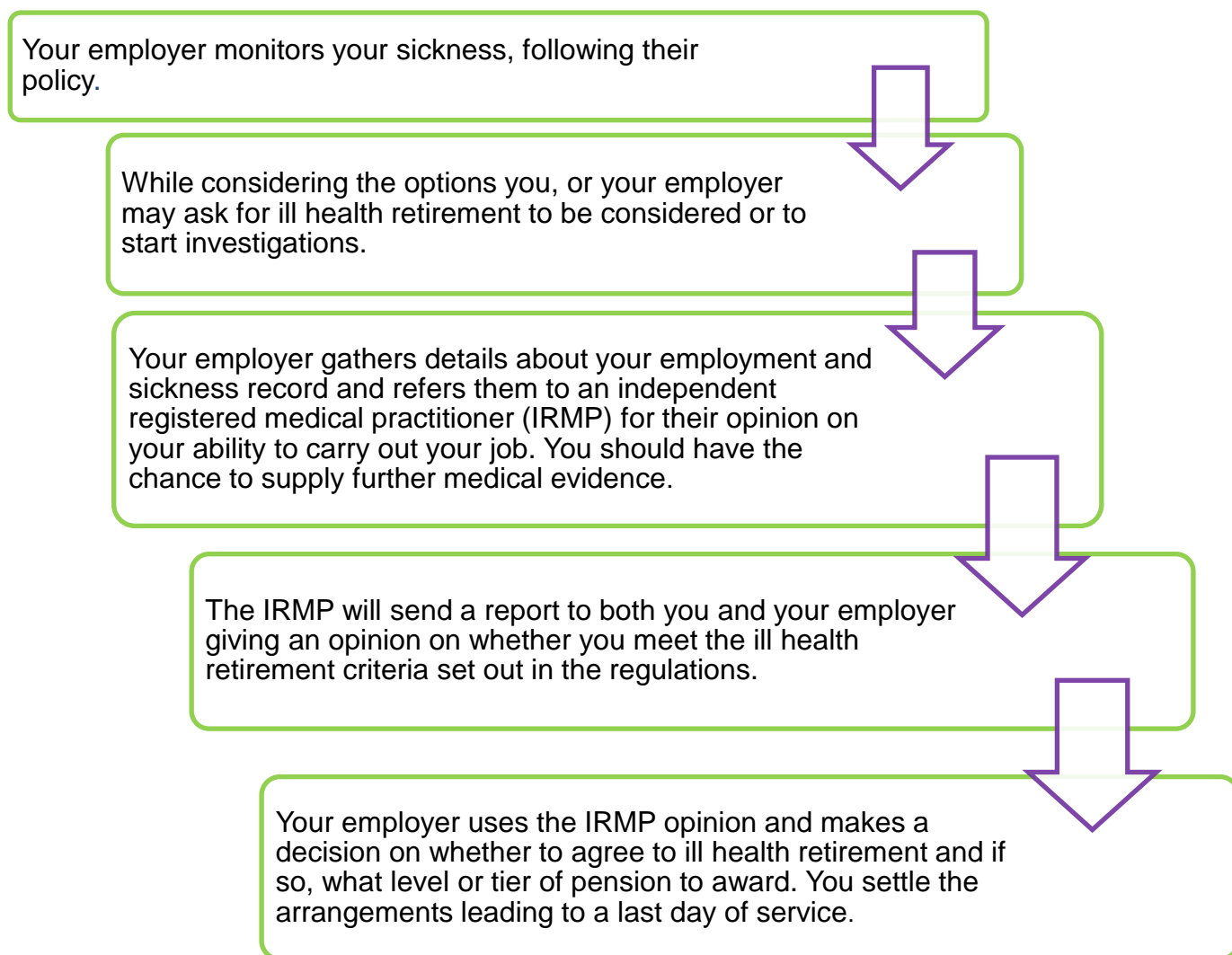
If your employer agrees that both 1 and 2 apply, they will decide the ill health pension amount; classified as either a tier 1, tier 2 or tier 3 ill health cases.

The criteria to consider ill health retirement under the LGPS are very different to the criteria your employer may use to determine dismissal on medical grounds. For example, an employer could dismiss you on medical grounds because a health problem has caused an unacceptable level of sickness absence. Even so, you still might not meet the LGPS requirements for retiring on ill health. Factors such as long service with your employer, your financial position or availability of other work, have no effect on deciding whether you are entitled to retire on ill health.

