

Ombudsman's Determination

Applicant	Mr R
Scheme	Local Government Pension Scheme (the Scheme)
Respondent	Folkestone & Hythe District Council (the Council)

Complaint Summary

Mr R believes the Council did not consider his application for Ill Health Early Retirement (**IHER**) properly.

Summary of the Ombudsman's Determination and reasons

The complaint is upheld against the Council as it did not follow the correct process when assessing Mr R's IHER application. To put matters right, the Council shall reconsider its decision on whether to grant Mr R IHER and pay him an award of £500 for the significant non-financial injustice he has suffered.

Detailed Determination

Material facts

1. Mr R worked as a groundsman for the Council. On 31 October 2012, he ceased employment on the grounds of redundancy.
2. On 24 June 2014, Mr R's mother, Mrs R, wrote to the Council with regard to him taking pension benefits early. She said that Mr R had recently turned 55 and was suffering various health issues preventing him from being able to work.
3. On 8 July 2014, the Council responded saying it would need to understand the grounds on which Mr R wished for early payment to be made. It included information on the options available, these being the payment of benefits due to permanent ill health or retiring with employer consent from age 55. It also provided a copy of its 'Request for Early Payment of Deferred Benefits' form.
4. On 12 July 2014, Mr R completed this form, indicating that ill health was the reason for his request.
5. The Council says it subsequently instructed the Occupational Health Department at East Kent Hospitals University (**Occupational Health**) to obtain an opinion from an Independent Registered Medical Practitioner (**IRMP**) on whether Mr R met the relevant medical criteria for IHER.
6. On 16 October 2014, Occupational Health sent Mr R a letter saying that an appointment had been made for 21 October 2014 where he would see an occupational health consultant.
7. On 21 October 2014, Dr Valanejad, a Speciality Training Registrar in Occupational Medicine wrote to the Council saying:

"Many thanks for referring [Mr R] to our department for assessing his medical eligibility for applying for early payment of the deferred benefits...He attended my clinic at Kent & Canterbury Hospital this afternoon.

As information available to me at this point in time is inadequate, with [Mr R]'s consent I have requested medical reports from his GP and specialist. On receipt of these reports, I will complete [Mr R's] application, and will forward it to you."
8. On 24 November 2014, the Council wrote to Mrs R with the following update:

"I have spoken to Kent County Council Pensions Section and as I believed, if [Mr R] is entitled to claim his pension due to ill health grounds, then this is the first option that should be pursued and if the Occupational Health Physician confirms that [Mr R] is permanently unfit, then [Mr R] would receive his pension without any reduction or cost. Once the Occupational Health Physician signs the appropriate form, the Pensions Section will be able to provide an estimate, until this point they are not able to.

If however, the Occupational Health Physician, does not deem [Mr R] as being unfit, then we can look at the option of 55+, and at this stage we can request a pension estimate and details of any costs from them...

So to confirm, at this stage we are looking at [Mr R] obtaining his pension on grounds of ill health and I am awaiting the report from the Occupational Health Physician, who I believe is in the process of obtaining specialist reports."

9. On 31 January 2015, the Department for Work and Pensions (**DWP**) sent Mr R a letter which said that he had been awarded Disability Living Allowance (**DLA**).
10. On 11 March 2015, Dr Hitchins, an IRMP from Occupational Health, wrote to the Council saying:-
 - She had now been able to review the medical evidence in regard to Mr R's application for IHER, which comprised of: a medical attendant's report provided by his GP on 19 January 2015; a report from Mr R's Cardiologist dated 19 November 2014 including results of investigations, discharge and follow-up clinic letters; and Dr Valanejad's occupational health assessment of 21 October 2014.
 - Mr R had long standing foot problems following an injury to his right heel. He had recurrent episodes of infection since the initial injury in 1978, the most recent and severe being in 2011, during which time he continued his employment with the Council.
 - Mr R was made redundant at the end of 2012 and in February 2013, had a heart attack. He received appropriate treatment for this and appeared to have made a reasonably good recovery.
 - Although Mr R still had intermittent episodes of symptoms relating to his underlying health problems, on the balance of probabilities, this did not make him permanently incapable of discharging efficiently the duties of his former employment as a groundsman with the Council.
11. On 17 March 2015, the Council telephoned Mrs R to update her on Mr R's IHER application. The note for this call stated:

"Phoned [Mrs R]...advised OH have not approved ill health retirement.

