

## Ombudsman's Determination

Applicant	Mr N
Scheme	Local Government Pension Scheme ( <b>LGPS</b> )
Respondents	London Community Rehabilitation Company ( <b>LCRC</b> ) Greater Manchester Pension Fund ( <b>GMPF</b> )

## Outcome

1. I do not uphold Mr N's complaint and no further action is required by LCRC or GMPF.

## Complaint summary

2. Mr N has complained that his ill health retirement pension has not been backdated to March 2016.

## Background information, including submissions from the parties

### Background

3. Mr N transferred to LCRC in February 2015. He had been on long term sickness absence since 2012. Mr N was assessed by an occupational health physician in August 2015. He was considered likely to meet the criteria for ill health retirement. Before making a decision about ill health retirement for Mr N, LCRC sought the opinion of an independent registered medical practitioner (**IRMP**), as required by the LGPS Regulations.
4. Mr N was assessed by an IRMP on 25 January 2016. The IRMP concluded that Mr N did not meet the criteria for ill health retirement and provided a report to this effect for LCRC. On 18 March 2016, LCRC notified Mr N of the IRMP's opinion. On 25 March 2016, Mr N's sick pay ceased. On 29 April 2016, LCRC informed Mr N that he was not eligible for ill health retirement. It also informed him that he had the right to appeal this decision.
5. Mr N submitted an appeal, on 4 September 2016, together with additional medical evidence. His employment with LCRC was terminated, on 8 September 2016, on the grounds of capacity.

6. Mr N's case was referred to another IRMP. On 14 October 2016, the second IRMP provided a certificate indicating that, in his opinion, Mr N did meet the criteria for ill health retirement. On 4 November 2016, LCRC notified Mr N that it would amend his reason for leaving to ill health retirement.
7. Mr N queried the date of commencement of his pension. He suggested that his pension should be backdated to the date of the original decision not to award ill health retirement because he had successfully appealed this decision. Following further correspondence with LCRC, Mr N submitted an appeal via the Scheme's two-stage internal dispute resolution (**IDR**) procedure.
8. LCRC issued a stage one IDR decision on 18 June 2018. Its decision is summarised below:-
  - LCRC had correctly implemented Mr N's ill health retirement from the date his employment ended.
  - An LGPS member's rights to an ill health pension were set out in the Local Government Pension Scheme Regulations 2013 (SI2013/2356) (as amended) (the **2013 Regulations**).
  - Regulations 35 and 36 provided for ill health retirement from active service. Regulation 36 required an employer to have regard to guidance issued by the Secretary of State. This guidance stated that a Scheme employer could not make a decision under Regulation 36 unless it had obtained a certificate from an IRMP.
  - The guidance listed various questions which an employer must decide, including whether the IRMP considered the member to have met the ill health retirement conditions. In Mr N's case, the IRMP did not confirm that he met the ill health retirement conditions until October 2016. LCRC could not lawfully have concluded that Mr N met the ill health retirement conditions unless it had questioned the IRMP's decision in January 2016.
  - The decision to award ill health retirement was not the exercise of a discretion; it was a judgment on an issue of fact. LCRC was required to apply the law correctly, ask the right questions, take account of all relevant and no irrelevant information and make a decision which was genuine and rational.
  - Regulations 72 to 75 of the 2013 Regulations applied. Regulation 72 provided that a person's rights under the LGPS must be determined by the Scheme employer, with some exceptions which did not apply. The statutory guidance stated that Regulation 72 decisions included entitlement to ill health retirement.
  - Question 57 of a June 2015 FAQ document issued by the Department for Communities and Local Government (**DCLG**) (see Appendix) stated that the 2013 Regulations did not provide for appeals before a member's employment was terminated when an ill health retirement pension had not been awarded.

- Having reviewed the occupational health assessments carried out in August 2015 and January 2016, the IDR decision-maker felt that there was sufficient information which could have prompted LCRC to query the IRMP's decision. It was not required to do so.
- LCRC had not provided Mr N with the GMPF booklet on ill health retirement or adequate advice about his claim. In so doing, it may have failed to enable Mr N to provide information which might have led to a different decision by the IRMP. This part of Mr N's complaint was upheld. It had taken Mr N longer than six months to appeal but discretion to consider the appeal had been exercised.
- It upheld that part of Mr N's complaint which related to delay between receipt of the IRMP's report in January 2016 and the final decision in April 2016. Mr N had continued to receive full pay until 25 March 2016, despite his contractual entitlement to only six months full pay. It did not consider the delay to have prejudiced him significantly.
- Its IDR decision-maker recommended that LCRC issue an apology to Mr N and review its ill health retirement procedure.

