

Pensions

making...ill-health benefits...easier

a "making it easier" guide to pensions law for trustees and employers

Introduction

The benefits which a pension scheme member will get if he can no longer work because of ill-health will depend upon the rules of the scheme. Some schemes will provide different levels of benefits depending upon the seriousness of the member's illness and what work he may be capable of doing in the future.

These benefits are normally only payable if the member is in pensionable service (i.e. still earning benefits in the scheme). Even though the member may receive an ill-health pension before he reaches retirement date, these benefits are often not reduced to take account of early payment.

Some companies provide their ill-health benefits through an insurance company rather than the pension scheme. These are known as Permanent Health Insurance Schemes. The insurance company will decide what benefits (if any) are payable according to the member's circumstances.

10 steps to paying ill-health benefits

1. There are a variety of ways of calculating ill-health pensions. Trustees should make sure they **understand what benefits the rules provide** and in what circumstances. The test in the scheme rules may contain several elements, and it is important not to overlook any of them.
2. Trustees must **be clear about the process** for dealing with ill-health cases. In some schemes the rules say the employer must consent to the payment, and in others the trustees have the discretion to agree to the pension. Sometimes both employer and trustees will be involved.
3. Trustees need to **investigate the member's circumstances**, gathering facts and evidence relating to the member's application. This may include details about the demands of the member's job. The trustees will also need appropriate medical evidence from a registered medical practitioner.
4. It is important that the medical practitioner understands **what medical advice is required**. For example, the trustees may need a medical opinion about the member's fitness for work or about whether the illness is likely to be permanent. However, it is unusual for the rules to require a doctor to decide whether an ill-health benefit should be granted. Although it may be in the member's medical interests to retire, this may not be relevant to a decision about whether the scheme rules allow an ill-health benefit to be paid.

Pensions law can be tricky... but it doesn't have to be. These 'making it easier' guides explain key issues in simple terms, giving practical help to trustees and employers.

The series is growing; additional copies can be downloaded from www.pinsentmasons.com/pensions.

Current topics include:

- Scheme changes
- Death benefits
- Using advisers

Comments and ideas for further topics are welcome...

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5. The **member must consent** to any medical examination and to allow the medical practitioner to provide any information obtained to the trustees. Trustees should obtain this consent from the member at the beginning of the ill-health application.
6. Trustees will need to **consider whether to obtain additional medical evidence** if the evidence is inconsistent, or if it does not help the trustees to decide whether the test in the scheme rules has been met.
7. Trustees should **give the member the opportunity to comment** on the medical evidence offered about him before they make a decision.
8. Trustees usually need to **give reasons** for their decisions. These should be carefully worded so as not to infringe the right to privacy of ill-health applicants.
9. HM Revenue & Customs allow a pension to be paid as a single lump sum if the member is not expected to live more than a year. Serious illness can take anyone by surprise. Trustees should have a process in place so that they can **act quickly if the circumstances demand it**.
10. Scheme rules often allow trustees to **review ill-health pensions** at a later date. Trustees should make sure that members are told that the pension can be reduced, or even suspended, if the member's condition improves.

Further reading

"How to avoid the Pensions Ombudsman" contains some very useful pointers:

<http://www.pensions-ombudsman.org.uk/Publications/docs/HowToAvoidThePO.pdf>

The Pensions Advisory Service (TPAS) publishes:

<http://www.pensionsadvisoryservice.org.uk/dealing-with-complaints/ill-health-retirement>

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Should you have any questions please contact your usual Pinsent Masons adviser who will be able to assist you further.

This note does not constitute legal advice. Specific legal advice should be taken before acting on any of the topics covered.

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