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III Health Regulations Policy



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1. POLICY STATEMENT

This statement is prepared in accordance with the regulations of the new Local Government Pension Scheme (LGPS) that came into effect on 1 April 2008, which require each LGPS employer to formulate and record its Policy on Ill Health Retirement.

The Policy will be reviewed periodically and if following a review, it is determined that the Policy needs to be altered, and then a statement of the amended Policy will be published.

When formulating and reviewing the Policy, due regard will be taken to the extent to which the exercise of discretionary powers (in accordance with the Policy), unless properly limited, could lead to a serious loss of confidence in the public service and is satisfied that the Policy is workable; affordable and reasonable having regard to the foreseeable costs; has regard to service delivery needs and recognises the need for consistency, fairness and equity in employee relations.

The Scheme will apply to the following groups of employees:

- JNC for Chief Executives
- JNC for Chief Officers
- NJC for Local Government Services
- JNC for Craft and Associated Employees
- Employees under Soulbury terms and conditions (who are not members of the Teachers Pension Fund)
- JNC Youth & Community Workers (who are not members of the Teachers Pension Fund)

Implementation of Policy Statement

The revised scheme came into operation on the 1st April 2008 and will continue in force until such time as the Council resolves that it should be discontinued or amended.

This Policy Statement or its scheme cannot override the statutory provisions of the Local Government Superannuation Acts, or any other relevant legislation or regulations.

2. THE NEW LOOK ILL-HEALTH RETIREMENT PENSION PROVISIONS

Under Regulation 20 of the LGPS, the employer (in this case Rhondda Cynon Taf Council), is required to consider and decide a number of questions before entitlement to an ill-health retirement benefit under that regulation can be paid. These include:

- Is the length of total LGPS membership at least three months (Regulation 5)

- Will the employment be terminated on the grounds that the employee's ill health or infirmity of mind or body, renders them permanently incapable of discharging efficiently the duties of their current employment (Regulation 20(1)(a));

Under Regulation 20(5) the Council is required to obtain a certificate from an Independent Registered Medical Practitioner (IRMP) qualified in occupational health medicine (see Appendix 1). In line with the requirements of the certificate, the Council will need to complete **Section 1 of the certificate** and, if applicable, confirm whether or not the employee's contractual hours have been reduced as a result of their ill health or infirmity of mind or body. On receipt of the certificate, the IRMP will determine if the answers to the two questions in paragraph 1 above are in the affirmative by completing **Section 2 of the certificate**.

If the IRMP certifies that in their opinion, the **employee is not permanently incapable (by ticking box B)** of discharging efficiently the duties of his/her normal occupation by reason of ill health or infirmity of mind or body, then the matter will be referred back to the employing service area for a decision to be made on the employee's continued employment (please refer to Council's Sickness Absence Procedure).

If the IRMP certifies that the employee **is permanently incapable (by ticking box C)** of discharging efficiently the duties of his/her normal occupation by reason of ill health or infirmity of mind or body then there maybe an entitlement to payment of an ill-health benefit.

If **Box C** is ticked, then the IRMP will further **certify/ not certify** if the employee has a reduced likelihood of obtaining gainful employment (whether in local government or elsewhere) before their normal retirement age by ticking box D or E.

If **Box D** is ticked, then there is **no** entitlement to an ill health pension and the Council will terminate the employee's contract by reason of **permanent ill health** in their current role, from the date they were seen by the IRMP.

If **Box E** is ticked, then there is an entitlement to an ill health benefit and the IRMP will make a further determination as to which level of ill health benefit will apply. **In this case the employee's contract will then be terminated by reason of permanent ill health in their current role, from the date they were seen by the IRMP.**

3. ILL HEALTH TIERS

If **Box E** has been ticked, then the Council will require the IRMP to determine which of the following three tiers (statements) will apply.

Statement 1 (Tier 1) - the employee will be entitled to immediate payment of accrued pension benefits with the highest level of enhancement (100% of prospective membership to age 65).