9. Mr N submitted a further IDR appeal. A stage two decision was issued by GMPF on 3 October 2018. Its decision is summarised below:-

- Statutory guidance provided by the Ministry of Housing, Communities and Local Government (**MHCLG**) (see Appendix) stated that the 2013 Regulations do not provide for appeals before a member's employment was terminated where an ill health retirement pension had not been awarded.
- At the time of Mr N's appeal against the decision not to award ill health retirement, he was still an active employee and, therefore, unable to appeal this decision.
- The decision to award Mr N ill health retirement was not a review of the earlier decision. However, LCRC should have made Mr N aware of this.
- Regulation 32(8) provided that the first period for which an ill health retirement pension was payable was the day after the date on which the member's employment was terminated. Therefore the 2013 Regulations did not allow an ill health pension to commence before employment had been terminated.
- The date of termination of employment was an employment matter, rather than a pension issue, and should be raised with LCRC.
- Regulation 36 required LCRC to obtain a certificate from an IRMP before making a decision as to whether to award ill health retirement. Statutory guidance from the MHCLG stated that an employer could access other information.

- LCRC had stated that it did not consider it appropriate to go against advice it received from occupational health. It had not made it clear if this was its general policy or particular to Mr N's case. LCRC did have a responsibility to take account of any other relevant information, rather than simply accepting the IRMP's opinion and making a decision on that basis alone. It would be unusual for an employer to award ill health retirement, where the IRMP had certified that the member did not meet the conditions, without first questioning the IRMP's opinion or obtaining an opinion from another IRMP.
- Regulation 35(1) required employment to have been terminated by a Scheme employer on the grounds of ill health for a member to be eligible for ill health retirement. LCRC could not award Mr N ill health retirement unless his employment had been terminated on the grounds of ill health. He had left employment, on 8 September 2016, under a separate process and LCRC had retrospectively amended the reason for leaving. The date of termination was a matter for LCRC to decide and the stage two IDR decision maker had no jurisdiction in this.
- Although LCRC had not fulfilled its duty as an employer to support Mr N through the ill health retirement process, information about ill health retirement and appeals was readily available on GMPF's website.
- It was standard practice for an IRMP to send a report directly to an employer, unless the member had asked to see it first. Mr N would have been asked to sign a consent form prior to being referred to an IRMP and asked if he wished to see the report first.

10. Extracts from the 2013 Regulations and guidance referred to during the IDR procedure are provided in the Appendix.

### **Mr N's position**

11. Mr N submits:-

- He has lost pension payments between 25 March and 8 September 2016 as a result of LCRC's mismanagement of its ill health retirement process.
- The IRMP's report had been with LCRC in January 2016 but was not sent to him until April 2016.
- He should have been able to challenge the IRMP's finding in January 2016.
- Shortly after providing additional medical evidence to challenge the IRMP's decision, he was dismissed on the grounds of capability. He could have provided the additional evidence at an earlier date if he had been made aware that he could challenge the IRMP's decision.

- LCRC merely changed the reason for his dismissal to ill health early retirement. It should have reinstated him and reassessed when his dismissal should have taken effect so that he did not lose any money.
- If LCRC had followed due process, he would have been able to retire before his sick pay expired.
- He calculates his financial loss to be £7,894.18. This includes £6,922.71 in pension payments from 25 March to 8 September 2016.
- The stage two IDR decision maker referred to information being available on the GMPF website. This assumed he had ready access to the internet while he was off sick with no income.
- His appeal related to his original application for ill health retirement.
- The stage two IDR decision maker determined that the date of termination is an employment matter, not a pension issue. This is factually incorrect. It is also outwith employment law. The recourse under employment law would have been to an Employment Tribunal, where his claim would have failed on the grounds that pension matters must be referred to the Pensions Ombudsman. In addition, due to delay by LCRC, he would have been out of time to make a claim to an Employment Tribunal. He could not make a claim for unfair dismissal because the dismissal was reasonable.
- It is correct that Regulation 32(8) states that the earliest an ill health pension is payable is the day after a member has been dismissed. But it is written and presented in the context where it is known at the time that the reason for dismissal is ill health early retirement. His case is unusual and needs to be contextualised.
- A strict interpretation of Regulation 32(8) would allow an employer to sit on an IRMP's decision for many months to delay the cost of an ill health retirement.
- The stage two IDR decision maker referred to an FAQ document, which stated the 2013 Regulations do not provide for appeals before a member's employment has been terminated where ill health retirement has not been awarded. However, he did not cite any particular regulation to this effect.
- If the IRMP does not consider that the member meets the ill health retirement conditions, the Regulations clearly allow for this to be challenged; as happened in his case.

