



ILL HEALTH RETIREMENT

GUIDANCE

CONTENTS

	SECTION	PAGE
1	INTRODUCTION	3
2	PENSION REGULATIONS	3-4
3	ILL HEALTH RETIREMENT PROCESS	5-7
4	HOW TO CONDUCT AN ILL HEALTH RETIREMENT MEETING	8-10
5	GENERAL INFORMATION	10-12

APPENDICES

Appendix 1 – Letter to invite employee to ill health retirement meeting

Appendix 2 – Checklist of alternative courses of action

Appendix 3 – Ill health retirement mutual consent letter

Appendix 4 – Mutual Agreement Declaration Form – ill health retirement

1. INTRODUCTION

The purpose of this document is to provide managers with guidance on how to progress an ill health retirement recommendation from the Council's occupational health provider.

The guidance only applies to employees who are members of the Local Government Pension Scheme who meet the eligibility criteria for ill health retirement. It does not apply to teachers who are covered by a separate process.

Managers must ensure that all medical absences are managed in line with the Council's Supporting Attendance and Wellbeing policy and that appropriate early interventions are made. Further advice on the policy can be obtained from the HR and Payroll Service Centre at AskHR@aberdeencity.gov.uk

2. PENSION REGULATIONS

The introduction of the Local Government Pension Scheme (Benefits, Membership and Contributions) (Scotland) Regulations 2008 on 1 April 2009 brought in a two-tier ill health retirement provision for employees with at least 2 years' membership of the pension scheme, who, on grounds of ill health or infirmity of mind or body, are permanently incapable of discharging efficiently the duties of their current employment. This has been maintained with the introduction of the Local Government Pension Scheme (Scotland) Regulations 2014 which came into force on 1st April 2015.

The two tiers are defined as follows:

- i. Tier 1 applies where the member is **unlikely to be capable of undertaking gainful employment* before normal pension age**. Ill health retirement benefits will be paid to the employee immediately with an enhancement based on the member's 'Assumed Pensionable Pay'*** (APP) and the years and days between the date of leaving and normal pension age, multiplied by 1/49th.
- ii. Tier 2 applies where **the member is likely to be able to undertake gainful employment*** before normal pension age. Ill health retirement benefits will be paid to the employee immediately with an enhancement based on the member's 'Assumed Pensionable Pay' (APP) and one quarter of the years and days between the date of leaving and normal pension age, multiplied by 1/49th.

*Gainful employment is defined as paid employment for not less than 30 hours per week for a period of not less than 12 months.

**Assumed Pensionable Pay is a notional pensionable pay figure that is used to ensure that your pension is not affected by any reduction to, or suspension of, your pensionable pay due to a period of sickness or injury, or any reduction due to relevant child related leave or reserve forces leave.

Before considering this provision, the Council's occupational health provider must have provided a recommendation for ill health retirement by providing an Ill Health Retirement Certificate.

Notes:

(i) The Third Tier Ill Health Gratuity can apply to employees who are **members** of the Local Government Pension Scheme, who **do not qualify** for a Tier 1 or Tier 2 ill health retirement but for whom dismissal is contemplated due to long term sickness absence. Details are available from the Employee Relations Team in People and Organisational Development (contact employeerelations@aberdeencity.gov.uk).

(ii) It should be noted that the ill health retirement provisions and the Third Tier Ill Health Gratuity do not apply to those employees who are over their Normal Pension Age.

3. ILL HEALTH RETIREMENT PROCESS

- The manager receives a medical report and Ill Health Retirement Certificate from occupational health. The Ill Health Retirement Certificate is required for pension purposes and must be completed by both occupational health **and** relevant manager if the decision is to progress with the ill health retirement.
- To meet the legal requirements of a Tier 1 ill health retirement, the certificate must state that: 'The employee's ill health or infirmity of mind or body renders them permanently incapable of discharging efficiently the duties of their employment/office and that they are **unlikely to be capable of undertaking** gainful employment before normal pension age'.
- To meet the legal requirements for a Tier 2 ill health retirement, the certificate must state that: 'The employee's ill health or infirmity of mind or body renders them permanently incapable of discharging efficiently the duties of their employment/office but that they are **likely to be able to undertake gainful employment** before normal pension age'.
- The manager should arrange for the employee to be issued with an estimate of pension benefits by contacting Pensions on 01224-264264 or pensions@nespf.org.uk. The manager should request that an estimate of benefits is issued to the employee, based on either a Tier 1 or Tier 2 ill health retirement recommendation.
- Please note that in cases where a Tier 2 ill health retirement is recommended, an employee may also contact Pensions directly to request an estimate of pension benefits. Employees can also get an estimate themselves through the Member Self Service facility at www.nespf.org.uk
- Pensions will send the employee an estimate of pension benefits, including any enhancements due under a Tier 1 or Tier 2 ill health retirement recommendation.
- The manager should arrange to meet with the employee using the letter attached at Appendix 1. They will be accompanied by a People and Organisational Development Adviser. The employee can be accompanied by a trade union representative or work colleague to support them at this meeting if they wish. In

exceptional cases, the manager will have discretion to allow an employee's friend or relative to attend the meeting.

