PO-17192

Ombudsman's Determination

Applicant	Mrs D
Scheme	Local Government Pension Scheme (**the Scheme**)
Respondents	Gloucestershire County Council (**the Council**)

Outcome

1. Mrs D's complaint is upheld and to put matters right the Council should reconsider Mrs D's application for ill health retirement, and award her £500 for the significant distress and inconvenience suffered.

2. My reasons for reaching this decision are explained in more detail below.

Complaint summary

3. Mrs D's complaint concerns the Council turning down her application for ill health retirement. Mrs D was originally told by the Council that her application had been accepted, however the Council then reversed its decision.

Background information, including submissions from the parties

4. In August 2012, Mrs D left her position as a higher level teaching assistant, becoming a deferred member of the Scheme. This was due to ongoing back pain, following a fall, which Mrs D says she has been suffering from for 20 years.

5. In June 2014, Mrs D applied for ill health retirement. She was referred to Dr Nash, an Independent Registered Medical Practitioner (**IRMP**), who submitted a report in July 2014. Dr Nash said that Mrs D underwent spinal decompression surgery in 2011 and had been diagnosed with spinal stenosis. She also said:

   "Mrs D is in no way fit for work at present and has remained at the same level, if not at a [sic] slightly reduced function since 2012. There are no recommendations or adjustments that could be considered to enable her to return to work".

6. In December 2014, Mrs D's GP, Dr Fletcher, wrote to the Council saying he "strongly supported" her application for ill health retirement. He said that Mrs D underwent spinal decompression surgery in 2011 and has suffered from "chronic intractable

pain, numbness and paraesthesia ever since". Dr Fletcher also stated that Mrs D had developed a depressive illness secondary to her physical illness.

7. In February 2015, Mr Crashaw, the consultant orthopaedic surgeon who carried out spinal decompression surgery on Mrs D in 2011, wrote to the Council. He explained that Mrs D had a MRI scan in January 2012, which in his view did not show any evidence of spinal stenosis.

8. Later that month, Mrs D's application was referred to an IRMP, Dr Vivian, who gave a medical opinion as to whether Mrs D was entitled to ill health retirement. It was Dr Vivian's opinion that:

   "Ms D has back pain, with no obvious pathological cause. Despite the GP's statement, there is no evidence of spinal stenosis. She has had numerous interventions, including surgery in 2002 and 2011. She responded well to the former, and gained little benefit from the latter. The orthopaedic surgeon has stated there is no benefit from physio. She has been referred to a pain clinic, but there is no evidence available that she has been seen, nor that she has completed a pain management course. She also has depression, for which she is on medication. There is no evidence of psychological interventions. The orthopaedic surgeon has stated there is no medical reason why she cannot resume her work."

   Dr Vivian concluded by saying that it was too early to say Mrs D was permanently unfit, as she had not received all appropriate treatment.

9. In March 2015, the Council wrote to Mrs D informing her that, based on her assessment with Occupational Health, she would not be granted ill health retirement benefits.

10. Mrs D appealed the Council's decision under its Independent Dispute Resolution Procedure (**IDRP**). In September 2015 Mrs D received her IDRP stage 1 decision, which upheld the appeal. Put briefly, this was on the grounds that there were a number of issues that Dr Vivian had not addressed; namely that Dr Vivian had not made it clear what further treatment could improve Mrs D's condition. The decision stated Mrs D was to be referred to a different IRMP for another assessment.

11. In February 2016, the Council wrote to Mrs D informing her that a further orthopaedic opinion would be sought.

12. In March 2016 Mrs D was sent to Mr Harcourt, a consultant orthopaedic surgeon. He said that Mrs D had pain in her back and right leg, but was relieved of these symptoms after surgery. However, the pain returned to her right leg after she underwent spinal decompression surgery in 2011. Mr Harcourt recommended to the Council that Mrs D have another MRI scan and a CT scan, as he could not give an accurate prognosis until he saw up-to date imaging.

