



Department of
Education

RETIREMENT ON THE GROUNDS OF ILL HEALTH GUIDELINES

EFFECTIVE: 4 SEPTEMBER 2012

VERSION: 1.0 FINAL

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1 BACKGROUND

An employee who is unable to perform the inherent duties required of their position due to long term or permanent medical incapacity may be retired on the grounds of ill health (RGIH).

The capacity of each employee to fulfil the duties and responsibilities inherent in the requirements of their role is fundamental. Line managers are responsible for supporting and developing each employee within their span of control to assist them to undertake their role effectively and efficiently. Consideration of employees' health and wellbeing, and therefore their work capacity, is an important element in managing employees.

Public service officers can retire, or be directed to retire, on the grounds of ill health in accordance with section 39 of the *Public Sector Management Act* (PSM Act). If the employee does not follow a direction to retire, the Department may take disciplinary action in accordance with Part 5 of the PSM Act and relevant Commissioner's Instruction.

Teaching staff are subject to a decision to retire them on the grounds of ill health that can be made by the employer in accordance with clause 41(5) of the *Teachers (Public Sector Primary and Secondary Education) Award 1993*.

All other categories of staff unable to fulfil their responsibilities on a long-term or permanent basis can be dealt with via the mechanism of 'repudiation of contract' on the part of the staff member concerned.

These guidelines explain the process by which RGIH may proceed resulting from an employee request or the line manager initiating the process.

Employees are to be treated fairly, equitably and respectfully throughout the process.

Assistance in dealing with RGIH is available to line managers from the Department's Employee Support Bureau and the Labour Relations Directorate.

2 EMPLOYER INITIATED RETIREMENT

When a line manager forms a reasonable belief that an employee may be unable to fulfil their responsibilities, and is unlikely to be able to on an ongoing, long-term or permanent basis, advice from a medical specialist should be sought by the line manager regarding the employee's capacity to continue in their role.

In the process of seeking this advice, the line manager should:

- discuss the reasons for referral with the affected employee;
- provide any relevant documentation, if so requested; and
- provide the employee an opportunity to be represented by their Union or be accorded other peer support at any meetings relative to the RGIH process.

To facilitate a process of requesting and obtaining advice from a medical specialist, line managers may seek assistance from the Employee Support Bureau and/or Labour Relations Directorate.

Arrangements for medical examinations by the Department's Consultant Occupational Physician, or for any additional external medical specialist advice required, should be made through Employee Support Bureau or Labour Relations Directorate and the assessing medical specialist be made aware of the requirements of the position held by the employee being assessed. See flowchart at Appendix A.

2.1 CONSIDERATION OF ALTERNATIVE WORK ARRANGEMENTS

Following receipt of medical evidence regarding an employee's capacity to undertake their role, the line manager may:

- consider the possibility of the employee undertaking alternative work arrangements; and
- consult the Employee Support Bureau or Labour Relations Directorate when taking into account the employee's condition and long-term prognosis for possible alternative work arrangements.

The prospect and suitability of an employee engaging in alternative work arrangements should be:

- assessed on a case-by-case basis; and
- at the discretion of the employer.

If further medical evidence is required to allow an assessment of an employee's suitability to carry out alternative duties, the employee may be:

- asked to provide evidence; or
- referred to the Department's Consultant Occupational Physician to have their medical status assessed.

The Department meets the cost involved.

If the medical evidence supports the fact that an employee is unable to fulfil the requirements of their position due to a medical condition on an ongoing, long-term or permanent basis, and it is not feasible to provide suitable alternative work arrangements, the Director General or Executive Director, Workforce may direct the employee to retire or make a decision to retire the employee in accordance with the relevant industrial instrument or legislation.

2.2 DECISION-MAKING PROCESS AND EMPLOYEE RESPONSE

If advice from a medical specialist supports the implementation of RGIH:

- the employee is provided with written notification, together with copies of all relevant medical evidence, and an opportunity to respond;
- the employee's response is taken into account prior to any RGIH decision being made; and
- depending on the employee's response, further medical evidence may be requested at the discretion of the Director General or Executive Director, Workforce.

3 EMPLOYEE REQUESTED RETIREMENT

Where the retirement process is requested by the employee, advice from a medical specialist should be provided, indicating that they are unable to fulfil their responsibilities on a long-term or permanent basis.

The line manager forwards the retirement request and the supporting advice from a medical specialist to the Employee Support Bureau for assessment.