- At the meeting, it is the manager's responsibility to ensure that the following areas have been considered before deciding on whether to proceed with the ill health retirement. In the majority of cases, the points listed below are likely to have been considered at an earlier stage:
 - An examination of redeployment or retraining
 - An assessment as to whether a reasonable adjustment could be made to the duties of the employee's post
 - Consideration of a return to work on lighter duties or on a reduced hours basis
 - **Note:** The manager must complete the checklist at Appendix 2 to record that this discussion has taken place
- If the employee disagrees with the recommendation for ill health retirement, the meeting should be adjourned to give the employee the opportunity to submit additional evidence or provide a second medical opinion. If the employee wishes to obtain a second medical opinion, this should be provided within one month and will be at the employee's own expense although their trade union may be able to assist in this matter.
- Where applicable, the additional evidence or second medical opinion should be forwarded to the Council's occupational health provider and the meeting should be reconvened when occupational health has reviewed the information. The reconvened meeting should normally proceed on the basis of the occupational health provider's recommendation.
- Where recommendation (or reviewed recommendation) is for ill health retirement and the Council wishes to proceed with this, the employee will be asked to mutually agree to the ending of their employment on the basis of ill health retirement and asked at the end of the meeting to sign a Mutual Agreement Declaration Form (see Appendix 4). This will also be signed by the manager conducting the meeting on behalf of the Council. The signed form confirming the mutual termination will be placed in the employee's personal file and a copy given to the employee with the ill health retirement letter.

- The manager should confirm the outcome of the meeting to the employee in writing indicating whether the mutually agreed ill health retirement is based on Tier 1 or Tier 2, using the letter at Appendix 3.
- A copy of the letter and original Ill Health Retirement Certificate should be sent to the Pensions Section. Pensions require both the occupational health provider **and** the relevant manager to sign this certificate, acknowledging that the conditions of the pension scheme have been met. A copy of the letter, medical report and signed Ill Health Retirement Certificate will be sent to the HR and Payroll Service Centre.
- On receipt of the above items, the HR and Payroll Service Centre will arrange to complete and forward a termination notice and confirmation of ill-health retirement (detailing the appropriate tier) to the Payroll and Pensions Sections.
- Pensions will issue retiral option forms based on ill health retirement to the employee approximately 4 weeks prior to their retirement date.
- Payroll will send the completed termination notice to Pensions and arrange for final payments to be made to the employee.
- Pensions will contact the employee and confirm details of their enhanced pension benefits, based on either a Tier 1 or Tier 2 ill health retirement.

4. HOW TO CONDUCT AN ILL-HEALTH RETIREMENT MEETING

Purpose and structure

- Outline the purpose of the meeting i.e. to discuss the report from occupational health and determine whether the employee should be retired on grounds of ill health.
- Confirm the structure of the meeting i.e. to consider the medical advice, explore all reasonable options/alternatives and come to a decision regarding the recommendation for ill health retirement.
- Where the decision is to proceed with the ill health retirement, an explanation will follow on the arrangements for formal notification and payment of pension benefits.

Medical report

- Discuss the main elements of the medical report and confirm that occupational health has recommended ill health retirement, either under Tier 1 or Tier 2. Explain the differences between the two tiers. At this point, it may be helpful to review the background to the case and consider any previous actions e.g. if a reasonable adjustment has been made and this has been unsuccessful.

Second medical opinion

- Confirm if the employee agrees that the medical report reflects their appointment with occupational health. Advise that if they disagree, they have the right to request a second medical opinion (or provide additional medical evidence). This will be at their own expense, although financial assistance may be available from their trade union.
- If the employee disagrees with the recommendation from occupational health the meeting should be adjourned and, once the second medical opinion (or additional medical evidence) has been received, reconvened after occupational health have had the opportunity to review their recommendation, taking into account the new information provided.

