



PSS

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PSS and CSS invalidity notes

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1. Introduction

1.1 What is the aim of this guide?

The information in this guide will enable you to:

- > correctly complete all forms
- > present a comprehensive application for the consideration of the Trustee.

1.2 Trustee as decision maker

The superannuation legislation provides that a member is not to be retired on the ground of invalidity unless the Trustee has:

- > approved the invalidity retirement
- > certified that the member will be entitled to receive invalidity retirement benefits
- > issued an Invalidity Retirement Certificate (IRC).

This means that a CSS member under the age of 65 or PSS member under the age of 60 cannot be retired on the ground of invalidity without first being issued with an invalidity retirement certificate by the Trustee. In other words, **all applications for invalidity retirement for members of the CSS aged less than 65 or PSS members aged less than 60 must be processed by ComSuper.**

1.3 Who is ComSuper and the Invalidity Assessment Unit?

ComSuper is the business name for Commonwealth Superannuation Administration. ComSuper is responsible for the administration of the superannuation schemes available to Commonwealth and military employees. ComSuper provides legislative and administrative advice and support to the Trustee, employers and members of the schemes.

The Invalidity Assessment Unit (IAU) conducts investigations into applications for:

- > invalidity retirement
- > pre-assessment payments and
- > partial invalidity pensions.

The IAU also deals with entry medical status, Additional Death and Invalidity Cover (ADIC) claims and the level of benefits payable to retiring members or a deceased member's family or estate.

1.4 Why follow these procedures?

These procedures are the result of ComSuper's administrative experience in the investigation of invalidity retirement matters. These procedures are continually evolving as improved processes become available. At present, these procedures are the most efficient way to conduct an invalidity retirement investigation, to ensure that all legislative requirements are met, and that all parties receive fair and equitable treatment.

2. Total and Permanent Incapacity (TPI)

The legislative criterion to be met for invalidity retirement is total and permanent incapacity. The definitions of total and permanent incapacity are contained in subsection 54B of the *Superannuation Act 1976* and Rule 1.2.1 of the *Schedule of Rules for the Superannuation Act 1990* and are reproduced below.

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54B – for the purposes of this Part a person is totally and permanently incapacitated if, because of a mental or physical condition, it is unlikely that the person will ever be able to work in any employment or hold any office for which the person:

- (a) is reasonably qualified by education, training or experience
or
- (b) could become reasonably qualified after retraining.

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Rule 1.2.1 – ‘totally and permanently incapacitated’ means that, ‘because of a physical or mental condition, the person is unlikely ever to work again in a job for which he or she is reasonably qualified by education, training or experience, or could be so qualified after retraining’. This means the Trustee will agree to invalidity retirement and payment of invalidity retirement benefits if satisfied that the member is suffering from a permanent medical condition which is likely to prevent the member from ever working again, and which prevents the member from being retrained for any other suitable position.

Please note that this is a strict criterion, and means more than **unfit to perform the full duties of the position**.

The Trustee will, when applying the TPI criterion, assess the member’s potential for employment both within and outside the Public Sector.

3. Pre-application strategies

3.1 General

An application for invalidity retirement should be the final step in the management of an ill or injured employee. It is expected that employers would have attempted all other reasonable avenues of management before considering invalidity retirement, to avoid losing a valuable employee, or to negate a member unnecessarily relinquishing working status. Pre-retirement strategies could include:

- > health assessment reports
- > any treatment or strategy recommended at medical assessment
- > for compensation cases, any recommendations made by Comcare or the administering authority
- > rehabilitation and retraining
- > workplace assessments
- > functional capacity evaluations
- > vocational assessments
- > counselling
- > psychological testing
- > work conditioning programs
- > pain management
- > employee assistance programs
- > daily living assessments

- > graduated return to work
- > redeployment or reduction in hours (may qualify the member for partial invalidity pension)
- > any other treatment recommended
- > appropriate leave to allow adequate recovery time.

3.2 Medical providers

Employers may use their choice of medical providers for the management of ill or injured employees. However, in invalidity retirement applications, it is a legislative requirement that an examination and recommendation regarding TPI must be obtained from an approved medical practitioner (AMP). An AMP report is also required before a decision can be made regarding pre-assessment payments.

3.3 Approved medical practitioners (AMPs)

ComSuper has contracted AMPs whom employers **may use** for:

- > health assessment reports and recommendations for medical management of employees
- > liaison with treating doctors and specialists
- > arrangements for independent specialist examinations

and **must use** for:

- > recommendations regarding TPI.

