



# Procedure

## Ill health retirement procedure

Version: 3.1 | Version effective: 22/03/2023

### Audience

This procedure applies to all employees of the Department of Education (the department).

### Purpose

This procedure outlines the responsibilities and process for ill health retirement (IHR) of an employee following an independent medical examination (IME) and report (IME report) under Chapter 3, Part 8, Division 5 of the [Public Sector Act 2022 \(Qld\)](#) (PS Act) in which the doctor has expressed the opinion that the employee has a mental or physical illness or disability that may adversely affect the employee's performance or attendance.

### Overview

Section 107 (1)(b) of the PS Act contains provisions for the chief executive (or delegated officer) to retire a public service employee from the public service where:

- the chief executive (or delegate) is reasonably satisfied the employee's absence or unsatisfactory performance is caused by mental or physical illness or disability; and
- it is not reasonably practicable to transfer or redeploy the employee.

[Directive 10/20 Independent Medical Examinations](#) (IME Directive), the Public Service Commission's [Managing employee health, safety and wellbeing – independent medical examinations guideline](#) (IME guideline) and state and federal anti-discrimination laws contain further requirements for ill health retirement, including:

- appropriate workplace rehabilitation interventions ([Workplace Rehabilitation](#) procedure); and
- reasonable adjustment considerations ([Reasonable adjustments](#) procedure).

This procedure does not include the process to direct an employee for an [independent medical examination](#) under Chapter 3, Part 8 Division 5 of the PS Act or [reasonable adjustment](#).

### Responsibilities

#### Employee

- participate in any processes relevant to IHR

- consider the IHR proposal when issued by the department and decide whether to provide additional information about the proposed IHR within the timeframe set out in the proposed action (IHR) letter.

### **Principals, managers and supervisors**

- provide information required to support an IHR process, documenting workplace rehabilitation attempts or other reasonable adjustment considerations and/or performance management processes to inform appropriate decisions regarding the employee.

### **Rehabilitation and return to work coordinators (RRTWC)**

- when requested, provide required information to support an IHR proposal including their involvement with providing workplace rehabilitation services to an employee.

### **Regional human resources teams**

- prepare documentation for the IHR process for the Director Human Resources (HR) Business Partnering and Director Organisational Safety and Wellbeing's endorsement, including their review of medical information, involvement with providing workplace rehabilitation services to an employee, exploring reasonable adjustment options and transfer or redeployment options
- ensure all documentation is saved appropriately and confidentiality in the departments record keeping system.

### **Director, Human Resources Business Partnering**

- review documentation and IHR proposals to ensure all workplace rehabilitation, reasonable adjustment, transfer and redeployment options have been fully explored prior to endorsing IHR proposals for employees within their region
- endorse and provide IHR proposals for employees to the Director, Organisational Safety and Wellbeing.

### **Employee Relations**

- assess each IHR proposal against the PS Act to ensure requirements have been met.

### **Organisational Safety and Wellbeing team Injury Management (OSW IM)**

- maintain and provide advice on procedures for the IHR process
- coordinate responses to IHR proposals and manage associated correspondence.

### **Director, Organisational Safety and Wellbeing (OSW)**

- consider and decide on all proposals to ill health retire employees in accordance with all relevant legislation, the [Human Resource Delegations Manual](#) (DoE employees only), and this procedure
- send written correspondence to the employee containing the proposed action of ill health retirement and giving the employee 14 days to respond, and if the decision is made to ill health retire the employee, send written correspondence advising them of their ill health retirement and Notice of Further Consideration (Health Reasons)
- advise Queensland College of Teachers (QCT) of the IHR of any teacher from the department.

## Process

### 1. Regional proposal and endorsement

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#### Criteria

Three separate criteria must be met in order to propose action of ill health retirement to an employee:

1. An IME report has been obtained within the last 12 months from a doctor following an IME of the employee pursuant to Chapter 3, Part 8, Division 5 of the PS Act and the [Independent medical examinations](#) procedure
2. The doctor's opinion recorded in the IME report is that the employee has a mental or physical illness or disability that may adversely affect his/her performance/attendance, and states that the employee is unable to perform the inherent requirements of their substantive position or any other position in the Queensland Public Service permanently or for the foreseeable future, due to their mental or physical illness or disability
3. Appropriate [rehabilitation interventions](#), [reasonable adjustment](#), transfer and redeployment options have been fully explored and documented.

#### Prepare briefing note and proposal letter

The regional HR team will prepare a briefing note and draft proposed action letter (IHR) for their region's Director, HR Business Partnering seeking endorsement for the IHR proposal.

The briefing note must include:

- a 'Key issues' section which contains an explanation of how each of the three IHR criteria (detailed in step 1) have been met, the legislative criteria, options, delegation and reasons for recommendation
- a 'Background' section which details the employee's history of employment with the department, and factual details of their current, relevant IME process including the absence or unsatisfactory performance history
- an 'Implications' section that outlines the appeal rights for the employee
- all documents and evidence used or referenced to inform the proposal of IHR as the action following the IME report.