- The manager will again be supported by a People and Organisational Development Adviser at the reconvened meeting. Any additional evidence and/or second medical opinion that the employee has provided will be considered at this meeting.

Alternative course of action

- Ask if the employee can suggest an alternative course of action and record the outcome of this discussion at Appendix 2. Consider whether any proposed course of action presents a realistic alternative to ill health retirement.

Decision

- If no alternative course of action is identified, confirm that the employee remains unfit for work and that no suitable alternative can be identified. Advise that ill-health retirement, under either Tier 1 or Tier 2, has been recommended by occupational health and accepted by the Council, with the employee asked to mutually agree to this.

Pension benefits

- Check that the employee has received an estimate of pension benefits and answer any questions regarding payment arrangements, confirming that:
 - Their pension will be paid on the 15th day of each month (if the 15th falls on a weekend, payment will be made on the Friday immediately preceding this).
 - Payment of the lump sum will be made by BACS following the final salary payment.
 - **Note:** Payment will usually be made within 4 weeks; however, this is dependent on Pensions receiving the relevant paperwork within the required timescale. Pensions will aim to make payment within 10 working days of receiving all the information they need to process the final calculations.
 - Pension benefits for part-time employees are based on a proportion of full-time scheme membership and the full-time equivalent salary for the post for benefits up to 31 March 2015. Benefits accrued from 1 April 2015 will be calculated based on 1/49th of pensionable pay (or assumed pensionable pay).
 - The figures provided are **only** estimates and may change slightly at the date of payment once the employee's final pay is confirmed by the payroll section.

- Pensions will be able to provide answers to detailed questions. The Pensions helpdesk is available on 01224 264264 or by emailing pensions@nespf.org.uk. Alternatively, employees can speak to a Pensions Officer in person. The North-East Scotland Pension Fund are located at:
Level 1, 2 MSq, Marischal Square, Broad Street, Aberdeen, AB10 1BL.

End date

- Confirm the end date of the employee's contract which will normally be the date of the ill health retirement meeting or a date soon after, as agreed between the manager and employee.

Payment of pension/outstanding holidays

- Explain that the service will notify Pensions to arrange payment of their pension benefits. Payroll will arrange all other payments including payment for any outstanding holidays (subject to any abatement).

Benefits

- Advise that the employee should contact Jobcentreplus to check their eligibility for government benefits. The Council will issue them with a SSP1 form, assuming the employee was in receipt of SSP and has not already been issued with one.

Formal notification

- Advise that the outcome of the meeting will be followed up in writing. This letter will cover the main points of the meeting and will confirm that the ill health retirement is by mutual consent.

Close

- Check if the employee has any questions and thank them for their efforts and service to the Council.

5. GENERAL INFORMATION

- **ADDITIONAL VOLUNTARY CONTRIBUTIONS (AVCs)**

If the employee is making additional voluntary contributions, the fund value from the AVC **will be** included within the initial ill health retirement pension benefits estimate on the assumption that it will be paid as tax free cash. The pension options issued on

confirmation of the ill health retiral will show the relevant options available in respect of the AVC fund.

Further information on what is available for the AVC fund can be requested from the Pension Fund.

- **EMPLOYEE ASSISTANCE PROGRAMME**

If an employee wishes to discuss any personal issues, they can contact the Employee Assistance Programme on 0800 970 3980 (free phone from a landline) or email admin@timefortalking.co.uk or via the website at www.timefortalking.co.uk

- **HOLIDAY ENTITLEMENT**

An employee who retires without returning to work following sickness absence will receive payment in lieu of holidays; subject to any reduction under the Council's abatement provisions (see the Guidance on Abatement of Leave for further information).

- **BENEFITS**

Payroll will complete an SSP1 form for government benefits, assuming the employee was in receipt of SSP and has not already been issued with one and send this to the employee. Further information on entitlements can be obtained from Jobcentreplus, or by calling 0800 0556688. Please note that Jobcentreplus can only arrange home visits in exceptional circumstances.

- **RECLAIM OF MONIES (CAR LOANS, COLLEGE FEES ETC.)**

Payroll will raise an invoice for any outstanding amounts and send this to the individual for payment.

- **EMPLOYEES WITH LESS THAN 2 YEARS' SERVICE IN PENSION SCHEME**

An employee who has less than two years' membership in the pension scheme, who has not transferred in any previous benefits and who does not have any other deferred benefits in the pension scheme, will receive a refund of contributions. The pension forms noted below are **not** required and Pensions will treat the employee as a normal leaver.