## **Adjudicator's Opinion**

12. Mr N's complaint was considered by one of our Adjudicators who concluded that no further action was required by LCRC or GMPF. The Adjudicator's findings are summarised below:-

- Members' entitlements to benefits when taking early retirement due to ill health were determined by the scheme rules or regulations. The scheme rules or regulations determined the circumstances in which members were eligible for ill health benefits, the conditions which they must satisfy, and the way in which decisions about ill health benefits must be taken.
  - In Mr N's case, the pertinent provisions were Regulations 32 and 35 of the 2013 Regulations. Regulation 35 set out the conditions under which an ill health retirement pension could be paid. Regulation 32 specified the date from which an ill health retirement pension was payable.
  - Regulation 35 stated that an active member whose employment was terminated by a Scheme employer on the grounds of ill health was entitled to early payment of a retirement pension if he or she satisfied the conditions in sub-paragraphs (3) and (4) of the regulation. The first condition for payment of a pension under Regulation 35 was, therefore, that the member's employment had been terminated by his or her employer on the grounds of ill health. If that was the case, the Scheme employer had to consider whether the member satisfied the conditions set out in sub-paragraphs (3) and (4).
  - Both Regulation 36 and Regulation 72 made it clear that it was the Scheme employer which made the decision as to entitlement under Regulation 35. Regulation 36 required the employer to make the decision after it had obtained a certificate from an IRMP as to whether the member satisfied the conditions in sub-paragraphs (3) and (4). However, the decision to terminate a contract of employment was first and foremost an employment matter; albeit one which might give rise to entitlement under the pension scheme. The Ombudsman could not direct an employer to terminate a contract of employment or to amend the date on which termination took place.
  - Mr N's contract of employment was terminated by LCRC on 8 September 2016. Under the terms of Regulation 32, the first period for which his ill health retirement pension was payable was the day after this date. Although Mr N had appealed the March 2016 decision, his ill health retirement pension could not come into payment before his employment had been terminated.
  - The Adjudicator said she could understand why Mr N felt that, in the particular circumstances of his case, a strict interpretation of Regulation 32 had led to an unfair outcome. However, there was no element of discretion as to the date of payment under Regulation 32.
13. Mr N did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. Mr N's representative provided his further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the main points made on Mr N's behalf for completeness.

## **Mr N's further submissions**

14. Mr N's union representative submits:-

- If the assessment by the IRMP in September 2016 was an appeal of the March 2016 decision, LCRC should have amended Mr N's dismissal date to March 2016; not just change the reason for his dismissal. This would have allowed him to access his pension from the original assessment date.
- Regulation 32 means that Mr N is only able to access an ill health retirement pension following the date of his dismissal. This means that an employer can sit on an IRMP's decision or delay dismissal for many months to prevent access to pension entitlements. It is believed that LCRC wilfully chose to delay his dismissal. This amounts to maladministration; as a consequence of which, Mr N sustained injustice. He has been caused a huge amount of stress and inconvenience in trying to correct the situation.
- Mr N found the process of assessment incredibly stressful and would not wish to undergo a further reassessment should the date of his dismissal be amended.

