Extract from the Medical Guidance in response to Questions 1 and 2.

Medical Retirement Process

2.13 It may sometimes be helpful to employer to get the *informal* advice of their occupational health provider on whether the PCSPS(NI) or alpha criteria for ill health retirement are likely to be met before application is made by the employer.

2.14 Formal applications for medical retirement may be made either by the individual or by the employer. Individuals applying for medical retirement *must* do so through their employer. The employer is responsible for ensuring that all necessary documentation is prepared and the case is referred in a suitable form. Employers seeking medical retirement for a member must ensure that the individual is aware of the request.

2.15 Compulsory medical retirement (that is, where the person does not wish to be retired early) will only be considered if the employer indicates that the individual's service is to be terminated. The scheme medical advisor will advise on whether the individual satisfies the criteria for medical retirement. Advice concerning future attendance or performance, which may influence a decision to terminate employment, must be obtained from the occupational health provider.

2.16 The following documentation *must* be supplied as a minimum with each application for medical retirement. Failure to include any of the following will result in the case being returned to the employer:

- A fully completed OHS referral form.
- Details of consideration given to re-deployment if appropriate should be included.
- Any written request from the individual for medical retirement (if available).
- Copies of any medical correspondence relating to the case.
- Job description.
- Sickness absence record for last five years (if under five years' service, the record to that point).
- Any other relevant information.

2.17 The case will be considered by the scheme medical advisor and if the scheme criteria are met a medical retirement certificate (**Annex D**) will be issued for pension purposes. Medical retirement certificates are valid for 4 months and 10 days from the date of issue during which time the employer and the member agree a leaving date. Where it proves impractical to effect medical retirement within this time-scale the case must be referred back to the scheme medical advisor with all the papers previously considered. It may be possible to issue a second medical retirement certificate on the basis of the previous papers but, particularly in cases of compulsory ill health retirement or where there has been a significant delay, it may be

necessary to obtain an update on the medical condition.

2.18 In some circumstances the ill-health pension may come into payment *before* the date on the medical retirement certificate. For example, where a member has been dismissed whilst in the midst of the medical appeal process and medical retirement is upheld, last day of service is taken as the date of dismissal; in early payment on medical grounds cases the date of pension payment is taken from that on the person's letter of application, which is always earlier than the date on the medical advisor's certificate; and in cases of retrospective medical retirement, the pension comes into payment at the point that the person was dismissed or resigned, which again will be a date earlier than the one on the medical advisor's certificate.

2.19 If the application is rejected the applicant's employer will be advised of this.

2.20 If the scheme member is the subject of disciplinary action, details including the stage of proceedings *must* be provided. Medical retirement will only exceptionally be approved while disciplinary action is outstanding; exceptional circumstances might include the development of a life threatening illness unrelated to the matter in question. If disciplinary action has been taken within the previous 12 months details should be provided.

2.21 If the scheme member has an outstanding complaint with an Employment Tribunal (ET) a copy of the IT1 and the employer's response must be submitted together with any related medical evidence. If judgement has been made at an ET or an Employment Appeals Tribunal within the previous 12 months a copy must be provided.

2.22 Medical evidence may consist of a combination of occupational health assessments, GP reports, specialist reports and other relevant information such as the results of special investigations.

Psychiatric cases must have been fully investigated and have received appropriate treatment consistent with the diagnosis without effect before medical retirement can be considered. All cases should be assessed and a decision made on whether further medical evidence is necessary, e.g. GP or Consultant report. As for other types of illness, evidence of the employment adjustments made to facilitate effective working and documentation demonstrating the failure of such initiatives should also be provided.

Musculo-skeletal cases must also have been fully investigated and treated without improvement before medical retirement can be considered. Specialist reports from consultants in rheumatology, orthopaedic surgery or occupational medicine may be required. Formulation of an accurate prognosis is dependent on the availability of a diagnosis; cases with chronic

symptoms for which no underlying pathology can be identified are therefore most unlikely to meet the scheme criteria. Once again evidence of the employment adjustments made to facilitate effective working and documentation demonstrating the failure of these initiatives should be provided.

