

## Determination by the Deputy Pensions Ombudsman

<b>Applicant</b>	Ms Lynne Thomson
<b>Scheme</b>	Local Government Pension Scheme ( <b>LGPS</b> )
<b>Respondent(s)</b>	Wakefield Council ( <b>the Council</b> ) West Yorkshire Pension Fund ( <b>Administering Authority</b> )

### Complaint summary

Ms Thomson complains that the Council did not consider her applications for ill-health early retirement from deferred LGPS membership and for early retirement on compassionate grounds.

### The Deputy Pensions Ombudsman's determination and short reasons

The complaint should be upheld against the Council because Ms Thomson was not given an opportunity to consent to release her medical records so that her ill-health application may be reconsidered.

## DETAILED DETERMINATION

### Material Facts

1. Ms Thomson was employed by the Council from December 1975 until August 2005, when her employment was terminated due to ill-health. Ms Thomson says that she has been diagnosed by her doctors as suffering from depression and anxiety.
2. Ms Thomson's pension benefits were deferred within LGPS.
3. Ms Thomson moved to Dundee and was awarded incapacity benefits from the Department for Work and Pensions (**DWP**) in October 2005.
4. Ms Thomson attempted suicide twice in January 2006; she says this was a direct result of her receiving a greetings card from her former colleagues from the Council. As a result she attended sessions with a Psychiatrist. Ms Thomson says she became house bound and could not engage with people. As such, she was unable to engage in secondary treatments proposed by the Psychiatrist.
5. Ms Thomson decided to leave Dundee and came back to England in 2007, in the hope that she would be able to recover with family members around her. She applied for Disability Living Allowance (**DLA**) and was awarded it by DWP, because of her depression. Ms Thomson says that because DWP have awarded her incapacity benefit and later DLA, this meant that she was eligible for her deferred benefits within the LGPS should be released.
6. Ms Thomson contacted the Council in May 2008, regarding issues she had at work before she left. Ms Thomson also asked whether the Council would allow her to take her pension from 50 on compassionate grounds. Further she said her pride did not allow her to apply for ill-health pension when she left employment.
7. The Council replied in October 2008 (after the employment related matters were addressed separately) that Ms Thomson has two options regarding her pension. These were ill-health pension and compassionate grounds from age 50.
8. Ms Thomson applied for her pension to be released on compassionate grounds explaining her personal circumstances which warranted the pension to be released. The Council contacted the Administering Authority, and in May 2009 received details of the cost for the Council to pay a pension from 50.

9. Ms Thomson complained to the Council about the length of time they were taking in reaching a decision.

10. In June 2009, the Council wrote to Ms Thomson and explained that cost was the reason why they could not release the pension on compassionate grounds. The Council said that:

“The implications to the service are significant in that the release of your pension would mean that £50,000-£51,000 would need to be funded via Metroglazes [sic] [Ms Thomson’s immediate employer] current budget, regrettably, the Service is unable to support the application as this may have a detrimental effect not only to the current employees of Metroglaze but to service delivery to the Citizens of Wakefield. On this basis, the operational needs of the service prevent the early release of your pension at this time.”

11. The Council went on to say that Ms Thomson could apply for pension on grounds of ill-health.

12. Ms Thomson made an application to the Council on 14 September 2010 for her LGPS benefits to be released on compassionate "and ill-health grounds. She gave the following reasons:

- She continued to work for the Council four months short of 30 years’ service. She demonstrated her dedication and excellent work ethic by remaining dedicated to the Council for nearly 30 years.
- Her employment was terminated on grounds of ill-health, which was caused by her employment. Had the Council not caused her to become ill, she would have continued working.
- She has suffered from anxiety and depression since 2005 and DWP have assessed her eligible for DLA until 2015.
- Her condition has deteriorated and she is unable to leave her home and if the Council releases the pension, it may reduce her symptoms somewhat.

13. The Council arranged an appointment for Ms Thomson to attend with an Occupational Health Physician (**OHP**). Ms Thomson informed the Council on 20

September 2010 that she would not be able to attend the appointment but would like to send the supporting documentation.

14. On 29 September 2010, Dr Jackson an OHP from the Council's Occupational Health unit, said that:

“...I note receipt of the reports you have forwarded included an assessment by Dr A MacGregor Consultant Psychiatrist. Dr MacGregor comments that you have not had any psychological or supported services to date and that “it is possible that your condition may improve substantially with further appropriate input.”

With this prognosis I find it difficult to recommend permanent incapacity, I have therefore made an appropriate recommendation to the West Yorkshire Pension Fund.”

