Ill-health retirement in the Teachers’ Pension Scheme (TPS)

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Agenda

- The role of Teachers’ Pensions and the Department for Education
- The role of the employer (Points specifically related to employers highlighted in red)
- Qualification for Ill-health retirement benefits
- Individuals not qualifying for benefits (i.e. less than 2 years)
- Repayments and conditions for ‘Short-Service Serious Ill-health Grants’ for non-qualifying members
- Ill-health retirement - “In-service” and “out-of-service” conditions
- Potential “in-service” and “out-of-service” benefits
- Entitlement day
- Elections for a ‘step-down’ in salary rate to maintain enhancement value
- Other considerations
- Serious ill-health v ill-health v death grant
- Acceptance of ill-health and benefits payable
- Ill-health retirement process
- Questions
The role of Teachers’ Pensions and the Department for Education

- The Secretary of State for Education has various functions under the regulations.

- Under an Authorisation Order, the Secretary of State authorises the administrator to carry out certain functions on his or her behalf. Teachers’ Pensions make decisions on behalf of the Secretary of State with regard to Ill-health retirement.

- Department for Education as the Scheme Manager for the TPS are responsible for policy and monitoring Teachers’ Pensions. The Department also appoint the Scheme’s Medical Adviser.

- Teachers’ Pensions has power to confer ill-health benefits taking account of a recommendation from the Scheme’s medical adviser.

- Teachers’ Pensions may also stop pensions (e.g. if an ill-health pensioner ceases to be incapacitated), but the Department retain the power to defer, suspend or forfeit pensions. This may be due to barring, prohibition or where the member is convicted of an offence.
The role of the employer

- The employer plays a crucial role in supporting employees who are ill.

- Employers are expected to support employees in a number of areas including:
  - Arranging occupational health support to help individuals manage illness.
  - Allowing work in a reduced capacity or in a role of lesser responsibility.
  - Where all avenues have been explored, support through the Ill-health retirement.

- If a member is “in-service”, the employer is required to complete various parts of the Ill-health Retirement Application Form.

- Ensure service and salary records are correct and up to date.

- Ill-health benefits will only be paid if certain criteria are satisfied.
Qualification for retirement benefits (including ill-health benefits)

• Qualification for benefits
  • If a member’s service is before 6 April 1988, a member needed 5 years’ qualifying service for pension benefits.
  • Most individuals applying for benefits involving a current employer will qualify on the basis of 2 years’ post 5 April 1988 service.

• Repayments of contributions where not qualified
  If not qualified for benefits, the entitlement is a repayment of contributions plus interest, less tax and National Insurance deductions, payable on application to TP.

• Requalification and annuity
  Requalification is one years’ additional service after taking benefits from the TPS after returning to teaching employment. A member who has not requalified can apply for an annuity added to their pension.

A reminder that any re-employment after receiving ill-health pension up to Normal Pension Age may cause a pension to stop. Re-employment involving a Final Salary member after Normal Pension Age may result in abatement.
Individuals not qualifying (i.e. less than 2 years’ service)

Short service serious Ill-health grant

For those who meet the following criteria, an individual covered by the regulations can apply for a Short-service serious Ill-health grant. To be considered for a Short-service serious Ill-health grant a person must:

- Have between 1 and 2 years’ qualifying service;
- Meet the ‘incapacity condition’ ** and is likely to be incapacitated permanently.
- Be under age 75;
- Have a life expectancy of less than 12 months certified by a registered doctor; and
- Make an Ill-health application within 6 months of leaving pensionable service.

** Unfit by reason of illness or injury and despite appropriate medical treatment to serve as a teacher, organiser or supervisor.
Short-service serious ill-health grant

If TP determines that the individual meets these conditions, an individual under the **Career Average Scheme** will be paid the greater of:

• A one-off Short service serious Ill-health grant equivalent to 1/6\textsuperscript{th} of the member's annual rate of pensionable earnings

  OR

• The value of the members' contributions, additional pension contributions, buy-out contributions and faster accrual contributions paid, with interest at 3\% per year, compounded with yearly rests.

