Retirement on the Grounds of Ill Health Guidelines

Introduction

These guidelines should be read in conjunction with the Department of Health, Royal Street Divisions (the Department) Retirement on the Grounds of Ill Health policy (the policy) which can be accessed at:


These guidelines apply to all Department employees. This includes:

- Full-time, part-time or casual staff
- permanent and
- staff employed under all awards.

Background

The Department is committed to ensuring that an employee who seeks to retire, or is called upon to retire on the grounds of ill health, is treated equitably and granted access to all entitlements. Employee rights and entitlements are provided in the relevant legislation, awards, employment contracts or agreements.

Procedures

Where an officer requests to be retired, or is called upon to retire on the grounds of ill health, the following procedures should apply.

When the Department (via the Manager, Human Resources Branch) seeks independent medical advice as to an employee’s ability to continue in current employment, the costs of obtaining such advice will be borne by the cost centre of the employee’s branch.

Employee Initiated Request

If an employee has an illness or incapacity of a long term nature with little or no likelihood of recovery, he/she may seek retirement on the grounds of ill health.
This type of retirement will only be approved where:

- alternative employment has been canvassed and no suitable alternatives found
- rehabilitation, where appropriate, has not produced a satisfactory outcome
- an appropriate period of notice has been given.

Procedures for processing such a request should be as follows:

1. The employee should discuss the request with their direct line supervisor (Manager).

2. The employee is to provide the Manager, Human Resources Branch (Royal Street) (HR) with a detailed medical report from a registered medical practitioner that fully addresses their inability to continue in employment.

   At this stage the employee should be advised to contact their superannuation fund to review their specific situation with regard to superannuation and any entitlement to insurance policies. The superannuation fund will assess their claims and provide information. Sufficient time should be allowed to obtain advice and to consider their intention to withdraw or progress their request.

   Upon receipt of the employee’s medical details, the Manager, HR should seek further independent medical advice as to the employee’s inability to continue in current employment. Copies of all relevant reports relating to the employee’s condition should be provided to the independent advisor.

3. Where the independent advice supports the employee’s retirement on the grounds of ill health, the Manager, HR may recommend the employee’s request.

4. Where the independent advice does not support the employee’s retirement on the grounds of ill health, the Manager, HR may on the medical evidence presented:

   - Seek further independent advice
   - Make a recommendation to direct the employee to return to work
   - Offer alternative work options suitable to both the employee and the Department. For example, the offer of voluntary regression/ decategorisation, or a reduction in working hours (part-time employment). This could include developing a plan for ongoing periodic review of the employee
   - Take other action appropriate to the circumstances.
5. Whether or not the application is supported, the written recommendation of the Manager, HR, together with the independent advice, must proceed through to the relevant Tier 2 Officer (Executive Director) for consideration.

6. Any decision is to be made in writing and a copy of the independent medical advice is to be provided to the employee.

7. Employees and their Managers should be kept informed of the status of the request at all times.

8. If a request to retire on the grounds of ill health is rejected, an employee may seek a review of the decision. This request should be made to the Manager, HR who may deem it appropriate to seek further independent medical advice.

**Employer Initiated Request**

Where the employee’s direct line supervisor (Manager) is of the opinion that:

- An employee’s sustained poor performance is directly attributed to the employee’s ill health, or
- Where there is sufficient evidence to suggest that an employee’s sustained poor health poses a significant risk to the welfare of themselves and/or other employees

the Manager should contact the Manager, HR. Consultants within HR will be made available to provide advice and support in dealing with this issue.

The following procedures should be adopted:

1. The employee shall be advised of this concern, and the intention by HR to investigate this matter.

2. The Manager, HR may seek independent medical advice as to the employee’s ability to continue in current employment.

Where the illness or incapacity is work related, it should be pursued through the workers’ compensation process. For more information regarding workers’ compensation go to the Occupational Safety and Health website on Holii at: [http://intranet.health.wa.gov.au/osh/home/workers_comp.cfm](http://intranet.health.wa.gov.au/osh/home/workers_comp.cfm)

The employee should be advised to obtain advice from their superannuation fund to review their specific situation with regard to superannuation and any entitlement to insurance policies. The superannuation fund will assess their claims and provide information. Sufficient time should be allowed to obtain and consider advice.
3. Where the independent advice supports the employee’s retirement on the grounds of ill health, the Manager, HR may recommend that the employee be called upon to retire.

4. The recommendation of the Manager, HR together with the independent advice, must proceed through to the relevant Tier 2 Officer (Executive Director) for consideration. The Executive Director may call upon the employee to retire in accordance with Section 39 of the Public Sector Management Act 1994.