15. Dr Jackson completed the certificate and returned it to the Council. The Council informed Ms Thomson of their decision, they said:

“Unfortunately, based upon the medical evidence available, Dr Jackson does not deem you to be permanently incapable of discharging the duties of your former post by reason of ill health. I am therefore unable to progress any further with your request for the early release of your benefits.”

16. Ms Thomson informed the Council in September 2010 that she made an application for ill-health and for benefits to be released on compassionate grounds. She had yet to hear about whether the pension should be released on compassionate grounds.
17. The Council wrote to Ms Thomson in October 2010. They said in relation to the ill-health application, that the OHP did not support her application. The Council said, “The outcome being that the Medical Advisor, based upon the medical evidence available to him, did not determine that you met the criteria for early payment on health grounds.”
18. With regards to the compassionate release of her pension, the Council said the LGPS rules had changed on 1 April 2010. As a result Ms Thomson needed to be 55 years old in order to apply; as such the Council did not consider the application.

They noted that when she left employment the rules stated that the member needed to be 50 years old.

19. Ms Thomson appealed the decision via the Internal Dispute Resolution (**IDR**) procedure. In December 2010, the Council issued their response under stage 1. This only dealt with the ill-health application Ms Thomson made in 2010. The Council said that her application which contained the supporting evidence of her DLA application did not persuade the OHP that she was permanently incapacitated. Ms Thomson held the belief, (which she shared in her letter to us in May 2011) that:

“As I have provided medical evidence by DWP evaluation that proved I was unfit for work, and therefore eligible for incapacity benefit, which I am still in receipt of, and as I applied for release of my pension jointly on ill health and compassionate grounds...I feel that if both of these were taken into account jointly then I could be eligible for release of benefit.”

20. Ms Thomson said that she was not given appeal rights when she made an application for release of her pension on compassionate grounds in 2008 and appealed the decision that the Council reached. The Council agreed that she had not been given appeal rights and allowed Ms Thomson to lodge an appeal under IDR procedures.
21. The Council considered the appeal for compassionate release of her pension benefits, in April 2011. The Council said that cost was the reason why the application was turned down. They accept that the appeal rights were not given, but they extended the time limits for her to submit an appeal. They did not disagree with the decision reached not to award early release on compassionate grounds.
22. Ms Thomson submitted the second stage of the IDR procedure. This was considered by the City of Bradford Metropolitan District Council. In September 2011, after investigating the matter, the stage 2 decision was issued. The decision was not to uphold her complaint because the Council decision to decline compassionate release of her pension was made in line with the policy they had in place. With regards to the ill-health application, as no medical evidence was supplied besides from her DLA application, the OHP could not certify that her condition was permanent. They informed Ms Thomson that she can make a further

application by submitting medical evidence with her application which may support her application.

23. City of Bradford Metropolitan Council further added that in relation to compassionate grounds, benefits can be paid in exceptional circumstances. The circumstances they stated were when an applicant was caring for a dependant or in care. They said that the Council's policy allowed for compassionate pensions to be released if the employer could afford the cost of granting the request. They concluded that the Council reached a reasonable decision in declining the application Ms Thomson made for compassionate grounds to release her pensions.
24. City of Bradford Metropolitan Council said that after the tax rules changed from 1 April 2010, the LGPS had to amend their rules likewise. The minimum age for pension to be released was increased to 55 from 50. The Council were instructed to update their literature to reflect the changes.
25. Ms Thomson brought an application to us in November 2011. Ms Thomson said that the Council incorrectly turned down her application for pension to be released on compassionate grounds. She added that the time taken for the Council to reach their decision was too long and the reasons they gave did not factor in her length in service for the Council nor that her employment caused her ill health. She said further that she made a further application for ill health and compassionate grounds which was also turned down by the Council. She submitted a DWP application (who she adds have a stringent criteria) and within the application are statements which expressly state her ill health.
26. My Office investigated the matter and proposed a resolution to the matter in January 2013. Both parties agreed to the resolution. The resolution was:
  - The Council would, once Ms Thomson consented, ask an OHP who had no prior involvement to give a fresh opinion to see whether Ms Thomson met the criteria under regulation 27(1) in 2005 when she left employment.
  - Further, if she did not meet the criteria under regulation 27(1), then the Council would ask another OHP who has not reviewed the matter to give an

opinion as to whether Ms Thomson met the criteria under regulation 31 from 2010.