Statement 2 (Tier 2) - the employee will be entitled to immediate payment of accrued pension benefits with the lower level of enhancement (25% of prospective membership to age 65).

Statement 3 (Tier 3) - the employee will be entitled to immediate payment of accrued pension benefits **WITHOUT** enhancement, reviewable after 18 months as it is likely that this employee will be able to obtain gainful employment within three years of leaving his/her employment (gainful employment” means paid employment for not less than 30 hours in each week for a period of not less than 12 months).

4. PART TIME EMPLOYEES

Section 3 of the certificate **ONLY** relates to part time employees and is to be completed by the IRMP. They must decide whether the employee has reduced their contractual hours as a result of their medical condition. This decision will affect the level of enhancement that an employee will receive.

5. EMPLOYEE APPEAL RIGHTS

If the appeal is against their ill health termination then please refer to the Council’s Sickness Absence Policy for appeal rights. If the appeal is against the level of ill health retirement benefit that was awarded i.e. 2nd or 3rd tier or if no benefits were awarded at all then the employee may appeal against this decision via the Internal Dispute Resolution Procedure (IDRP) (**see flowchart Appendices 3 & 4 below**).

Any appeal against the decision is required within 6 months of the date of the original decision. Currently, the regulations do not provide for appeals before a member’s employment is terminated where an ill health retirement pension is not awarded.

6. THE REVIEW MECHANISM

Under regulation 20(7)(a), the Council will undertake a review when 3rd tier payments have been applied. A 3rd tier benefit is an interim pension until the member returns to other work and is not payable if gainful employment is found. The Council will check the 3rd tier member's employment status where payments have continued for 18 months.

Payments will stop if gainful employment has been obtained and the Council will notify the administering authority that payments should be discontinued. If it were found that the member is not in gainful employment at the review, a further medical judgement would be needed (see Appendix 2). If the IRMP ticks **Box A**, then the Council would be able to decide to award an enhanced 2nd tier benefit from the date of the medical decision (**there is no provision to make a determination for a 1st tier payment at the review or a subsequent occasion**).

If the IRMP ticks **Box B**, then they are further required to confirm either:

- i) This person is currently capable of obtaining gainful employment (**Box 1**)
or
- ii) This person is not currently capable of obtaining gainful employment but is likely to be capable of doing so within three years of the date of leaving their former employment (**Box 2**). The IRMP will also indicate a further review date of the case, which will be less than three years after the date of leaving the former employment.

If **Box 1** is ticked then the benefits will be stopped from the date certified by the IRMP. If **Box 2** is ticked then the 3rd tier payments will continue following the 18-month review up to the end of the three-year period.

At the end of the three year period, regardless of whether gainful employment has been found or not, then the 3rd tier payments **will cease** as a 3rd tier pension is a short term benefit to provide financial assistance until such time as gainful employment **can be, or is, found**. It is not the intention that a member, whose medical condition requires payments beyond three years, should remain a 3rd tier member and similar to the initial 18 month review, the employer has powers to **consider** awarding an enhanced 2nd tier pension at the end of the 3 year period.

N.B. If the Council has written to a member at the review stage with no response, then the Council will check whether a change of address notification has been received by the Pensions Section.

If despite reminders, there is still no response from the member, then the Council considers it reasonable to cease payments until the employment position has been clarified.

The flowchart at **Appendix 5** highlights the process that will be followed.

7. RETURN TO GAINFUL EMPLOYMENT

An employee who is paid under the provisions of Tier 3 is required to notify the Council when employment is found - providing details, including the pay and working hours of that employment.

The Council will consider the details regarding employment and, if it decides this is gainful employment in accordance with the appropriate regulations, payments will cease. If payments have continued when gainful employment has been found, the Council has powers to recover any overpayment.

