# Logo Cambridgeshire Pension Fund Logo Northamptonshire Pension Fund

# Understanding your referral to an independent doctor

This guide aims to help you understand:

* Why you are being referred to an independent doctor;
* The process that is about to be followed;
* What will happen depending on the result of this process;
* What to do if you are unhappy with the result.

## Why am I being sent to the independent doctor?

You are being referred to the independent doctor so that your employer can get an ill-health certificate that provides information on whether you meet the medical criteria for an ill-health pension. This is needed to decide if you are entitled to a Local Government Pension Scheme (LGPS) ill-health pension should you be dismissed on the grounds of ill-health.

Your employer will then use that information as they work with you in managing your ill-health situation and reaching a decision about whether you should be dismissed on the grounds of ill-health.

## What are the criteria for an ill-health pension?

For you to be eligible for an ill-health pension your employer has to dismiss you on the grounds of ill-health and has to have a certificate from a suitably qualified doctor, approved by the Pension Fund, that says your current medical condition:

* Will prevent you from doing your current job up to your normal pension age; and
* Prevents you from being immediately capable of undertaking any gainful employment.

Gainful employment is defined as any paid employment that you could do for at least 30 hours each week for at least a year.

This is a very different set of criteria than the one your employer will be using to determine whether they will dismiss you on the grounds of ill-health. In particular your employer will probably be looking at a timescale of a few months not years. It is therefore entirely possible for you to be dismissed on the grounds of ill-health but not qualify for an ill-health pension.

## How is my ill-health pension calculated?

An ill-health pension is calculated in the same way as a normal retirement pension:

**Pension:**

Pensionable Pay after 31 March 2014 X 1/49

**Plus**

Pensionable service 1 April 2008 to 31 March 2014 X Full-time equivalent final years pays X 1/60

**Plus**

Pensionable service before 1 April 2008 X Full-time equivalent final years pays X 1/80

**Plus an automatic lump sum**

3 X pensionable service before 1 April 2008 x full-time equivalent final years pay X 1/80

(There is no automatic lump sum for service after 31 March 2008)

The pension is then increased each year in line with cost of living increases.

There is no reduction in your pension for early payment. You will be given the choice of converting some of your pension to further lump sum.

## Do I get more pension if I qualify for an ill-health pension?

The certificate that your employer receives will also give the doctors opinion of when you are likely to be capable of gainful employment in the future. This is important as your employer will heavily rely on this opinion in deciding whether you get additional pension if you are dismissed on grounds of ill-health.

There are three tiers of ill health pension provided for within the LGPS:

**Tier 1** – If you are unlikely to be capable of undertaking any gainful employment before your normal pension age your benefits will be increased to take account of the further pension that you would have built up to normal pension age.

 For example, if you are age 55 and your normal pension age is 66 your pension would be enhanced to include an additional sum equal to

11/49 X assumed pensionable pay, giving you a much bigger pension.

**Tier 2** - If you are unlikely to be capable of undertaking any gainful employment within three years but will be capable before normal pension age your benefits will be increased to take account of one quarter of the further pension that you would have built up to normal pension age.

 For example, if you are age 55 and your normal pension age is 66 your pension would be enhanced to include an additional sum equal to

¼ X 11/49 X assumed pensionable pay, giving you a bigger pension.

**Tier 3** - if you are not capable of undertaking any gainful employment now but will be capable within three years you will not get any enhancement to your pension.

## Will I get a permanent pension?

This depends on:

* If you are granted a Tier 1 or Tier 2 pension you get that for life.
* If you are granted a Tier 3 pension it will be suspended when the first of the following happens:
* you get gainful employment;
* a review after 18 months decides you are capable of undertaking any gainful employment;
* three years have passed after you left.

Your pension then automatically comes back into payment at your normal pension age. Alternatively you can apply to have it paid earlier, from age 55 onwards, although it may be reduced for early payment.

## Is my pension taxed?

Your annual pension is subject to income tax in the same way your salary is. In addition The Finance Act 2004 requires that an ill-health pension is subject to an annual allowance test unless you are unlikely to be capable of taking on any other paid work in any capacity, otherwise than to an insignificant extent, before the State Pension age. The independent doctor will certify if you meet this criteria. If you do not the annual allowance test will be carried out. Your estimate letter will provide information on the likelihood of annual allowance taxes applying to you.