13. In August 2016, after reviewing the new MRI and CT scans, Mr Harcourt wrote to the Council. In his letter, he said that the scans showed no obvious cause for the pain in her right leg. Mr Harcourt went on to say that there may be an issue with a screw Mrs D had fitted in her lower back from a previous surgery, but in his opinion the probability of her condition improving by removing the screw was "well below the 50% mark". Mr Harcourt concluded by saying:

    "I have left it with Mrs D that as a last ditch resort, removing her metalwork might be considered, but the probability that she would then return to us in the state prior to her original surgery is quite high, but for the time being, I am not certain that anything can be done for her."

14. The Council then referred Mrs D to IRMP Dr Pilling. In October 2016, Dr Pilling wrote to the Council with his report on Mrs D's eligibility for ill health retirement. Dr Pilling reported that he was unable to find any evidence of specific spinal damage due to the fall. He also said:

    "The report of 15/08/16 from Mr Harcourt applies here and has been reviewed. It does not indicate that there is a physical cause for her current condition".

    and

    "It is my opinion that the applicant should continue to receive support from physical therapists, pain management and rehabilitation specialists and that her depression is managed appropriately with specialist psychiatric opinion if clinically indicated. In conclusion, since the previous application for deferred benefits under the LGPS the applicant has continued to experience back pain and urinary symptoms for which no adequate physical cause can be identified. This is unusual given the profound effect that the symptoms appear to be having on her day to day living. Nevertheless, it is my view that Mrs D does not have objective evidence of permanent incapacity at this time and I am therefore unable to support the application for deferred benefits under the terms of the LGPS".

15. On 8 December 2016, Mr Rickard, a senior manager at the Council, wrote to Mrs D accepting her application for ill health retirement. A brief summary of Mr Rickard's decision is set out below:-

    - Mrs D's GP, who had a long history of treating Mrs D, believed that she had a "clear cut and unequivocal diagnosis of spinal stenosis" and that Mrs D was unable to carry out her usual employment.
    - The original IRMP certification by Dr Nash stated that Mrs D was in no way fit to work.
    - Mrs D's back had been operated on twice; whilst the first had been successful the second "did not appear to have resulted in much benefit".

- Whilst none of the specialists who had seen Mrs D could determine the exact cause of her symptoms, none of the specialists doubted the symptoms existed.

- Mr Harcourt had stated that he was not certain anything further could be done for Mrs D.

16. On 14 December 2016, the Council wrote to Mrs D saying that they were unable to take any action at that time, and were reviewing the matter.

17. In January 2017, despite Mrs D not invoking IDRP again, the Council wrote to her with an IDRP stage 1 decision stating that the Council could not grant her ill health retirement. A brief summary of the decision is set out below:-

    - Mr Rickard's decision may not have had full and proper regard to the relevant provisions of the Scheme Regulations, and Mr Rickard may not have had the necessary delegated authority to make such a decision on behalf of the Council. It was due to an administrative error that Mr Rickard was asked to reconsider Mrs D's ill health retirement application.

    - The IRMP must give an opinion to whether or not a scheme member is permanently incapable of other gainful employment. The employer "cannot agree to a request unless it has confirmation from the IRMP that the criteria for ill health retirement has been met".

    - The Council was satisfied that Dr Piling was provided with all the relevant medical information, and that he had addressed the points raised in the IDRP stage 1 decision which referred the matter back to the Council.

    - In light of the new IRMP certification and the requirements of the Scheme Regulations, it would not be lawful for the Council to grant Mrs D ill health retirement benefits.

    - It was obliged by law to follow the relevant statutory provisions of the Scheme Regulations and "may only exercise its discretion in circumstances where this is expressly permitted by the Regulation".

    - £500 was offered by the Council for the distress and inconvenience caused by the reversal of its decision. This was accepted by Mrs D.

18. Mrs D appealed the decision and requested for her complaint to be reviewed under IDRP stage 2.

19. An IDRP stage 2 decision was sent on 26 April 2017, not upholding the complaint. A brief summary of the decision is given below:-

    - The Council had considered all the relevant medical evidence and followed the relevant LGPS regulations.