If an employee has their 3rd tier pension benefits suspended on the grounds that they had obtained, or had become capable of obtaining, gainful employment within 3 years of the date of cessation; then they can request a further review (within 3 years of the date of cessation of employment) claiming that their position has changed and they are no longer capable of obtaining gainful employment within 3 years of the date of cessation.

8. STATUS OF TIER 3 LGPS MEMBER WHEN PAYMENTS CEASE

Under Regulation 20(9), if the Council determines to stop payments under the mechanisms of either paragraph 5 or 6 above, then the 3rd tier member whose benefits are stopped, becomes a 'a pensioner member with deferred benefits', and they are not eligible to receive 3rd tier payments in respect of any future period.

9. TIER 3 LGPS MEMBER RETURNING TO LOCAL GOVERNMENT

Regulation 20(10) requires that when benefits are stopped and the 3rd tier member subsequently becomes an active member of the LGPS, the earlier period of membership that 3rd tier benefits were paid upon **is not** aggregated with the later active membership.

10. SPECIAL CONSIDERATIONS

Treatment of those aged 45 before 1 April 2008 - 1st and 2nd tier determination

Protection is given for an employee who was both a member and aged 45 before 1 April 2008, and where there is entitlement to enhanced ill health retirement benefits (i.e. a 1st or 2nd tier award). This protection means that the member should be in no worse a position than they would have been had the 1997 Regulations applied and the conditions of that regulation were met. The Council will be required to establish entitlement under the 1997

regulations and the 2007 Benefit Regulations as amended, and award the greater of the benefits.

Employee reduces their hours because of the ill health condition, which results in ill health retirement

If the IRMP certifies that the reduction in hours is as a result of the condition that causes them to be permanently incapable of the relevant local government employment and have a reduced likelihood of obtaining gainful employment, the employer can make a determination, and the ill health pension will be calculated based on accrued service with no reduction in service because of the reduction in hours; this applies to past service and, where appropriate, any future service enhancement for a 2nd or 1st tier award.

If an employee who, is employed at the outset on a part time basis because of an ill health condition, further reduces their hours as a result of that ill health condition, and this is certified to be the case by an IRPM, then again, no account is taken of that further reduction when calculating an ill health retirement award.

APPENDIX 1



SECTION 1 - Member's Details (to be completed by the Employer)

Name of Member			
Employing Authority			
National Insurance Number			
Department & Post			
Date of Birth			
A	Has the member reduced his/her hours of work due to their current medical condition?	Yes	No
	If Yes, please specify the date that the member reduced their hours of work?	

SECTION 2 - Medical Practitioner's Certification (Please tick Box B or C)

B	I certify that in my opinion this employee IS NOT permanently incapable* of discharging efficiently the duties of his/her normal occupation by reason of ill health or infirmity of mind or body.	
OR		
C	I certify that in my opinion this employee IS permanently incapable* of discharging efficiently the duties of his/her normal occupation by reason of ill health or infirmity of mind or body.	
IF BOX C IS TICKED PLEASE TICK BOX D or E		
D	I certify that in my opinion the employee, as result of the condition DOES NOT have a reduced likelihood of obtaining gainful employment** before age 65.	
OR		
E	I certify that in my opinion the employee, as result of the condition DOES have a reduced likelihood of obtaining gainful employment** before age 65.	
IF BOX E IS TICKED PLEASE TICK BOX 1, 2 or 3		
1	I certify that in my opinion there is no reasonable prospect of this employee obtaining any gainful employment** before age 65.	
2	I certify that in my opinion this employee cannot obtain gainful employment** within three years of leaving his/her employment, but it is likely that he/she will be able to obtain gainful employment** before age 65.	
3	I certify that in my opinion it is likely that this employee will be able to obtain gainful employment** within three years of leaving his/her employment.	

SECTION 3 – Medical Practitioner’s Certification for Part-Time Service (ONLY complete if Box A and Box 1 or 2 is ticked)

D	I certify that in my opinion this reduction IS wholly or mainly a result of the condition causing his/her incapacity.	
E	I certify that in my opinion this reduction IS NOT wholly or mainly a result of the condition causing his/her incapacity.	