She informed me that she had received a letter from DNHS advising [Mr R] was unfit to work and would receive permanent disability [sic]. She was critical of the GP report. I suggested she send me a copy of the letter, which I would forward to OH to see if this changed their view of their decision."
12. On 21 March 2015, as per the above call, Mrs R sent the Council information on Mr R's DLA, adding that treatment on his foot was ongoing.
13. On 24 March 2015, the Council forwarded the information to Occupational Health and highlighted Mrs R's concern that the GP report which had been provided previously

did not explain the situation regarding Mr R's foot correctly. Mrs R had explained that Mr R was barely able to walk and had to have regular treatment at the hospital, yet it had been stated that his last severe foot problem was in 2011.

14. Following consideration of this additional information, Dr Hitchins contacted the Council. The file note made by the Council for this call said:-

- The information that DWP based its decision on was supplied by the applicant whereas Dr Hitchins' decision was based on information also provided by Mr R's GP and specialist.
- The criteria used to make the respective decisions was different. She had to abide by the criteria set out by the LGPS.
- Based on the information, she stood by her original decision. Although both decisions might appear to be in conflict with one another, her role was to assess Mr R's fitness to receive his pension based on LGPS' criteria.

15. On 2 April 2015, the Council wrote to Mr R saying:

"Having assessed your case, including the additional information provided from the DWP, I have received confirmation that unfortunately, at this time, the IRMP does not feel that you meet the criteria required and your request has been unsuccessful."

16. At the end of the letter it said that if Mr R disagreed with the decision, it recommended he first contact the Council on an informal basis and if this failed, there was a formal appeal process available under the Scheme's Internal Dispute Resolution Procedure (**IDRP**). It enclosed details of its IDRP and an application form.

17. On 14 April 2015, a doctor from Mr R's GP practice, Dr Stewart, wrote to Mr R in reply to a letter sent by his parents regarding a more detailed report for his IHER application. He said the surgery had not been asked to provide a more detailed report and, whilst Mr R's parents had felt that only a record of attendances had been provided, the report did include information of his heart attack and subsequent stent, as well as information about his bone infection and the fracture of his ankle in 1986. Further, details on various investigations, medication and other personal information had been supplied, so nothing more could be added.

18. On 21 April 2015, the Council wrote to an occupational health organisation saying:

"...I have attached all documentation I have in relation to [Mr R], an ex-employee who was recently assessed as not meeting the criteria for ill health retirement by our occupational health providers, but who it has been agreed we will seek a second opinion for.

I am aware that there were concerns from the family regarding the GP report that was provided as I am informed that it mainly talked of blood pressure and general health matters and did not have much detail of his main health issues,

which is his heart and foot...I am therefore happy to authorise you obtaining whatever medical reports you deem necessary in reaching a considered decision in this case, including those from his 2 specialists and the cost of any personal assessments.”

19. On 1 June 2015, an IRMP, Dr Williams considered the matter and sent his report to the Council. The main points were:-

- Mr R had two significant health issues. He was involved in a serious road traffic accident in 1978 and had persistent problems with his right heel with chronic infection and skin breakdown over the os calcis.
- His heel worsened in 2011 when he required surgery but this did recover sufficiently for him to return to work. DWP had recently assessed him as having very poor mobility. If his condition had worsened significantly since 2011, it would be expected that he would have been referred again for surgical care.
- There remained several options for treatment including subtalar fusion or even amputation, both of which would be expected to substantially improve his mobility to the point where he would no longer require DLA and would cope in most if not all roles requiring heavy manual handling. For example, a below knee amputation was not a bar to firefighting.
- Since being made redundant, Mr R had had a heart attack; he received immediate percutaneous coronary intervention with insertion of a stent and recovered well. His current cardiac function was good with exercise tolerance noted by Dr Prior. He had in effect recovered fully from his heart attack and there would be no reason why he could not return to any physical role now.
- To be eligible for early payment of preserved pension benefits under the LGPS Regulations 2007, an employee must first be permanently unfit for their former role. Mr R admitted himself to Dr Valanejad that had he not been made redundant he would have carried on with his former groundsman role.
- Despite the significant problems Mr R currently had with his heel, there were a number of procedures available which would lead to substantial improvement. He was currently aged 56, so had nine years to his normal retirement age. There was no medical reason why he should not be either currently fit for the groundsman role or why he should not recover to a point to be so in the next nine years.
- Mr R had indicated that he did not wish to have an amputation, but this was standard treatment for intractable osteomyelitis. In these circumstances, following guidance from the Department for Communities and Local Government, the expectation was that Mr R would accept appropriate and readily available treatment and recover in line with average expected recovery rates. Mr R should not be considered to be eligible for the early payment of his preserved benefits as he was not permanently unfit for his former role.

