

OCCUPATIONAL
HEALTH ADVICE ON
MEDICAL
FITNESS
TO
TEACH

A GUIDE FOR BOARDS OF MANAGEMENT/VECS

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The Employee Assistance Service for Teachers

The Employee Assistance Service is the first stage in the development of an overall Occupational Health Strategy for teachers. An external provider has been contracted by the Department of Education and Science to deliver the Employee Assistance Service.

The purpose of the EAS is to provide teachers and their immediate family members with easy access to confidential counselling and to assist in coping with the effect of personal and work-related issues. The service which is free and confidential has been available since November 2006 to teachers serving in primary and post-primary schools.

The following services are available:

- Telephone Counselling – single sessions or short term structured counselling
- Face to Face counselling – up to four counselling sessions

Counselling is provided on issues such as health, relationships, addictions, bereavement, stress, conflict, critical incident and trauma.

Accessing the service

Couldn't be simpler. **EAS** is available 24 hours a day, 365 days a year.

For additional information on the EAS just click on to the Department of Education and Science Website, www.education.ie and follow the link provided.

1 INTRODUCTION – AIM OF THIS GUIDE

Those who appoint and employ teachers have responsibilities for ensuring the health, safety, well-being and educational progress of students. They also have a duty under Section 8 of the **Safety, Health and Welfare at Work Act 2005** to “ensure, so far as is reasonably practicable, the safety, health and welfare at work of his or her employees”. In order to discharge these management responsibilities effectively, it is essential that employers of teachers access professional occupational health advice on teacher medical fitness. The Occupational Health Service is being put in place by the Department to provide employers with health advice in relation to teachers in posts which are Oireachtas funded.

This guide aims to help employers of teachers understand how professional occupational health advice can support their management functions and how they can obtain advice which meets their needs and those of the students and teachers for whom they are responsible. It focuses specifically on questions of individual teacher medical fitness and their relationship to management issues and it should be read in conjunction with primary and post-primary sick leave circulars as appropriate.

In this document the term “employer” means a Vocational Education Committee and in the case of primary, voluntary secondary, community and comprehensive schools, a Board of Management/Manager. The Vocational Education Committee or Board of Management/Manager may delegate responsibility outlined in this guide to the Principal of the school.

2 THE EMPLOYER'S ROLE

2.1 EMPLOYER'S OCCUPATIONAL HEALTH AND SAFETY RESPONSIBILITIES

Management arrangements vary between schools. It is essential that individual teachers understand the arrangements which apply to them and that employers understand what their role is in meeting their responsibilities for occupational health and safety issues. In the educational setting this includes ensuring:

- That those who teach are medically fit to do so.
- That they remain capable and medically fit.
- That the health, safety and well-being of staff and students are safeguarded.
- That employers comply with all legislative requirements including Health and Safety and Disability Discrimination legislation.
- That a consistent quality and standard of education is delivered to all those for whom they have a responsibility in so far as medical fitness.

As part of satisfying these requirements, employers should seek specialist advice from the Occupational Health Service on the medical fitness to teach of all teaching staff whom they intend to employ.

For staff in employment, employers should:

- Seek specialist advice from the Occupational Health Service in a timely manner in relation to those who have suffered significant illness or injury to ensure that they are medically fit to return to teaching duties.
- Identify concerns regarding an individual's apparent lack of medical fitness resulting in performance issues at an early stage, investigate fully and speedily, seek appropriate advice including occupational health advice and determine necessary actions to be taken.
- Inform teachers of arrangements for occupational health advice
- Ensure that teachers are aware of how their own health and well-being can impact on the health and safety of students.

2.2 THE RELATIONSHIP BETWEEN THE EMPLOYER, STAFF AND THE OCCUPATIONAL HEALTH SERVICE

A trusting relationship between the employer, teacher and the occupational health service can be of enormous benefit to all concerned. The following should be noted in relation to the role of occupational health service:

- The role of the occupational health service is advisory only. It is for the employer concerned to determine whether or not to accept the advice offered. In determining not to accept the advice offered however an employer should be able to justify the basis for this decision if subsequently challenged.
- Occupational Physicians and Nurses are bound by professional requirements to maintain confidentiality in relation to medical information. Maintenance of this is also crucial in retaining the trust and confidence of the employees concerned. This does not however impact upon the quality of advice that can be offered since it is the implications of any diagnosis in relation to medical fitness to teach, not the diagnosis itself, which the employer needs to know.
- In relation to any referral to the Occupational Health Service, it is the employer's responsibility to ensure that the individual being referred is made fully aware of the reasons for referral.
- In relation to any referral to the Occupational Health Service it is the employer's responsibility to ensure that the information provided is factual and is completed on the standard referral form contained in the Standard Operating Procedures Manual
- Reports to the employer from the Occupational Health Service should be regarded as confidential personnel documents.