Procedure to determine ill health retirement

This flow chart simplifies an ill health retirement procedure. Your experience may be different as this flowchart assumes everything will be straightforward. Do keep in touch with your HR advisor or your employer's authorised contact. Your manager (or other named section/group) should be able to help you with the procedures.

Pension Services, Oxfordshire Pension Fund cannot advise on employment issues or the procedures your employer adopts.



What is my employer's role?

Your employer makes the decision about whether to award ill health retirement and if so, which tier will apply to you. Your employer will gather evidence and get an IRMP's opinion before reaching a decision. As part of your employers' ill health dismissal process, they should explain this process to you.

To help the IRMP understand your case your employer is recommended to prepare a referral providing details about you and your job (for example, a job description). If, because of your health problem you had to work fewer hours and receive less pay, your employer will provide the IRMP with an explanation of this and the reason why. If the employer's Occupational Health doctor has collected information about your medical condition, they will pass this to the IRMP, as long as you agree to share the information.

Why does the IRMP need my particulars?

Your employer is not a medical expert; they should always consult a specially qualified doctor to assess your case. Our scheme regulations stipulate that they must seek the opinion of an Independent Registered Medical Practitioner (IRMP).

Your employer will use an ill health certificate, on which the IRMP gives an opinion on whether you meet the criteria for an LGPS ill health retirement. This is essential for your employer to decide if you are entitled to a LGPS ill health pension.

You may have already seen your employer's Occupational Health doctor, but under our rules, your employer must not use the same medical advisor. However, Occupational Health may provide the IRMP with medical reports, to help them understand your case (as long as you give written permission).

What will the IRMP consider?

Information from your employer will help the IRMP understand the demands of your job. If you have given consent to release your medical records, they will also have this information and with your consent, obtain further clinical reports.

Once the IRMP has this information, they assess your case, using their expertise, the information provided by your employer, any information you have provided and guidance supplied by the Secretary of State for Communities and Local Government (DCLG) to form an opinion on whether you meet the criteria for LGPS ill health retirement.

What I do to help?

It is in your interest to help the IRMP fully understand your medical condition. We recommend that you are involved in gathering your information, for example explaining how your medical condition is affecting you and detailing what your own doctors have told you about your chances of recovery. It is also an opportunity to highlight any relevant issues that you think have not been addressed so far; you then have the reassurance the information provided is accurate and complete before it goes off to the IRMP.

Before your employer can release your medical records to the IRMP, they need your written consent. You don't have to give this, but if you do, it will help the IRMP better understand your case and able to come to an opinion on meeting the LGPS ill health retirement criteria.

Equally, your employer cannot make a decision without receiving the IRMP report supporting the certificate he/she has been asked to provide.

Remember the IRMP is considering two issues:

1. Are you permanently incapable of doing your current job? and
2. Are you immediately capable of carrying out any type of gainful employment or not?

If in the opinion of the IRMP, *you satisfy these two conditions ...* the IRMP will then give an opinion on

- when you are likely to be capable of gainful employment in the future

This will help your employer determine your entitlement to pension benefits.

If you don't satisfy these two conditions... This means that in the opinion of the IRMP, you do not meet the LGPS ill health retirement criteria and your employer will consider this opinion when making their decision. For example, you might have a physically demanding job, and a health condition renders you permanently unable to do that job, but if you are fit enough to carry out another type of job (gainful employment), perhaps a less physically demanding job, this would prevent you retiring on ill health grounds.

Will I need to go for a medical assessment?

The IRMP will not always ask you in for a medical assessment, although this will depend on the nature of your individual case.

Under the LGPS rules, the IRMP is allowed to carry out a review of your case and base an opinion by referring to the available letters, reports and statements, rather than seeing you in person to certify on your ill health.

If you have provided full information and the consent to the release of your medical records/information from your GP or Consultant as part of the referral process the IRMP should have enough information to be able to give an opinion on whether you meet the LGPS ill health retirement criteria, they may however ask to see you in person.

What if I'm waiting for treatment or just had treatment for a serious condition?

This could mean that you are not immediately capable of gainful employment but you would be expected to be capable in time.

If you are waiting for treatment, your employer may wait until you have had the treatment, before considering you for ill health retirement. If you have had treatment, but are recovering from it, your employer may wait until after a reasonable recovery period before considering you for ill health retirement.

Remember, your employer cannot take your treatment timetable into consideration if you have not told them.

If your treatment or recovery takes a long time, then this may have an impact on how long the whole process takes before a decision can be made.

How long will the referral process take?