SECTION 4 – Medical Practitioner’s Declaration

I certify that I have not previously advised, or given an opinion on, or otherwise been involved in the case to which this certificate relates nor am I acting or have I ever acted as the representative of the employee, the Scheme employer or any other party in relation to this case.	
Signature	
Print Name	
Qualifications	
Date	

Notes of Guidance

The key questions that will determine whether immediate benefits are payable when a Scheme member leaves an employment for health reasons and their level and duration are:

- Should the employment be terminated on the grounds that the person's ill health or infirmity of mind or body renders him "permanently incapable" of discharging efficiently the duties of that employment? *and*
- What is the likelihood of the person being capable of undertaking other "gainful employment" either within three years of leaving local government employment or before age 65?

In addressing both these questions, Employers need to obtain an opinion from an approved Independent Registered Medical Practitioner (IRMP) qualified in occupational health medicine. Employers are responsible for the provision of information to the Occupational Health Practitioners regarding the requirements of the employee’s normal job, details of sickness absence and other relevant information.

Definitions

***Permanently Incapable** means that the member will, more likely than not, be incapable until, at the earliest, their 65th birthday.

****Gainful Employment** means paid employment for not less than 30 hours in each week for a period of not less than 12 months

Completing the Certificate

Section 1 must be completed by the Employer and identifies the employee concerned, his/her current occupation, and whether a part time employee has reduced his/her hours of work due to their current medical condition.

The first part of **Section 2** requires the IRMP to give an opinion on whether the employee is permanently incapable of, for health reasons, of doing his/her normal job.

The second part of Section 2 ONLY requires completion if the IRMP deems the employee to have a reduced likelihood of obtaining gainful employment by age 65. If this is the case, the third part of this section requires the IRMP to give an opinion as to **WHEN**, bearing in mind the ill health condition, the person could be capable of other gainful employment, by ticking the appropriate statement shown, which will have a bearing on the level of enhancement to be awarded to the employee.

Under **Statement 1** the employee will be entitled to immediate payment of accrued pension benefits with the highest level of enhancement (100% of prospective membership to age 65).

Under **Statement 2** the employee will be entitled to immediate payment of accrued pension benefits with the lower level of enhancement (25% of prospective membership to age 65).

Under **Statement 3** the employee will be entitled to immediate payment of accrued pension benefits **WITHOUT** enhancement, reviewable after 18 months.

Section 3 ONLY relates to part time employees and is to be completed by the IRMP. They must decide whether the employee has reduced their contractual hours as a result of their medical condition. This decision will affect the level of enhancement that an employee will receive.

If the IRMP deems that the employee's reduction in hours **WAS** as a result of his/her medical condition, the Employer is then required to complete **Section A** by noting the actual date the member reduced his/her contractual hours. The IRMP may need to confirm with the Employer whether issues other than health were relevant

The final part of the Form, **Section 4** is a declaration of independence to be completed by the IRMP.

APPENDIX 2



Medical Review Certificate for a Current 3rd Tier Pensioner

SECTION 1 - Member's Details (to be completed by the Employer)

Name of Member	
Employing Authority	
National Insurance Number	
Date of Birth	
Former Post	
Date of Cessation of Former Post	

Occupational Health Practitioners should be provided with full information about the requirements of the employee's former job and other relevant information.

SECTION 2 - Medical Practitioner's Certification (Please tick Box A or B)

A	I certify that in my opinion, having considered their ill health or infirmity, this person IS NOT likely to be capable of obtaining gainful employment* within three years of the date of leaving their former employment	
OR		
B	I certify that in my opinion, having considered their ill health or infirmity, this person IS STILL likely to be capable of obtaining gainful employment* within three years of the date of leaving their former employment	
IF BOX B IS TICKED PLEASE TICK EITHER 1 OR 2		
1	This person is currently capable of obtaining gainful employment*	
2	This person is not currently capable of obtaining gainful employment* but is likely to be capable of doing so within three years of the date of leaving their former employment. I would like to review this case on (enter date greater than 18 months but less than three years after the date of leaving the former employment)	

* Gainful employment means paid employment for not less than 30 hours a week for at least a year.

