

ILL HEALTH RETIREMENT
WHAT AM I ALLOWED TO DO WITHOUT RISKING MY BENEFITS?

This document sets out to summarise what you are/are not allowed to do once you have received ill health benefits from TPS. This is often an uncertainty for members in this position as the TPS guidance is quite vague. The contents of this document have been collated from official TPS guidance and direct communication with them to clarify certain points following discussion in the group and questions asked via pm. Each main section begins with a brief summary of TPS's position on the subject, followed by the more in depth information provided by them.

OVERVIEW

At tier 1, you cannot engage in 'teaching, tutoring or lecturing'. At tier 2, you cannot engage in any gainful employment and cannot engage in paid or unpaid work in education.

Firstly, employers must be satisfied that you're medically fit to return to teaching and it's your responsibility to tell them that you're in receipt of Ill-health benefits.

If you start work again in any form of teaching, lecturing or tutoring you must inform Teachers' Pensions. Your pension will stop immediately. If you fail to inform Teachers' Pensions that you have returned to work, you'll have to pay back any pension paid to you since returning to work.

If you receive a 'Total incapacity enhancement' and you undertake ANY work, you must contact Teachers' Pensions immediately. If you undertake any employment as a teacher, lecturer, tutor or other teaching post, whether paid or unpaid, your enhanced pension will stop and you'll have to pay back any enhanced pension you have received since starting work. Details of any other employment must be notified to Teachers' Pensions so that this can be assessed accordingly.

TUTORING

Recipients of both tiers of IHR are prevented from engaging in tutoring, whether within education or privately.

The TPS defines work in education as 'teaching, tutoring and lecturing'. They take their definition of this from the Education Regulations 2003.

"5.—(1) Each of the following kinds of activity is prescribed for the purposes of section 141 of the 2002 Act—

- (a) planning and preparing lessons and courses for children;
- (b) delivering lessons to children;
- (c) assessing the development, progress and attainment of children;
- (d) reporting on the development, progress and attainment of children;

(e) an activity which assists or supports teaching;

(f) supervising, assisting and supporting a child;

(g) an administrative or organisational activity which supports the provision of education; and

(h) an activity which is ancillary to the provision of education.

(2) In paragraph (1)(b) “delivering” includes delivery via distance learning or computer-aided techniques.“

In communications with them, they have explained that points e to h do NOT constitute education for the purposes of IHR -

‘In this connection, the Education (Health Standards) (England) Regulations 2003 list the following activities as not constituting teaching:

(i) an activity which assists or supports teaching;

(ii) supervising, assisting and supporting a child;

(iii) an administrative or organisational activity which supports the provision of education; and

(iv) an activity which is ancillary to the provision of education.’

They go further to say -

‘The ill health pension will therefore cease immediately if they become engaged in any employment which falls within the scope of the Teachers’ Pensions Regulations 1997, i.e. if you are employed in any full or part time teaching capacity as defined in the Education (Health Standards) (England) Regulations 2003. These regulations are applied by your employer when appointing teachers or former teachers. As such, it is fundamentally a matter for the employer to determine whether or not the employment is considered to be teaching as defined in the regulations. The decision on whether the ill health pension ceases is consequent upon this’.

They qualify this further by stating that this does not have to be with a Local Authority or member of the TPS, as any form of teaching, tutoring or lecturing, employed, or private, still falls under the Education Regulations 2003.

Therefore, if considering a return to any form of teaching, tutoring or lecturing that fulfil all or some of points a to d above, it is clear that the following is essential to avoid issues with IHR.

- 1) notify your employer that you are in receipt of IHR benefits. They will need to consider whether the role you are adopting constitutes ‘teaching’
- 2) Notify TPS that you are re-entering employment that may be considered as ‘education’

TEACHING ASSISTANT

The role of a TA/LSA does not come under the description of 'education' for Tier 1. However, it would be important to investigate the role with your employer and declare to TPS due to the variable role a TA can undertake e.g. class cover/supervision.

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'In this connection, the Education (Health Standards) (England) Regulations 2003 list the following activities as **not** constituting teaching:

(i) an activity which assists or supports teaching;

(ii) supervising, assisting and supporting a child;

(iii) an administrative or organisational activity which supports the provision of education; and

(iv) an activity which is ancillary to the provision of education.'

Due to the variable nature of the role it would be prudent to follow these steps to ensure taking on such employment would not affect your benefits:

- notify your employer that you are in receipt of IHR benefits. They will need to consider whether the role you are adopting constitutes 'teaching'
- Notify TPS that you are re-entering employment that may be considered as 'education'

VOLUNTEERING

Any voluntary teaching work, whether under tier 1 or 2, must be reported to TPS. At tier 2, any non-teaching voluntary work must be reported to TPS.

They state that, although non-teaching voluntary work may not be considered gainful employment, it must be reported as it may be found that, were a person capable of taking on significant voluntary work, they may therefore be capable of similar paid work - ie gainful employment.

In this case, benefits would cease immediately unless the member produces a certificate or letter from a registered medical professional stating that they are still affected by the conditions for which they were awarded IHR. In this case, a decision will then be made by TPS regarding the continuation of any benefits. The member must provide:

- The name of the organisation they are volunteering for
- The dates that volunteering took place
- The duration of the volunteering period
- The nature of the voluntary work, and whether it is full or part time

At tier 1, a similar process must be followed for any voluntary teaching work.

EXAM INVIGILATION & MARKING

TPS have stated to me that exam invigilation or marking would be acceptable to undertake, providing it is not perceived as 'teaching' by the employer.

An individual in receipt of Accrued Benefits (Tier 1) pension will stop as soon as they take up any employment as a teacher or in another educational capacity covered by the Teachers' Pension Scheme (in a post which would normally be pensionable in the Teachers' Pension Scheme).

The ill health pension will therefore cease immediately if they become engaged in any employment which falls within the scope of the Teachers' Pensions Regulations 1997, i.e. if you are employed in any full or part time teaching capacity as defined in the Education (Health Standards) (England) Regulations 2003. These regulations are applied by your employer when appointing teachers or former teachers. As such, it is fundamentally a matter for the employer to determine whether or not the employment is considered to be teaching as defined in the regulations. The decision on whether the ill health pension ceases is consequent upon this.

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- (iv) an activity which is ancillary to the provision of education.

Whilst it is strictly a matter for employers, it is accepted that employment as an exam invigilator or exam marker would not be regarded as teaching. However, it would be advisable to clarify with the employer concerned as to the status of such re-employment.