Each case will vary. To come to an informed opinion the IRMP needs to collect information from different sources, and may need to seek further details from original reports. The process can rely on how long it takes others, such as your GP or Consultant, to respond to requests they receive

from the IRMP. Please allow at least four weeks before checking progress with your employer. Pension Services, Oxfordshire Pension Fund will not know about your case at this stage, so this is an employer enquiry.

What happens once my employer reaches a decision?

Once the IRMP has formed an opinion, they will write to your employer with a medical certificate. It is your employer who must decide whether to release your pension benefits early on ill health grounds. Once your employer decides you meet the criteria for ill health retirement, they consider the level of the benefit to award you. There are three tiers providing different benefits:



Tier 1

If you cannot do your job and there is no reasonable prospect of you being capable of undertaking any gainful employment before your normal pension age.



Tier 2

If you cannot do your job and although you are not capable of undertaking gainful employment within three years of leaving your employment, it is likely that you will be capable of undertaking any gainful employment before your normal pension age.



Tier 3

If you cannot do your current job, but evidence suggests it is likely that you will be capable of undertaking gainful employment within three years of leaving your employment, or your normal pension age, if earlier.

Benefits



Tier 1: You are unlikely to be capable of carrying out gainful employment before your normal pension age.

If your employer has decided you satisfy tier 1 ill health retirement:

- **Level of benefits:** Your benefit is the pension built up to your date of retirement, plus an ill health enhancement. Your pension is increased to the approximate level you may have expected had you stayed in your employment on your current pay until normal pension age.
- **Payment period:** Permanent - paid for your lifetime.



Tier 2: You are not entitled to Tier 1 benefits, you are unlikely to be capable of carrying out any gainful employment within 3 years of leaving, but it is likely you will be capable of doing so before your normal pension age.

If your employer has decided you satisfy tier 2 ill health retirement:

- **Level of benefits:** Your benefit will be based on the pension built up to your date of retirement, plus an ill health enhancement. Your pension is increased by a quarter of the approximate level you may have expected on your current pay had you stayed in your employment until normal pension age.
- **Payment period:** Permanent - paid for your lifetime



Tier 3: You are likely to be capable of carrying out gainful employment within 3 years of leaving, or before your normal pension age if sooner.

If your employer has decided you satisfy tier 3 ill health retirement:

- **Level of benefits:** Your benefit is your pension built up to your date of retirement. There is no ill health enhancement.
- **Payment period:** Immediate but temporary payment of retirement benefits, which your employer MUST review. If you have a lump sum retirement grant, this is yours to keep, but the pension stops after 3 years. It will stop before then if...
 - You are in gainful employment, or
 - A medical review after 18 months decides you are capable of carrying out any

gainful employment

After tier 3 ceases, your pension will become payable again from your normal pension age. It is possible to request an earlier payment and we will send full details if required at the time.

Note: there are restrictions if you have previously retired on permanent ill health grounds since 31 March 2008.

NOTE If you have previously received a Tier 1 ill-health pension from the LGPS, or were awarded an LGPS ill-health pension before 1 April 2008, then no enhancement can be added to your **pension account** if you are retired again for reasons of ill-health.

If you have previously received a Tier 2 ill-health pension from the LGPS, any enhancement due upon a subsequent ill-health retirement is adjusted and capped. If, in respect of the subsequent ill health retirement you are awarded a Tier 1 or Tier 2 pension, the enhancement cannot exceed three quarters of the number of years between the initial ill health retirement and your **Normal Pension Age**, less the number of years of active membership since the initial ill-health retirement.

Tax implications

There are restrictions to the level of tax-free pension savings you can build up. If you retire on ill health under tiers 1 or 2, the increase to your pension may mean you will be subject to an annual allowance test, unless the IRMP certifies that you are suffering from ill health which makes it unlikely that you will be able (other than to an insignificant extent) to carry out gainful work (in any capacity) before reaching your State pension age. This is known as the severe ill health criteria.

If the IRMP certifies that you do not meet the severe ill health criteria, then you will be subject to the annual allowance test and we will work out the growth in your pension savings in the year you retire and compare this to the annual allowance limit. Note: an ill health enhancement may cause a significant growth in the value of your pension savings in the year you retire. If this causes you to exceed the limit, we will write to you with more details at that time.

There is information on our website www.oxfordshire.gov.uk/lgpsmembersguide about annual allowance and life time allowance, and see the 'Tax on your private pension contributions' page on the GOV.UK website at www.gov.uk/tax-on-your-private-pension

How we will work out your pension benefits

The calculation will depend on how long you've been a member. No matter at what age you retire on permanent ill health, once you are drawing your pension, we will review it each April in line with the Consumer Price Index (CPI).

