

Scheme Advisory Board

Meeting of the Board 21st September 2015

ITEM 7 PAPER [H] Annex 1

Ill Health – preferred options for recommendation from the Administration and Communications Sub-Committee and update

Background

The shadow Scheme Advisory Board (SSAB) – now the Scheme Advisory Board (SAB) - agreed that developing recommendations on a revised ill health retirement process, including a more effective appeals procedure, was one of the top priorities for administration.

The Administration and Communications Sub-Committee (ACSC) have considered the options for change over their past meetings, and GAD were subsequently commissioned to do a piece of work to cost both the proposals for change and the cost of the options to make savings, the intention being that any changes would be within the current cost of ill health provision. These options were presented to, and considered by, the ACSC at their meeting of 28 July 2015.

Current Ill health benefit structure

Qualification

A member who has met the two year scheme vesting period and

Gate 1: *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,*

and

Gate 2: *as a result of ill-health or infirmity of mind or body, is not immediately capable of undertaking any gainful employment*

will receive one of the ill health benefits as follows:

Tier 1

If the member would not be able to undertake gainful employment prior to Normal Pension Age (NPA) (s)he receives an immediate unreduced pension and an enhancement based on 100% of the pension accrual that could have been achieved to NPA (based on assumed pensionable pay and the main section accrual rate).

Tier 2

If the member would be able to undertake gainful employment more than three years after retirement, but prior to NPA, (s)he receives an immediate unreduced pension and an enhancement based on 25% of the pension accrual that could have been

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achieved to NPA (based on assumed pensionable pay and the main section accrual rate)

Tier 3

If the member would be able to undertake gainful employment less than three years after retirement they receive an immediate unreduced pension. Payment of these benefits will be stopped after 3 years, or earlier if the member is in gainful employment or has become capable of such employment

Issues with the current structure

The ACSC consider that the current three tier ill health benefit structure is the cause of the majority of IDRPs and Pension Ombudsman cases, due to its overly complex nature and inconsistent application, resulting in the dissatisfaction of scheme members. Also, members who are permanently incapable of doing their own jobs, but who are immediately capable of gainful employment, do not receive an immediate pension, but rather deferred benefits. This three tier system, plus deferred benefits, is unique amongst public sector schemes. Indeed it is unique within the LGPS, as it does not apply in Scotland or Northern Ireland. It also presents an administrative burden to employers and administrators. For all of these reasons, the removal of the third tier was costed.

Options for change to the benefit structure

The removal of the third tier was considered alongside both the current two gate option and also with the removal of gate 2.

After consideration of the cost it was agreed by the ACSC to put forward the following preferred options for consideration by the Scheme Advisory Board

Preferred option 1 – To remove the third tier of Ill Health and replace this with a permanent benefit
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And

Preferred option 2 – To remove the second gate, ie. the assessment of whether or not someone is capable of other gainful employment.

Adopting both of these options would incur additional scheme costs of 0.09% of pay which would have to be offset in one of the following ways.

Options to offset costs

The ACSC considered the options that had been costed to make the appropriate savings necessary to ensure that the adoption of options 1 and 2 was cost neutral.

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The options considered were:

- a) To reduce the ill health enhancement for Tier 1 benefits
- b) To reduce the enhancement for both the Tier 1 and Tier 2 benefits proportionally
- c) To move to a 5 year qualifying period for enhanced benefits.

Other options - the abatement of ill health pensions upon re-employment in the public sector and just reducing the ill health enhancement for Tier 2 benefits, were deemed by the ACSC as respectively, not material (a minimal saving based on the GAD estimate for re-employment), and not feasible (due to the relatively low number, and therefore cost, of Tier 2 benefits) so were not considered further.

The ACSC believed the 5 year qualification period was the most desirable option – in that it rewarded longer scheme membership, it was simple and covered the cost completely (through a saving of 0.10% of pay).

It was not agreed how the 5 years would be made up but the GAD costings were initially requested on the basis of 5 years of LGPS service being required. Agreement on the calculation of the 5 year period would have to be reached and, if this deviated from the original criterion of LGPS service being used, costed before any changes could be made to the scheme.

Preferred option 3 – The introduction of a 5 year service qualification period for enhanced benefits.
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Summary of proposed ill health benefit structure

The options, if implemented by regulation, would result in a more straightforward ill health benefit structure as follows:

A member who meets the two year scheme vesting period whose employment is terminated by their employer on the grounds of ill health with an Independent Medical Practitioner (IRMP) certifying 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*, would receive immediate payment of unreduced benefits.

If the member also meets the five year requirement for enhancement they would receive either:

Tier 1: Receive an enhancement based on 100% of the pension accrual that could have been achieved to NPA (based on assumed pensionable pay and the main section accrual rate) if they would not be able to undertake gainful employment prior to NPA

Or

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Tier 2: Receive an enhancement based on 25% of the pension accrual that could have been achieved to NPA (based on assumed pensionable pay and the main section accrual rate) if they were only permanently incapable of doing their own jobs.

Action for Board - The Board are asked to consider if the above options (1, 2 and 3) should be put as recommendations to the Secretary of State subject to consultation with employers and members.

Matters for further consideration by the ACSC

Ill Health decisions

The ACSC discussed a number of options in relation to the making of the ill health decision – including the change of the responsibility for the ill health retirement decision from the employer to the administering authority and the possibility of using a central IRMP medical panel for ill health decisions.

The ACSC will be requesting views in respect of the making of ill health decisions from administering authorities and employers as part of its consideration of the Internal Disputes Resolution Procedure and it is intended to discuss this at the next meeting and report any preferred options back to the Board.

Action for Board: The Board are asked to note this item

Time Limit on pay reduction protection (trial periods)

Currently if, following a subsequent ill health retirement or death in service, the IRMP certifies that the reduction in pay is due to the original ill health condition the reduction in pay can be ignored. There is no time limit on this, which means a member may take a reduction in hours, become capable of again working normal hours but choose to continue working the reduced hours, retire on health grounds many years later and have assumed pensionable pay calculated as if there had been no reduction in pay.

A suggestion had been put forward that the protection should only apply if the ill health retirement or death in service occurred within 12 months of the original pay reduction (or such longer period as the employer might allow).

The ACSC discussed this but the question arose as to whether this fell under the Terms of Reference for the Sub-Committee. This item was therefore deferred, pending an examination of the ACSC's terms of reference.

[Update: the remit of the ACSC was found to include:

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“To consider changes to the benefit, administration and transitional regulations in order to improve the clarity and administrative effectiveness of those LGPS regulations.

To make recommendations to the Board on proposed changes and responses to DCLG and other relevant consultations.”]

Action for Board: The Board is asked to clarify if it wishes the ACSC to further consider this matter

Deferred criteria

The other savings option set out in the GAD costings – to increase the deferred member’s ill health criteria from the current test to the more stringent HMRC test for serious ill health would not provide meaningful savings – therefore the ACSC did not consider this option further.

Abatement

Although the option to abate ill health pension on re-employment would not provide meaningful savings to the Scheme (based on GADs estimate of 1% of ill health retirees re-joining), it is recognised that the potential savings are not the only consideration. It had been previously stated that the DCLG minister’s policy intention is to abate if pensioner members become re-employed in the public sector. If there are any proposals to so abate, these could be considered at that time.