2.23 In general, medical evidence should be comprehensive, current and clearly indicative that the scheme criteria are likely to be met.

Extract from the Medical Guidance in response to Questions 3 and 4.

4. Medical Retirement Appeals

4.1 The Medical Retirement Appeals process relates to:

- Decisions to retire a member on medical grounds
- A refusal to grant retirement on medical grounds
- A refusal to grant a member medical retirement retrospectively.

Criteria

4.2 The criteria applied when considering a case under the Medical Retirement Appeal process are set out in paragraphs 2.4 to 2.12.

Interpretation

4.3 Interpretation of the medical retirement criteria is identical to the guidance given in paragraph 3.3.

Timing

4.4 Appeals will normally be made before the member leaves the service. Late appeals may be submitted up to two months after the date of retirement or leaving, or the date of decision refusing retirement (if the member has not left). Where a member is unfit to make an appeal personally, a close relative, friend or Trade Union representative may appeal on their behalf during the three month period. Appeals against a refusal to grant medical retirement retrospectively must be made within two months of the date of the letter informing the member that their application was not successful.

Process

4.5 The procedure has two separate stages at any either of which the appeal may be upheld.

Stage 1: The officer submits an appeal to employing Department for transmission to the NICS OHS. The appeal must contain new medical evidence.

An OHS Medical Advisor who did not make the original decision will reassess and may overturn the original decision, reject the appeal on the basis that the medical evidence is not in the form of a new comprehensive report and does not support the appellant's case on medical grounds.

Stage 2: If the second Medical Advisor accepts and considers the appeal but does not overturn the original decision, the case will then be referred to an independent medical assessment for a final determination.

Extract from the Medical Guidance in response to Question 5.

5. Medical Appeals Process (MAP)

5.1 MAP is an appeals mechanism where the dispute is based on **the medical opinion** rather than **the scheme rules and Regulations**. For example, a deferred Classic member applies for early payment on health grounds but the medical opinion does not support that medical retirement would have been appropriate. The scheme rules are that payment would only be appropriate where the (hypothetical) medical retirement would have been appropriate. Consequently, the application for early payment would be declined which is obviously a correct interpretation of the Classic scheme rule (3.14). Therefore, if the applicant wished to dispute this decision then the appeal would have to be based on the medical evidence. It is a dispute such as this which is based on medical evidence that would be dealt with under MAP.

5.2 MAP will apply when there is a dispute based on the medical opinion/advice in cases of;

- Applications for early payment of preserved benefits on grounds of ill health for deferred classic members (or deferred members of premium, classic plus, nuvos and alpha whose life expectancy is deemed less than 12 months)
- Retirement on the tiered ill health benefits under the premium/classic plus and nuvos arrangements of the Principal Civil Service Pension Scheme (Northern Ireland) [PCSPS(NI)] and the alpha pension scheme.

5.3 **Please note:** MAP will not apply in **Injury Benefit** cases where appeals will be conducted under the **Injury Benefit Reviews** and **Injury Benefit Formal Appeals** processes.

- There is no requirement that the appellant must submit fresh medical evidence for MAP to be initiated or indeed at any other stage under MAP. However, CSP will encourage appellants to provide fresh medical evidence pointing out it would be unlikely that an opinion

would change if there was no fresh evidence and therefore submitting such evidence may be to their advantage.

5.4 MAP is a separate appeals mechanism which, in cases of disputes over medical aspects of the case, is initiated before the IDR process. **However, once MAP has been exhausted the appellant cannot address medical matters under IDR which will deal only with whether the appropriate rules were considered and implemented correctly.**

5.5 For example, if a premium, classic plus or nuvos member of the PCSPS(NI) or a member of the alpha pension scheme is medically retired under lower tier then they may wish to appeal this decision so as to be considered for an award of upper tier benefits. The decision to award lower tier would have been made in line with the scheme rules/regulations but based on the medical advice of the Occupational Health Service/Occupational Health and Wellbeing. Therefore, this decision would only be changed if the medical opinion on which it was based changed. If the member then initiated MAP and the outcome of the entire process upheld this medical opinion then this would be the end of any review of the medical aspects of the case. The member would then be entitled to register the matter under IDR. However, the member could not introduce either old or new medical evidence as the MAP process has been exhausted. Therefore, under IDR, the member could only question whether CSP have used the correct rules/regulations and interpreted and implemented those rules/regulations correctly. OHS will not therefore be involved in the IDR process.