Under the **Final Salary scheme**, the member would receive the Full-time equivalent salary, divided by 12 \times the person’s reckonable service.
Examples of Short-service serious ill-health grant calculations

- A person is accepted for a Short-service serious ill-health grant under the Career Average scheme having had one year, 122 days’ service having left on an ‘annual rate of pensionable earnings’ of £30,000.

- The Short-service serious ill-health grant under the Career Average Scheme would be the greater of:
  
  $$\text{£30,000} \times \frac{1}{6} = £5,000.00 \text{ OR}$$
  $$\text{Member contributions + 3% with yearly rests} = £3,517.40$$

- Under the Final Salary Scheme, a person accepted for a Short-service serious ill-health grant would receive:

  $$\frac{£30,000}{12} \times 1 \text{ year, 122 days (1.3342)} = £3,335.50$$
Ill-health retirement – “In-service” conditions

• To be considered for “in-service” Ill-health retirement, the following criteria must be satisfied:

  • (A) Timing of the application
    
    The application must be received:
    
    • During the time where the member remains in a contractual relationship with the employer (i.e. on the books) which is described as being in ‘eligible employment’; OR
    • Within two years of leaving ‘pensionable service’ **.

    ‘Pensionable service’ is defined as being in receipt of full pay (full-time or part-time) or where a member is on sickness absence, a person remains in pensionable service for as long as they are receiving at least half pay. Members ceasing at least half pay leave pensionable service, but they remain in eligible employment until their contract ends.

  • (B) All the conditions set out in next slide entitled “Other criteria”. [e.g. the same or connected illness condition (h)]
“In-service” conditions (continued)

• (B) Other criteria.

An ill-health pension is payable from the ‘entitlement day’ if-

(a) The member is ‘qualified’ or ‘requalified’ for retirement benefits;
(b) The entitlement day is before the member reaches normal pension age;
(c) The member has left all eligible employment;
(d) The member applies for payment of an ill-health pension;
(e) The member has not applied for any other retirement pension other than phased retirement;
(f) Must be certified by the employer (employers must complete Parts B and C of the Ill-health application even if the person left employment up to 2 years before);
(g) The scheme manager is satisfied after consideration of a medical report, the member meets the “incapacity condition” for Tier 1 benefits and the “total incapacity condition” for Tier 2 benefits.
(h) The illness or injury at the date of application is the same as that, linked to or a consequence of the illness which was one of the reasons for the individual leaving pensionable service.

If any of these criteria are not satisfied, any application for Ill-health retirement will be considered on an ‘out-of-service’ application.
Out of service conditions

Out-of-service criteria include:

1. The application is made more than two years after the member left pensionable service and the member is no longer on the employer’s books;
2. The member did not leave employment on grounds of ‘incapacity’;
3. The member left pensionable service with an illness which was not connected with or linked to the illness at the date of application; and
4. The application is not certified or signed by the employer.

The “out-of-service” application needs to be witnessed by a person who is not a relative of the member.
<table>
<thead>
<tr>
<th>‘In-service’</th>
<th>‘Out-of-service’</th>
</tr>
</thead>
<tbody>
<tr>
<td>Under a contract of employment</td>
<td>Not under a contract of employment</td>
</tr>
<tr>
<td>Not under a contract of employment but ill-health benefit is applied for within two years of ceasing pensionable service</td>
<td>Not under a contract of employment and ill-health benefit is applied for more than two years after ceasing pensionable service</td>
</tr>
<tr>
<td>Suffered from the same or a related illness/condition at the point of leaving pensionable service and at the point of applying for ill-health benefit</td>
<td>Illness at date of application was not ‘linked’ to the incapacity which caused the member to leave pensionable employment</td>
</tr>
<tr>
<td>Left pensionable service due to incapacity</td>
<td>Did not leave pensionable service due to incapacity</td>
</tr>
<tr>
<td>Considered against the “two-tier” criteria</td>
<td>Not considered against the “two-tier” criteria</td>
</tr>
<tr>
<td>Fully completed Ill-health Retirement application signed by Member and Employer, Ill-health Medical Information Form signed by member and registered medical practitioner and all supporting medical information.</td>
<td>Fully completed Ill-health Retirement application signed by Member and witnessed, Ill-health Medical Information Form signed by member and registered medical practitioner and all supporting medical information.</td>
</tr>
</tbody>
</table>

