



III Health Retirement Procedure

ConnectEd Local Agreements

Local Conditions of Service for School Based Employees

III Health Procedure for School Based Employees (Teaching and Non- Teaching)

1
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Schools III Health Retirement Procedure

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Schools Ill Health Retirement Procedure

1. Policy Statement

- 1.1 The Local Governing Body (LGB) and the employer (PHMAT) are committed to adopting policies and procedures to encourage a positive working environment, where a proactive approach to managing the health, safety and welfare of staff will support staff well-being and high levels of attendance.
- 1.2 The Education (Health Standards) (England) Regulations 2003 require employers to ensure that staff working in Schools have the health and physical capacity to carry out their roles. Employers are responsible for assessing the continued fitness of staff in their employment, and for the suspension or termination of employment on medical grounds, where appropriate.
- 1.3 This Procedure has been produced to provide a robust transparent procedure and aims to ensure that any ill-health retirement applications received by teaching and non-teaching staff working in Schools are dealt with in a fair, prompt and supportive manner, with due regard to the Equality Act 2010.

2. Scope

- 2.1 This Procedure applies to all teaching and non-teaching staff employed by Schools, and all staff employed centrally.
- 2.2 It is for Headteachers/ Heads of Schools and line managers to follow when dealing with all ill-health retirement applications.

3. Principles

- 3.1 Headteachers/Heads of School/line managers or their nominee will apply the procedure. Where the procedure is to be applied to the Headteacher (HT), Executive Headteacher (EHT), Head of School (H of S) or Line Manager, it will be applied by a nominated Governor (normally the Chair of Governors), Chair of Directors or equivalent, acting with professional HR advice.
- 3.2 In respect of a trade union or professional association representative no action will be taken under the formal review stage until the circumstances of the case have been discussed with a senior representative or paid official of the trade union or professional association.
- 3.4 Governors / Directors should be aware that their involvement in the early stages of these Procedures is likely to prevent their subsequent involvement should a dismissal hearing be necessary.

4. Trust Responsibilities

4.1 Schools within the Trust should make every effort to assist and support staff with their application for ill-health retirement.

4.2 It is the responsibility of the Trust to ensure that all employees are aware of the ill-Health Retirement Procedure. In particular, Schools within the Trust should ensure that they adopt fair, consistent and objective procedures for managing ill-health, and that:

- advice is sought from the HR provider to assist in the referral of employees to an Independent Registered Medical Practitioner, Specialist consultant and Occupational Health in a timely manner, ensuring that the nominated physician has not had any involvement or has provided a previous medical opinion on the employee.
- recommendations within the report are discussed with the employee and their representative, work colleague or a trade union official, or a trade union representative who has been certified by their union as being competent
- the employee is fully informed and updated of progress
- ill-health retirement is not a substitute for managing employee's performance or capability issues
- employees are managed with sensitivity and empathy
- actions taken under the procedure are documented
- sensitive employee data relating to health and absence is processed in accordance with the requirements of the Data Protection Act 1998, and the Information Commissioner's Office Employment Practices Code
- they act with due regard to the Equality Act 2010 and the duty to make reasonable adjustments where this arises

5. Employee Responsibilities

5.1 Employees should make every effort to co-operate fully with the EHT/ HT / H of S/ Line Manager and the Occupational Health services provided by the Trust.

5.2 Employees who are referred to Occupational Health must attend the scheduled appointment. If, for some reason they are unable to attend, they must inform their manager and the Occupational Health service provider at the earliest opportunity so that an alternative appointment can be arranged.

5.3 It is the employee's responsibility to ensure that the any evidence provided is current and comprehensive. The evidence should demonstrate that:

- you have a recognised medical condition
- you have completed all reasonable treatment
- your medical condition renders you incapable of efficiently discharging your duties of employment at all either full or part-time or at another establishment despite appropriate treatment
- with the exception of Tier 3 (Support Staff) your incapacity is, on the balance of probability, likely to continue until normal retirement age

5.4 Following termination of employment retirees must inform West Midlands Pension Fund (WMPF) (support staff) or Teachers' Pensions (TP) (Teachers) if they obtain any employment.

6. Equal Opportunities Policy

6.1 The Schools within PHMAT recognise that the Equality Act 2010 covers the protected characteristics of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation.

6.2 Under the Equality Act 2010 it is unlawful to discriminate against a disabled person for reasons related to their disability. Disability covers both physical and mental impairments that have a substantial and long term effect (i.e. has lasted or is expected to last for at least 12 months) on the person's ability to carry out normal day to day activities.