20. On 26 June 2015, the Council wrote to Mr R saying:

“As you are aware your case was referred for a second opinion to an Independent Registered Medical Practitioner...who has the relevant qualifications to assess your medical details and to confirm if your circumstances meet the criteria for the benefits to be brought into payment on the grounds of ill health.

Having assessed your case, including the additional information provided by you, I have received confirmation that unfortunately, at this time, the IRMP again does not feel that you meet the criteria required under the Local Government Pension Scheme and your request has been unsuccessful.”

21. Following the above decision, the matter was referred to The Pensions Advisory Service (**TPAS**).

22. On 16 November 2015, a TPAS representative contacted the Council asking it to provide a copy of Mr R's file, the IRMP certificate and reasons why Mr R's IHER application was not successful.

23. On 26 November 2015, the Council replied:

“...as to the reason his application was turned down, as you will see from the paperwork and as I am sure you are aware, for a request for ill health retirement to be approved the IRMP must sign to confirm that the individual meets the criteria as laid down by the Local Government Pension Scheme for ill health retirement. In [Mr R's] case, both the initial consultant and Dr William's [sic], who was asked to carry out a 2nd opinion, were of the opinion that he did not meet this criteria, therefore we were unable to approve payment of his deferred pension.”

24. On 19 January 2016, the TPAS representative wrote to the Council saying that the decision on an IHER pension rested with the employer. She said, while the employer needed to obtain a medical certificate from an IRMP first, they should not simply pass on the view of the IRMP. Further, she said it appeared that the Council had not seen the medical information used in the IRMP's assessment, and asked if the Council would be willing to reconsider Mr R's application.

25. The Council replied the same day confirming it had not seen the medical information used in the IRMP's assessment; it said the letters of Dr Hitchins and Dr Williams detailed Mr R's medical history and their reasoning for their decisions. It said it would not have been in any better position to question the assessment and opinion of both IRMPs had it seen the medical evidence. It therefore did not feel that Mr R's case should be reconsidered.

26. On 29 January 2016, the TPAS representative reiterated to the Council that without seeing the medical information, it would not be possible for it to assess whether the IRMP had taken into account all the relevant information. Further, she added that as

granting IHER was the Council's decision, it was expected that it would provide Mr R with its reasons for declining his application.

27. On 8 February 2016, the Council responded saying it would go over the case material which might take some time, but it would do so as soon as it could.
28. On 16 March 2016, the TPAS representative chased the Council for a response. The Council replied the same day saying it was still reviewing Mr R's file.
29. On 17 June 2016, the TPAS representative wrote to Mr R's then representative saying she had not received a response from the Council, so it would be best to now make a complaint under the Scheme's IDRP.
30. On 4 July 2016, the TPAS representative sent a letter to the Council saying she was making a stage one IDRP complaint on Mr R's behalf. In summary, she said it was the employer's decision as to whether IHER should be granted, and whilst a medical certificate needed to be obtained from an IRMP, the views of the IRMP should not simply be passed on. She asked whether the Council was satisfied that all relevant medical evidence had been taken into account and said it did not appear that specialist reports on Mr R's heel had been considered. Further, she said there was a conflict between Mr R's view of his previous role and that of the IRMP who said, "the role was not particularly heavy and did not involve substantial walking." Lastly, she said the Council needed to provide reasons for rejecting his application as without this, Mr R could not challenge its decision.
31. On 8 August 2016, the Council said it could not treat the above letter as a complaint under stage one of the IDRP for various reasons, the main being that Mr R was out of time to submit the complaint. Further, it said the letter should have been sent to the person responsible for dealing with disputes under the IDRP.
32. On 31 August 2016, the TPAS representative said she had not submitted the IDRP complaint because she had been waiting, since January, for a response to her questions. She asked whether the person responsible for IDRP complaints was likely to accept the complaint, and if her letter could be forwarded on if so.
33. On 2 September 2016, the Council said it understood the TPAS representative had been waiting for a response, but the deadline for appeal under the IDRP was December 2015, which was prior to her letter of January 2016.
34. On 29 September 2016, the Council responded to the TPAS representative's letter of 4 July 2016. The main points were:-
 - It had not seen the actual medical information from either of the IRMPs who assessed Mr R's eligibility for early payment of his pension. Its lack of medical training was one of the reasons it decided to seek a second opinion on the matter.
 - Dr Hitchins' and Dr Williams' reports detailed the evidence considered by them, which included several reports. Its decision was not based solely on the views of the IRMPs, but on views supported by detailed facts and reasoning. Further, it did