SECTION 3– Medical Practitioner’s Declaration

I certify that I have not previously advised, or given an opinion on, or otherwise been involved in the case to which this certificate relates nor am I acting or have I ever acted as the representative of the employee, the Scheme employer or any other party in relation to this case.

Signature	
Print Name	
Qualifications	
Date	

Notes of Guidance

The purpose of the form is to allow Independent Doctors to give opinions on the key questions that affect continued entitlement to ill-health benefits in terms that should enable the former employer to make a formal decision.

The person named overleaf was, at the date of cessation of their former position, certified as being, on the balance of probabilities:

- **permanently incapable** of discharging efficiently the duties of his/her employment with his/her employer because of ill health or infirmity of mind or body, and;
- although having a **reduced likelihood** of being capable of obtaining other **gainful employment** (anywhere) before age 65, it was nevertheless likely that he / she would;
- be capable of obtaining **gainful employment** within 3 years of the date of cessation of employment.

He/she was therefore awarded a short-term, reviewable, 3rd tier pension.

It is now necessary to review, in accordance with regulation 20 of the Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007, whether he/she is still capable of obtaining **gainful employment** within 3 years of the date of cessation of employment.

The certificate is in two main parts:

- The first shows details identifying the former employee concerned and his/her former occupation.
- The second part -headed "Occupational Health Practitioner's Certification" has two Boxes, A and B. These allow the Occupational Health Practitioner to give an opinion on whether, or not, the person is still likely to be capable of obtaining **gainful employment** within three years of the date of leaving his/her former employment.

If **Box A** is ticked, the former employer can determine to award an enhanced (2nd tier) ill health pension, payable from the date of their determination.

If **Statement 1** is ticked, the 3rd tier ill health pension will cease to be payable.

If **Statement 2** is ticked, the 3rd tier ill health pension will continue in payment but the case is to be referred back to the independent medical practitioner at the time indicated by the independent medical practitioner for a further review (unless the pension is stopped before then upon the person obtaining **gainful employment**).

The Independent Registered Medical Practitioner signing the certificate must have been approved for this purpose by the Pension Fund administering authority.

The independent registered medical practitioner is providing an opinion on the person's capability of obtaining **gainful employment** based solely on the effect the medical condition has on the ability to undertake gainful employment.

The independent registered medical practitioner signing the certificate does not have to be a different independent medical practitioner to the one who originally certified the scheme member's permanent incapacity at the date of leaving i.e. the same practitioner can sign this certificate too.