**Note: WorkCover documents and reports cannot be used for IHR purposes. QSuper reports may only be used when the employee has signed the consent form.**

Following consideration of all material provided, the Director HR Business Partnering decides whether to endorse the IHR proposal. If endorsed the proposal is moved to OSW IM team.

If not endorsed the proposal is returned to regional HR team for ongoing management.

### 2. Central Office processes

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#### Review proposal

The proposal and supporting documents are reviewed in the OSW IM Team to ensure the requirements of Chapter 3, Part 8, Division 5 of the PS Act have all been met.

The proposal is then forwarded to Employee Relations for assessment against the PS Act to ensure industrial requirements have been met.

Once all the criteria are satisfied, the OSW IM team will provide the brief and proposed action IHR letter, for the Director OSW to consider the recommended approach.

### **Director OSW reviews briefing note and decides whether to propose ill health retirement as the action following the IME report**

Following consideration of the briefing note and all associated documentation, the Director OSW will either:

- **Advise employee that the proposed action following the IME report is IHR.** Director OSW advises the employee in writing of the proposed action, allowing the employee 14 calendar days to respond and provide further information to inform the decision making process. The letter is to be sent by registered mail and email (if requested).

**NB: Read on from step 3.**

**OR**

- **Decide not to propose to IHR the employee.** The Director OSW will advise the employee and Director HRBP in writing of how the matter is to proceed. The file is returned to the relevant region or work unit for ongoing management of the employee, along with an explanation as to why the IHR has not been supported.

### **3. Employee response IHR proposal**

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The employee has 14 calendar days to respond to the IHR proposal. If additional time is required, the employee can request an extension of time by writing to the Director OSW. This should not be unreasonably refused.

#### **Employee does not respond to the proposal letter within the 14 calendar day timeframe**

If the employee does not respond within the 14 calendar day timeframe (or longer timeframe as agreed), the OSW IM team will prepare a further briefing note and letter for consideration by the Director OSW.

The briefing note must set out the legislative basis and considerations for the decision to IHR an employee pursuant to section 107(1)(b) of the PS Act, the IME Directive and the IME guideline and required considerations for placement of a Notice of Further Consideration (Health Reasons). The letter will advise the employee that they are being ill health retired and provide the reasons. They will also be informed of the effective date of retirement (taking into account required notice periods) and that a Notice of Further Consideration (Health Reasons) will be placed on their electronic employment record.

When setting a date it must be consistent with the following legislated minimum periods of notice:

- If the employee's continuous service is not more than one year – one week's notice;
- If the employee's continuous service is more than one year, but not more than three years – two weeks' notice;
- If the employee's continuous service is more than three years, but not more than five years – three weeks' notice; or

- If the employee's continuous service is more than five years – four weeks' notice.

The period of notice must also be increased by one week if the employee is 45 years old or over and has completed at least two years continuous service (section 123 of the *Industrial Relations Act 2016* (Qld)).

The Director OSW considers the briefing note and makes a decision on whether to IHR the employee pursuant to section 107(1)(b) of the PS Act. The Director OSW must consider all relevant information, including the employee's submissions, and decide whether they can be satisfied of the matters set out in section 107 of the PS Act. The decision should be based on the findings of fact and law read together.

**NB: Read on from step 4.**

#### **Employee responds to the proposal letter**

The Director OSW considers the employee's response and any new information provided and makes a decision on whether to IHR the employee pursuant to section 107(1)(b) of the PS Act. The Director OSW must consider all relevant information, including the employee's submissions, and decide whether they can be satisfied of the matters set out in section 107 of the PS Act. The decision should be based on the findings of fact and law read together.

#### **Decision to proceed**

If the Director OSW makes the decision to IHR the employee, the employee will be advised in writing of the decision and the reasons. They will also be informed of the effective date of retirement (taking into account required notice and that a Notice of Further Consideration (Health Reasons) will be placed on their electronic employment record.

#### **Decision not to proceed**

The Director OSW will advise the employee and Director HRBP in writing that the IHR is not proceeding. The file is returned to the relevant region or work unit for ongoing management of the employee, along with an explanation as to why the IHR has not been supported.

## **4. Finalisation processes**

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### **Notification**

The OSW IM team will provide a copy of the final letter confirming IHR to:

- the employee via registered mail;
- the Director, HR Business Partnering and Senior Injury Management Consultant (SIMC) in the relevant region;
- relevant OSW IM staff by email for placement of a Notice of Further Consideration (Health Reasons) on the employee's electronic employment record, in accordance with the department's Notice of Further Consideration (Health Reasons) procedure; and
- relevant Payroll Services team area to process the IHR (enter as retire – health).