conduct an internet search of the terms used by the medical professionals to ensure it had an understanding of these.

- There were various excerpts it could provide from the IRMP reports, which would demonstrate that it had considered matters, before concluding that it was a reasonable decision to decline Mr R's application.
- The TPAS representative had referred to an email of 24 March 2015, regarding concerns from Mrs R on the report his GP had provided. Dr Stewart's letter of 14 April 2015 had addressed these points.
- In view of the evidence presented to the IRMPs, it was satisfied that all the relevant medical information was taken into account in making its decision that Mr R did not meet the criteria for IHER.
- Specialist reports concerning Mr R's heel had been taken into account, including those from Mr R's Orthopaedic Surgeon and Dr Valanejad, the occupational health doctor. Dr Williams had detailed the medical history relating to Mr R's heel and the effect this had on him.
- It was evident that Dr Williams had gone into detail about Mr R's heart condition. Overall, a robust review of Mr R's application had been carried out, taking into account the medical information provided by the medical organisation which the respective IRMPs were attached to.

35. Mr R subsequently referred his complaint to my Office. For completeness, I will mention that Shepway District Council was named as the respondent in the complaint brought to this Office. Shepway District Council has however subsequently changed its name to Folkestone & Hythe District Council and for ease, is referred to as "the Council" throughout this Determination.

Summary of Mr R's position

36. The Council failed to follow the proper procedure when assessing his application for IHER.
37. The Council had not asked itself the correct questions and had based its decision entirely on the IRMP's opinion without seeing the medical evidence.
38. The Council had not considered all of the relevant factors when making its decision. Further, it was perverse to expect him to have his leg amputated as a reasonable treatment option.
39. He remained unable to work and it looked increasingly unlikely that he would return to employment.
40. It was unfair that he had paid into the Scheme for almost 40 years but was being denied the early payment of his pension.

41. It was particularly unfair that his claim was being denied based on the assessment of a medical practitioner who had not met him face to face.

Summary of the Council's position

42. Overall, the Council's position was that I was restricted by legislation from considering Mr R's complaint. The Council's arguments and my response are contained in the accompanying Jurisdiction Preliminary Issue Letter. Notwithstanding this issue, the Council wished to set out its position on Mr R's complaint in regard to its consideration of his IHER application.
43. It had followed the relevant procedure in full and took steps exceeding those which were required of it. On receipt of Mr R's request to access benefits early, full details were provided to him of the potential options available. Mr R subsequently met with an occupational health consultant, who obtained relevant medical reports. An opinion was then submitted by an IRMP to Mr R and the Council, which evidenced in detail why it was felt that Mr R did not meet the relevant ill health criteria. The IRMP also provided the Council with the necessary declaration, required from the IRMP, in line with Regulation 31 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007 (**the Benefit Regulations**).
44. The Council then took on board comments from Mrs R on the IRMP's opinion and considered further documentation she provided. It sought the IRMP's view on this and asked whether it might alter her opinion, making a record of her views. Following consideration of all of the above, the Council decided not to grant IHER. It notified Mr R of its decision by letter dated 2 April 2015.
45. Mrs R subsequently contacted the GP who prepared the report which she had concerns about. That GP provided a letter indicating that he considered his medical records to be accurate. Following Mrs R's concerns, the Council set out to obtain an opinion from a second IRMP. It passed on Mrs R's concerns and provided authorisation for the occupational health organisation enlisted to obtain any further reports deemed necessary. Such actions went above and beyond what was required by the Council under the Benefit Regulations.
46. The Council then received the second IRMP's report, which said that Mr R did not meet the relevant IHER criteria. Following consideration of all of the information before it, the Council made its decision not to grant IHER. It notified Mr R of this on 26 June 2015.
47. The steps taken by the Council indicated that "proper procedure" had been followed. The Council acknowledged that some of the language used in its correspondence might imply it was of the view that the IRMP was to make the decision regarding Mr R's application. This was not the Council's intention, such language was intended to convey that before the Council could make its decision on the matter, it was required to obtain an opinion from an IRMP. The Council at times referenced a "decision" to be made by the IRMP rather than an "opinion"; this was a matter of terminology only and did not alter the fact that the decision was ultimately made by the Council.