Qualifications

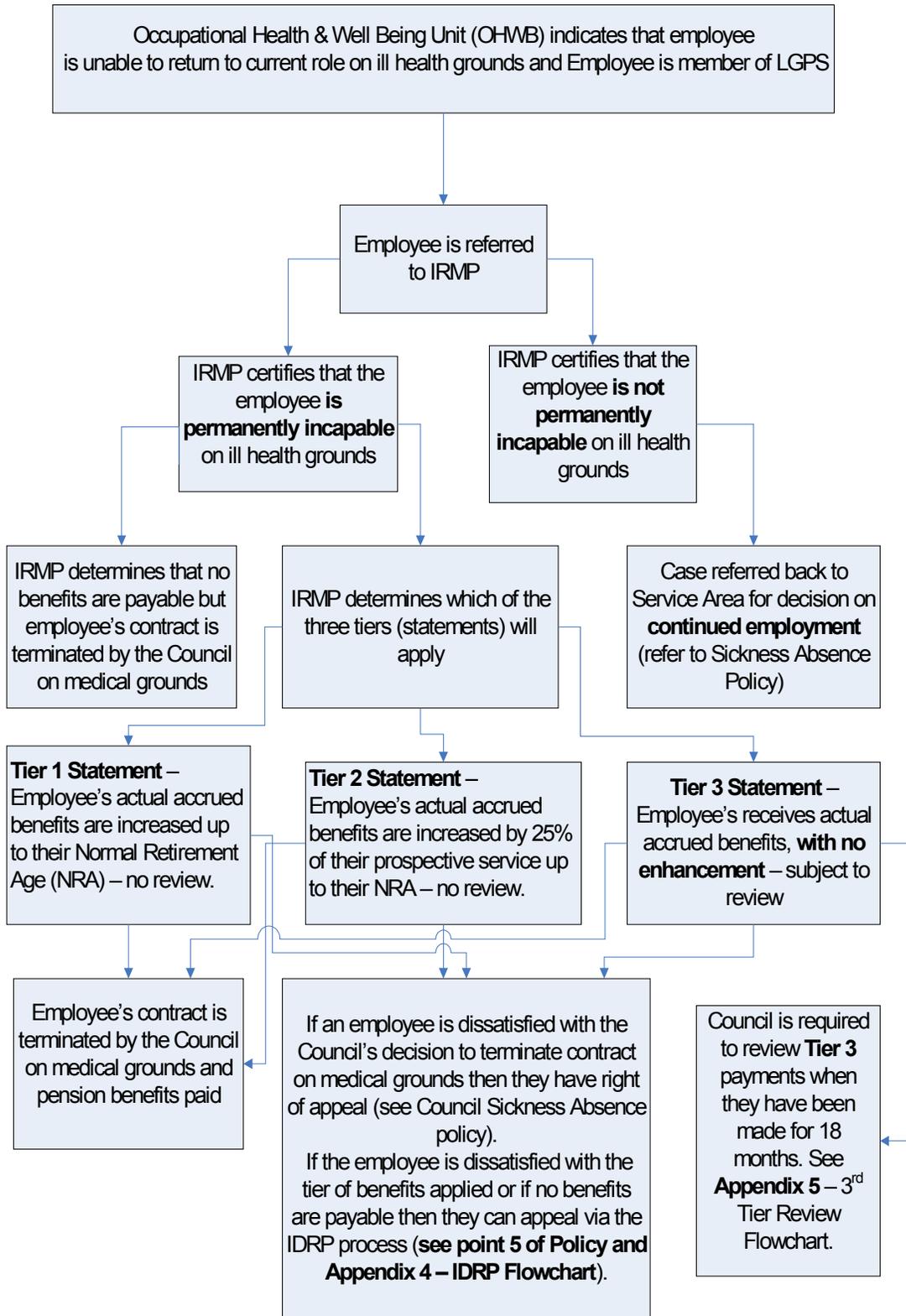
Certification under the regulations may only be provided by an independent registered medical practitioner who is qualified in occupational health medicine. This means holding one of the following qualifications:

D Occ Med -Diploma in Occupational Medicine (OM)
A.F.O.M -Associateship of the Faculty of OM
M.F.O.M -Membership of the Faculty of OM
F.F.O.M -Fellowship of the Faculty of OM