### If the employee is a teacher, notify Queensland College of Teachers (QCT)

If the employee is registered as a teacher, pursuant to section 78 of the *Education (Queensland College of Teachers) Act 2005* (Qld), the Director OSW will advise QCT in writing of the IHR within 14 days after the day notice of the dismissal was given to the teacher, that is, within 14 days of the date the employee was advised of the decision to ill health retire them.

A copy of the letter to the employee confirming the IHR should be attached to the letter to QCT.

## Definitions

Term	Definition
<b>Delegated officer</b>	The officer with the delegated authority to consider and decide to ill health retire an employee, as specified in the <a href="#">Human Resource Delegations Manual</a> (DoE employees only).
<b>Ill health retirement (IHR)</b>	The retirement of an employee where the chief executive (or delegate) is reasonably satisfied the employee's absence or unsatisfactory performance is caused by mental or physical illness or disability which prevents them from safely performing the inherent requirements of their substantive position, either permanently or for the foreseeable future, and reasonable adjustments are not possible and transfer and redeployment within the work group, agency or Queensland Public Service is not reasonably practicable. All decisions to ill health retire an employee are made under Chapter 3, part 8, Division 5 of the <a href="#">Public Sector Act 2022 (Qld)</a> .
<b>Independent medical specialist</b>	The medical specialist chosen by the department will have expertise in the relevant area of mental or physical illness or disability and will not have provided treatment to the employee previously. The specialist must be listed on the Medical Board of Australia's register of medical practitioners and must practice in the relevant field from the medical board's <a href="#">List of specialties</a> .
<b>Notice of Further Consideration (Health Reasons) (NOFC)</b>	A Notice of Further Consideration (Health Reasons) is a notice that is placed on an individual's electronic employment record once the employee has ceased employment. The NOFC process helps in discharging the department's duty of care obligations and also work health and safety obligations before any individual can undertake any further work for the department.
<b>Reasonable adjustment</b>	Where adjustments are made to a position, an employment practice, the workplace or work-related environment to ensure equal opportunity for people with a medical condition or disability to perform the inherent requirements of the position without imposing unjustifiable hardship on the organisation.  For the purposes of this procedure it does not include reasonable adjustments made in recruitment and selection processes, and further information can be sourced at the <a href="#">Diversity and Inclusion</a> OnePortal page (DoE employees only).

Term	Definition
<b>Workplace rehabilitation</b>	A coordinated process undertaken by an employer, in collaboration with the employee, their medical practitioners and their workplace, to assist an employee to return to work in a timely manner or maintain an employee at work following an injury or illness.

## Legislation

- [Public Sector Act 2022 \(Qld\)](#) sections 9, 133 and 174-179; s8, s10, s147, s148 s107
- [Anti-Discrimination Act 1991 \(Qld\)](#) sections 5, 25(1), 35, 106, 108; s7, 8, 9, 10, 11, 13, 15, 34
- [Disability Services Act 2006 \(Qld\)](#) section 11
- [Disability Discrimination Act 1992 \(Cwlth\)](#) section 21A; s5, 6, 11, 15, 21B
- [Human Rights Act 2019 \(Qld\)](#) sections 4 and 58
- [Right to Information Act 2009 \(Qld\)](#)
- [Information Privacy Act 2009 \(Qld\)](#) chapter 2 and schedule 3
- [Industrial Relations Act 2016 \(Qld\)](#) sections 8, 123, 316 and Chapter 8
- [Industrial Relations Regulation 2018 \(Qld\)](#) section 8
- [Workers' Compensation and Rehabilitation Act 2003 \(Qld\)](#) sections 232B and 572A
- [Work Health and Safety Act 2011 \(Qld\)](#) section 19, s27, 28 and 29
- [Education \(Queensland College of Teachers\) Act 2005 \(Qld\)](#) sections 78, 79 and 81
- [Directive 10/20 Independent Medical Examinations](#)

## Delegations/Authorisations

- [Human Resource Delegations Manual](#) (DoE employees only)

## Policies and procedures in this group

- Nil

## Supporting information for this procedure

- Nil

## Other resources

- [Workplace rehabilitation procedure](#)
- [Reasonable adjustments procedure](#)
- [Managing unsatisfactory performance \(excluding school based teachers and principals\) procedure](#)

- [Managing unsatisfactory performance - Principals procedure](#)
- [Managing unsatisfactory performance - Heads of program, heads of school, assistant principals and deputy principals procedure](#)
- [Managing unsatisfactory performance - State school teachers procedure](#)
- [Independent medical examinations procedure](#)
- [Notice of further consideration for health reasons procedure](#)
- [Creating healthier workplaces](#)
- [Injury management \(DoE employees only\)](#)

## Contact

For further information, please contact:

Organisational Safety and Wellbeing Unit  
Email: [InjuryManagement@qed.qld.gov.au](mailto:InjuryManagement@qed.qld.gov.au)

## Review date

28/08/2023

## Superseded versions

*Previous seven years shown. Minor version updates not included.*

Nil

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