6.3 Progressive conditions, such as HIV, cancer and multiple sclerosis, are considered a disability immediately from the point of diagnosis and do not need to last for a year. However addictions to non-prescribed substances are specifically excluded.

6.4 Where an employee meets the definition of a disabled person under the Equality Act employers are required to make reasonable adjustments to any elements of the job which place a disabled person at a substantial disadvantage compared to non-disabled people. Employers are only required to make adjustments that are reasonable. Factors such as the cost and practicability of making an adjustment and the resources available to the employer may be relevant in deciding what is reasonable. Further information can be found within the Manager's Guide.

Procedure

7. Introduction

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7.1 Ill-health retirement benefits may be paid if an employee has to retire before their normal pension age because they are permanently incapable of working in their current role or at all due to illness or injury.

7.2 The circumstances that prompt a referral to Occupational Health for a medical opinion on an employee's eligibility for ill-health retirement benefits vary depending on the circumstances. For example:

- the employee may have been absent for a considerable length of time following illness or injury and, following discussions with the employee, there appears to be little prospect of the employee returning to work
- the employee may have been seriously injured or have a serious illness and will not be able to return to work
- the Schools within PHMAT has explored the prospect of redeployment in to an alternative post but this has not been possible due to the nature of the illness or injury and all possible adjustments have been exhausted

7.3 It is the School/Trust's responsibility to identify when it is the most appropriate time to implement this procedure. There is no relationship between the length of time an employee receives occupational sick pay and the commencement of this procedure. Delaying the commencement of this process is not acceptable as it may lead to prolonged periods of sickness absence and delays in the employee obtaining the release of their pension.

7.4 A flow chart of the Ill Health Procedure is attached at Appendix A (Teachers) and Appendix B (Support Staff).

8. Medical Referral to Occupational Health

8.1 The purpose of the Occupational Health referral is to obtain a report from an Independent Registered Medical Practitioner/specialist consultant on the employee's medical condition, any potential reasonable adjustments that can be made, their ability to undertake a full range of duties and a judgement on the employee's eligibility for ill health retirement.

8.2 Consent is to be obtained from the employee prior to any referral being made. The purposes of the proposed referral should be explained and the employee should be given an opportunity to express any view he/she may have and provide any additional information which may be helpful in assessing the situation. For example, the employee's G.P may have given advice which may need to be taken into account.

8.3 Care should be taken to ensure that employees on long term sickness with chronic conditions are tactfully advised of the need to review the situation and the various options which may arise after receipt of their Occupational Health Medical report.

8.4 Employees may also be requested to give consent for Occupational Health to be granted access to their relevant medical records. If consent is given Occupational Health will request the relevant records and will advise the School on the basis of any information they receive. The Trust will not have access to the medical records.

8.5 Should any employee refuse to give their consent for an Occupational Health referral to be made or for Occupational Health to access their relevant medical records, the Trust will obtain professional HR advice on the action to be taken.

8.6 Advice on completing Occupational Health referrals can be found in the Manager's Guide in respect of Managing Attendance Within the Workplace. Information of the assistance available should be included within the referral, any particular features of the job should be highlighted and a job description attached where available.

8.7 As a medical opinion is sought on the employee's eligibility for ill-health retirement an M1 and an M2 form (support staff) or Application for ill-Health Retirement Benefits Medical Information Form (teachers) should be obtained from [WMPF](#) (Support Staff) or [TP](#) (Teachers).

8.8 The M2 (Support Staff)/Application or Ill-health Retirement Benefits Medical Information Form (Teachers) must be sent to the employee for them to complete and return to the School or nominated HR provider in order for it to be enclosed with the request for an Occupational Health referral. It is recommended that advice is sought on the completion of the form.

8.9 Where the Application or Ill-health Retirement Benefits Medical Information Form (Teachers) has been completed by a specialist or a GP, it should be sent to Occupational Health, along with any supporting documents.

8.10 If Occupational Health advisor consider that the application does not contain enough medical information to enable the application to be fully considered they must provide the applicant with the opportunity to consider if there is additional information that can be provided.

9. Consideration of Occupational Health Report

9.1 The role of Occupational Health is to investigate and report to the employer on all cases referred to them. Normally this will involve interviewing/examining the employee, and as indicated above, it may include seeking consent to obtain a report on the employees' medical history from their G.P, and where appropriate their Consultant/Specialist.