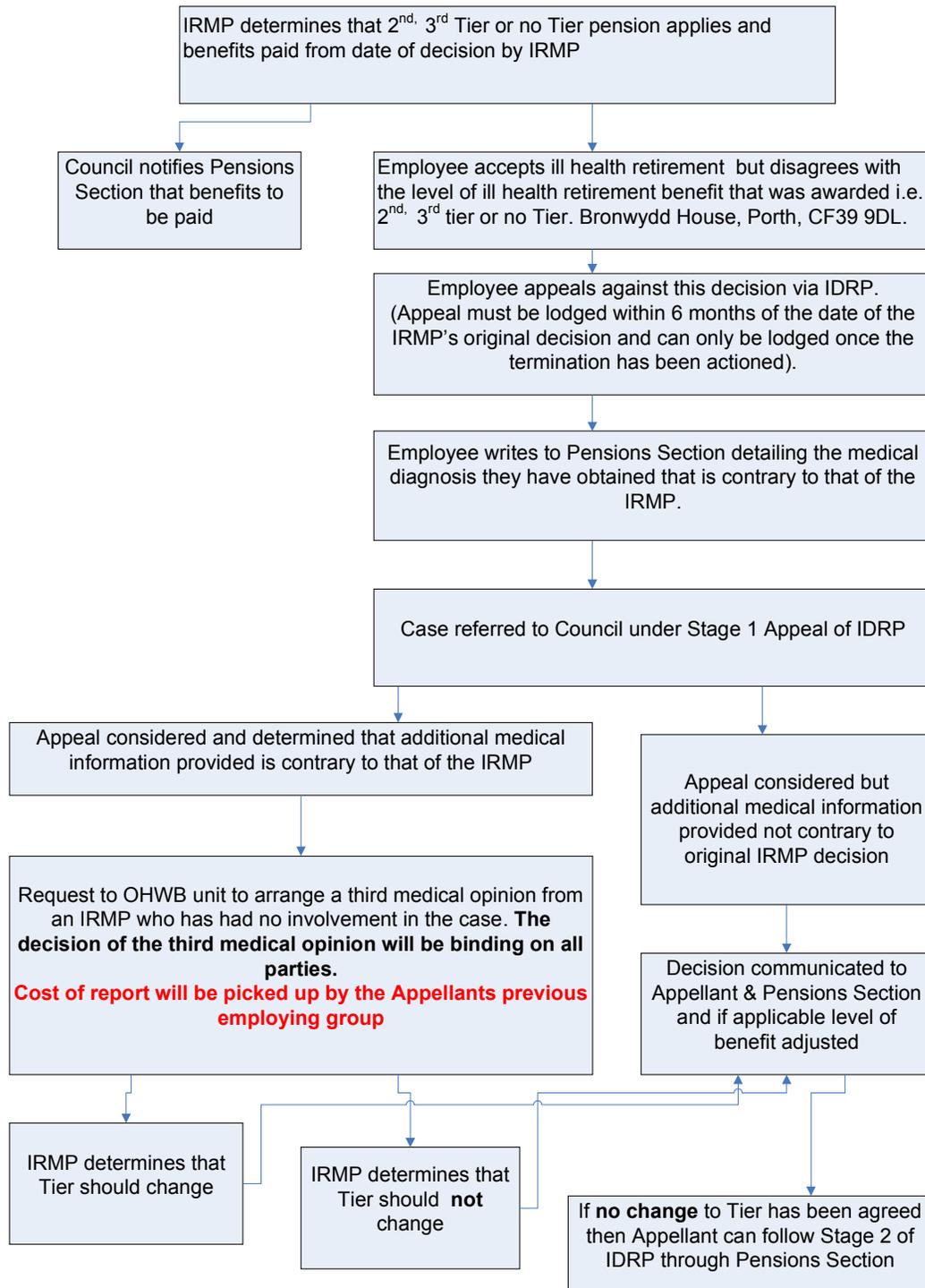
Or an equivalent qualification issued by a competent authority in an EEA State (which has the meaning given by the European Specialist Medical Qualifications Order 1995). This means holding a diploma in occupational health medicine (D Occ Med) or an equivalent.

PENSIONABLE EMPLOYEES ILL HEALTH FLOW CHART

PENSIONABLE EMPLOYEES- ILL HEALTH FLOW CHART



PENSIONABLE EMPLOYEES IDRП FLOWCHART
PENSIONABLE EMPLOYEES- IDRП FLOW CHART



PENSIONABLE EMPLOYEES 3RD TIER REVIEW FLOWCHART
PENSIONABLE EMPLOYEES-3RD TIER REVIEW FLOW CHART

