



The ill-health Retirement procedures for Non- Teaching Staff

In this document, “member” or “members” relates to:
Special needs assistants employed in primary, secondary, community and comprehensive schools Educational Training Boards (ETB’s)
and
Clerical Officers employed in primary and secondary schools and caretakers employed in primary schools, who are paid their salary through the Department of Education and Skills payroll.

Ill Health Retirement pension benefit:

There is provision, in the Primary, Secondary, Community and Comprehensive Schools Superannuation Schemes and in the Local Government (Superannuation) Scheme, the functions of which were transferred by Ministerial Order to the Minister for Education in 1998 (S.I. No. 362/1998), governing the award of Ill Health Retirement pension benefit.

Members of the Single Public Service Pension Scheme (known as the Single Pension Scheme) can obtain information on their ill health benefits from the following link:

https://singlepensionscheme.gov.ie/wp-content/uploads/2017/03/guidance_note_1_2017.pdf

The process which the Minister for Education and Skills has determined will be applied in respect of such retirements is outlined in this document.

Stages

The process may consist of up to four stages:

- Stage 1 Application process
- Stage 2 Appeal, which will include a review of the medical evidence
- Stage 3 Internal Disputes Resolution, which involves a review of administrative processes (does not include a review of the medical evidence)
- Stage 4 Complaint to the Office of the Pensions Ombudsman



Eligibility for ill health retirement pension benefit

A member must be in pensionable service, have completed 5 years actual pensionable service and the illness must occur while in service. For members of the Single Pension Scheme the completed actual pensionable service is 2 years.

In accordance with the provisions of the relevant scheme a member who has a preserved pension entitlement of not less than five years may apply for ill health retirement pension. A member may not apply for another category of pension under the schemes until the outcome of the ill-health retirement application is known or unless s/he informs the Department in writing that s/he wishes to cease the ill health retirement application.

Background

An Occupational Health Service provider is in place for eligible members in primary and post primary schools including ETB and is currently contracted to Med mark Occupational Healthcare.

Department of Education and Skills (DES)/ Educational Training Board (ETB) role
DES administers the scheme for primary, secondary, community and comprehensive school members who are paid through the Department of Education and Skills payroll. **The individual ETB's administers the scheme for ETB members.** The Occupational Health Service provider makes recommendations as to whether or not the member is incapable by reason of infirmity of mind or body of discharging his/her duties as a member where that infirmity is likely to be permanent.

A member may decide to apply for ill-health retirement pension benefit having developed a medical condition and formed the view that s/he is permanently incapacitated and that the medical infirmity is likely to be permanent.

Occupational Health Service (OHS) role

The OHS, in considering whether a member is permanently unfit to perform his/her duties, takes into account the following criteria:

- the presence of a disabling illness
- prospect of future improvement or recovery
- permanent and total disability
- restricted functional capacity
- treatment options fully explored

This list is not exhaustive and each member's application is carefully considered, taking into account the specific medical condition, prognosis and reports from treating doctors, and the requirements of their duties.

Ill health retirement is not a mechanism for resolving work grievances. Such issues should be addressed by School Management.



Procedure for applying for ill-health retirement

Forms

Application for ill-health retirement pension benefit is made by completing two forms: TMED 2 must be returned to OHS by the treating physician and RET.D2 by the applicant to DES/ETB as appropriate.

Form TMED2 To be sent to OHS for medical assessment purposes by your treating physician. (All medical conditions must be disclosed to the OHS at this time).

Form RET.D2 Receipt of this form in DES/ETB as appropriate initiates the administrative process.

Process

Stage 1 - Application

The application for retirement on ill-health pension must be completed on the prescribed application form, RET.D2. This must be signed and stamped by the employer and forwarded to DES or the employing ETB.

- The member must complete the relevant part of Form TMED 2 and give to his/her treating physician for completion. Once assured by the physician that TMED 2 has been forwarded to OHS, the member will forward the fully completed application Form RET.D2 to DES/ETB.
- The treating physician must complete the form and also provide a confidential Doctor to Doctor medical report to the OHS. A report from a specialist physician may also be included with the Doctor to Doctor report if the member has been attending a specialist physician. It is not acceptable to submit Form TMED 2 from a doctor who is not the member's current treating doctor (i.e. a doctor attended primarily for medical report preparation).

Note: the Department of Education & Skills / ETB's do not hold the Medical records, reports or assessments of the pension member

- It is essential that the medical evidence submitted is comprehensive and includes all relevant clinical details. It must address diagnosis, treatment and prognosis.
- The cost of compilation of all such reports is the responsibility of the member.
- It is also the responsibility of the member to ensure that all medical reports are forwarded by the treating doctor to the OHS.
- It is **not** the responsibility of the OHS to seek TMED 2 or associated medical reports.
- Upon receipt of TMED 2 (including all the necessary reports), and notification from DES/ETB that RET.D2 has been received, the OHS will contact the member to arrange an appointment.
- The member will attend for a medical assessment, part of which will involve completing an assessment form.