If further medical evidence is required by the Employee Support Bureau, the employee is to meet the cost of obtaining that evidence.

Should the medical evidence be deemed insufficient for RGIH, the employee should be given the opportunity to:

- provide further evidence from a medical specialist;
- withdraw their application for RGIH; or
- resign from their employment.

There are fundamental differences industrially between the concepts of RGIH and resignation. Further information can be obtained from the Labour Relations Directorate.

See flowchart at Appendix B.

4 EMPLOYEE RIGHTS AND ENTITLEMENTS

4.1 FINANCIAL ADVICE

Employees should seek independent financial advice on the financial ramifications of RGIH. This financial advice could be sought from:

- GESB and other superannuation funds (if applicable);
- Centrelink; and/or
- the Australian Taxation Office.

4.2 ANNUAL LEAVE AND LONG SERVICE LEAVE

Employees who cease their employment with the Department under the provisions of these guidelines are eligible to receive their accrued annual leave and any accrued and pro rata long service leave entitlements.

4.3 WORKERS' COMPENSATION

Where an employee is medically retired due to a work-related illness or injury, an active or pending worker's compensation claim is not displaced.

The coordination of both workers' compensation claims and RGIH rests with the Employee Support Bureau.

4.4 OTHER ENTITLEMENTS

Line managers should liaise with the Labour Relations Directorate to assess whether any industrial instrument, legislation or employment contract is relevant to the employee involved in a RGIH process. Following receipt of that advice, the line manager should advise the employee concerned of any other entitlements identified.

5 ROLES AND RESPONSIBILITIES

5.1 DEPARTMENT'S CONSULTANT OCCUPATIONAL PHYSICIAN

The Department's Consultant Occupational Physician may be involved in the following circumstances:

- where sufficient evidence from a medical specialist has not been provided in a reasonable time to properly determine the employee's health status;
- where medical evidence supplied by the employee is inconsistent with other information regarding the employee's capacity to work; or
- where the employer, through the Employee Support Bureau or Labour Relations Directorate, requires further medical information to verify the employee's capacity to work.

5.2 EMPLOYEE SUPPORT BUREAU

The role of the Employee Support Bureau is to:

- assess and consolidate all evidence for RGIH;
- arrange referral to the Department's Consultant Occupational Physician and external medical specialist practitioners, when required; and
- liaise with the Labour Relations Directorate, prior to forwarding all documentation with recommendations to the Director General or Executive Director, Workforce.

5.3 LABOUR RELATIONS DIRECTORATE

Labour Relations Directorate provides the following services:

- industrial relations advice to line managers;
- individual case management, where required, after the recommendation for employer-initiated RGIH has been made; and
- assistance where the employee declines to meet the Department's Consultant Occupational Physician or contests the determination of their medical status.

6 PROCESSES FOR APPLICATION / APPROVAL OF RE-EMPLOYMENT

Former Department employees who have retired on the grounds of ill health may apply for re-employment in either the role they previously filled or a different role. Re-employment is dependant on the former employee being able to furnish current and sufficient medical evidence from a treating medical specialist demonstrating good cause to show how their circumstances have changed sufficiently to warrant reassessment for fitness in undertaking the requirements of employment in the position.

In addition to furnishing medical evidence of their own, previous employees require clearance by the Department's Consultant Occupational Physician prior to being considered suitable for re-employment.

If cleared, they may then be referred to the Employment Suitability Assessment Committee for further consideration.

The costs of obtaining all medical reports in these circumstances are the responsibility of the person seeking re-employment.

7 RELATED DOCUMENTS

7.1 RELEVANT LEGISLATION OR AUTHORITY

Commissioner's Instruction: Discipline - General

Equal Opportunity Act 1984

Occupational Safety & Health Act 1984

Public Sector Code of Ethics

Public Sector Management Act 1994

Public Sector Standards in Human Resource Management - Termination Standard

Teachers (Public Sector Primary and Secondary Education) Award 1993

7.2 RELATED DEPARTMENT POLICIES

Duty of Care for Students

Equal Employment Opportunity

Managing Breach of Public Sector Standard Claims

Employee Performance

Staff Conduct and Discipline

8 DEFINITIONS

EMPLOYEE

A person who is currently employed under the *School Education Act 1999* or the *Public Sector Management Act 1994*.

