Human Resources Policy No. HR32

Ill Health Retirement

Additionally refer to
HR22 NHS Pension Scheme
HR31 Managing Sickness Absence
HR21 Injury Benefits

Sponsor:  Head of Human Resources in conjunction with Director of Corporate Affairs

Date agreed by TNCC:  November 2010
Date agreed by Board:
Date of next review:  December 2014
Version:  2
## Contents

<table>
<thead>
<tr>
<th>Section 1</th>
<th>Introduction</th>
<th>Page Number</th>
</tr>
</thead>
<tbody>
<tr>
<td>Section 2</td>
<td>Scope</td>
<td>3</td>
</tr>
<tr>
<td>Section 3</td>
<td>Definition</td>
<td>3</td>
</tr>
<tr>
<td>Section 4</td>
<td>Roles and Responsibilities</td>
<td>4</td>
</tr>
<tr>
<td>Section 5</td>
<td>Process</td>
<td>5</td>
</tr>
<tr>
<td>Section 6</td>
<td>Re-employment after Ill Health Retirement</td>
<td>7</td>
</tr>
</tbody>
</table>
1. **INTRODUCTION**

1.1 The purpose of this policy is to give guidance to members of the NHS Pension Scheme on their eligibility for ill health retirement benefits. The contents of the scheme are based on the rules of the NHS Pension Scheme and will be automatically updated by any changes in those rules. In **ALL** cases, officers of the NHS Pensions Agency will determine actual eligibility, not the Trust. Accordingly, staff should not rely on the information given in this policy when making a decision on ill health retirement but must confirm matters via the Trust's Pensions Officer.

2. **SCOPE**

2.1 This policy applies to all employees who are members of the NHS Pension Scheme.

2.2 There is no equivalent arrangement for staff who are not members of the NHS Pension Scheme or for members who are ineligible for ill health retirement benefits. Where such an individual is unable to continue in employment because of ill health the Trust will normally have no option but to terminate the individual's contract of employment.

2.3 In implementing this policy, Managers must ensure that all staff are treated fairly and within the provisions and spirit of the Trust's Equal Opportunities Policy. Given the circumstances likely to be involved, managers must ensure they act within the requirements of Disability Discrimination legislation and, where appropriate, act under advice from Human Resources. Special attention should be paid to ensuring the policy is understood where there may be barriers to understanding caused by the individual's circumstances, where the individual's literacy or use of English is weak or where the individual has little experience of working life.

3. **DEFINITION**

3.1 To be considered for ill health retirement under the terms of the NHS Pension Scheme, the member must retire from pensionable employment because of physical or mental infirmity. There are two levels of ill-health retirement:-

- **Tier 1** – The employee is permanently incapable of efficiently discharging the duties of their current employment
- **Tier 2** - The employee is permanently incapable of regular employment of like duration in addition to meeting Tier 1 conditions

3.2 **Explanation of the Terms:**

- 'retire from pensionable employment' - means the employment contract must cease because of ill health rather than any other reason;
- 'permanently' - means until the member's normal retirement age under the terms of the NHS Pension Scheme (60 in most cases, 55 for some special classes);
- 'efficiently' - means producing the result required, competently;
- 'current employment' - means precisely what its says – it does not extend to a job of a similar nature/standard outside the Trust;
4. ROLES AND RESPONSIBILITIES

4.1 Occupational Health

- To provide an impartial advisory service on any health related matter which is affecting work.
- To advise managers about the fitness of employees to undertake work activities following sickness absence and at other times where health issues may be involved.
- To advise the manager and employee on an employee’s fitness to undertake modified or alternative duties.
- Where appropriate, to assist employees with the process of application for the early payment of Pension Scheme benefits owing to ill health. This may include the need to obtain additional medical information in order to support an application.
- To complete NHS Pension Scheme forms prior to submission to the NHS Pensions Agency (unless the member has organised for another qualified medical practitioner to complete the necessary information).

4.2 Employees

- To advise their line manager if they apply for ill health retirement at the earliest possible date
- To attend Occupational Health appointments and sickness meetings when requested to do so in accordance with the Trust’s Managing Sickness Absence policy (HR31)
- To complete and submit their application for ill health retirement to the NHS Pensions Agency while still employed by the Trust

4.3 Managers

- To manage the employee’s sickness absence in accordance with Trust policy. This will include:
  - keeping accurate records relating to sickness absence
  - obtaining advice and support from the Occupational Health Service where it is believed that health related matters may be affecting work or to seek advice in identifying if the employee’s duties are adversely affecting their health
  - in conjunction with Human Resources, Occupational Health and the employee, to identify, where appropriate, whether modified or alternative duties are available and seek to assist the employee to return to work. The individual should be referred to Occupational Health in all cases where an individual’s fitness for their duties is in doubt
  - in conjunction with Human Resources and Occupational Health, to determine whether termination of employment is appropriate and the grounds for this
  - to assist the employee to complete their ill health retirement application by providing relevant information if requested
  - to continue to manage the employee’s sickness absence in accordance with the Trust’s Managing Sickness Absence Policy (HR31). There should be no delays in progressing that case to await the outcome of an application for ill health retirement