## What happens if I do not qualify for an ill-health pension?

This will depend on your employer. Assuming your employer goes ahead and dismisses you for reasons of ill-health you will be entitled to a deferred pension. Once you are age 55 you can choose to have your pension paid BUT it may be reduced for early payment. Alternatively you can delay taking it until you can have it with no reduction.

If, at any time before you take payment of your benefits, you become permanently incapable of your job due to a further illness (or worsening of the current one) you can apply for early payment.

## How does the independent doctor consider if I meet the criteria?

You will be asked to sign a form that gives consent for the independent doctor to have any medical records your employer’s occupational health doctor has about you and, if necessary, to ask your GP and consultant for further information about your condition. The independent doctor does not normally ask to see you as they rely on the expertise of those with personal knowledge about you to provide the medical information needed.

Once the doctor has the information they use their medical knowledge, their knowledge of how various medical conditions affect an individuals ability to work, information provided by your employer about the job you do and any information you have provided to decide whether, in their opinion, you meet the ill-health pension criteria.

In doing this the Independent doctor works out how likely it would be for most people like you to recover before your normal pension age if they had the same medical condition. If he considers that:

* more people would remain ill and not recover before your normal pension age than would recover you would meet the criteria and will get an ill-health pension;
* more people would recover than would remain ill you would not meet the criteria.

This is particularly relevant if you are currently awaiting treatment or are only part way through treatment. For many conditions it will not be clear if you, personally, are likely to be in the group of people who will recover and if most people with your condition do recover you will not qualify for an ill-health pension at that time. As treatment progresses it becomes clearer if you will be one of the people who will recover or not. The doctor signs the certificate based on the knowledge available at the time.

## What is the role of my employer?

You and your employer should have been talking about your state of health and how it impacts on your ability to do your job before you get this leaflet. In all likelihood you will have reached a position where it has been determined that you will not be able to do your job for the short to medium term. It is therefore highly likely that you have discussed leaving, or being dismissed from, your job on grounds of ill-health.

It is your employer’s responsibility to correctly manage your employment situation and follow the relevant law if they wish to dismiss you. However, before dismissing you on the grounds of ill-health, your employer needs to determine whether you will qualify for an ill-health pension and, if you do, award it to you when you are dismissed.

## What happens next?

Your employer is now going to refer you to the independent doctor. To do this your employer prepares a referral package that tells the independent doctor about you and your job and, subject to your consent, provides details of your medical condition as collected by your employer’s occupational health advisor (if this has been done).

As part of this they will have given you this leaflet and asked you to complete a consent for release of medical records form.

This form plays a crucial role in the ill health pension decision making process so it is vital that you complete it promptly and fully– if you do not consent or do not provide contact details for your GP AND consultant it is highly unlikely that the Independent doctor will be able to get sufficient information to satisfy them that you meet the criteria. This means you will not get ill-health pension.

This consent form provides you with the opportunity to explain to the doctor how your medical condition is affecting you, explain what your doctors have told you about your chances of recovery and highlight any issues you do not think have been addressed to date. You are encouraged to take this opportunity.

## How quickly will I hear?

If the referral package has provided all of the necessary information the Independent doctor should reach a decision within four weeks. If further information is required timescales will depend on how quickly other medical professionals respond – if you have asked to see reports before they are sent this will cause further delays.

You should be aware that some GPs and consultants can take several weeks to supply necessary information.

## What happens after the doctor’s opinion is reached?

### If the doctor has signed you off as being permanently incapable of doing your current job and incapable of immediately undertaking any gainful employment:

* Your employer advises you of the doctor’s opinion on the tier of pension and asks you for further information to help them make the tier decision.
* Your employer continues with the ill-health dismissal process. It is for you and your employer to decide if you are going to actively agree an ill-health dismissal date or continue to fight any ill-health dismissal proceeding through your employer’s dismissal appeal process or even at employment tribunal. You must not choose to leave voluntarily if you want an ill-health pension as that will mean you do not qualify for your ill-health pension even if you meet the medical criteria.
* When you are dismissed on ill-health grounds you are issued with a **RETIRE1:** Application to Receive Retirement Benefits form, together with RETIRE3: Retirement Benefit Notes, and your employer tells us when you are leaving;
* You return the application form**, together with your completed RETIRE2:** Death Grant – Expression of Wish Form should you wish, and **any necessary certificates** to us;
* We award your pension benefits and brings them into payment. You should receive full details of the final benefits payable to you either within 5 working days after you have left or the date of receiving all necessary information if later. Any lump sum will be paid direct into the account specified on the RETIRE1 form within 10 days of the date we advise you of your final benefits and your first monthly pension payment paid on the first available pension payment run.
* If you are unhappy with the tier of pension you get a formal right of appeal. However, an employer is not required to delay their dismissal process awaiting an appeal decision. To be successful at appeal you will need clear grounds. Most likely you will be able to demonstrate there is new medical evidence not looked at by the Independent doctor OR that there are relevant personal circumstances not considered by your employer in making the tier decision.