- **EXPIRY OF SICK PAY**

No pension contributions will be made to the pension scheme once an employee's sick pay expires, however they will continue to receive credit for service up to the end date of their employment.

- **PENSION FORMS**

Once Pensions have been informed of the ill health retirement and, provided the employee is entitled to an annual pension, they will send the employee:

Bank mandate form To enable Pensions to pay pension benefits into the employee's bank account.

Marital Status form To obtain personal details from the employee. Employees birth certificate and, if applicable, spouses' birth certificate and marriage certificate must also be forwarded (copies are acceptable).

Option to commute pension for lump sum The employee has the option of giving up part of their pension for an increased lump sum. The employee is informed of their commutation options by Pensions once they have been notified of the ill health retirement.

Member declaration form Details of other pensions are required for the calculation of the Lifetime Allowance.

Date of update	Summary of update(s)
November 2021	On page 4 it has clarified that the ill health retirement provisions and the Third Tier Ill Health Gratuity do not apply to employees who are over their Normal Pension Age, as confirmed by the Pensions Section, in accordance with the Local Government Pension Scheme rules. On page 7 a change has been made whereby the occupational health report does not require to be given to the Pensions Section, which is an administrative change only, as informed by the Pensions Section. Necessary terminology updates have also been undertaken to the document.

Letter to invite employee to ill health retirement meeting
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Personal

Dear

Ill Health Retirement

I write with regard to your period of long-term sickness absence, which commenced on (date) and the contents of the latest occupational health medical report. As you should be aware, this indicates that you remain unfit for work and that you meet the eligibility criteria for ill health retirement.

I invite you to attend a meeting to discuss this at (time) on (date). The meeting will be held at (place) and upon your arrival, please report to (location). You have the right to be accompanied by a trade union representative or work colleague at this meeting if you wish. I will be accompanied by a People and Organisational Development Adviser.

As you are a member of the Local Government Pension Scheme, I have requested that Pensions issue you with an estimate of pension benefits (based on a Tier 1/Tier 2 recommendation - delete as appropriate) and you should receive this in advance of our meeting. If you have any general questions relating to your estimate of benefits, we can discuss this at our meeting, or you can contact Pensions direct on 01224-264264 or email pensions@nespf.org.uk

You should be aware that the purpose of the meeting is to determine whether to progress with occupational health's recommendation that you be retired on grounds of ill health. Any decision to proceed with ill health retirement will be on the basis of mutual agreement with you. I would emphasise that you will have the opportunity to provide a full response at the meeting and to put forward any suggestions as an alternative to ill health retirement. All reasonable options will be considered before any final decision is made and you will also be given the opportunity to obtain a second medical opinion if you wish.

I should be grateful if you would contact me as soon as possible to confirm you are able to attend the meeting and to advise if you will be accompanied and if so, by whom.

Yours sincerely

Checklist of alternative courses of action
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Name _____

Job title _____

Section _____

Service _____

1. Prior to receiving the ill health retirement report

- a) Was redeployment, or retraining for that purpose, considered/examined at any stage in the process, prior to receiving the occupational health provider's recommendation of ill health retirement?

Yes/No

- b) If yes, was redeployment, or retraining for that purpose, pursued as an option?

Yes/No

If yes, what was the outcome of any redeployment search undertaken or retraining opportunity examined? Please provide details of any alternative posts the employee was considered for and the reason(s) for not being appointed, or any retaining opportunity considered.

- c) If no, please state why redeployment, or retraining for that purpose, was not considered to be a suitable option at that stage in the process.

2. After receiving the ill health retirement report

- a) At the meeting with the employee to discuss the contents of the medical report recommending ill health retirement, did the employee suggest any alternative course of action to ill health retirement?

Yes/No

b) If yes, what course of action was suggested?

c) If redeployment, or retraining for that purpose, was suggested, was it agreed to examine this as a possible alternative to ill health retirement (but only after taking further advice from the Council's occupational health provider as to whether the employee would be medically fit to carry out/or be trained in an alternative role in the Council)?

Yes/No/Not Applicable

d) If yes, was a redeployment search then initiated or retraining explored?

Yes/No/Not Applicable

e) If a redeployment search was initiated, please provide details of any alternative posts the employee was considered for and the reason(s) for not being appointed or detail the outcome of any retraining opportunity.

f) If no, please state why redeployment, or retraining for that purpose, was not considered to be a suitable option at that stage of the process.

Once completed, this form should be retained in the employee's personal file.