9.2 A confidential report outlining the employees' medical condition and the M1 and M2 (support staff)/Ill-health Retirement Benefits Medical Information Form (Teachers) form(s) will be sent by Occupational Health to either the Trust or the nominated HR Officer.

9.3 Support Staff - If the occupational medical report returns an opinion that the employee is eligible for ill-health retirement then the Trust should arrange a meeting with the employee to discuss the report and explain the next steps.

9.3.1 If the report returns an opinion that the employee is not eligible for ill-health retirement the M1 form only is forwarded to the WMPF, there is no requirement to enclose the medical report and the employee is to return to the relevant stage of the Management of Attendance Procedure.

9.4 Teachers – The occupational medical report, Ill-health Retirement Benefits Medical Information Form and supporting medical evidence is forwarded to the TP for consideration by the Medical Advisors appointed by the Secretary of State. The final decision is then made by the TP, taking into account the Medical Advisor observations.

9.4.1 If the employee is not deemed eligible for Ill-health retirement the Trust should revert to the appropriate stage of the Attendance Management Procedure. Further guidance on the appeals process can be found at para 12.

10. Termination of Employment - Formal dismissal meeting/hearing

10.1 In order to start receiving pension benefits, the employment contract should be terminated at the earliest opportunity.

10.2 Where it is determined on the grounds of Ill-health retirement that the employment contract is to cease a formal dismissal meeting/hearing will be arranged. If the EHT, HT or H of S has delegated powers of dismissal, then dismissal may take place in accordance with Appendix C. The EHT, HT or H of S (or chair of governors in the case of the Headteacher or chair of Directors in the case of the EHT) will chair the meeting and may be accompanied by a HR professional. If, however the EHT, HT or H of S does not have delegated powers to dismissal a Staff Dismissal Committee will be convened in accordance with Appendix D. In a maintained school there is also the requirement to inform the Local Authority to allow it to exercise its statutory advisory rights in respect of its employees and for the dismissal to be legal.

10.3 The employee will be invited to the dismissal meeting/hearing and at least five working days' notice will be given. The notification will contain a copy of any written medical evidence; the details of the time and place of the meeting; and will advise the employee of their right to be accompanied by a work colleague or a trade union official, or a trade union representative who has been certified by their union as being competent. If however arrangements can be mutually agreed for the dismissal meeting/hearing to take place within a shorter timescale the meeting/hearing should proceed without delay.

10.4 Termination of employment will be confirmed in writing within 5 working days, detailing the employee's right of appeal against the decision to dismiss for reasons of ill health retirement (this is not an appeal against the level of pension awarded – see para 12). The School recognise that the Local Authority is then required to ratify the dismissal within 14 days as set out in the School Staffing (England) Regulations 2009. If notification is not received by the Local Authority in time to allow 14 days for the ratification of the dismissal, then the School accept that any liability for extended employment costs will pass to the School. Where the teacher works in more than one School, the letter from the Local Authority will explain that they are required to cease work at the School from which they have been dismissed.

11.0 Right of Appeal - Formal Dismissal Meeting/Hearing

11.1 If an employee feels that a decision to dismiss them on the grounds of Ill-health Retirement, or other action taken against them at the formal dismissal meeting/hearing, is wrong or unjust, they may appeal in writing against the decision within 10 working days of the decision, setting out at the same time the grounds for appeal.

11.2 An Appeal Committee shall normally hear the matter not more than 5 weeks after receipt of an appeal letter. Appeals will be heard in accordance with Appendix E.

11.3 The decision of the Appeal Committee and the reasons for it shall be communicated in writing to the employee. The decision of the Appeal Committee will be final.

12.0 Right of Appeal – Pension Award

12.1 **Teachers** – If an application for ill health retirement is rejected by the TP, a teacher will have the right to make two appeals against any aspect of the decision including the level of benefits that they have been granted. A teacher may also request to see their medical records used to assess their case through contacting their doctor.

A request to appeal must be made in writing by either the employee or their representative. If the employee has chosen a representative to act on their behalf, they will be required to provide the TP with the name and address of the person appointed and provide written permission for the TP release information regarding their application the that person. The

appeal will be reviewed by a medical advisor other than the original assessor.

