

ILL-HEALTH RETIREMENT - FIRST INSTANCE DECISION MAKER GUIDANCE

1. Criteria

- 1.1 The First Instance Decision Maker (FIDM) is the council officer who decides whether or not to agree to ill health retirement. Before the FIDM can decide whether or not to agree to ill health retirement, a certificate from an Independent Registered Medical Practitioner (IRMP) **or** a letter from the Scottish Public Pensions Agency (SPPA) must be obtained.

2. IRMP Responsibilities

- 2.1 The council's Occupational Health Provider acts as the IRMP for non-teaching staff. For Teaching staff the IRMP is the Scottish Public Pensions Agency. The IRMP must review all available evidence, including any reports that are due to be provided to the member by their consultant/specialist. The IRMP should then provide advice to the FIDM, including consideration of any treatments yet to be tried.

3. FIDM Responsibilities

- 3.1 The FIDM will normally be the Head of Service or Service Manager. Once the employee has decided to pursue ill-health retirement, the FIDM must ensure the employee is informed of their rights, how the process works and kept informed of progress throughout the process. The FIDM will generally delegate this duty to the employee's line manager.
- 3.2 The FIDM will seek to obtain all relevant medical information from the employee and commission further reports as necessary, through the completion of an OH Pension Referral.
- 3.3 When submitting an OH Pension Referral, if there is uncertainty about the prognosis due to other treatments yet to be tried, the FIDM must ask the IRMP to provide a professional opinion as to the expected effectiveness of those treatments. If there are specialist reports due to be provided, the FIDM must take these into account before reaching a decision. This may mean that the decision of the FIDM will be delayed while awaiting specialist reports. To minimise delays where possible, employees should be encouraged to provide to any available medical evidence from any specialist or consultant at any stage of the process.
- 3.4 If it is the opinion of the FIDM that the IRMP has failed to properly consider all relevant medical information or there is uncertainty about the prognosis due to other treatments yet to be tried, the FIDM must refer back to the IRMP for their professional opinion and advice on the medical information and/or the likely effectiveness of treatments.
- 3.5 If the FIDM is satisfied that all relevant medical information has been considered, they should liaise with Human Resources (HR) in advance of convening a Capability Assessment Meeting (CAM).
- 3.6 The FIDM should weigh up the IRMP report along with all of the evidence including what is discussed and presented at the CAM and make a decision based on these and applying the right test i.e. not the criminal law test of "beyond a reasonable doubt", but the civil law test of "on the balance of probabilities". **The FIDM is not bound to follow the IRMP recommendation if they have sound reasons to disagree and may seek a further medical opinion.** On reaching a decision, the FIDM should explain the

reasons for their decision and next steps in the process to the employee including any rights of appeal.

- 3.7 Following the CAM, the FIDM should confirm the outcome of the meeting, in writing, to the employee. This letter should also confirm the employee's right to appeal the decision. Where the decision is to dismiss the employee, the FIDM must complete and return the termination paperwork to HR, alongside the completed pension certificate.

Checklist for the FIDM

1. Has the right test been applied i.e. 'on the balance of probabilities'?
2. Is the decision based on all of the evidence or just the IRMP's/SPPA's opinion or certificate?
3. Has the FIDM made the decision or simply adopted the IRMP's/SPPA's opinion without question?
4. Where there was not enough information to make an informed decision; did the FIDM seek clarification from the IRMP or ask for another opinion?
5. Has the IRMP considered the question of untried treatments properly?
6. Did the FIDM explain the decision to the member properly and include information about the next steps in the process?

Further information on the process can be found in the Scottish Public Pensions Agency ["A Guide to Ill Health Retirement and Early Payment of Deferred Benefits"](#)

Human Resources
July 2023