- The Council was satisfied that it had followed the directions set out in the first IDRP stage 1 decision sent in September 2015.
- An individual had to be certified as permanently incapable of undertaking the duties of their former employer before ill health retirement benefits can be granted.
- The Pensions Ombudsman had issued a determination (PO-9309) which the second IDRP stage 1 decision issued in January 2017 was consistent with. The Council specifically highlighted two paragraphs from the Pension Ombudsman's determination, 19 and 24, which refer to discretionary decisions made by an employer when deciding whether or not to award early payment of deferred benefits after a Scheme member meets the criteria for ill health retirement.
- Therefore the Council was satisfied that it had correctly followed the Scheme Regulations and the Pension Ombudsman's decision
- The Council accepted that "serious errors" had occurred in Mrs D's case, but it had acted correctly in reviewing the decision, when it came to light that Mr Rickard "did not have the necessary delegated powers to make a decision" when accepting Mrs D's application for ill health retirement.

20. Mrs D did not agree with the IDRP stage 2 decision so brought the complaint to this office.

21. The relevant extracts from Dr Nash's, Dr Vivian's, Mr Harcourt's, Dr Pilling's medical reports and the relevant Scheme regulations can be found in the appendix.

Adjudicator's Opinion

22. Mrs D's complaint was considered by one of our Adjudicators who concluded that further action was required by the Council. The Adjudicator's findings are summarised briefly below:-

- The Adjudicator could not see where the Council had made a decision regarding whether Mrs D's application for ill health retirement should be granted. In the view of the Adjudicator, the Council had simply followed the opinion of Dr Pilling.
- It was unclear to the Adjudicator how Dr Pilling reached the conclusion that there was no evidence of Mrs D being permanently incapacitated, given that the presence of Mrs D's symptoms was not disputed. The Adjudicator did not agree that it could be said Mrs D was not permanently incapacitated simply because the exact cause of her symptoms could not be found.
- It was the Adjudicator's view that both Dr Pilling and the Council agreed that Mrs D was unfit for employment, so the question turned to whether she was more likely than not going to recover sufficiently before her 65th birthday. The Adjudicator

explained it was usually the case that an IRMP had identified treatment options which were more likely than not going to result in such a recovery. Dr Pilling had stated that Mrs D should continue to receive support from physical therapists, pain management and rehabilitation specialists. However, Dr Pilling did not say whether or not he believed Mrs D's condition had the chance to improve sufficiently as a result of this ongoing treatment. If the Council was going to rely on Dr Pilling's opinion, it required further clarification on this point.

- The Council had referred to the Ombudsman's determination of PO-9309, specifically paragraphs 19 and 24, in coming to its decision concerning Mrs D's ill health retirement application. The Adjudicator did not believe that the Council could use this determination when evaluating whether or not it had correctly assessed Mrs D's application. This was because the context of the determination dealt with whether or not a scheme member was entitled to ill health retirement benefits after they have met the required criteria, not whether or not an employing authority had followed the correct process when assessing an ill health retirement application.

- In light of the above, it was the Adjudicator's opinion that Mrs D's application for ill health retirement should be remitted back to the Council, and that it should pay Mrs D a further £500 for the significant distress and inconvenience she had suffered along with the fact matter should again be remitted back to the Council.

23. The Council did not accept the Adjudicator's Opinion and the complaint was passed to me to consider. The Council provided its further comments which do not change the outcome. I agree with the Adjudicator's Opinion and I will therefore only respond to the key points made by the Council for completeness.

24. The Council's reasons for why it did not agree with the Adjudicator's Opinion are set out below:-

    - Dr Nash was not an IRMP for the purpose of determining whether or not Mrs D met the criteria for ill health retirement under the Scheme Regulations, as the referral to Dr Nash was not made by Mrs D's employer.

    - The Council says that, in its IDRP 1 decision letter sent in January 2017, it clearly made a decision to decline Mrs D's ill health retirement application, and in doing so took into account a number of factors, including the need for decisions to be made by authorised officers, the legal requirements of the regulations and whether or not Dr Pilling had been provided with all of the relevant medical information. The Council does not agree that it simply followed the opinion of Dr Pilling.

    - Neither the Council nor Dr Pilling had accepted that Mrs D is currently unfit for work; this is not evident in Dr Pilling's certification nor the IDRP 1 decision sent in January 2017. The Council referred to regulatory guidance which explains that in addressing questions about permanent incapacity, consideration must

be given to when the member reaches normal pensionable age, not to immediate or present future.