If the first appeal is unsuccessful a teacher has the right to make a second appeal. Whilst there are no time limits set on submitting a first appeal, the second appeal must be made to the Department for Education (DfE) within six months from the date that the teacher was notified of their first appeal was not successful. Letters should be marked as a second appeal and sent to:

Pension and Policy Team
Department for Education
Level 1
Bishopsgate House
Darlington
DL1 5QE

If the second appeal is unsuccessful a teacher may wish to ask The Pension Advisory Service TPAS to intervene. They can be contacted at:

The Pension Advisory Service
11 Belgrave Road
London
SW1V 1RB

If TPAS is unable to intervene a teacher may wish to refer their complaint to the Pensions Ombudsman.

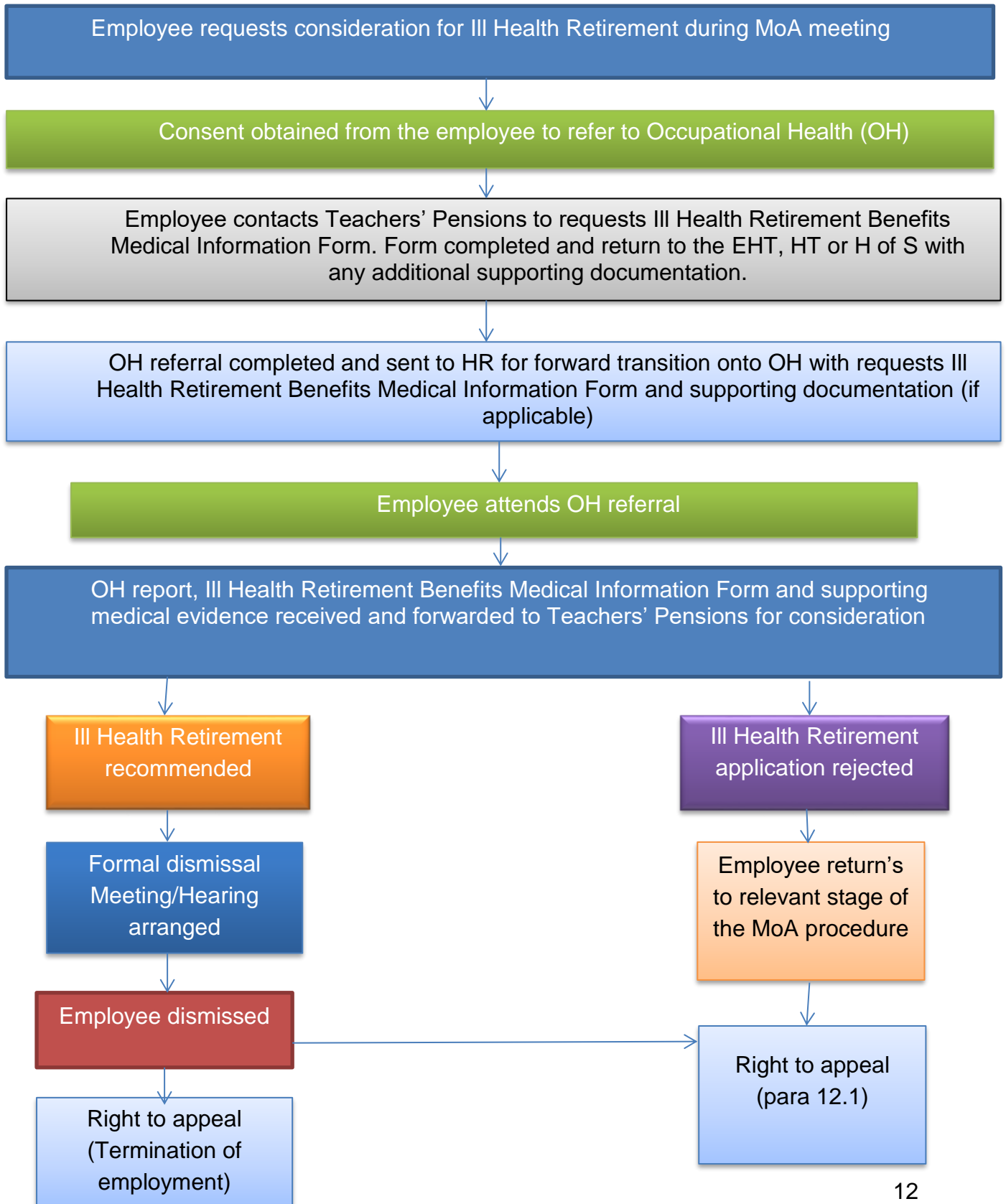
12.2 Support Staff – If a member of the support staff is dissatisfied with the outcome of the Tier that has been awarded to them they may appeal following dismissal via the completion of a written application to Payroll Services. This application must be submitted within six months from the date of their notification letter that has been issued from Payroll Services. Tiers are defined as follows:

