



Teachers

III-Health Retirement procedures

The statutory basis for Ill Health Retirement pension benefit is as follows:

The provisions in respect of members of the Teachers' Superannuation Schemes in Primary, Secondary, Community and Comprehensive Schools are contained in

- S.I. No 435 of 2009, Secondary, Community and Comprehensive School Teachers Pension Scheme 2009
- S.I. No 434 of 2009, Primary School Teachers Pension Scheme 2009

Article 9 (1) of Part 2 – where a member retires or is retired on medical grounds, a benefit under Article 7 (4) shall be payable provided that-

- (a) he or she supplies to the Minister sufficient medical evidence to satisfy the Minister that such member is incapable by reason of infirmity of mind or body of discharging his or her duties as a teacher or chaplain and that the infirmity is likely to be permanent.
- (b) he or she, if requested by the Minister, undergoes a medical examination carried out by a registered medical practitioner nominated by the Minister.
- (c) such infirmity has not been caused by the member's own fault or negligence.
- (d) he or she did not make a false declaration about, or suppress a material fact concerning, his or her health when applying for a post.

In respect of VEC teachers, superannuation benefit has its origin 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.

The main provision governing the award of Ill Health Retirement pension benefit is set out in Chapter 3, Article 69 (2) (a) (iii):

Where s/he has become incapable of performing his/her teaching duties by reason of permanent infirmity of mind or body and has not less than five years of pensionable service.

A further provision applies in respect of VEC teachers in Chapter 3, Article 77 (1) (a) (I) which provides for preserved ill health retirement on pension.

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 – Page 3

Stage 2 Appeal, which will include a review of the medical evidence – Page 4

Stage 3 Internal Disputes Resolution, which involves a review of administrative processes (does not include a review of the medical evidence) – Page 8

Stage 4 Complaint to the Office of the Pensions Ombudsman - Page 8

Eligibility for ill health retirement pension benefit

A Primary, Secondary, Community or Comprehensive School teacher must be in pensionable service, have completed 5 years actual pensionable service and the illness must occur while in service. In accordance with the provisions of Chapter 3, Article 77 (1) (a) (I) of the relevant scheme a VEC teacher who has a preserved pension entitlement of not less than five years may apply for ill health retirement pension.

A teacher 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

Up to 2008, the scheme was administered by the Department of Education and Science on the recommendation of the Chief Medical Officer of the Civil Service, and by each VEC at local level. Since 2008 an Occupational Health Strategy for Teachers is in place for all teachers regardless of sector.

The Occupational Health Strategy for Teachers encompasses health management and incorporates pre-employment health assessments, sickness absence management, medical assessments of fitness for work and ill health retirement. Medmark Occupational Healthcare has been contracted as the Occupational Health Service provider since January 2008.

Department of Education and Skills (DES)/ Vocational Education Committee (VEC) role

DES administers the scheme for primary, secondary, community and comprehensive school teachers. The VEC administers the scheme for VEC teachers. The Occupational Health Service provider makes recommendations as to whether or not the teacher is incapable by reason of infirmity of mind or body of discharging his/her duties as a teacher where that infirmity is likely to be permanent.

A teacher 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 teacher is permanently unfit to teach, 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 teacher's application is carefully considered, taking into account the specific medical condition, prognosis and reports from treating doctors and the requirements of the teaching 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 1 must be returned to OHS by the treating physician and RET.D1 by the applicant to DES/VEC as appropriate.

Form TMED1 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.D1 Receipt of this form in DES/VEC 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.D1. This must be signed and stamped by the employer and forwarded to DES or the employing VEC.

- The teacher must complete the relevant part of Form TMED 1 and give to his/her treating physician for completion. Once assured by the physician that TMED 1 has been forwarded to OHS, the teacher will forward the fully completed RET.D1 to DES/VEC.
- 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 teacher has been attending a specialist physician. It is not acceptable to submit Form TMED 1 from a doctor who is not the teacher's current treating doctor (i.e. a doctor attended primarily for medical report preparation).
- 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 teacher.
- It is also the responsibility of the teacher 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 1 or associated medical reports.
- Upon receipt of TMED 1 (including all the necessary reports), and notification from DES/VEC that RET.D1 has been received, the OHS will contact the teacher to arrange an appointment.
- The teacher will attend for a medical assessment, part of which will involve completing an assessment form.
- A recommendation will issue to the Department/VEC, following medical assessment by the 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 the Minister/VEC 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 teacher by DES/VEC.
- 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. This appeals 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.