Ill health retirement mutual consent letter (where the employee agrees with the Council decision that they will retire on the grounds of ill health)

Personal

Dear

Ill Health Retirement – Tier 1/Tier 2 (delete as appropriate)

I write with reference to our meeting on (date) to discuss the practical implications of occupational health's recommendation concerning your employment situation with the Council. *At the meeting you were accompanied by (name). *I was supported by (name).

As occupational health recommended that you be retired on the grounds of ill health in accordance with the Tier 1/Tier 2 provision (delete one option) you were given the opportunity to seek a second medical opinion and to suggest another suitable course of action that could be taken in light of your circumstances. *You indicated that you did not wish to seek a second medical opinion.

During the meeting, a number of alternative courses of action were considered. These included redeployment or retraining, the possibility of returning to work on lighter duties or on a reduced hours basis and an assessment as to whether a reasonable adjustment could be made to the duties of your substantive post or any other suitable alternative post (*delete as appropriate*).

You stated that with regard to your personal circumstances, you did not wish to consider any of the above options. This was on the basis that you accepted that the Council had taken all reasonable steps to ensure that these options were given due consideration; you fully accepted occupational health's recommendation and you wished to be retired on the grounds of ill health.

At that point, it was mutually agreed that your employment would end on grounds of ill health and a declaration form was signed to that effect (copy enclosed). This agreement has been entered into voluntarily by both parties. The legal position was explained to you so that you would understand the reasons for the Council treating your retirement as a consensual ending of employment and to prepare you for receiving this letter, which includes confirmation that you have no right of appeal and no claim against the Council for any matter arising out of the ending of your employment.

I formally confirm that your contract of employment with the Council will end by mutual agreement on health grounds with effect from (date).

In accordance with the Local Government Pension Scheme (Scotland) Regulations 2014 your ill health retirement is under Tier1/Tier 2 (delete one option)

(Option Paragraph 1) Tier 1 applies where the employee is deemed permanently incapable of carrying out the duties of their job and where there is no reasonable prospect of the employee obtaining gainful employment before normal pension age. Ill health retirement benefits are paid immediately; with an enhancement based on the member's 'Assumed Pensionable Pay' (APP) and the years and days between

the date of leaving and normal pension age, multiplied by 1/49th. Gainful employment is defined as paid employment for not less than 30 hours per week for a period of not less than 12 months.

(Option Paragraph 2) Tier 2 applies where the employee is deemed permanently incapable of carrying out effectively the duties of their job but where there is a reasonable prospect of the employee obtaining gainful employment before normal pension age. Ill health retirement benefits will be paid to the employee immediately with an enhancement based on the member's 'Assumed Pensionable Pay' (APP) and one quarter of the years and days between the date of leaving and normal pension age, multiplied by 1/49th. Gainful employment is defined as paid employment for not less than 30 hours per week for a period of not less than 12 months.

You will receive payment in lieu of any untaken leave, subject to any abatement.

I will arrange for the appropriate documentation to be completed to ensure that any outstanding monies are paid to you at the earliest opportunity. Pensions will arrange for you to receive payment of your pension benefits, an estimate and explanation of which was given to you at the meeting.

As was discussed at the meeting, you may be entitled to claim benefits. In order to make an application for benefits, Payroll will send an SSP1 form for you to complete, if you were in receipt of SSP and have not already been issued with one. You may also wish to contact Jobcentreplus on 0800 0556688 for advice on the benefits available. Please note that the Council is not able to provide any advice on qualification for benefits.

I hope that through the meeting and this letter, you have received an adequate explanation of your rights and entitlements as well as the Council's legal position in this matter. Please do not hesitate to contact me should you have any further queries.

Yours sincerely

cc People and Organisational Development Adviser (for information and to e-mail Occupational Health notifying of ill health retirement)
Pensions Section (attach copy of original Ill Health Retirement Certificate)
HR and Payroll Service Centre (for action and personal file – to attach copy of medical report and ill health retirement certificate)

MUTUAL AGREEMENT DECLARATION FORM – ILL HEALTH RETIREMENT

Mutual agreement to end employment on grounds of ill health

Following the meeting on XXXXX with XXXXXX to discuss ill health retirement, I confirm that I mutually agree to the ending of my employment with Aberdeen City Council on grounds of ill health and to be ill health retired in accordance with the Tier ?? provision of the Local Government Pension Scheme with effect of today and accordingly that I have no right of appeal arising out of the ending of my employment.

Signed by Employee _____

Name _____

Job Title _____

Date - _____

The manager who conducted the meeting will sign below on behalf of the Council, giving mutual agreement in relation to the above.

Signed by Manager _____

Name _____

Job Title _____

Date _____