- A recommendation will issue to the Department/ETB, following medical assessment by OHS.
- A report will be retained on file by the OHS
- The decision to approve or reject an application for ill-health retirement pension is made by Minister/ETB in their role as pension scheme provider. The decision is based on the recommendation of the OHS.
- This decision will issue in writing directly to the member by DES/ETB.
- This letter will include the date of retirement where the application is successful.
- The letter will also include details of the appeals process where the application is unsuccessful. The result of the appeal process does not interfere with the legal rights of the scheme member in respect of Internal Disputes Resolution (IDR) or the Office of the Ombudsman.

Appeals

A number of registered medical practitioners, who are suitably qualified to assess medical fitness for work, have been selected and approved by the OHS and the Chief Medical Examiner of the Civil Service to provide an appeal mechanism for members who wish to appeal the decision of the Minister/ETB. Details of the approved registered medical practitioners will be provided to the member, on request from OHS, where the application for ill health retirement pension benefit has been refused by the Minister/ETB.

It is open to the member to request a copy of the medical assessment report from the OHS. A member may appeal the decision to refuse the application for ill health retirement pension benefit in accordance with the procedures detailed below. This does not interfere with the legal rights of the scheme member in respect of IDR or Pensions Ombudsman. The cost of the medical assessment element of the appeal must be borne by the member. In the event that the appeal is successful the cost will be refunded to the member.

The decision to approve or reject an ill-health retirement pension appeal is made by the Minister as pension provider (or in the case of ETB members by the relevant ETB). This does not interfere with the legal rights of the scheme member in respect of the Internal Disputes Resolution or Pensions Ombudsman (OPO).

Stage 2 – appeal –

- *if member wishes s/he may move directly to Stage 3*

The procedure for the member, DES/ETB and OHS in this process is as follows:

Member's role

- Apply to DES/ETB in writing within 30 days of the date on the letter from the Minister /ETB informing you that your application for ill health retirement pension benefit had been unsuccessful.



- Include the name of the approved registered medical practitioner you choose from the approved list provided.
- Note that an appeal must only be based on the medical information presented to the OHS in your original application. It is not possible to submit new medical evidence at this point of the process.
- You will receive an acknowledgement from DES/ETB.
- DES/ETB will notify the OHS of your appeal.

When you receive acknowledgement by DES/ETB of your application

- Contact the approved registered medical practitioner you have chosen and arrange a suitable time for the assessment.
- **Please note: The appeal assessment must take place within two months of the date of the notification by DES / ETB to OHS of the chosen approved registered medical practitioner.**
- You bear the cost of the assessment. If the appeal is successful the cost of the assessment is refunded.
- In the event that you do not contact the approved registered medical practitioner to make an appointment or attend for appointment within two months your appeal will automatically lapse. You will be informed of this fact by letter from DES/ETB and your rights under Pensions legislation will be outlined.
- The result of the approved registered medical practitioner's assessment will be notified to DES/ETB.
- The assessment will be considered and the Minister/ETB as pension provider (or in the case of ETB members, the relevant ETB) will make a decision to approve/refuse ill health retirement in accordance with the schemes.
- DES/ETB will outline in writing if you are or are not being granted ill health retirement pension benefit.
- Where you are being granted ill health retirement pension benefit the date from which the pension benefit is effective will be outlined.
- Detail of your rights under pensions legislation will be appended.
- It is important to note that the refusal of ill health retirement pension benefit does not automatically mean a member has appropriate fitness to resume duties. This is a matter which must be discussed with your employer.

DES/ETB role

- On receipt of appeal, DES/ETB will notify the OHS of the appeal and send acknowledgement to the member, with copy of letter to OHS.
- OHS notifies DES/ETB if the member has not made an appointment or attended the medical referee within two months.
- In such circumstances DES/ETB writes to the member to outline that the appeals process has automatically lapsed, and informs the member of his/her rights under pensions legislation.
- When the result of the approved registered medical practitioner's assessment is notified to DES/ETB, the Minister as pension provider (or, in the case of a



member in a ETB, by the relevant ETB) will make a decision to approve/refuse ill-health retirement in accordance with the schemes.

- DES/ETB will outline in writing if the ill health retirement pension benefit is being granted or not.
- Also included in the letter will be details of pension start date, if appropriate, and pension legislation information.

OHS and Approved Registered Medical Practitioner roles

- When informed by DES/ETB of appeal being activated, OHS forwards medical reports to the approved registered medical practitioner chosen.
- When assessment is completed the approved registered medical practitioner will send a recommendation to DES/ETB for action, and a report to the OHS for record purposes.
- The OHS will liaise with the approved registered medical practitioner to establish if the member has attended for assessment. Where the member has not made an appointment, or attended the approved registered medical practitioner, within two months, the OHS will notify DES/ETB of this fact.

Details of Stage 3 and 4

Further application for Ill Health Retirement

While still in employment, (including approved unpaid sick leave) a member may submit a fresh application but may **not** do so earlier than **one year** from the date of notification of refusal, or, if the case was appealed, from the date of refusal of the appeal; unless there is a serious deterioration in the member's current illness, or unless a new illness occurs. If s/he decides to make a fresh application, the application must be made only when all treatment options regarding the illness have been explored. The condition for which ill-health retirement is being considered must have occurred while s/he was in employment. In the case of a fresh application the process begins anew as outlined earlier in this document.