5. The employee must be provided with clear written details of the proposed termination, including the grounds, the proposed termination date (giving appropriate notice) and any actions required by the employee. The employee must be given an opportunity to respond.

6. Where the independent advice does not support the employee’s retirement on the grounds of ill health, the Manager, HR may on the medical evidence presented:

   • Seek further independent advice
   • Offer alternative work options suitable to both the employee and the agency. For example, the offer of voluntary regression/declassification, or a reduction in working hours (part time employment). This could include developing a plan for ongoing periodic review of the employee
   • Take other action appropriate to the circumstances.

7. Any decision is to be made in writing and a copy of the independent medical advice is to be provided to the employee.

8. Employees and their Managers should be kept informed of the status of the request at all times.

**Refusal to Retire**

Unlike the repealed Public Service Act 1978 and its Regulations, there are presently no provisions relating to those instances where an employee is called upon to retire on the grounds of ill health but refuses to do so. In his review of the Public Sector Management Act 1994, Commissioner Fielding highlighted the following:

> The only way an employing authority can enforce the ‘retirement’ of a public servant on the grounds of ill-health is to charge the public servant with a breach of discipline, constituted by disobedience or disregard of a lawful order.

Accordingly, any decision to terminate the services of an employee will need to have regard for the Human Resource standard developed by the Office of the Public Sector Standards Commissioner relating to Termination.
Roles and Responsibilities

Human Resources Branch (Royal Street) Role

1. In the first instance any request for retirement on the grounds of ill health should be made to the Manager, HR. Consultants within HR will be made available to provide advice and support in dealing with a request.

2. The Manager, HR will inform the relevant Tier 2 Officer (Executive Director) of all requests received.

3. The Manager, HR is responsible for managing all requests for retirement on the grounds of ill health and coordinating the Department's response to each request.

Tier 2 Officer’s (Executive Director’s) Role

1. The Executive Director will assess each request, having regard to the recommendation from the Manager, HR and will either approve or reject the application.

2. All decisions and reasons should be recorded in writing.

3. The employee should be provided with a copy of the written decision, including any conditions imposed.

Superannuation

As outlined above, the employee should be advised to obtain advice from their superannuation fund and be given appropriate time to obtain and consider that advice.


The section 'Accessing your super' should provide further relevant information.

Insofar as the GESB is concerned, ‘disability’ is defined as being either totally and permanently disabled or partially and permanently disabled.

The GESB defines ‘disability’ as being where a person will never be able to perform their usual work (partial disability) or any other alternative work (total disability).
The authority to determine a person’s eligibility for a superannuation disability benefit is vested with the superannuation fund and is made independently of the view of the Department. Further, if the Department refuses to support retirement on the grounds of disability, an employee can still apply to the GESB and retire with a full disability superannuation benefit. Therefore, it is important that employees seek advice from their superannuation funds.

**Workers’ Compensation**

Where an employee’s condition has been caused through a work related injury and is subject to a claim for workers’ compensation, retirement on the grounds of ill health must not be approved until the claim is settled. Notwithstanding this, the matter may be progressed where it is known that a workers’ compensation settlement is being negotiated. Following the settlement, the retirement may proceed as formal.

**Redeployment/Voluntary Severance**


The *Public Sector Management (Redeployment and Redundancy) Regulations 1994*. Part 1 – Preliminary, item 4 – Application states:

> An employee who retires or is retired from his or her employment on the grounds of ill health, whether under section 39 of the Act or otherwise; is not eligible for redeployment or voluntary severance under these regulations.

Ill health should not be used as the reason for permitting voluntary severance. For further information on voluntary severance refer to the WA Health Position Abolition: Management of Employee Transfer, Redeployment and Redundancy Policy and Guidelines which can be accessed at: [http://intranet.health.wa.gov.au/policies/doh_policy.cfm](http://intranet.health.wa.gov.au/policies/doh_policy.cfm)

**Relevant Legislation**

*Public Sector Management Act 1994*

*Public Sector Management (Redeployment and Redundancy) Regulations 1994*
Supporting Documents

Public Sector Standards in Human Resource Management – Termination Standard

Royal Street Divisions, Retirement on the Grounds of Ill Health Policy

WA Health Code of Conduct

WA Health Employee Grievance Resolution Policy

Royal Street Divisions, Employee Grievance Resolution Guidelines

WA Health Position Abolition: Management of Employee Transfer, Redeployment
and Redundancy Policy

WA Health Position Abolition: Management of Employee Transfer, Redeployment
and Redundancy Guidelines

Authority

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| Link to Policy page:| via the Royal Street Office Policies link at:
| Primary Contact:    | Human Resources Branch, Business Unit    |
|                     | Development Division                     |

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