- The Council agreed to pay £200 for the distress and inconvenience experienced by Ms Thomson.
- The Council also agreed to consider the application for compassionate grounds provided that Ms Thomson provided evidence to support her application for compassionate grounds.

27. The Council paid the compensation of £200, they sought opinions of OHP to establish whether ill-health could be awarded from 2005 or 2010 and a panel was convened to consider whether a pension could be released on compassionate grounds.
28. The Council asked Dr Smeed to provide an opinion as to whether Ms Thomson met the criteria under regulation 27 for ill-health retirement in 2005. Dr Smeed reviewed the medical records from occupational health and accepted that while Ms Thomson was unfit for work, there was no evidence that her condition was permanent. Dr Smeed noted that Dr MacGregor for DWP noted on the DLA application that the prognosis was not known and it is possible that her condition may improve with further medical care.
29. Dr Quinlan considered whether in his opinion, Ms Thomson met the criteria for ill-health under regulation 31 from 2010. Dr Quinlan noted the lack of medical evidence presented by Ms Thomson besides from Dr MacGregar's comments. Dr Quinlan said that it was unclear (as no evidence was provided by Ms Thomson) as to whether she had further medical treatments. But based on the information presented, he could not express an opinion that Ms Thomson was permanently incapacitated in 2010 to warrant ill-health under regulation 31.
30. The panel met to consider Ms Thomson's application to release her pension on compassionate grounds. The panel considered the bank statements Ms Thomson supplied and noted that she was repaying personal loans, credit card and car loans and received state benefits of Employment and Support Allowance and DLA (lower rate for care and mobility). Ms Thomson supplied no evidence of her husband's

benefits or income. The panel also said that the cost of providing the pension would be £49,000 and needed to be met from existing budget. The panel also considered the tax implications of paying the pension unreduced as a lump sum before the age of 55. The panel considered the issues related to work which contributed to her departure. The panel said that no grievance process was raised while Ms Thomson was employed. The panel concluded that they could not agree to the pension being released on compassionate grounds because:

“it was not felt that the criteria within the policy was met as there was insufficient supporting evidence to justify approval, around the caring responsibilities in that you required care or that you were not able to work as you had caring responsibilities for and that the employer would not be able to meet the cost of granting such a request.”

31. The panel were not persuaded that the supporting documents supplied by Ms Thomson presented a strong enough case to release the pension unreduced. Further the Council did not want to meet the cost from their own budget and there was a possibility that any payment made may be deemed as an unauthorised payment, which would mean that the Council would have to pay the scheme sanction charge from its budgets as well.
32. Upon receipt of the above, Ms Thomson invoked the IDR procedure. Her reasons were that the Council sought consent to release occupational health records but did not obtain consent for medical records. She said:

“As the Ombudsman gave my previous employer the opportunity to put right the wrong I had complained off, and for them to look/relook at release of my deferred benefit on ill health in 2005 and 2010. I should have been asked to give my consent for the provision of my medical history, and given the opportunity to attend an OH unit assessment, the authority didn’t action either of these, and therefore the wrong complained of in 2011 has not been put right...”
33. Ms Thomson says that the benefits her husband received would be detailed on the bank statements she supplied to the Council. Had she been allowed to attend the



panel meeting, she would have been able to present her case rather than allow the panel to reach a decision based on incorrect information.

34. With regards to the ill-health applications, Ms Thomson says that Occupational Health did not invite her to attend in order to be assessed, and they were guided by what the Council had said to OHP (this being the covering letter sent to OHP, where the Council said that Ms Thomson did not attend an assessment in 2010 and it was possible she would not attend again).
35. Ms Thomson said that Dr Smeed should not have considered the comments of Dr MacGregor as they were not available in 2005. As she did not release her medical records, Dr Smeed was not aware of her medical condition when he reached his opinion. Likewise, Dr Quinlan considered the matter without her medical records (as none were requested by the Council from her).
36. The Council considered the IDR appeal, and concluded that occupational health records were released to the OHP. They reached their opinion that Ms Thomson did not meet the criteria for ill-health and a panel considered her application for compassionate grounds which did not support her. The Council reached the conclusion that they followed the resolution which my Office proposed and the conclusions remained unchanged.
37. Ms Thomson has said that, the Council did not consider all the relevant information she sent in relation to her applications for ill health and compassionate grounds. Ms Thomson adds that the Council did not offer her the opportunity to send medical evidence after the resolution was proposed and agreed. She says her medical records are held by the NHS, and she was prepared to consent release of her medical records had the Council asked her.
38. Ms Thomson adds that the Council did not pass on all the information she sent in relation to her application for compassionate grounds to the panel. She says the Council summarised her arguments and did not provide the panel with an accurate reflection of her application and information she sent. Mrs Thomson says that the Council's summary was incorrect, misleading and defamatory.
39. Ms Thomson remains unhappy with how City of Bradford Metropolitan Council reviewed and concluded the IDR procedure stage 2.