Appeal

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 teachers who wish to appeal the decision of the Minister/VEC. Details of the approved registered medical practitioners will be provided to the teacher, on request from OHS, where the application for ill health retirement pension benefit has been refused by the Minister/VEC.

It is open to the teacher to request a copy of the medical assessment report from the OHS.

A teacher 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 teacher. In the event that the appeal is successful the cost will be refunded to the teacher.

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 VEC teachers by the relevant VEC). 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 teacher wishes s/he may move directly to Stage 3*

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

Teacher's role

- Apply to DES/VEC in writing within 30 days of the date on the letter from the Minister /VEC 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/VEC.
- DES/VEC will notify the OHS of your appeal.

When you receive acknowledgement by DES/VEC of your appeal

- 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/VEC 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/VEC and your rights under Pensions legislation will be outlined.
- The result of the approved registered medical practitioner's assessment will be notified to DES/VEC.
- The assessment will be considered and the Minister as pension provider (or, in the case of VEC teachers, the relevant VEC) will make a decision to approve/refuse ill-health retirement in accordance with the schemes.

- DES/VEC 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.
- Details 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 that a teacher has appropriate fitness to teach. This is a matter which must be discussed with your employer.

DES/VEC role

- On receipt of appeal, DES/VEC will notify the OHS of the appeal and send acknowledgement to the teacher, with copy of letter to the OHS.
- OHS notifies DES/VEC if the teacher has not made an appointment or attended the medical referee within two months.
- In such circumstances DES/VEC writes to the teacher to outline that the appeals process has automatically lapsed, and informs the teacher of his/her rights under pensions legislation.
- When the result of the approved registered medical practitioner's assessment is notified to DES/VEC, the Minister as pension provider (or, in the case of VEC teachers, the relevant VEC) will make a decision to approve/refuse ill-health retirement in accordance with the schemes.
- DES/VEC 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/VEC 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/VEC 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 teacher has attended for assessment. Where the teacher has not made an appointment, or attended the approved registered medical practitioner, within two months, the OHS will notify DES/VEC of this fact.

Details of Stage 3 and 4 see Appendix A (Page 8)

Further application for Ill Health Retirement

While still in employment, (including approved unpaid sick leave) a teacher 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 teacher'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 teaching employment.

In the case of a fresh application the process begins anew as outlined earlier in this document.

A teacher 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 teacher and School Management

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

Where the decision not to award ill-health retirement pension benefit is made by DES/VEC, it is a matter for the teacher to discuss the matter with his/her employer. The decision on whether or not it is appropriate for the teacher to attend for work is a matter on which the employer must engage with the OHS.

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

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

Teacher who recovers from the illness

A teacher, 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/VEC to submit medical evidence of the continued existence of the ill-health, and may be required to attend for medical examination.

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

Where a teacher, who meets the eligibility criteria, is deemed by OHS as fit to teach, it is open to him/her to seek a teaching post.

If the OHS deems the teacher medically fit to teach, 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 teacher (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 teacher 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/VEC. The date will be within a period of 2-4 weeks after the date on which the recommendation from OHS is received in DES/VEC.

Where a teacher is on career break, and is successful in his/her application for ill-health retirement pension benefit, s/he must resign from his/her teaching post on the date which will be notified to him/her by the Department/VEC, which will be within a period of 2-4 weeks after the date on which the recommendation from OHS is received in DES/VEC.

Where a teacher 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/VEC.

Where a teacher, on unpaid leave, having previously been refused ill health retirement pension benefit, reappplies 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/VEC.

Implementation date

These procedures are effective from March 2011

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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.

The procedure is as follows:**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 show why the actual or potential beneficiary is aggrieved
- such other information as the Minister may reasonably require

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 establish 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 Officer of the Pensions Ombudsman, The Pensions Ombudsman Office, 36, Upper Mount St., Dublin 2. Telephone (01)6471650 or www.pensionsombudsman.ie

Further information and other Circulars that may be of interest
 FAQs for Teachers in Secondary, Community and Comprehensive Schools on www.education.ie
 FAQs for Teachers in National Schools on www.education.ie
 Circular 0099/2010 - Sick Leave Scheme for Registered Teachers
 Circular 0129/2006 - Purchase of Notional Service, (for superannuation purposes), revision
 Circular Pen 07/05 - Cost-Neutral Early Retirement
 Circular PEN 14/05 - Revised Spouses & Children's Pension Scheme
 Circular PEN 11/05 - Revised Notional Service Circular
 Circular Pay 9/04 - New Entrant
 Circular PEN 5/02 - Purchase of Notional Service, (for superannuation purposes) by job-sharers
 Circ 26/97 - Purchase of Actual Service PCW.