- For your membership up to 31 March 2008 you get a pension which is 1/80th of your 'final pay', and a one off tax free lump sum retirement grant which is three times this part of your pension.

$$\text{Pension} = (\text{Membership} \times \text{Final Pay}) \div 80$$

Plus

$$\text{Lump sum} = 3 \times \text{Pension}$$

- For each year between 1 April 2008 and 31 March 2014, your pension will be 1/60th of your 'final pay'.

$$\text{Pension} = (\text{Membership} \times \text{Final Pay}) \div 60$$

- For each year from 1 April 2014, you get a pension that is 1/49th of your career average pay, in other words...
 - Pension each year = (cumulative career average pay (CARE) for that year) ÷ 49 and adjusted by annual revaluation each year (periods when you have chosen to pay into the 50/50 section of the scheme the pension building up during that time is (CARE ÷ 98)
- Then
- For the tier one enhancement, we ask your employer for an ‘**assumed pensionable pay**’ figure, divide this by 49 and multiply by the period from your last day of service to your normal pension age.
 - For the tier two enhancement, we ask your employer for an ‘**assumed pensionable pay**’ figure, divide this by 49 and multiply by the period from your last day of service to your normal pension age and divide by 4.

The value of the enhanced pension under tier 1 or tier 2 is added to your pension account at your last day of service

If you disagree with a decision made by your employer

It is for your employer to make the formal decision about whether you qualify for an ill health pension, having considered the opinion from the IRMP and the Statutory Guidance issued by DCLG and taking into account any non-medical factors that may apply.

Once your employer has made their formal decision, they must notify you. If you disagree with any decision, you have a right to challenge it. If you are dissatisfied with any decision made in relation to the scheme you have the right to have your complaint reviewed under the scheme’s Adjudication procedure as known as the Internal Disputes Resolution Procedure.

Internal Disputes Resolution Procedure/ Adjudication process

In the first instance write to the person nominated by the body who made the decision about which you wish to appeal. You must do this within six months of the date of the notification of the decision or the act or omission about which you are complaining (or such longer period as the nominated person considers reasonable). This is a formal review of the initial decision or act or omission and is an opportunity for the matter to be reconsidered. The nominated person will consider your complaint and notify you of his or her decision.

If you are dissatisfied with that person’s decision, (or their failure to make a decision) you may apply to the Oxfordshire Pension Fund to have it reconsidered.

Pension Services can tell you who your employer’s / and the Fund’s nominated person is and supply you with a more detailed leaflet on the Internal Disputes Resolution/Adjudication of disagreements process and relevant time limits, together with a form to fill in, or you can ask your employer. Contact details for the Oxfordshire Pension Fund – Pension Services, is later in this guide.

There are also a number of other regulatory bodies that may be able to assist you

The Pensions Advisory Service (TPAS)

TPAS is available at any time to assist members and beneficiaries of the scheme in connection with any pension queries they may have, or any difficulty that they cannot resolve with the scheme administrator. TPAS can be contacted at:

11 Belgrave Road
London

SW1V 1RB

Telephone: 0300 123 1047

Website: www.pensionsadvisoryservice.org.uk

The Pensions Ombudsman (TPO)

In cases where a complaint or dispute has not been satisfactorily resolved through the Internal Disputes Resolution Procedure, or with the help of TPAS, an application can be made to the Pensions Ombudsman within three years of the event that gave rise to the complaint or dispute. The Ombudsman can investigate and determine any complaint or dispute involving maladministration of the scheme or matters of fact or law and his or her decision is final and binding (unless the case is taken to the appropriate court on a point of law). Matters where legal proceedings have already started cannot be investigated by the Pensions Ombudsman. The Pensions Ombudsman can be contacted at:

11 Belgrave Road
London
SW1V 1RB

Telephone: 0207 630 2200

Website: www.pensions-ombudsman.org.uk

The Pensions Regulator

This is the regulator of work-based pension schemes. The Pensions Regulator has powers to protect members of work-based pension schemes and a wide range of powers to help put matters right, where needed. In extreme cases, the Regulator is able to fine trustees or employers, and remove trustees from a scheme. You can contact the Pensions Regulator at:

Telephone: 0345 600 0707

Website: www.thepensionsregulator.gov.uk

More information

The national website for LGPS members www.lgpsmember.org

And locally

If you have a question about your LGPS membership or benefits, please contact:

Pension Services
Oxfordshire Pension Fund
4640 Kingsgate
Cascade Way
Oxford Business Park South
OX4 2SU