40. The Council have said that during the initial applications, Ms Thomson was asked many times to supply medical evidence yet she did not do so. Before Ms Thomson's employment ended, the Council did refer her to the occupational health unit who asked for medical evidence. Ms Thomson did not consent for her medical records to be released. So the Council's position is that they have given Ms Thomson sufficient opportunities to consent or provide medical evidence that would allow the OHP to express an opinion.

## **Conclusions**

41. We sought to resolve the matter and in my view a suitable resolution was proposed- which all parties agreed to. I cannot and do not intend to re look at this.
42. In addition it is not for me to dissect every incident that Ms Thomson took exception too, but to redress any maladministration by the Council. Ms Thomson disagreed with the IDR procedure decision by City of Bradford Metropolitan Council but disagreeing with a decision does not mean that the decision was incorrect.
43. It would be worth saying that Ms Thomson's reliance on the DWP application form for DLA may have guided her to believe that she has an automatic right to receive ill-health pension benefits. This is not the case. While DWP may have assessed her eligible for DLA, the requirements for ill-health LGPS retirement are different. The issue, which I need to consider is whether the Council have considered the requirements stated within LGPS correctly.
44. The resolution proposed by my Office was in line with the directions I would have made. Ms Thomson had not provided sufficient medical evidence for the OHP to consider. However, this did not mean that the Council should not follow the correct processes stated within the LGPS regulations. The Council did not consider whether Ms Thomson was eligible for early retirement after they terminated her employment. The Council needed to do so under regulation 27(1). Therefore the correct procedure was not followed and we asked the Council to reconsider the matter.

45. Further, the application Ms Thomson made was considered under regulation 31, however regardless of the quality of medical evidence the decision to refuse the application was made by the OHP. The Council did not reach a decision as required under Regulation 97(9).
46. Therefore for these reasons we proposed a resolution which granted both sides an opportunity to re-asses the applications by following the correct processes. This resolution settled all relevant issues that were brought. Ms Thomson had the opportunity to send any supporting medical records and the Council could obtain certificates from two independent OHP who had not reviewed the matter before the Council reached a decision whether Ms Thomson met the criteria under regulation 27 and regulation 31.
47. While the Council have spent considerable time in obtaining two opinions from two different OHPs, I do think that the Council should have given Ms Thomson an opportunity to submit any medical evidence she has which supports her applications. She says the Council only sought consent for her to release her occupational health records. She says that the OHP did not have the complete picture to reach an opinion. While there is no requirement within the regulations for the OHP to obtain medical records, regulation 97(9A) does state that the OHP must be in a position to certify and without complete medical records, the OHP cannot be in a position accurately to certify.
48. There is an argument to be made that Ms Thomson should have contacted the Council and informed them that she had medical evidence which she wanted the OHP to review before reaching an opinion. Indeed, the Council argue that Ms Thomson had ample opportunities to supply medical evidence. However the Council are referring to events before we resolved the matter. The consent that Ms Thomson wanted to give was after the resolution was agreed, and the Council should have allowed Ms Thomson to give a definitive answer. If Ms Thomson refused to supply medical evidence then the Council's position would have been reasonable, but because they did not ask, and as Ms Thomson indicates she would have consented, it raises serious questions about the accuracy of the OHP certificate.

48. I accept that, to date, Ms Thomson has so far been somewhat evasive about whether she will or will not share her records. She must understand that the DWP application forms for DLA and incapacity benefit are not sufficient medical evidence for LGPS purposes. If Ms Thomson continues to submit this as her medical evidence, then there is nothing further to be gained by asking the Council and OHP to review the matter.
49. But, as Ms Thomson has indicated that she is now prepared to release medical evidence from her treating physicians and GP and records held by the NHS I consider Ms Thomson should be given one further opportunity to give her written consent within a strict time period. This will allow a truly final decision to be made, rectify the failure of the Council to request records when they implemented the resolution my office proposed and allow the OHP Certificate to be conclusive. So I will direct the Council to contact Ms Thomson and grant her 21 days to provide written consent in a form required by the Council for her medical records to be released from her GP and other physicians (including the NHS). If Ms Thomson does not give written consent to full release of all her records within 21 days then there is nothing further that the Council can do and then the decisions reached after the resolution will stand.
50. Assuming that Ms Thomson provides consent and her records are released, the Council will ask an independent OHP with no prior involvement – if none available then seek instructions from the Administering Authority as to whom they may engage with – to review whether in their opinion Ms Thomson met the criteria for deferred benefits, under regulation 31, to be released on grounds of ill-health from 2010 onwards.
51. If the medical records have a wide reaching retrospective scope and cover 2005 or before, then the Council should satisfy themselves as to whether Ms Thomson met the criteria for ill-health retirement from active service, under regulation 27. The Council will need to obtain another opinion from a different OHP about the likelihood of Ms Thomson being permanently incapacitated in 2005 when her employment ceased.