3 ASSESSMENT OF MEDICAL FITNESS

3.1 WHY IS MEDICAL FITNESS TO TEACH AN ISSUE?

The reasons for addressing the issue of medical fitness to teach centre around the requirement:

- To ensure the health, safety, well-being of teachers
- To ensure the health, safety, well-being and educational progress of students.
- To provide an efficient service which will facilitate learning for students.
- To manage any risk to the health of teachers which may arise from their teaching duties including ensuring that those duties do not exacerbate pre-existing health problems.
- To ensure the health and safety of other teachers and support staff is not adversely affected by a colleague being medically unfit.
- To enable all, including those with disabilities, who wish to pursue a career in teaching to achieve their potential within the bounds of reasonable adjustment.

3.2 WHEN IS ASSESSMENT OF MEDICAL FITNESS NECESSARY?

The need to assess medical fitness to teach arises in a number of circumstances. The most common of these are:

- On appointment as a teacher or return to teaching following an absence in excess of 2 years
- During and/or following sickness absence
- Where health problems become otherwise evident during employment
- Where ill health retirement is being considered.

Medical fitness assessment is complemented by health risk assessment and management which may be influenced by individual variables such as health status and pregnancy status.

3.3 WHAT CRITERIA ARE USED TO MEASURE MEDICAL FITNESS?

To be able to undertake teaching duties safely and effectively, the following are among the more essential criteria in measuring teachers' medical fitness: Teachers

- Have the health and well-being necessary to deal with the specific types of teaching and associated duties in which they are engaged.
- From a medical perspective are able to communicate effectively with students, parents and colleagues.
- Possess sound judgement and insight.
- Remain alert while supervising students and/or working with hazardous materials
- Can respond to students needs appropriately and effectively.
- Are medically fit to manage classes.
- Do not constitute any risk to the health, safety or well-being of the students who they teach.
- Can, where disabilities exist, be enabled by reasonable adjustments to meet all other criteria.

A more detailed criterion may need to be used for specialist posts e.g. Physical Education, Science.

4 ASSESSMENT OF MEDICAL FITNESS PRIOR TO APPOINTMENT AS A TEACHER (Pre-Employment Medicals)

It is essential that the system of assessing medical fitness to teach be completed and fitness confirmed before the *successful candidate takes up a teaching post. Employers can help the Occupational Health Service provide an effective and efficient service by:

- ensuring that the requirement for a teacher to be medically fit for teaching is made explicit to all candidates for a teaching post at the time of application. It should be clear that the offer is subject to the teacher or candidate being assessed as fit to undertake the teaching post
- requiring completed Pre-employment medical questionnaire to be returned directly to the Occupational Health Service immediately following a provisional offer of a place being accepted:

An individual who has a disability must not be shown less favourable treatment without reasonable justification and every effort should be made to effect reasonable adjustments such that the individual can be appointed to the post.

Having considered the Pre-employment medical questionnaire (and evidence from a medical examination and specialist advice if necessary) the Occupational Health Service will advise the employer of the outcome.

A Pre-employment medical questionnaire form and standard operating procedures in relation to pre-employment medicals is contained in the Standard Operating Procedures Manual and is also available for download by logging onto www.education.ie and following the link provided.

5 ASSESSMENT IN EMPLOYMENT

A standard operating procedure for assessment of teachers in employment is set out in the Standard Operating Procedures Manual.