9 CONTACT INFORMATION

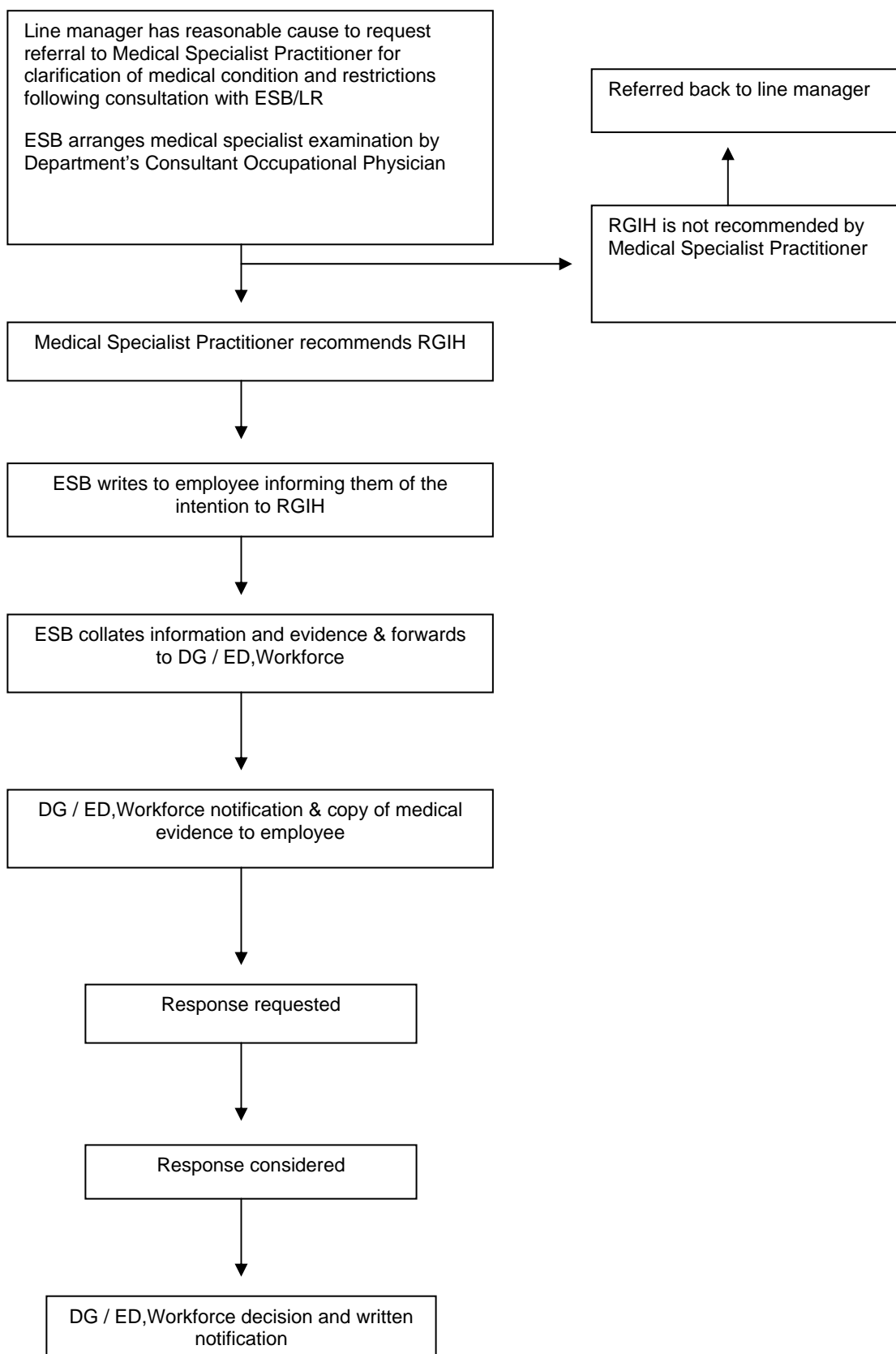
Injury Management Consultants
Employee Support Bureau
Department of Education
T: (08) 9264 8654
F: (08) 9264 8463

Labour Relations Directorate
Department of Education
T: (08) 9 264 4728
F: (08) 9264 5353

Government Employees' Superannuation Board (GESB)
T: (08) 13 43 72

PrimeXL Employee Assistance Program (Counselling)
Metropolitan area
T: (08) 9492 8900
Country areas
T: 1800 674 188
www.primexl.com.au

APPENDIX A RGIH PROCESS: EMPLOYER INITIATED RETIREMENT



APPENDIX B RGIH PROCESS: EMPLOYEE REQUESTED RETIREMENT