52. On both occasions, once the OHP's opinions have been received the Council will need to issue their decision to Ms Thomson. The decision must satisfy the criteria mentioned under regulation 97 and 98. The Council will need to assess the opinions and ask the right questions in order to test the strength of the opinions before reaching their own decision. Once they reach their own decision, they will notify such to Ms Thomson in writing.
53. Ms Thomson made an application for her pension to be released early without reduction because of compassionate grounds. Regulation 31(5) says that the Council "may" pay an unreduced pension due to compassionate reasons. So the benefit is of a discretionary nature. The Council has a policy in place and initially Ms Thomson said that the Council did not consider it correctly.
54. The Council's policy to release a pension on compassionate grounds has a two limb test. These are,
- "Applications for the payment of unreduced benefits on the grounds of compassion will be granted if
- In **THE EMPLOYERS** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- THE EMPLOER** can meet the cost of granting such a request."
55. The Council presented a summary to the panel. The panel considered the financial information presented which included the benefits Ms Thomson was receiving and her financial commitments. Further they considered her care commitments.
56. The nature of compassionate benefits is that they are discretionary. The Panel's reasons were that they did not consider the circumstances surrounding the application to warrant release of the pension plus the Council did not want to meet the cost of paying unreduced pension. Further there was a tax implication that the Council did not want to meet either.
57. Cost was one factor and the panel did consider Ms Thomson's financial and care responsibilities. Taking into account her evidence and whether the Council will agree to meet the cost they could not agree to release the pension on

compassionate grounds. As they considered the application in line with their own policy and gave Ms Thomson detailed explanation the decision reached by the panel on behalf of the Council was not perverse.

58. It follows that I will not ask the Council to review their decision on compassionate grounds. If Ms Thomson's financial circumstances and care duties change in the future, the Council should consider any future application a fresh.

## **Directions**

59. Within 28 days of this Determination, the Council will send Ms Thomson a statement for her to sign to agree to allow the Council to access all her medical records. If the Council do not receive written consent from Ms Thomson to release her medical records 21 days after the Council's letter is received by Ms Thomson (and it is for the Council to decide how to evidence Ms Thomson has received their letter); then the Council will not be obliged to reconsider her case. If Ms Thomson gives consent then the Council will reconsider afresh her application for deferred pension benefits to be released on grounds of ill-health under regulation 31 from 2010 onwards, once the medical evidence has been supplied.
60. If the medical evidence covers events leading to 2005, then the Council will also reconsider afresh whether Ms Thomson met the criteria for ill-health under regulation 27.
61. For each occasion the Council will obtain an opinion from an independent OHP and the Council upon receipt of the opinion will issue their decision within 21 days.
62. If no consent to release medical records is received from Ms Thomson within 28 days of this Determination, then the Council may withdraw the offer to consider the matter again, but if new medical evidence is supplied the Council will need to consider the matter under regulation 31 from the date of any new application.
63. I usually award a small sum of compensation be paid for distress or inconvenience where I decide that an ill-health application requires to be reviewed. I am not directing payment of compensation to be paid to Ms Thomson for inconvenience because in my view she has not been as helpful as she might have been in

ensuring the Council had all the information they require to determine her case finally.

**Jane Irvine**

Deputy Pensions Ombudsman

9 February 2015





## Appendix

### Local Government Pension Scheme Regulation 1997

#### 27 Ill-health

(1) Where a member leaves a local government employment by reason of being permanently incapable of discharging efficiently the duties of that employment or any other comparable employment with his employing authority because of ill-health or infirmity of mind or body, he is entitled to an ill-health pension and grant.

(2) The pension and grant are payable immediately.