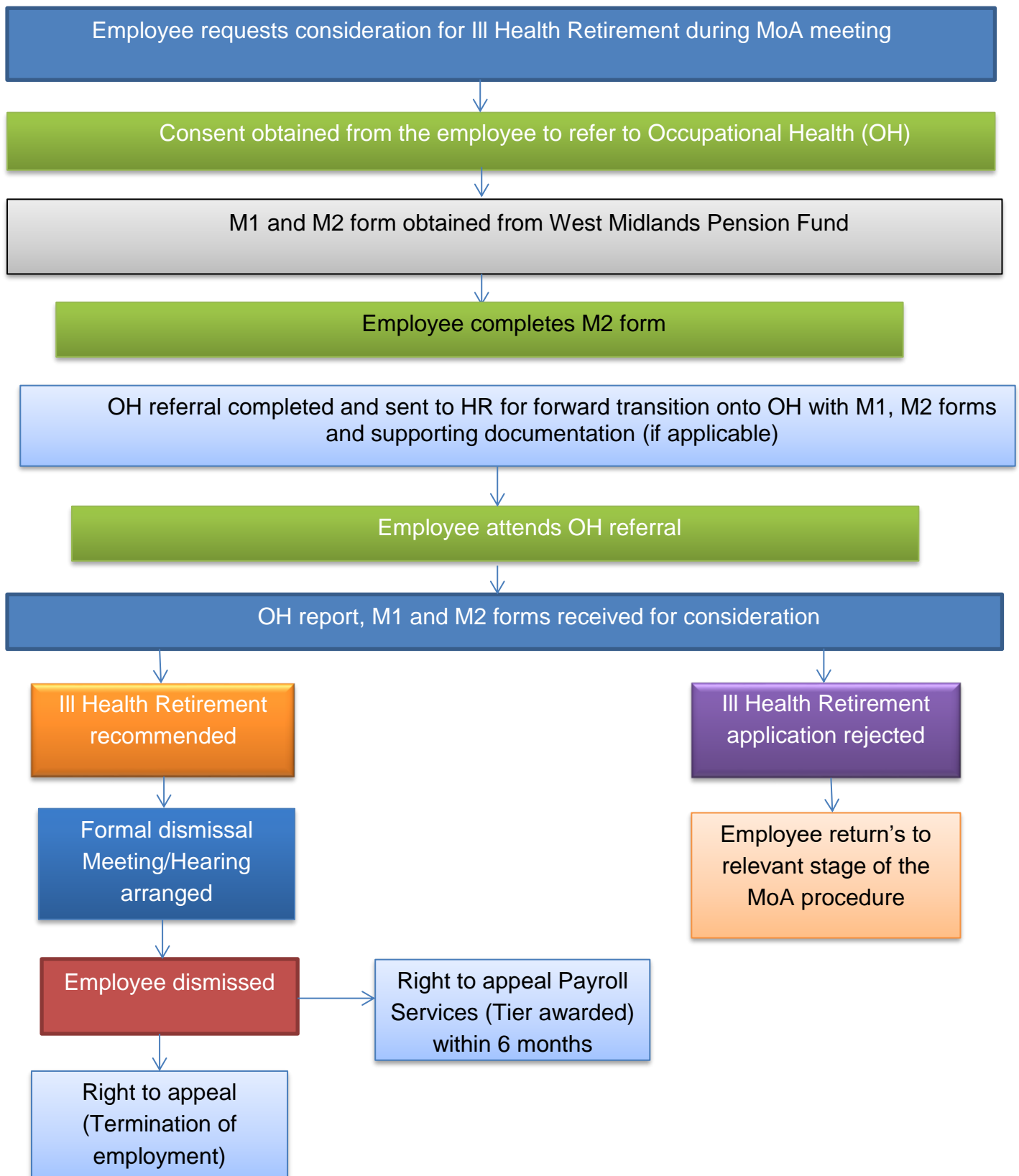
- **Tier one:** the pension payable is based on accrued membership plus 100% of prospective membership between leaving and normal pension age where the member is unlikely to be capable of undertaking gainful employment before normal pension age