48. Mr R had also complained that the Council did not ask itself the right questions and consider relevant factors when making its decision. The main concern raised by the TPAS representative was that the Council simply passed on or blindly followed the views of the IRMP, without seeing the medical reports considered. The documentation considered by the Council in reaching its decision, on both occasions, was comprehensive. The Council accepted that it did not review all of the medical reports considered by the IRMPs involved, but it did not deem it necessary to do so.
49. There was an array of reasons for this. For instance, the decision-makers at the Council were not medically trained and did not consider that reviewing these reports would alter any decision. Also, the reports prepared by both IRMPs set out Mr R's medical history and provided detailed reasons for their opinion; both reports were consistent in their views that Mr R did not meet the IHER criteria.
50. Mr R had also complained that it was perverse for the Council to expect him to have his leg amputated as a reasonable treatment option. However, at no point had the Council suggested that it expected him to do this. Rather, the second IRMP indicated that this was one of several treatment options.
51. Lastly, it had been claimed that the Council had not provided TPAS with a substantive response to its questions after eight months. Although, there was no obligation on the Council to cooperate with TPAS or provide it with any information, it did so to allow TPAS to advise Mr R. The Council was first contacted by TPAS on 26 November 2015, in response to which the Council provided it with a full copy of its file. In light of TPAS' indication that it was taking an independent role, the Council did not provide any detailed defence, but informed TPAS that both IRMPs were of the opinion that Mr R did not meet the IHER criteria and that it was unable to approve payment of the deferred pension. This statement evidenced the Council's understanding that it was its own decision whether to grant IHER, but this decision was based on the medical reports obtained.
52. On 19 January 2016, TPAS raised concerns about the Council not reviewing all of the medical reports. The Council responded the same day. TPAS sent a further email to the Council on 29 January 2016 asking very detailed questions and in response to which the Council took steps to review Mr R's file again. Updates were provided in February and March 2016, however, before the Council was in a position to respond, it received a letter dated 4 July 2016 purporting to be a stage one complaint (which the Council did not accept). The Council gave a comprehensive and considered response on 29 September 2016.

Conclusions

53. The Council has challenged whether I have the jurisdiction to consider Mr R's complaint. I have considered the Council's arguments carefully, but I find that I do have jurisdiction, and so have proceeded to investigate and determine this case. I have set out my reasoning for this in a separate letter. The Council has not raised any

further points in response to that letter and my conclusion, that I have jurisdiction to determine this complaint, stands.

The merits of Mr R's complaint

54. Having determined that I have jurisdiction to consider Mr R's complaint, I now consider the merits of his complaint.
55. The Ombudsman's role is not to replace the Council as the decision-maker and decide whether Mr R is eligible for IHER. My role is to decide whether the Council followed the correct process when assessing Mr R's application and reached a reasonable decision.
56. The Benefit Regulations stipulate that before determining whether to agree to a request for IHER, the member's former employing authority, in this instance the Council, "must obtain a certificate from an IRMP as to whether in the IRMP's opinion the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal retirement age, or for at least three years, whichever is the sooner."
57. In Mr R's case, the Council obtained two separate opinions from two respective IRMPs, this being due to perceived shortcomings of the former IRMP's opinion as put forward by Mrs R. I make no finding on whether the opinion provided by Dr Hitchins was flawed, as I understand the second opinion obtained from Dr Williams, dated 1 June 2015, replaced this. Hence, this will be the decision which I assess.
58. Following receipt of this opinion, on 26 June 2015, the Council wrote to Mr R to inform him of the outcome of his application. This letter stated:

"Having assessed your case, including the additional information provided by you, I have received confirmation that unfortunately, at this time, the IRMP again does not feel that you meet the criteria required under the Local Government Pension Scheme and your request has been unsuccessful."
59. The language in the above statement suggests that it was the IRMP's decision to decline Mr R's application, as opposed to the Council's. This is contrary to the requirements of the Benefit Regulations, which require the employer to make such a decision on the basis of the evidence available; this would include the IRMP's assessment. Even when reading such a statement without strictly focusing on the language used, it implies that the Council was solely led by the IRMP's view. The appropriate exercise would be to consider all of the evidence, giving due weight to the information considered most appropriate, to arrive at a reasonable conclusion.