## **Ombudsman's decision**

15. Regulation 32 is quite clear. It states that the first period for which any retirement pension, which is payable immediately on a member leaving any employment, is payable begins with the day after the date on which the employment ends. The first period for which Mr N's ill health retirement pension was payable began with the day after his employment ended; that is, 9 September 2016. There is no discretion under Regulation 32 for the pension to begin before the employment has ended.
16. Mr N has raised the matter of an employer "sitting on" a decision to prevent a member accessing the pension to which s/he is entitled. His union representative has suggested that this is what LCRC did in Mr N's case. However, there is no evidence of this. There was a delay between the first IRMP providing a report in January 2016 and LCRC notifying Mr N of its contents in March 2016. During this period, Mr N was in receipt of full pay and, therefore, the delay did not result in any injustice to him.
17. LCRC notified Mr N of its decision that he was not eligible for an ill health pension on 29 April 2016. This is just over a month after Mr N's sick pay ceased. I do not find that this amounts to LCRC sitting on the decision. It may have been preferable for the decision to have been made more promptly, but it is within the margins of reasonable action by the employer.
18. LCRC did not actually terminate Mr N's employment in March or April 2016. It did so shortly after Mr N submitted an appeal against the decision that he was not eligible for ill health retirement. In its IDR response, LCRC referred to the guidance issued by the DCLG (see Appendix), which states that the 2013 Regulations "do not provide for

appeals before a member's employment is terminated where an ill health retirement pension is not awarded". It appears to have been prompted to terminate Mr N's contract of employment by him submitting an appeal.

19. Mr N was successful on appeal. The second IRMP advised LCRC that, on the basis of the additional evidence supplied by Mr N, he was of the opinion that he satisfied the conditions for ill health retirement. It was at this point that the date on which Mr N's employment ceased became significant. With the benefit of hindsight, it would have been advantageous to Mr N if LCRC had terminated his employment in March or April 2016. Under Regulation 32, his pension would then have been payable from the earlier date.
20. I say "with the benefit of hindsight" because, at the time, it would not have been obvious that there was any disadvantage to Mr N in not terminating his contract of employment immediately. LCRC had decided, on the basis of the IRMP's advice, that Mr N was not eligible for an immediate ill health retirement pension. The fact that it did not terminate Mr N's contract of employment immediately is not evidence that there was any deliberate attempt to prevent him from accessing the pension. As far as LCRC was concerned, Mr N was not entitled to a ill health retirement pension regardless of when it actually terminated his contract of employment. That position did not change until Mr N submitted additional medical evidence and LCRC received further advice from an IRMP. Having been advised that Mr N did satisfy the conditions for an ill health pension under Regulation 35, LCRC amended the reason for terminating his employment contract enabling him to access the pension.
21. I note that Mr N had been advised that he could appeal LCRC's decision. He did not do so until September 2016. There is nothing to suggest that, had Mr N submitted an appeal at an earlier date, LCRC would not have terminated his contract of employment at an earlier date.
22. In its IDR response, LCRC acknowledged that it had not provided Mr N with GMPF's booklet on ill health retirement. It suggested that this may have resulted in Mr N not submitting additional medical evidence at an earlier date. As a result, Mr N's appeal was processed despite that fact that he submitted it outside the six months provided for in the 2013 Regulations. I would agree that it would be good practice for LCRC to provide a member with information about ill health retirement and appeals. Having said this, I note that there is ample information relating to ill health retirement and appeals provided on the GMPF website. I am not persuaded that LCRC's failure to provide Mr N with a copy of GMPF's ill health retirement leaflet can be said to be the sole reason for the delay in him submitting an appeal.
23. As my Adjudicator explained, the decision to terminate of a contract of employment is an employment matter; albeit one which can give rise to a pension entitlement. It is not within my remit to direct an employer to terminate a contract of employment or to change the date on which a contract has been terminated. I have, where the

circumstances have warranted it, directed an employer to compensate a member for delay resulting in loss of pension<sup>1</sup>.

24. The circumstances in which I directed the employer to compensate the member for the delay in terminating employment and, thereby, providing access to an ill health pension do not arise in Mr N's case. In the previous case, the period between the member's sick pay ceasing and the payment of her pension amounted to some 16 months; albeit the pension was then backdated so that the actual period for which the member received no pension amounted to seven and a half months. In that case, the evidence indicated that the employer had failed to make a decision promptly and then ignored the member's attempts to appeal. In Mr N's case, LCRC had made a decision and notified Mr N of this decision, and his right to appeal, within a reasonable period of his sick pay ceasing. It acted promptly on receipt of his subsequent appeal.
25. I do not uphold Mr N's complaint.

**Anthony Arter**

Pensions Ombudsman  
8 June 2020

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<sup>1</sup> PO-21599

## **Appendix**

### **The Local Government Pension Scheme Regulations 2013 (SI2013/2356) (as amended)**

26. As at the date Mr N's employment terminated, Regulation 32 provided:

#### **"Commencement of pensions**

- (1) The first period for which any retirement pension which is payable immediately on a member leaving any employment is payable, begins with the day after the date on which the employment ends.

