
STATES OF JERSEY



STATES OF JERSEY COMPLAINTS BOARD: FINDINGS – COMPLAINT AGAINST THE STATES EMPLOYMENT BOARD BY MRS. X REGARDING THE WAY IN WHICH HER REQUEST FOR ILL-HEALTH RETIREMENT WAS HANDLED (R.53/2017) – RESPONSE OF THE STATES EMPLOYMENT BOARD

**Presented to the States on 24th July 2017
by the States Employment Board**

STATES GREFFE

REPORT

The States Employment Board (“S.E.B.”) is heartened by the finding of the Complaints Board that the decision not to grant ill-health retirement to Mrs. X was appropriate given the information available at the time.

The S.E.B. notes the Complaints Board’s exploration into the duty of care owed by the Head Teacher of the school and the Education Department Human Resources team. In respect of this duty of care, the States Employment Board is pleased to confirm that prior to the hearing in respect of this matter, the following had been put in place –

- All applications for ill-health retirement are logged and reviewed by a member of the Case Management team. This is to ensure that the AXA referral form is completed appropriately, and holds sufficient information and detail about an employee’s role to ensure that AXA are able to make an informed judgement/ decision about the employee’s capability to fulfil their role.
- The ill-health retirement procedure was updated in May 2012; the procedure clearly sets out how the employer and employee can initiate an application for ill-health retirement, and sets out how long the process will take and what will happen if the Occupational Health Service does not recommend ill-health retirement. The procedure confirms the appeal procedure, and outlines both the informal and formal process to be taken in the event that an employee wishes to appeal the decision of the Occupational Health Service.
- A review of the Managing Attendance Policy was carried out in November 2016 which incorporated ill-health retirement matters.

Upon thoroughly reviewing the conclusions of the Complaints Board, in addition to the aforementioned changes that had already been made, the S.E.B. is pleased to confirm the introduction of a new ‘Point of Contact’ role.

Any employee who requires support during any application for ill-health retirement will be provided with Single Point of Contact (“S.P.O.C.”). The S.P.O.C., allocated from the Case Management Team, will be appointed to the employee throughout the process. The S.P.O.C. will act as the co-ordinator or focal point for information, support and guidance to the employee during the process.

In addition, the States of Jersey Employment Relations team are in the process of reviewing all policies and procedures relating to ill-health retirement, in order to ensure that employees and managers fully understand their roles and responsibilities when dealing with requests for ill-health retirement.

The S.E.B. notes that the Complaints Board has requested that Mrs. X’s case be subject to a retrospective review. The S.E.B. confirms that a retrospective review of Mrs. X’s case was carried out in 2014 at the request of Mrs. X, which concluded that Mrs. X’s case “*was handled appropriately and the correct outcomes have been reached under those circumstances.*”. A second retrospective review was conducted at the request of the Complaints Board in 2016. This review included all documentation that would have been available in respect of Mrs. X’s health at the time of her assessment, including the G.P. notes that were not released to AXA. The conclusion of this review was that “... *the medical information available to the end of 2012 would not have been sufficient to*

confirm eligibility for early retirement on the grounds of ill-health at that time under the relevant pension scheme criteria.”. On the basis of these conclusions, the S.E.B. does not see any merit in carrying out a further retrospective report.

Whilst the S.E.B. welcomes the Complaints Board’s findings, it does not believe that the duty of care afforded to Mrs. X constitutes a practice that was or might be “unjust, oppressive or improperly discriminatory”. Given the Complaints Board’s conclusion that the decision not to grant ill-health retirement to Mrs. X was appropriate given the information available at the time, the S.E.B. does not believe that it follows that the decision not to grant ill-health retirement “could not have been made by a reasonable body of persons after proper consideration of all the facts”. Finally, the S.E.B. rejects the Complaints Board’s conclusion that the decision was contrary to the generally accepted principles of natural justice.