4.4 NHS Pensions Agency
• To determine if applications meet the statutory criteria for ill health retirement benefits (IHRBs) (i.e. the individual must have a minimum of 2 years qualifying NHS pension service).
• To determine if an applicant meets the statutory criteria for permanent injury benefits (PIBs); these benefits apply to all staff, irrespective of NHS Pension Scheme membership.
• To ensure the conclusions detailed in medical reports are substantiated by the content of those medical reports.
• To ensure that the individual's application has been appropriately investigated and that all reasonable treatment options have been explored before concluding that the applicant is permanently incapable of efficiently discharging the duties of their employment.
• To co-ordinate the gathering of medical information additional to that contained in the application form for the purposes of assessing a claim.
• To advise the individual concerned and the Trust of the progress and outcome of the application within an agreed time-scale, and to confirm the appropriate level of ill-health retirement awarded if successful.
• To adjudicate on entitlement to Permanent Injury Benefits. Please refer to the Trust’s Injury Benefits Policy (HR21).

5. **PROCESS**

5.1 Managers should refer the employee to Occupational Health without delay in all cases where an individual employee may be suffering from either:

• physical or mental ill health that means they are incapable of carrying out their full duties to the required standard either permanently or for some considerable time, or
• declining physical or mental health such that they are becoming incapable of meeting the requirements of their job.

5.2 Managers should liaise with Human Resources, who will advise on any implications and responsibilities under the Equality Act (2010) and the best way forward in individual cases.

5.3 In cases of temporary conditions, temporary adaptations to the job or redeployment will be considered where this would allow the individual to continue in work or return to work from sickness absence. Individuals will be expected to be reasonably adaptable in such circumstances; terms and conditions of employment will remain unchanged for the duration of these temporary adaptations.

5.4 In cases where the condition appears more permanent, and where the condition cannot be accommodated by reasonable adaptation of the individual’s role or working environment, or by redeployment, then the Trust may have to consider terminating the individual's employment, normally on the grounds of capability. However, it is essential that ill-health retirement is applied for whilst the individual is still employed by the Trust as they are assessed for ill-health benefits on their current position in the NHS. If the post is terminated before application the individual would be assessed on any work in the NHS.

5.5 The Trust cannot apply for ill health retirement on behalf of the individual but will assist individuals in their application process.
5.6 Application for Ill Health Retirement

5.6.1 All applications for ill health retirement should be made using the standard documentation, copies of which (and advice on completion) are available from Pay Services.

5.6.2 In most cases, Occupational Health will be able to assist the individual with the completion of the application form (see section 4.1). In other cases, it will be more appropriate for other physicians, such as the individual’s consultant or GP, to complete the forms. Where a GP completes the form, the NHS Pensions Agency may require an independent report by another qualified medical practitioner.

5.6.3 Individuals should refer to the Trust’s Pensions Officer for advice on the likely pension benefits. Actual figures cannot be given at application but will be provided in due course by the Pensions Officer if the employee is successful in their application.

5.6.4 If an application for ill health retirement is accepted before their employment with the Trust is terminated, the employee cannot begin to receive ill health retirement benefits until all employment with the Trust have ended. Therefore a formal sickness management meeting should be convened in accordance with the Trust’s Managing Sickness Absence policy (HR31) and a decision made to terminate employment on the grounds of incapability due to ill health.

5.6.5 If an application for ill health retirement is accepted and following the formal sickness meeting where a decision is made to terminate employment on the grounds of incapability due to ill health, managers must complete the ESR Termination of Employment form and send this to Pay Services as soon as possible.

5.7 Terminal Illness

Special pension arrangements are available to NHS Pension Scheme members who are terminally ill. Managers should liaise with Human Resources or the Trust’s Pensions Officer for guidance in individual cases. An Ill-health retirement application should be made immediately and if terminal illness is confirmed, the individual will be eligible for Tier 2 ill-health retirement which could be commuted into a one-off payment. All such information will be handled in confidence and with appropriate sensitivity.

6. RE-EMPLOYMENT AFTER ILL HEALTH RETIREMENT

Managers should refer for guidance to the Human Resources Department if an individual seeking, or having taken, ill-health retirement applies for another post within the Trust. Special conditions apply if an individual has been awarded ill-health retirement and then returns to work, either with the NHS or any other employer.

7. POLICY REVIEW

7.1 This policy will be reviewed and monitored by the Head of Human Resources in partnership with Pay Services, Staff side representatives and the Trust’s Pensions Officer.

Any queries relating to the application of this policy should be referred to the HR Department.

7.3 The TNCC will be responsible for the periodic review of the policy to ensure it remains appropriate and effective.