- The Council says that Dr Pilling gave a medical opinion on permanent incapacity on the balance of probabilities. Provided that it is satisfied Dr Pilling has been provided with all the relevant medical evidence, it would be inappropriate for the decision maker, as a lay person, to substitute their unqualified opinion for that of Dr Pilling's.

- The Council says that no medical evidence has been provided to identify the underlying cause of Mrs D's symptoms. It says that Dr Pilling had provided some suggestions for the alleviation of these symptoms in his certification, but he did not reach an opinion that Mrs D is not permanently incapacitated on the basis that there are untried treatments. Therefore, the Council says it would not be required to make further enquiries regarding the efficacy of treatment options.

- It is the Council's position that ill health retirement can cannot be lawfully granted if an IRMP's certification does not state that the criteria for ill health retirement has been met. The Council believes that the relevant regulations, guidance and the Ombudsman's determination of PO-9309 supports its position.

Ombudsman's decision

25. The fact that Mrs D may, or may not, have been referred to Dr Nash by her employer does not mean her report cannot be considered by the Council as part of the relevant available evidence it is called upon to weigh up in coming to its decision. Dr Nash is a qualified IRMP, so her medical opinion is pertinent to Mrs D's case.

26. Put briefly, Regulation 31 states that an IRMP must give an opinion as to whether or not a member is suffering from a condition that renders them permanently incapable of carrying out their required duties under the employer and, if so, whether or not the member has a reduced likelihood of undertaking any gainful employment before reaching normal retirement age.

27. Although there is currently no confirmed diagnosis of their cause, Mrs D's symptoms are not disputed. Dr Pilling has himself stated that Mrs D's symptoms are having a profound effect on her day to day living. But he goes on to say that he does not support Mrs D's ill health retirement application because there is no objective evidence of permanent incapacity. If Dr Pilling believed that Mrs D was able to return to work, he needed to explain why, in his opinion, Mrs D was more likely than not going to recover such that she would be fit to undertake her former role; either by a natural improvement of her symptoms or by undertaking treatment which he believed would improve her condition. However, Dr Pilling simply recommended that Mrs D continued to receive the same treatment. Since the available evidence had not shown

that this treatment had so far alleviated Mrs D's back and leg pain, it is unclear why Dr Pilling believed this would help to the required extent. The Adjudicator considered that the Council should have asked him to explain why he thought the treatment was, more likely than not, going to lead to the required recovery in the future. The Council have said they consider it unnecessary to ask those questions because Dr Pilling's opinion is not based on the efficacy of future treatment options.

28. I have considered this point and my conclusion is it is impossible to conclude what Dr Pilling's reasons for his opinion are because he has not stated whether in his opinion Mrs D is permanently incapacitated or not. He has stopped at the point of saying she has not produced any objective evidence of incapacity. The Council need to obtain an opinion on that point from an IRMP and then consider whether they understand the reasons for it. It is for the Council to weigh the available medical evidence provided by the IRMPs and other medical practitioners.

29. It is apparent that the Council believes that, as long as an IRMP has been provided with all the relevant medical evidence, it is bound to follow their medical opinion. It argues that it followed the relevant regulations and came to a decision regarding Mrs D's ill health retirement application, and it would be inappropriate for an unqualified lay person to challenge the opinion of an IRMP. However, the decision maker needs to show that they have considered all the relevant evidence when deciding whether or not Mrs D's ill health retirement should be granted.

30. I agree with the Adjudicator that the Council did not make its own decision and has simply relied upon the lack of positive support expressed by Dr Pilling. It was open to the Council to prefer Dr Pilling's opinion provided that there was no cogent reason why it should not, or should not without clarification. As I have explained, clarification was required in Mrs D's case before the Council could reasonably rely on Dr Pilling's opinion. In any event, if the decision maker believed that Dr Pilling's medical opinion meant that Mrs D should not be granted ill health retirement benefits, they needed to explain why Dr Pilling's opinion was preferred over other medical evidence which would appear to support Mrs D's application for ill health retirement.

31. Under the Scheme Regulations, the decision to award ill health retirement benefits is taken in two stages. The first stage is to decide whether or not a scheme member meets the criteria for ill health retirement, which is the subject of Mrs D's complaint. The second stage is for the employing authority to exercise its discretion to award the member ill health retirement benefits.