### If the doctor has not signed you off for an ill-health pension:

* Your employer informs you of the doctor’s decision. You have a formal right to appeal against the decision. However, to be successful you will need to demonstrate that a suitable process has not been followed or there is new medical evidence not looked at by the Independent doctor.
* At this point you should expect your employer to proceed with managing your ill-health/sickness absence. They are not required to delay this process pending the results of a pension appeal. It is for you and your employer to decide if you are going to actively agree an ill-health dismissal date even though you will not get an ill-health pension or continue to fight any ill-health dismissal through your employer’s dismissal appeal process or even at employment tribunal.
* Importantly you need to discuss your options with your employer. Exactly what happens next will depend on your employer’s policy and the reason the doctor has given for not signing you off as eligible for an ill health pension.
* Once you leave, for whatever reason, you will be awarded a deferred pension.
* It is important to note that if you want to continue to appeal a decision not to award you an ill-health pension you MUST be dismissed on the grounds of ill-health. If you are not then an appeal will automatically fail at the first criteria – were you dismissed on the grounds of ill-health?
* Your deferred pension will be available for payment from age 55 (although it may be reduced for early payment) BUT you can apply for earlier payment of your deferred benefits on ill-health grounds at some point in the future before they have come into payment. In these circumstances there will be no ill-health enhancement. If you are already age 55 you will be given the choice of taking your pension immediately.

### If the doctor has not signed you off for an ill-health pension BUT has indicated that his decision has been influenced by the fact that treatment or even investigation of your condition is not yet exhausted:

* The process is the same as if the doctor had not referred to treatment not being exhausted.
* However, if, after dismissal, treatment or investigation is completed and it is now clear that you are one of the people for who will not recover before your normal pension age you can apply to have your case looked at again with the benefit of hindsight. If it is found that, as a result of the medical condition you were dismissed for, it is clear that you were actually permanently incapable of your job at the point of leaving the pension decision can be changed and you can have your pension backdated to the point you left.
* This will only happen if you are dismissed on the grounds of ill-health. If you decide to leave voluntarily it will not happen.

## What do I need to do now?

* Complete the consent to release medical records to an independent doctor form (IHRC) and return it to your employer. You are encouraged to clearly state your *medical* case to the independent doctor, particularly **if you think any medical issue has not been taken into account by your employer** as offered in Part D on the IHRC. However, please remember this is about how you expect your medical condition to be affecting you at normal pension age, which is equal to your state pension age, or age 65 if later, and is also about your ability to do ANY gainful employment by that age not just your current job. You may want to take advice on doing this from your GP, specialist or a Trade Union representative. Taking this opportunity will ensure the Independent doctor’s investigation covers all issues.
* **Discuss all of your options with your employer.** If you want to stay in employment you must find a solution with your employer. Be aware that if your employer finds you a different job that you can do for 30 hours each week for at least a year you automatically disqualify yourself for an ill-health pension because you will be assessed as not being immediately incapable of undertaking gainful employment. Once your case has been to the independent doctor you have to assume that your employment will cease soon afterwards.
* **Be patient**: How long this takes will depend on how thorough your employer’s occupational health advisor has already been. If a full case is presented and the independent doctor does not want to see you, expect a decision in less than a month. If the doctor needs to ask for additional investigation from your specialist it can take several months.
* **Your employer should not dismiss you until the results of the independent doctor’s referral is known.**

## For further information

Your employer is responsible for all decisions regarding your health and employment. In the first instance any queries should be directed to the person responsible for you in your organisation. If you want an ill-health pension quote it should be requested through your employer.

However, if you want general information on ill-health pension or to check information you have been given members of either the Cambridgeshire or the Northamptonshire Pension Fund can contact us as follows.

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