Eversheds Sutherland updated by TP 5.10.2018
Potential benefits for ‘in-service’ Ill-health retirement

Members will be assessed for potentially two levels of benefit

• **TIER 1** - Ill-health pension based on the member’s accrued benefit in the scheme. This is payable if the member meets the ‘incapacity condition’ i.e. ‘incapacitated’ and is likely to be incapacitated permanently’. This is where the member is permanently unable to teach, but may be able to undertake other work up to Normal Pension Age; and

• **TIER 2** - An enhancement known as ‘Total incapacity enhancement’ equivalent to 50% of the potential service between the entitlement day and the prospective Normal Pension Age. The member must meet the ‘Total incapacity condition’ i.e. they are assessed as being permanently unable to teach AND unable to undertake any ‘gainful employment’ ** up to NPA.

** ‘Gainful employment’ is where a person’s ability to carry out any work is impaired by more than 90% and is likely to be impaired by more than 90% permanently.
The possible benefits for ‘out-of-service’ ill-health

- A pension based on the member’s accrued benefits will be awarded, if it is demonstrated that the member is permanently incapable of any gainful employment (i.e. assuming they meet the ‘Total incapacity condition’).

- There is no enhancement of pension in respect of out-of-service applications.
“Entitlement day”

- The ‘entitlement day’ or the ‘payable date’ is the later of:
  
a) The date on which you became incapacitated;

b) The day after leaving all contracted or “eligible” employment; or

c) The day 6 months before the date of the last medical report used to accept you for Ill-health Retirement benefits.
Elections for a ‘step-down’ in salary rate

With the introduction of the 2015 Career Average scheme, it was recognised that a person who moved to a lower salary rate because of illness could have the retirement enhancement reduced - if awarded. (Final salary members get a best 3-in-10 average salary definition.) Features of stepping down in salary rate include:

- For 2015 Career Average scheme members only;
- Members and employers should complete a stepping down election form at the time of the stepping down;
- The terms of the member’s employment must have changed wholly or partly because of their health;
- The member’s illness at the time of the stepping down must be linked to or connected with the illness at the date of application;
- It protects a step down of salary rate, not move to work lower hours;
- The member’s salary rate at the date of stepping down is indexed by Pension Increase up to the date of any entitlement to Total Incapacity enhancement. (This is compared to the enhancement calculation based on the final rate of salary.)
Other considerations

• Once accepted, a member must cease work immediately, although the member may be paid up to the end of their contract.

• Where employment ceases and a payment is made in-lieu of service, pay-in-lieu of notice is not pensionable. Where monthly salary continues or a payment is made with deductions to cover pension contributions up to termination date, this is treated as pensionable.

• The amendments on 30 November 2017 mean that if the illness was one of the reasons why the individual left pensionable service and subsequently met the ‘incapacity condition’ or the ‘total incapacity condition’, the application would be treated as ‘in service’.
Other considerations (continued)

- Under the Finance Act 2004, a ‘registered medical practitioner’ is required to certify:
  
  - That the “ill-health condition” is satisfied for ill-health retirement (i.e. member is incapable of carrying on their occupation because of physical or mental impairment and has ceased that occupation);
  
  - Where a serious ill-health lump sum is paid, that a member’s life expectancy is less than one year; and
  
  - For the purposes of exemption from the annual allowance charge, the individual satisfies the “severe ill-health condition” is suffering from ill-health whereby “…the individual is unlikely to be able (otherwise than to an insignificant extent) to undertake gainful work (in any capacity) before reaching pensionable age (i.e. State Pension Age).”