32. I note that the third reason given for reviewing the original decision and refusing the award of benefit was non-compliance with an internal delegation. Generally speaking non-compliance with an internal delegation will not invalidate the effect of a decision by a body which has power to make it. I do not consider that compliance or otherwise with an internal delegation should have formed any part of the reason for the substantive decision notified to Mrs D.

33. Even though the Council has already awarded Mrs D £500 previously, this was offered in respect of the frustration caused by its decision to reverse the award of Mrs D's ill health retirement application. The need to bring the complaint against the substantive redecision has T caused further significant distress and inconvenience and Mrs D will now have to go through the process again.

34. Therefore, I uphold Mrs D's complaint and make a further award for distress and inconvenience.

Directions

35. Within 14 days of this determination, the Council shall pay Mrs D a further £500 for the significant distress and inconvenience she has suffered, and the fact that the matter is now being remitted back to the Council.

36. Within 21 days of this determination the Council, shall request a medical report and certification from another IRMP not previously involved as to whether Mrs D satisfies the criteria for ill health retirement under the Scheme Regulations.

37. Within 21 days of receiving the IRMP's certification, the Council shall make a decision themselves as to whether or not Mrs D meets the criteria for ill health retirement and then decide whether to exercise discretion to pay her benefits early.

38. The Council must inform Mrs D of its decision, and explain how it came to it.

Karen Johnston

Deputy Pensions Ombudsman
19 September 2017

Appendix 1

The Local Government Pension Scheme (Benefits, Membership and Contributions) Regulations 2007

39. As relevant, regulation 31 states:

"(1) Subject to paragraph (2), if a member who has left his 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 he may ask to receive payment of his retirement benefits immediately, whatever his age.

(2) Before determining whether to agree to a request under paragraph (1), an employing authority must obtain a certificate from an IRMP as to whether in the IRMP's opinion the member is suffering from a condition that renders the member permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition the member has a reduced likelihood of being capable of undertaking any gainful employment before reaching normal retirement age, or for at least three years, whichever is the sooner.

(3) In this regulation, "gainful employment", "IRMP" and "permanently incapable" have the meaning as given to those expressions by regulation 20(14)."

37. As relevant, regulation 20 states:

"(1) If an employing authority determine, in the case of a member who satisfies one of the qualifying conditions in regulation 5-

(a) to terminate his employment on the grounds that his ill-health or infirmity of mind or body renders him permanently incapable of discharging efficiently the duties of his current employment; and

(b) that he has a reduced likelihood of being capable of undertaking any gainful employment before his normal retirement age,

they shall agree to his retirement pension coming into payment before his normal retirement age in accordance with this regulation in the circumstances set out in paragraph (2), (3) or (4), as the case may be.

(2) If the authority determine that there is no reasonable prospect of his being capable of undertaking any gainful employment before his normal retirement age, his benefits are increased-

(a) as if the date on which he leaves his employment were his normal retirement age; and

(b) by adding to his total membership at that date the whole of the period between that date and the date on which he would have retired at normal retirement age.

(3) If the authority determine that, although he is not capable of undertaking gainful employment within three years of leaving his employment, it is likely that he will be capable of undertaking any gainful employment before his normal retirement age, his benefits are increased-

(a) as if the date on which he leaves his employment were his normal retirement age; and

(b) by adding to his total membership at that date 25% of the period between that date and the date on which he would have retired at normal retirement age.

(4)If the authority determine that it is likely that he will be capable of undertaking gainful employment within three years of leaving his employment, or before reaching normal retirement age if earlier, his benefits-

(a) are those that he would have received if the date on which he left his employment were the date on which he would have retired at normal retirement age; and

(b) unless discontinued under paragraph (8), are payable for so long as he is not in gainful employment.

(5) Before making a determination under this regulation, an authority must obtain a certificate from an independent registered medical practitioner qualified in occupational health medicine ("IRMP") as to whether in his opinion the member is suffering from a condition that renders him permanently incapable of discharging efficiently the duties of the relevant employment because of ill-health or infirmity of mind or body and, if so, whether as a result of that condition he has a reduced likelihood of being capable of undertaking any gainful employment before reaching his normal retirement age.