E-mail: pension.services@oxfordshire.gov.uk

General enquiries 03300 241 359

Website: www.oxfordshire.gov.uk/pensions

Some terms we use:

Assumed Pensionable Pay

This provides a notional pensionable pay figure to ensure your pension is not affected by any reduction in pensionable pay due to a period of sickness or injury on reduced contractual pay or no pay, or relevant child related leave or reserve forces service leave. (for a full explanation see the member guides on www.oxfordshire.gov.uk/lqpsmembersguide)

Assumed pensionable pay is also used to work out any enhancement to your pension as a result of ill health retirement, any lump sum death grant following death in service, and any enhancement which is included in survivor benefits following death in service. The assumed pensionable pay for these purposes is calculated as the average of the pensionable pay you received for the 12 weeks (or 3 months if monthly paid) before you died in service or before you left employment due to ill-health retirement. In calculating the average, any reduction due to authorised leave of absence or due to a trade dispute is ignored. Also, where an independent registered medical practitioner certifies that, during the period used to determine assumed pensionable pay, you were working reduced contractual hours because of the ill-health which led to your retirement or death in service, the assumed pensionable pay is to be calculated on the pay you would have received during that period had you not been working reduced contractual hours. The resulting figure is then grossed up to an annual figure.

Consumer Prices Index (CPI)

The Consumer Price Index (CPI) is the official measure of inflation of consumer prices in the United Kingdom. This is currently the measure used to adjust your pension after you have ceased to be an active member, it is applied in the review of any pension in payment from the scheme every April.

(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).

Final pay

This is usually the pay in respect of (i.e. due for) your final year of scheme membership on which you paid contributions, or one of the previous 2 years if this is higher. It includes your normal pay, contractual shift allowance, bonus, contractual overtime (but not non-contractual overtime), Maternity Pay, Paternity Pay, Adoption Pay, Shared Parental Pay and any other taxable benefit specified in your contract as being pensionable.

If you were part-time for all or part of the final year the whole-time pay that you would have received if you had worked whole-time is used; and if your pay in your final year was reduced because of sickness or relevant child related leave, final pay is the pay you would have received had you not been on sick leave or relevant child related leave.

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

Normal Pension Age is linked to your State Pension Age for benefits built up from April 2014 (but with a minimum of age 65) and is the age at which you can take the pension you have built up in full. If you choose to take your pension before your Normal Pension Age it will normally be reduced, as it's being paid earlier. If you take it later than your Normal Pension Age it's increased because it's being paid later.

You can use the Government's State Pension Age calculator (www.gov.uk/calculate-state-pension) to find out your State Pension Age.

Remember that your State Pension Age may change in the future and this would also change your Normal Pension Age in the LGPS for benefits built up from April 2014. Once you start drawing your pension any subsequent change to your State Pension Age will not affect your Normal Pension Age in the LGPS.

Pensionable Pay

The pay on which you normally pay contributions is your normal salary or wages plus any shift allowance, bonuses, overtime (both contractual and non-contractual), Maternity Pay, Paternity Pay, Adoption Pay, Shared Parental Pay and any other taxable benefit specified in your contract as being pensionable.

Permanently incapable

'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'

Vesting Period

The vesting period in the LGPS is 2 years. You will meet the 2 years vesting period if:

- you have been a member of the LGPS in England and Wales for 2 years, or
- you have brought a transfer of pension rights into the LGPS in England or Wales from a different occupational pension scheme or from a European pensions institution and the length of service you had in that scheme or institution was 2 or more years or, when added to the period of time you have been a member of the LGPS is, in aggregate, 2 or more years, or
- you have brought a transfer of pension rights into the LGPS in England or Wales from a pension scheme or arrangement where you were not allowed to receive a refund of contributions, or
- you have previously transferred pension rights out of the LGPS in England or Wales to a pension scheme abroad (i.e. to a qualifying recognised overseas pension scheme), or
- you already hold a deferred benefit or are receiving a pension from the LGPS in England or Wales (other than a survivor's pension or pension credit member's pension), or
- you paid National Insurance contributions whilst a member of the LGPS and cease to contribute to the LGPS in the tax year of attaining pension age,
- you cease to contribute to the LGPS at age 75, or
- you die in service

Please note: This guide cannot cover every personal circumstance or even the details of regulations in respect of Ill Health Retirement or entitlements. This short guide does not confer any contractual or statutory rights and is provided for information and indication of process purposes only. In the event of any dispute over your pension benefits the appropriate legislation will

prevail.