- OH Assist are registered medical practitioners appointed by the Department for Education to provide recommendations to Teachers’ Pensions on the whether individuals meet the ‘total incapacity’ and the ‘incapacity’ criteria.
Serious ill-health v ill-health v death grant

- There are a number of points a member with a life expectancy of less than a year may wish to consider with a financial adviser, taking account of their own personal circumstances:
  - In all cases, members should be encouraged to seek independent financial advice.
  - Is the priority money for the member to spend or is the priority to maximise the amount paid out by the scheme for beneficiaries?
  - Has a nomination been made? Is the member going through a divorce but the divorce hasn’t been finalised?
  - Calculations for death grants – all paid tax free up to age 75:
    - An ‘in-service’ death grant is 3 x salary, less lump sums previously paid
    - An ‘out-of-service’ death grant 3 x pension for an NPA 60 member or 2.25 x pension in the NPA 65 or Career Average member.

Tax free up to age 75 while member is living. Otherwise, payable to the estate:
  - Serious ill-health commutation – Maximum 25% lump sum, plus 5 x the reduced pension. Or;

If the member is out-of-service after Normal Pension Age and has not claimed benefits at the date of death, a posthumous age award is payable, but the balance of 5 years’ pension is payable tax free.

See Ill-health Guide on the TP website, especially the examples in ANNEX 2.
Acceptance for ill-health benefits and the benefit payable

• If an ill-health application is made and accepted by Teachers’ Pensions, a death grant is still payable up to date of the first pension payment. In this case, the Ill-health award is invalidated.

• Once a serious ill-health lump sum application is accepted by Teachers’ Pensions, the member (or his estate) immediately becomes entitled to the serious ill-health lump sum, rather than a death grant.

• If a member does not apply for ill-health or serious ill-health, and the reason the member left pensionable service was because of ill-health, the member remains covered for the ‘in-service’ death grant for one year, UNLESS retirement benefits become payable e.g. Age, Actuarially Adjusted, Premature.
The Ill-health Retirement application process
The application forms for ill-health retirement can be downloaded from our website

- There are 2 forms that are required to be completed:
  - Ill-health retirement form - Member and Employer
  - Medical information form - Member and Medical Practitioner. The Medical practitioner must be registered with the General Medical Council. The member may also wish to submit a report from employer’s Occupational health physician.
- The forms should be sent to Teachers’ Pensions together with any additional medical evidence that the member wants to include.
- The employer completes Part B and C of the Ill-health application form. Any Forms not fully completed and signed will be returned.
- Employers and members should read the Ill-health guidance on the website.
Ill-health re-employment

- The conditions for the continued entitlement to ill-health pension are different if the ill-health application was received before 6 January 2007 – re-employment would lead to the immediate cessation of pension, unless a pre 1997 ill-health retiree working less than 50% of week.
- Any re-employment which a member undertakes after receiving ill health benefits must be notified to Teachers’ Pensions to assess whether they remain entitled to ill-health pension up to normal pension age. (Any re-employment after normal pension age in relation to the Final Salary scheme may be subject to abatement.)
- Members in receipt of “in-service” accrued benefits (Tier 1) are able to undertake gainful employment, providing that this is not teaching, lecturing, tutoring etc.
- Members in receipt of total incapacity enhancement (Tier 2) who undertake gainful employment will cease their entitlement to Tier 2 benefits unless a registered medical practitioner confirms their “…ability to carry out work is impaired by more than 90% and is likely permanently to be so.”
- Members should write to Teachers’ Pensions if they take up re-employment. Employers should check to see if a new joiner is in receipt of ill-health pension.
Questions to you...

• When can you be ‘in-service’ and ‘out of service’ at the same time? Answer - *You can be in-service for ill-health but out of service for the death grant after one year.*

• What has your experience been of the TP ill-health retirement process?

• What does the employer do to assist members with ill-health applications?

• Have you used the ‘stepping-down’ in salary rate election?
Caveat

• These slides are based on TP PATT’s understanding of the overriding legislation or regulations concerning the subjects discussed.

• Employers and delegates should consider taking their own legal advice in connection with the matters raised.
ANY QUESTIONS?