A member in receipt of other benefits under the Superannuation Scheme is not eligible to apply at a later date for ill-health retirement pension benefit.

For particular attention of member and School Management

Where a member applies for ill-health retirement pension benefit, the employer should be alert to the implications of such an application.

Where the decision not to award ill-health retirement pension benefit is made by DES/ETB, it is a matter for the member to discuss the matter with their employer. The



decision on whether or not it is appropriate for the member to attend for work is a matter on which the employer must engage with the OHS.

Where a member is in receipt of ill-health retirement pension benefit, s/he may not subsequently engage in any duties in any school or college funded directly or indirectly by the State.

DES/ETB will inform School Management of the outcome of the application, and of any appeal by the member; and of the date of retirement in respect of a successful application.

Member who recovers from the illness

A member, who retires on ill-health grounds and is in receipt of ill health retirement pension benefit, may, from time to time, be required by DES/ETB to submit medical evidence of the continued existence of the ill-health, and may be required to attend for medical examination.

Where a member recovers from the illness, then, prior to taking up any work appointment, fresh medical evidence must be submitted for review by the OHS.

Where a member, who meets the eligibility criteria, is deemed by OHS as fit for employment as a member, it is open to him/her to seek a post.

If the OHS deems the member medically fit to take up duties, pension benefit payments will cease immediately. However, on reaching pension age, standard pension benefit payments will be made in accordance with the terms of the pension scheme. It should be noted that the pension will be based on the actual reckonable service as a member (i.e. added years previously granted will not be taken into account in the calculation of the pension payments.) The gratuity awarded on subsequent retirement shall be reduced by the amount of the gratuity paid on the occurrence of the first retirement.

Retirement date

Where a member in receipt of salary is successful in his/her application for ill-health retirement pension benefit, his/her date of retirement is determined by the DES/ETB. The date will be within a period of 4 weeks after the date on which the recommendation from OHS is received in DES/ETB.

Where a member is on career break, and is successful in his/her application for ill-health retirement pension benefit, his/her date of retirement is determined by the DES/ETB. The date will be within a period of 4 weeks after the date on which the recommendation from OHS is received in DES/ETB.



Where a member on approved unpaid sick leave is successful in his/her application for ill-health retirement pension benefit, the date of commencement of pension will be the date on which the application for ill health retirement benefit is received in DES/ETB.

Where a member, on unpaid leave, having previously being refused ill health retirement pension benefit, reapplies for ill health retirement in accordance with the procedures, and is successful in his/her fresh application, the date of retirement will be the date of receipt of his/her fresh application in DES/ETB.

Pensions Unit
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Appendix A - Information on Internal Disputes Resolution and Pension Ombudsman Office

It is open to you to make application for a determination in relation to a complaint or dispute through the Internal Disputes Resolution procedure operated by the Department of Education and Skills. An actual or potential beneficiary, or a person acting on his or her behalf, may apply to the Minister for a determination in respect of:

- (a) a complaint relating to circumstances in which he or she believes he or she has sustained financial loss caused by an act of maladministration, or
- (b) any dispute of fact or law that arises in relation to an act, done by or on behalf of a person responsible for the management of this Scheme.

Application -

An application shall be in writing, signed by or on behalf of the actual or potential beneficiary and shall contain the following details:-

- the full name, address and date of birth of the actual or potential beneficiary
- the address to be used for service or documents in connection with the application
- a statement concerning the nature of the complaint or dispute with sufficient details to demonstrate clearly that the complaint relates to circumstances in which sustained financial loss is caused by an act of maladministration, or clearly demonstrates a dispute of fact or law in relation to an act, done by the management of this Scheme.
- such other information as the Minister may reasonably require

Timing

The application must be made within 6 months from the date of the notification to the applicant of the disputed decision or action.

Determination

The Minister shall make a determination in relation to the application and notify in writing the complainant of the determination within 3 months from the date on which all the details specified above are received.

The determination shall include:

- a statement of the determination
- a reference to any legislation (other than the pension scheme), legal precedent, ruling of the Pensions Board, ruling or practice of the Revenue Commissioners or other material relied upon in making the Determination
- a reference to the provisions of the pension scheme relied upon in making the determination and, where a discretion has been exercised, a reference to those of its provisions by which such discretion is conferred
- a statement that the determination is not binding upon any person unless, upon or after he making of the determination, the person assents, in writing, to be bound by it, and
- a statement that the applicant should check whether or not the complaint or dispute is one in respect of which the Pensions Ombudsman has jurisdiction to investigate under section 131 of the Pensions Act 1990 (No. 25 of 1990) and that further information can be found in an information booklet available from the Office of the Pensions Ombudsman, 4th Floor, Lincoln House, Lincoln Place, Dublin 2. Telephone (01) 5677000 or www.fspo.ie