

<p style="text-align: center;"><b>TERMINATION OF EMPLOYMENT OF TEACHERS ON THE GROUNDS OF ILL HEALTH OR CAPABILITY</b></p>
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## 1. GENERAL PROVISIONS

- 1.1 The purpose of this document is to provide fair and consistent treatment of teachers in circumstances where consideration is to be given to the termination of employment on grounds of ill health or capability. The document should be read in conjunction with the Attendance Policy and the Teachers' (Eligibility) Regulations (Northern Ireland) 1997.
- 1.2 This procedure will apply where an Employing Authority, in exercising its responsibilities in accordance with the Eligibility Regulations, or a Board of Governors believes that the impact of a teacher's absence is such that it may deem the teacher incapable of providing regular and sustained service.
- 1.3 In considering cases under this Procedure the Employing Authority and the Board of Governors will take account of the provisions of the Disability Discrimination Act 1995.
- 1.4 Where the teacher under consideration is not currently on sick leave, or proposes to return from sick leave and it appears, from the evidence available that there is a serious doubt concerning the teacher's health or physical capacity such as to pose a risk either to the teacher or to pupils in his/her charge or to having a serious adverse effect on teaching, the Employing Authority and/or the Board of Governors may suspend the teacher. Where a Board of Governors or its delegated authority, proposes to suspend a teacher, the Employing Authority should be consulted, where possible in advance, if not already involved. The teacher shall be given written confirmation of the suspension. Such a suspension will be as a precaution and shall be with full pay.
- 1.5 **Where medical information is made available to the Employing Authority, the Principal or the Board of Governors it must be retained in strict confidence.**

## 2. PROCEDURE

- 2.1 Where it appears to the Employing Authority or the Board of Governors that a teacher may no longer have the health or physical capacity for employment as a teacher or where teacher's attendance at work is such as to question whether he/she is capable of providing regular and sustained service, it shall inform the teacher accordingly, in writing, and provide the teacher with a copy of this Procedure.
- 2.2 The Employing Authority shall arrange for the teacher to be examined by its Medical Adviser. The costs involved will be charged to the school's budget. It will normally be appropriate for the Board of Governors, or its representative(s), or, where relevant, the Employing Authority, to meet with the teacher to discuss the matter and advise of the medical referral,

in accordance with Paragraph 9 of the “Managing Attendance Policy”. In so doing Management should be sensitive to the personal nature of certain medical conditions and provide, if appropriate and possible, for someone of the same gender to meet with the teacher.

- 2.3** If the teacher, without good cause, fails to attend for medical examination or refuses to make available medical evidence or information, the Employing Authority or the Board of Governors after consultation with the Employing Authority may reach a conclusion in the matter on such evidence and information available to it, notwithstanding that further medical evidence is desirable. Failure to attend without reasonable notice and/or good reason to the Employing Authority will result in the costs associated with the examination being the responsibility of the teacher unless the Employing Authority decides otherwise.
- 2.4** At any time before the medical examination the Employing Authority or the Board of Governors or the teacher may submit to the Medical Adviser a statement containing evidence or other matter relevant to the examination.
- 2.5** The teacher may be accompanied at the medical examination by any medical practitioner nominated by the teacher, but any costs related to this must be met by the teacher.
- 2.6** On receipt of the medical report the Employing Authority will inform the Board of Governors of the opinion of the Medical Adviser and will advise on appropriate action including possible “reasonable adjustment” in accordance with the Disability Discrimination Act.
- 2.7** The Board of Governors or its representative(s), or, where relevant, the Employing Authority, should inform the teacher of the medical opinion and offer to meet with the teacher to discuss the matter, consider the way forward and listen to any representations the teacher or his/her Trade Union representative / teaching colleague may wish to make. See also note at 2.2 in respect of gender.
- 2.8** Where, on the basis of all the evidence available including the Medical Adviser’s opinion, the Board of Governors proposes to make a determination, or, where relevant, the Employing Authority decides, that the teacher’s employment should cease on the grounds that he/she is permanently unfit, unfit in the foreseeable future or incapable of providing regular and sustained service, it shall inform the teacher, in writing, and advise of the right to appeal.
- 2.9** Where the teacher does not exercise the right to appeal the Board of Governors will advise the Employing Authority to proceed, or, where relevant, the Employing Authority will proceed to terminate the teacher’s employment.
- 2.10** An appeal against the proposal to make a determination or against a decision to terminate employment must be made in writing by the teacher to the Board of Governors or, where relevant, the Employing Authority within ten working days of the date of receipt of the proposal/decision, setting out the grounds of the appeal and providing initial supporting medical evidence. If the teacher is unfit/unable to make the appeal a close relative, or colleague or his/her Trade Union may make the appeal on

his/her behalf.

- 2.11 On receipt of an appeal, the Employing Authority will nominate an Independent Medical Adviser to consider the appeal, normally within 15 working days, and seek the teacher's agreement to the nomination. An objection to a nominated Independent Medical Adviser must state the grounds of objection. No more than one objection will be allowed.
- 2.12 The teacher shall not be responsible for the cost of the Independent Medical Adviser's fees, these shall be met from the school's budget.
- 2.13 The Independent Medical Adviser shall be given such information by the Employing Authority and/or Board of Governors, the Employing Authority's Medical Adviser, the teacher and the teacher's Medical Adviser as is considered necessary for the formulation of a medical opinion. The teacher may be accompanied at the medical examination by any medical practitioner nominated by the teacher but any costs related to this must be met by the teacher.
- 2.14 If the teacher requests a copy of the sickness record and the medical opinion, as given by the Employing Authority's Medical Adviser, these will be forwarded to the teacher and, if requested by the teacher and with the teacher's written consent, to the nominated full-time Union Official involved in the case, in strict confidence.
- 2.15 On receipt of the medical report from the Independent Medical Adviser, the Employing Authority will either (i) inform the Board of Governors of the opinion of the Adviser and the Board of Governors will make the final determination or (ii) the Employing Authority will decide, on whether or not to proceed to terminate employment. Such termination of employment will be either on the grounds of ill health or, on the basis of all the information available, including the medical report, or the grounds that the teacher is unable to provide regular and sustained attendance.
- 2.16 There is no further right of appeal.
- 2.17 Where it is decided to proceed, the Employing Authority will terminate the teacher's employment in line with contractual notice.
- 2.18 **It should be noted that the decision on a teacher's termination of employment on health grounds is a matter for the Board of Governors or the Employing Authority; the decision on the award of an infirmity pension remains with the Department of Education and in that context the Department may seek such medical opinion as it sees fit.**

### **3. REQUEST BY A TEACHER TO BE CONSIDERED FOR RETIREMENT ON GROUNDS OF PERMANENT ILL-HEALTH**

- 3.1 Where a teacher initiates the process by making a request to an Employing Authority to be considered for retirement on grounds of ill-health, Form TP5 should be completed by his/her GP/Consultant, countersigned by the Employing Authority and

forwarded to the Department of Education. [See note at 2.18 above].

- 3.2** If the award of infirmity pension is approved the Department of Education will issue a retirement pension application, Form TP4, to the teacher. The Employing Authority will countersign the form stating the teacher's date of termination.
- 3.3** If an infirmity pension is not approved as a result of the request, the Department of Education should inform the Employing Authority accordingly. The Employing Authority will seek advice from the Medical Adviser to ascertain whether or not the teacher meets the health and physical capacity requirements and will take action, as appropriate.