(5) In paragraph (1)-

"comparable employment" means employment in which, when compared with the member's employment-

(a) the contractual provisions as to capacity either are the same or differ only to an extent that is reasonable given the nature of the member's ill-health or infirmity of mind or body; and

(b) the contractual provisions as to place, remuneration, hours of work, holiday entitlement, sickness or injury entitlement and other material terms do not differ substantially from those of the member's employment; and

"permanently incapable" means that the member will, more likely than not, be incapable, until, at the earliest, his 65th birthday.

#### 31 Other early leavers: deferred retirement benefits and elections for early payment

(1) If a member leaves a local government employment (or is treated for these regulations as if he had done so) before he is entitled to the immediate payment of retirement benefits (apart from this regulation), once he is aged 50 or more he may elect to receive payment of them immediately.

...

(3) If the member elects, he is entitled to a pension and retirement grant payable immediately.

(4) If the sum-

(a) of the member's age in whole years on the date his local government employment ends or the date he elects, if later,

(b)of his total membership in whole years, and

(c)in a case where he elects after his local government employment ends, of the period beginning with the end of that employment and ending with the date he elects,

is less than 85 years, his retirement pension and grant must be reduced by the amounts shown as appropriate in guidance issued by the Government Actuary (but see paragraphs (5) and (6) and regulation 36(5) (GMPs)).

(5)A member's appropriate employing authority may determine on compassionate grounds that his retirement pension and grant should not be reduced under paragraph (4).

...

(6)If a member who has left a local government employment before he is entitled to the immediate payment of retirement benefits (apart from this regulation) becomes permanently incapable of discharging efficiently the duties of that employment because of ill-health or infirmity of mind or body-

(a)he may elect to receive payment of the retirement benefits immediately, whatever his age, and

(b)paragraphs (2) and (4) do not apply.

## **97 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.

...

(9)Before making a decision as to whether a member may be entitled under regulation 27 or under regulation 31 on the ground of ill-health or infirmity of mind or body , the Scheme employer must obtain a certificate from an independent registered medical practitioner who is qualified in occupational health medicine as to whether in his opinion the member is permanently incapable of discharging efficiently the duties of the relevant local government employment because of ill-health or infirmity of mind or body.

(9A)The independent registered medical practitioner must be in a position to certify, and must include in his certification a statement, that-

(a)he has not previously advised, or given an opinion on, or otherwise been involved in the particular case for which the certificate has been requested; and

(b) he is not acting, and has not at any time acted, as the representative of the member, the Scheme employer or any other party in relation to the same case.

(10) If the Scheme employer is not the member's appropriate administering authority, before referring any question to any particular registered medical practitioner under paragraph (9) the Scheme employer must obtain the approval of the appropriate administering authority to their choice of registered medical practitioner .

...

(14) In paragraph (9)-

(a) "permanently incapable" has the meaning given by regulation 27(5), and

(b) "qualified in occupational health medicine" means holding a diploma in occupational medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA State (which has the meaning given by the European Specialist Medical Qualifications Order 1995) or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State.

## **98 Notification of decisions under regulation 97**

(1) Every person whose rights or liabilities are affected by a decision under regulation 97 must be notified of it in writing by the body who made it as soon as is reasonably practicable.

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

(3) A notification of a decision as to the amount of a benefit must include a statement showing how it is calculated.

(4) Every notification must contain a conspicuous statement giving the address from which further information about the decision may be obtained.

(5) Every notification must also-

(a) refer to the rights available under regulations 100 and 102,

(b) specify the time limits within which the rights under those regulations may be exercised, and

(c) specify the job title and the address of the person to whom applications under regulation 100 may be made.

## **Wakefield Council – Early Payment of Deferred Benefits**

### **2. Compassionate grounds**

#### **2.1 Process**

The ex-employee is asked to provide financial and other information to back up their request. This information is then considered by a panel (Pensions Manager/HR consultant) and approval sought from the relevant services DMT/Corporate Director, if required.

#### **2.2 Cost**

In most cases there will be an early payment cost associated with these cases (akin to the early payment costs for VER/redundancy cases). However, at the present time the West Yorkshire Pension Fund (WYPF) will not make any requests for recovery of early payment costs in these circumstances, with any costs being picked up via the valuation process.

#### **2.3 Consideration of Applications**

Applications for the payment of unreduced benefits on the grounds of compassion will be granted if

- In **THE EMPLOYERS** sole opinion, the special extenuating circumstances surrounding the application, along with the supporting evidence provided justify approval and
- **THE EMPLOER** can meet the cost of granting such a request.