60. The Council has argued that it did ultimately make its own decision on whether to grant IHER to Mr R, and that any suggestion, on the part of the Council, of doing otherwise is purely a matter of misused language or terminology.
61. However, it is difficult for the Council to argue and indeed substantiate such a position where there is no documented rationale from the time when the decision was made.
62. Paragraph 2 of Regulation 57 of the Local Government Pension Scheme (Administration) Regulations 2008 (**the 2008 Regulations**) says:
- “A notification of a decision that the person is not entitled to a benefit must contain the grounds for the decision.”
63. I am satisfied that the 2008 Regulations, referred to in paragraph 62 above and 73 below, are the applicable regulations in this matter. The 2008 Regulations have been revoked by Regulation 2(1) of the Local Government Pension Scheme (Transitional Provisions, Savings and Amendment) Regulations 2014 (**the 2014 Transitional Regulations**). However, Regulation 2(2) of the 2014 Transitional Regulations only expressly revokes the 2008 Regulations to the extent that no person may become a member of the 2008 Local Government Pension Scheme (**2008 LGPS**) after 31 March 2014, or accrue benefits under the 2008 LGPS in respect of any service after that date.
64. Regulation 3(1)(a) of the 2014 Transitional Regulations provides that, notwithstanding the aforementioned revocation, “membership accrued in the Earlier Schemes in respect of service before 1st April 2014, the pension rights accrued at that date, and any rights and obligations imposed on any person under those Schemes in relation to service before 1st April 2014, are preserved...”
65. Further, Regulation 3(8) of the 2014 Transitional Regulations states that “where a person has not been an active member of the 2014 Scheme and has benefits under the Earlier Schemes...the benefits payable as a consequence of [Regulation 3(1)] are payable in accordance with the Earlier Schemes...”. Mr R has not at any point been an active member of the 2014 Local Government Pension Scheme. So, any benefits payable to Mr R would remain payable in accordance with the 2008 LGPS and in accordance with the 2008 Regulations.
66. The Council failed to set out the rationale for its decision. Hence, I cannot be certain whether the Council carried out its own decision-making exercise, as it was required to. Further, if such an exercise did take place, it is not possible to ascertain whether this was conducted in accordance with the well-established principles which a decision-maker is expected to follow when exercising discretion, as set out in the *Edge v Pensions*¹ Ombudsman judgment: to exercise its powers fairly for the purpose for which they are given, giving proper consideration to relevant matters and disregarding irrelevant ones.

¹ *Edge v Pensions Ombudsman* [1999] EWCA Civ 2013

67. I note that in the Council's response to TPAS of 29 September 2016, it provided some of the background on how it arrived at its decision and gave a comprehensive list of excerpts from Dr Williams' report which it said formed part of its decision-making. This was more than twelve months after the decision letter was sent to Mr R on 26 June 2015.
68. I am not satisfied that the Council has demonstrated the independent decision-making required of it by the Benefit Regulations.
69. Mr R will undoubtedly have suffered significant distress and inconvenience as a result of the Council's failure to assess his IHER application correctly. I consider that an award in recognition of this is warranted.
70. I uphold Mr R's complaint.

Directions

71. Within 56 days of the date of this Determination, the Council shall:
- (i) arrange to obtain a further medical report and certification from an IRMP not previously involved in this matter. The IRMP shall review Mr R's medical records and other available evidence which he or she considers relevant to their assessment, as at 1 June 2015.
 - (ii) pay Mr R £500 for the significant distress and inconvenience caused to him by its failure to review his IHER application correctly.
72. The Council shall then review the matter and make a new decision on whether Mr R is entitled to IHER benefits, providing him with its reasoning on how this decision was reached.
73. If Mr R is to be awarded an IHER pension, the Council will forthwith pay him a sum equal to the outstanding instalments of his pension, plus interest, backdated to 12 July 2014, the initial date of the IHER application. The interest payment shall be calculated in accordance with Regulation 51 of the 2008 Regulations.

Anthony Arter

Pensions Ombudsman

22 September 2020