



## Notes of Guidance

### Completion of Medical Review Certificate for Suspended 3rd Tier Pensioner

Where the cessation of employment occurred before 1 April 2014, with the Review taking place within 3 years of the date of cessation of the 3rd tier pension (and before Normal retirement Age).

#### The Completion of the Form

**Section 2A** - The questions in this part relate to whether or not the person can, due to the medical condition that resulted in the original award of a tier 3 ill health pension, be uplifted to a tier 2 pension in accordance with regulation 20(11) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.

**Section 2B** - The questions in this part relate to whether or not the person can, due to a medical condition other than that which resulted in the original award of a tier 3 ill health pension, have the suspended tier 3 ill health pension brought back into payment in accordance with regulation 31(7) of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007.

- If **A1 OR B1** is ticked, the 3rd tier ill health pension remains suspended as the member does not satisfy the requirements to have it brought back into payment due to either the original or a new medical condition.
- If **A2** is ticked, the former employer can determine to award an enhanced (2nd tier) ill health pension, payable from the date of their determination.
- If **A1 AND B2** are ticked, the former employer can bring the suspended 3rd tier ill health pension back into payment from the date the person became permanently incapable of undertaking any gainful employment.
- Annual Allowance - If **A2** has been ticked and the former employer determines to award an enhanced (2nd tier) ill health pension, payable from the date of their determination, or if **B2** has been ticked and the suspended tier 3 pension is brought back into payment, there is no pension input amount for the purposes of the annual allowance test under the Finance Act 2004.
- Pensions Increase - If **A2** or **B2** have been ticked, Pensions Increase will be payable under the Pensions (Increase) Act 1971 even if the member is under age 55.

If the person is not capable, due to the medical condition that resulted in the original award of a tier 3 ill health pension, of undertaking gainful employment within three years of the date of leaving shown under Section 1 and is permanently incapable of undertaking any gainful employment before his / her

normal retirement age, neither regulation 20 nor regulation 31 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) permit a tier 1 ill health pension to be awarded. Where a tier 3 ill health pension was originally awarded the person would, in order to obtain a tier 1 ill health pension, have to have made a successful appeal under the Internal Dispute Resolution Procedure with the appeal being launched within 6 months of initially being notified of the award of a tier 3 ill health pension (or such longer period as the person hearing the appeal considers appropriate).

The opinion given by the approved registered medical practitioner does not, in itself, determine whether the suspended pension is brought back into payment or is uplifted to tier 2. 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.

## Glossary of Terms

- 'Normal retirement age' means age 65 (apart from in the case of a small number of protected members who have a normal retirement age of 60 e.g. employees who were transferred to local government from the Learning and Skills Council for England on 1 April 2010).
- '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 retirement age.
- '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.
- The Independent Registered Medical Practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.
- 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.
- 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.

## Disclaimer

These notes were up-to-date when this form was updated in March 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 not currently in payment, in accordance with regulation 20 or 31 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (as amended) and regulation 56 of the Local Government Pension Scheme (Administration) Regulations 2008 (as amended).**