- **Tier two:** the pension payable is based on accrued membership plus 25% of prospective membership between leaving and normal pension age where the member is unlikely to be capable of undertaking any gainful employment within three years of leaving, but is likely to be able to undertake gainful employment before normal pension age
- **Tier three:** the pension payable is based on accrued membership if medical evidence indicates that the member is likely to be capable of undertaking gainful employment within three years of leaving, or before normal pension age if earlier. Benefits paid under tier three are paid for a maximum of three years. Subject to appropriate medical certification, benefits payable under the third tier may be adjusted to the second tier

III Health Retirement Procedure - Teachers

Appendix A





Procedure to be followed at a Formal Meeting – Executive Headteacher, Headteacher, Head of School or Line Manager Delegated Power of Dismissal

1. Introductions and housekeeping
2. EHT, HT or H of S to explain the purpose and format of the meeting.
3. Any person present may request an adjournment.
4. The EHT, HT or H of S will outline the content of the medical report with the employee confirming its accuracy.
5. The employee and their representative may ask questions of the EHT, HT or H of S.
6. The employee and their representative will be invited to present the employee's case.
7. If the documentation supports the recommendation for Ill Health Retirement then the EHT, HT, H of S or Line Manager will inform the employee that their employment will be terminated in order for them to access their pension benefit.
8. If the documentation does not support Ill Health Retirement then the EHT, HT, H of S or Line Manager will inform the employee that they will return to the relevant stage of the MoA procedure.
9. The employee will be informed of their right to appeal.
10. The decision will be confirmed in writing within ten working days of the meeting taking place.
11. The Trust will ratify any dismissals in writing within 14 days of the meeting taking place.

Procedure to be followed at a Formal Hearing

1. Introductions and housekeeping
2. Chair to explain the purpose of the Hearing, the format for the Hearing and the potential outcomes.
3. Any person present may request an adjournment.
4. The person who has been responsible for managing the employee's ill-health will be invited to present the Trust's case. The Manager may be accompanied by a HR professional.
5. The employee and their representative may ask questions of the Manager.
6. The Panel, their Adviser and the representative of the Local Authority may ask questions of the Manager.
7. The employee and their representative will be invited to present the employee's case.
8. The Manager and any HR professional accompanying them may ask questions of the employee and any witnesses they may call.
9. The Panel, their Adviser and the representative of the Local Authority may ask questions of the employee.
12. The Manager will be invited to make a concluding statement.
13. The employee and their representative will be invited to make a concluding statement.
14. The Hearing will adjourn and all parties will withdraw with the exception of the Panel, their Adviser.
15. Where it is possible for a decision to be made within a reasonable timescale, the Hearing will be reconvened and the decision communicated to the employee along with their right to appeal.
16. The decision will be confirmed in writing within ten working days of the Hearing taking place. Where a longer period of time is required to make a decision, the Hearing will close and the outcome will be communicated to the employee within five working days.
17. The Directors Board will ratify any dismissals in writing within 14 days of the meeting taking place.

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Procedure to be followed at an Appeals Hearing

1. Introductions and housekeeping
2. Chair to explain the purpose of the Hearing, the format for the Hearing and the potential outcomes.
3. Any person present may request an adjournment.
4. The employee and their representative will be invited to present the employee's grounds for appeal.
5. The Chair of the Formal Hearing and any HR professional accompanying them may ask questions of the employee.
6. The Panel their Adviser and the representative of the Director Board may ask questions of the employee.
7. The Chair of the Formal Hearing will respond to the employee's appeal.
8. The employee and their representative may ask questions of the Chair of the Formal Hearing.
9. The Panel their Adviser and the representative of the Director Board may ask questions of the Chair of the Formal Hearing.
10. The Chair of the Formal Hearing will be invited to make a concluding statement.
11. The employee and their representative will be invited to make a concluding statement.
12. The Hearing will adjourn and all parties will withdraw with the exception of the Panel, their Adviser.
13. Where it is possible for a decision to be made within a reasonable timescale, the Appeal Hearing will be reconvened and the decision communicated to the employee.
14. The decision will be confirmed in writing within ten working days of the hearing taking place. Where a longer period of time is required to make a decision, the Appeal Hearing will close and the outcome will be communicated to the employee within five working days.
15. The Directors will ratify any dismissals in writing within 14 days of the meeting taking place.
16. The decision of the Appeal Panel is final and there will be no further right to appeal.