...

- (8) Where a member is entitled to early payment of pension due to ill-health under regulation 35 (early payment of retirement pension on ill-health grounds: active members) the first period for which retirement pension is payable is the day after the date on which the member's employment is terminated ..."

27. Regulation 35 provided:

#### **"Early payment of retirement pension on ill-health grounds: active members**

- (1) An active member who has qualifying service for a period of two years and whose employment is terminated by a Scheme employer on the grounds of ill-health or infirmity of mind or body before that member reaches normal pension age, is entitled to, and must take, early payment of a retirement pension if that member satisfies the conditions in paragraphs (3) and (4) of this regulation.
- (2) ...
- (3) The first condition is that the member is, as a result of ill-health or infirmity of mind or body, permanently incapable of discharging efficiently the duties of the employment the member was engaged in.
- (4) The second condition is that the member, as a result of ill-health or infirmity of mind or body, is not immediately capable of undertaking any gainful employment ..."

28. Regulation 36 provided:

#### **"Role of the IRMP**

- (1) A decision as to whether a member is entitled under regulation 35 (early payment of retirement pension on ill-health grounds: active members) to early payment of retirement pension on grounds of ill-health or infirmity of mind or body ... shall be made by the

member's Scheme employer after that authority has obtained a certificate from an IRMP as to -

- (a) whether the member satisfies the conditions in regulation 35(3) and (4); and if so,
  - (b) how long the member is unlikely to be capable of undertaking gainful employment; ...
- (4) The Scheme employer and IRMP must have regard to guidance given by the Secretary of State when carrying out their functions under this regulation ...”

29. Regulation 72 provided:

**“First instance decisions**

- (1) Any question concerning the rights or liabilities under the Scheme of any person other than a Scheme employer must be decided in the first instance by the person specified in this regulation.

...

- (3) The appropriate administering authority must decide any question concerning -

- (a) a person's previous service or employment;
- (b) the crediting of additional pension ...; and
- (c) the amount of any benefit, or return of contributions, a person is or may become entitled to out of a pension fund.

- (4) A person's Scheme employer must decide any question concerning any other matter relating to the person's rights or liabilities under the Scheme ...”

30. Regulation 73 provided:

**“Notification of first instance decisions**

- (1) Every person whose rights or liabilities are affected by a decision under regulation 72 (first instance decisions) must be notified of it in writing by the body which made it as soon as is reasonably practicable after the decision is made.

- (2) A notification of a decision that the person is not entitled to a benefit must contain the grounds for the decision.

...

- (5) Every notification must also -

- (a) specify the rights available under regulations 74 (applications for adjudication of disagreements) and 76 (references of adjudications to administering authority) ...”

31. Regulation 74 provided:

**“Applications for adjudication of disagreements**

- (1) Each Scheme employer and administering authority must appoint a person ( **“the adjudicator”** ) to consider applications from any person whose rights or liabilities under the Scheme are affected by -
  - (a) a decision under regulation 72 (first instance decisions); or
  - (b) any other act or omission by a Scheme employer or administering authority,and to make a decision on such applications.
- (2) An applicant under paragraph (1)(a) may apply to the adjudicator appointed by the body making the decision, within six months of the date notification of the decision is given under regulation 73 (notification of first instance decisions).
- (3) An applicant under paragraph (1)(b) may apply to the adjudicator appointed by the body responsible for the act or omission, within six months of the date of the act or omission which is the cause of the disagreement, or, if there is more than one, the last of them ...”

**Statutory Ill Health Retirement Guidance September 2014 (Updated June 2015)**

32. The statutory guidance issued by the DCLG states:

**“Section 2 - General Guidance**

**Part I - Role of the employer**

6. In the context of ill health retirements, the role of the Scheme employer begins a long time before employment has been terminated and the question of entitlement to an ill health retirement benefit arises. The management of ill health in the work force and, in particular, during the period leading up to termination of employment, is outside the scope of this guidance. ... It would not be appropriate to consider the release of ill health retirement benefits for a reason other than when the member was genuinely medically incapacitated from undertaking their current employment or any other employment at the point of departure.