5.6 MAP is a three stage appeals process which is outlined as follows:

STAGE 1

The individual would submit a written appeal, within the time frame (if this is to apply), which would then be acknowledged and registered by CSP. In relation to an appeal against award of lower tier, the member must appeal within 3 months of the date when the Employer notifies them in writing.

The case is then to be forwarded to OHS which should contain:

- CSP submission/cover letter (**Annex G**)
- The completed letter of appeal/consent.
- All papers that had previously been provided when considering the issue in question.

A Medical Advisor who did not provide the original advice will then either:

- Where no new medical evidence has been submitted, review the case based on all papers previously submitted and provide an explanation of how they arrived at their opinion including details of reports, outcome of examination etc. that were used in arriving at this

opinion.

- Where new medical evidence has been provided upon request by OHS, review the case in light of this evidence. Where the original decision is reaffirmed or reviewed, the doctor will provide an explanation of how they arrived at this opinion including details of reports, outcome of examinations etc. that were used in arriving at this opinion.

OHS will complete the form at **Annex J** laying out the outcome of the review and an explanation of how they arrived at this decision including, documents/reports used etc.

On receipt of the OHS opinion/advice (Annex J), CSP should consider the outcome of the medical review and the implications on the pension position. CSP will then write to the appellant advising him/her of the outcome of the review enclosing a copy of Annex J form that was completed by OHS. This letter will also advise of the next step in the MAP, if this is appropriate, and the timescales involved. Again the individual should be supplied with a MAP explanatory leaflet.

STAGE 2

This review will follow along the lines of stage 1 except that it will be considered by a Medical Advisor who did not make the original decision or deal with the first appeal.

Stage 2 should also be applied for within 6 months of the issue of the notification of the stage 1 decision. However, the 6 month deadline may be extended and/or waived if there are extenuating circumstance (e.g. the complainant was seeking advice from a consultant but was unable to get an appointment within the 6 month period). It will be for CSP to decide whether the time limit should be extended/waived. Any new medical evidence provided must relate to the condition as at the time of the original application.

STAGE 3

Stage 3 should also be applied for within 6 months of the issue of the notification of the stage 2 decision. However, the 6 month deadline may be extended and/or waived if there are extenuating circumstance (e.g. the complainant was seeking advice from a consultant but was unable to get an appointment within the 6 month period). It will be for CSP to decide whether the time limit should be extended/waived.

Initially, the case will be submitted to the medical advisor who provided the original medical opinion who will arrange that the case be reviewed by an external consultant.

The review by the consultant may include an examination. The member may, if they wish, be accompanied to the examination. In the event of refusal to attend an examination or failure to honour two appointments the consultant will consider the case on a papers only basis.

Having considered all the evidence, the consultant will prepare a full clinical report as soon as is practicable:

- outlining the key features of the case
- the consultant's conclusions
- whether the consultant recommends that CSP should uphold or reject the appeal.

The Medical Advisor will then prepare a report for CSP conveying the key findings and result. OHS will also prepare any resulting documentation that may be required, such as a medical retirement certificate, and return the completed case file to the CSP.

The report from the Medical Advisor will be forwarded to the complainant and CSP will take whatever action is necessary in light of it.

NOTE: The decision of the consultant completes the medical aspects of the appeals procedure. Where the consultant upholds a decision recommending that the award should be at the lower tier in classic plus, premium, nuvos or alpha, the assessment will be taken as final, with no further avenue of medical appeal on this issue