(6) A person who receives benefits under paragraph (4) shall-

(a) inform the authority if he obtains employment; and

(b) answer any inquiries made by the authority as to his current employment status, including as to his pay and working hours.

…

(7)

(a) Subject to sub-paragraph (c), once benefits under paragraph (4) have been in payment to a person for 18 months, the authority shall make inquiries as to his current employment.

(b) If he is not in gainful employment, the authority shall obtain a further certificate from an independent registered medical practitioner as to the matters set out in paragraph (5).

(c) Sub-paragraph (a) does not apply where a person reaches normal retirement age.

…

(14) In this regulation-

"gainful employment" means paid employment for not less than 30 hours in each week for a period of not less than 12 months;

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

"an independent registered medical practitioner ("IRMP") qualified in occupational health medicine" means a practitioner who is registered with the General Medical Council and-

(a) holds a diploma in occupational health medicine (D Occ Med) or an equivalent qualification issued by a competent authority in an EEA state; and for the purposes of this definition, "competent authority" has the meaning given by section 55(1) of the Medical Act 1983; or

(b) is an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA state."

Appendix 2

Medical reports

Dr Nash July 2014

38. The relevant extracts of Dr Nash's report are as follows:

"Current Health/Functional Situation

Mrs D walks with a stick and has very limited mobility. She has severe pain in her right leg and in her back. She has a right sided weakness and walks with difficulty. She can only walk for short distances, even with the stick. Functionally, she requires assistance with day-to-day activities such as washing and dressing. She unable to go shopping or perform household tasks without considerable assistance and support. There has been no improvement in her condition since 2012 and no further treatments available to her.

Fitness for work

Mrs D is in no way fit for work at present and has remained at the same level, if not slightly reduced function since 2012. There are no recommendations or adjustments that could be considered to enable her to return to work.

Future capabilities

Mrs D is not currently under any orthopaedic follow-up and there is no more that can be done to improve her functional capabilities. She should be recommended for ill-health retirement."

Mr Harcourt August 2014

39. In his letter, Mr Harcourt said:

"Mrs D has come back to me with her MRI scan and SCT scans, which have been reported as showing no nerve root impingement and no obvious cause for her right leg symptoms. Certainly, the canal is wide open and her urinary symptoms from what she describes have got no obvious foundation in her spine and it is impossible to explain these with these scan findings.

To my eye, underneath the right L4 pedicle it may be that there is a bit of healed bone overlying the pedicle screw. It is possible that originally this pedicle screw did breach inferolaterally and is irritating the dorsal root ganglion here, but I note that she has had a couple of nerve root block following her surgery to no real benefit and I suspect that the probability of giving her relief of her symptoms by removing this screw is well below the 50% mark.

I am certain that trying to replace the screw with a dynesys device would be difficult to do; the risk of subsequent loosening would be high because the screw track would be so close to the old one. I have left it with Mrs D that as a last resort, removing her metalwork might be considered, but the probability that she would then return to us in the state prior to her original surgery is quite high, but for the time being, I am not certain that anything can be done for her. I have left her with an open appointment."

Dr Pilling October 2016

40. The relevant extracts of Dr Pilling's report are as follows:

"The LGPS Disputed Decision Report prepared by Ms Christine Wray on 02/09/2015 specifically asks the reviewing independent medical practitioner to address the following:

a) Review and up to date assessment from a specialist neurosurgeon.

   "If there is any evidence of a physical cause for her current condition, the IRMP would then be in a position to give a view on whether any identified treatment could affect her employability"

   The report of 15/08/2016 from Mr Harcourt applies here and has been reviewed. It does not indicate that there is a physical cause for her current condition.

   ...

c) The IRMP should provide an opinion as to whether there are any untried treatments.

It is my opinion that the applicant should continue to receive support from physical therapists, pain management and rehabilitation specialists and that her depression is managed appropriately with specialist psychiatric opinion if clinically indicated. In conclusion, since the previous application for deferred benefits under the LGPS the application has continued to experience back pain and urinary symptoms for which no adequate physical cause can be identified. This is unusual given the profound effect that the symptoms appear to be having on her day to day living. Nevertheless, it is my view that Mrs D does not have objective evidence of permanent incapacity at this time and I am therefore unable to support the application for deferred benefits under the terms of the LGPS."