**Termination of employment on ill health grounds**

7. Responsibility for deciding the grounds on which the employment of a Scheme member has been terminated still rests solely with the Scheme

employer (regulation 36 (1)). But a Scheme employer cannot make a determination under regulation 36 unless they have obtained a certificate from an independent registered medical practitioner qualified in occupational health medicine ...

8. It is also important to note that all the regulations referred to in this guidance are subject to the civil law burden of proof. As such, the determination of questions is based on the “balance of probabilities” test and not on the stricter criminal law test of “beyond reasonable doubt”.

## **Part II - Questions for the employer to determine**

9. Under regulation 35, the appropriate Scheme employer is required to consider and decide a number of questions before entitlement to an ill health retirement benefit under that regulation can be awarded. These include:-

a) does the member meet the 2 years vesting period? (Regulations 3(7) and 35(1)); and

b) does an independent registered medical practitioner consider that the member’s ill health or infirmity of mind or body render him or her permanently incapable of discharging efficiently the duties of the employment the member was engaged in? (Regulation 35(3)). For example, would the member ever be able to do the old/former job?; and

c) does the independent registered medical practitioner consider that the member’s ill health or infirmity of mind or body render him or her not immediately capable of undertaking any gainful employment? (Regulation 35(4)). For example, would the member, at the time of the medical Department for Communities and Local Government Sept 2014 13 assessment, be able to do a different job which satisfies the definition of “gainful employment”?

10. If the answers to all three questions are in the affirmative, there is a prima facie entitlement to payment of an ill-health benefit under regulation 35. ...”

## **“Resolution of disagreements and Internal Dispute Resolution Procedure (IDRP)”**

65. Regulations 72-78 of the 2013 Regulations enable a Scheme member to make an application for the resolution of any disagreement between themselves and a Scheme employer or an administering authority about a matter in relation to the Scheme. This includes any decision taken by a Scheme employer or administering authority under the Local Government Pension Scheme Regulations regarding entitlement to an ill health retirement benefit at the date employment was terminated, ... The Internal Dispute Resolution Procedure arrangements also apply in cases where a Scheme employer or administering authority has failed to make a decision within any period prescribed by the Scheme’s regulations.

66. Other decisions which fall within the Scheme's Internal Dispute Resolution Procedure provisions include:-

- a) any disagreement with the entitlement level of Tier One, Two or Three pension (regulation 35(5), (6) and (7));
- b) whether a certificate has been obtained from an independent registered medical practitioner in compliance with the Scheme's regulations (regulations 36(1), 37(6) and (10) and 38(3) and (6));
- c) whether the Scheme employer has had regard to this guidance in carrying out their functions under regulations 36-38; and
- d) whether a Tier Three pension should be suspended because the member has obtained gainful employment or, if not, is judged to be capable of undertaking such employment (regulation 37(3) and (4)).

67. This list is by no means exhaustive and is only given as an illustration of some of the main decisions on ill health retirement pensions that fall within the Scheme's Internal Dispute Resolution Procedure arrangements. It is also important to note that these arrangements do not apply directly to the opinions given by the independent registered medical practitioner because their role is to give an opinion on whether or not the medical criteria for entitlement to an ill health pension is satisfied. It is the Scheme employer that has the regulatory responsibility to decide the entitlement question based on the certificate and/or report submitted by the independent registered medical practitioner and against whom any Internal Dispute Resolution Procedure dispute regarding entitlement to benefit rests ..."

## **DCLG Frequently Asked Questions – Ill Health Retirement – 2014 Scheme – Edition 2 – June 2015 revised**

33. In answer to the question "Q57. What happens if the member is unhappy with the employer's decision about an ill health retirement application?", the guidance document stated:

"A member does have recourse to query decisions made by a Scheme employer regarding ill health retirements under IDRP. This would include any disagreement with the level of ill health retirement benefit that was awarded ... Also, a member, who has left local government employment and who was awarded deferred retirement benefits can appeal against this decision by writing to their former Scheme employer that made the decision, setting out the reasons for their disagreement with the decision, in accordance with Regulation 72 of the 2013 Regulations. Any appeal against the decision of the Scheme employer is required within 6 months of the date of the original decision. The 6 months period within which an appeal should be lodged can be extended at the discretion of the official who is to give the decision on the appeal (see Regulation 74(4)). The Regulations do not provide for appeals

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before a member's employment is terminated where an ill health retirement pension is not awarded."