5.1 SICKNESS ABSENCE AND MEDICAL FITNESS TO RETURN TO WORK

Any organisation which employs teachers should have in place a policy relating to the management of sickness absence to ensure that:

- Return to work of teachers following illness or injury can be facilitated and supported in a way that will optimise the likelihood of rehabilitation back to full teaching duties.
- Following illness or injury, the individual is fit to resume teaching duties and meet the criteria of the employer and that any reasonable adjustments can be considered that will facilitate the return to work of teachers with a residual disability.
- Work related causes of illness or injury can be identified, investigated and addressed in order that other employees are not similarly affected.
- Lost working time is minimised

Criteria for case referral of individuals who are absent as a consequence of illness or injury are set out in the Standard Operating Procedures Manual.

Any changes in the criteria will be guided by best practice in this area and notified to employers in advance.

5.2 EMPLOYER REFERRALS

Employers of teachers will require advice from the Occupational Health Service during a teacher's employment. Long-term sickness absence has been referred to above. A teacher may also be referred in the following circumstances:

- Repeated short-term sickness absences.
- Where concerns arise regarding performance of duties as a result of health factors
- Concern that work related factors may be adversely affecting teacher's health.
- Alcohol or drug related problems.
- Where ill health retirement is being considered.

5.3 ILL HEALTH RETIREMENT

Retirement of a teacher on the grounds of ill health has significant implications for:

- The individual teacher in terms of: status; income; activity and social interaction;
- The employing organisation in terms of loss of: skills; experience; costs of temporary support and recruitment
- The Teachers Pension Scheme

Therefore recommendations for ill health retirement:

- Are not made lightly and only after the fullest investigation and consideration.
- Are only made after all opportunities to allow the teacher to recover and return to teaching or other duties, including consideration of all possible adjustments, have been fully explored and excluded.
- Are not used as a means of solving management problems which should be dealt with in accordance with appropriate management, administrative or disciplinary procedures.
- Are not made to accommodate a teacher who for non-medical reasons no longer wishes to teach.

For particular attention of Teacher and School Management

Where a teacher applies for ill-health retirement pension benefit, the employer should be alert to the implications of such an application.

Where the decision not to award ill-health retirement pension benefit is made by Department/VEC, it is a matter for the teacher to discuss the matter with the employer. The decision on whether or not it is appropriate for the teacher to attend for work is a matter on which the employer must engage with the Occupational Health Service.

Where a teacher is in receipt of ill-health retirement pension benefit, s/he may not subsequently engage in teaching in any school or college funded directly or indirectly by the State.

Department/VEC will inform School Management of the outcome of the application, and of any appeal by the teacher, and the date of retirement in respect of a successful application.

6 WITHDRAWAL OF RECOGNITION ON MEDICAL GROUNDS

Medical fitness for admission to removal from or suspension from the Register of Teachers is a matter for the Teaching Council.

7 REASONABLE ADJUSTMENT

The Employment Equality Act, 1998-2004 outlaws direct and indirect discrimination at work and in employment conditions on nine grounds, one of which is disability.

Discrimination is defined as the treatment of one person in a less favourable way than another person is, has been or should be treated. Disability is defined as including total or partial absence of bodily or mental facilities, chronic disease, whether manifest or not, learning and personality disorders.

The Act outlaws discrimination against an employee with a disability or a prospective employee who has a disability in relation to; access/recruitment to employment; conditions of employment; training or experience for, or in relation to, employment; promotion, regrading or classification of posts.

An employer may not discriminate on grounds of disability but that does not mean that the employer must recruit or promote someone who is not willing to do or fully capable of doing the job in question.

The Occupational Health Service is able to recommend adjustments which would enable teachers to continue in work or return to work but it is for the employer to determine whether it is reasonable for such adjustments to be made.

8 PREGNANCY

Pregnancy is a natural state not an illness and teachers with uncomplicated pregnancies should be capable of undertaking their duties efficiently and effectively until commencement of maternity leave. It is however associated with physiological and anatomical changes which may require minor modifications to duties as pregnancy progresses. In assessing the need for such modifications, the specific nature of the teaching duties needs to be reviewed and common sense should prevail. Where complications of pregnancy arise, decisions regarding medical fitness need to be based on the nature of the specific problem.

9 HEALTH RISK MANAGEMENT

Although the focus of this guidance has been on the medical fitness of individuals to teach, it should also be recognised that teachers in the course of their duties may be exposed to potential hazards which require to be appropriately managed.

The Health and Safety at Work Regulations require all employers to conduct risk assessments to identify risks to health and safety and then to take appropriate action to control such risks.