3.4 AMP contact details

Australian Medico Legal Group
PO Box 184
Queen Victoria Building
Sydney NSW 1230

Bookings – phone **1300 554 361**

Australian Medico Legal Services (MLCOA)
Level 6, 486 Albert Street
East Melbourne VIC 3002

Bookings – see state telephone listings

Medibank Health Solutions
(formerly Health For Industry, Work Solutions and Total Health)
PO Box 281
Woden ACT 2606

Bookings – see state telephone listings

4. Invalidity retirement process

4.1 Employer

When all appropriate pre-retirement strategies have been attempted and an AMP has recommended that the employee is or is likely to become TPI, the Personnel Officer/Case Manager collects and collates the evidence, completes the requisite forms and forwards the application to ComSuper. See **Help with case presentation** at section 6.

4.2 ComSuper

A Case Manager is allocated, and the documentation is reviewed for completeness.

In compensation cases, an acknowledgment of receipt is forwarded to the employer and the applicant. In non-compensation cases, a determination is made whether pre-assessment payments are payable.

The applicant and the employer are advised of the pre-assessment payment decision. If approved, the employer is advised of the rate and method of payment, and of reimbursement procedures.

ComSuper may ask for the employer to collect further evidence.

The case is then submitted to the Invalidation Assessment Panel (IAP).

4.3 Invalidation Assessment Panel (IAP)

The case is examined by a panel of medical, para-medical and administrative professionals who have expertise in the assessment of invalidity claims. The Panel is contracted to the Trustee to make a recommendation regarding the TPI criterion based on the medical evidence.

If the Panel recommends **accept** the claim, a delegate of the Trustee may approve retirement and issue an Invalidation Retirement Certificate (IRC).

If the Panel recommends **defer** the claim (normally to obtain additional medical evidence), ComSuper will arrange to obtain that evidence and then resubmit the case to the Panel.

If the Panel recommends that a **home visit** be made to the employee in a case where the paper evidence is inconclusive, a counsellor visits the employee and reports to ComSuper. The case is then resubmitted to the Panel for review and recommendation about TPI.

If the Panel recommends **declining** the application:

- > ComSuper advises the employee and offers the opportunity to make comment or provide more information
- > ComSuper advises the employer and requests an investigation into the practicality of re-employment
- > Once this information has been provided, ComSuper prepares the case for submission to the delegate of the Trustee.

4.4 Decision of the Trustee

If the delegate **approves** invalidity retirement:

- > an IRC is issued
- > the employer formally retires the member
- > the appropriate benefit application form is completed.

If the delegate **defers** a decision, ComSuper and the employer follow the recommendations of the delegate.

If the delegate **does not approve** invalidity retirement, the employer resumes management of the case. Options could be:

- > further attempts to return the employee to work
- > an appeal against the primary decision
- > submission of a second application
- > another method of exit.

If the employee is dissatisfied with the delegate's decision, an appeal may be made to ComSuper for reconsideration of the delegate's decision. The request for reconsideration should be in writing, quoting the file number and setting out the particulars of the decision and the reasons for the appeal. These requests are treated as complaints under the *Superannuation Industry (Supervision) Act 1993*. There is no time limit within which these requests must be lodged, however it is desirable that they be lodged promptly after the decision.

Information about appeal rights are available on the [PSS](#) and [CSS](#) websites.

5. Documents required by ComSuper

An invalidity retirement application must contain:

- > **Fully completed form SPC** – application for issue of invalidity retirement certificate.
- > **Background information** including earlier medical reports and reports resulting from any pre-application strategies attempted such as rehabilitation or redeployment.
- > **Treating specialists/doctors reports.** Reports must detail medical conditions, symptoms, treatment and prognosis. The latest treating doctor's report should not be more than six months old. See **section 9 for Help sheet for doctors providing these reports.**
- > **AMP report and completed Medical examination report for invalidity retirement (form SM2).** The AMP assessment would normally be conducted by an Occupational Physician (OP). However, if the condition is psychiatric, the employee must be assessed by an AMP Consultant Psychiatrist, who will provide a report and complete the SM2. If the condition is one of chronic pain, chronic fatigue syndrome etc the employee should be assessed by both an AMP psychiatrist and OP.
- > **Sick leave records.**
- > **Duty statement for current position.** If no duty statement is available, a description of the duties performed by the employee.
- > **Confidential Medical and Personal Statement (CMAPS form)** – if the application relates to a PSS member who has less than three years contributory service.
- > **Compensation provider's recommendation.** If the employee is receiving compensation for the condition for which he/she is applying for invalidity retirement, Comcare or the relevant administering authority must be asked to review the case and to provide a delegate's recommendation, stating *with reasons* whether or not they recommend invalidity retirement.
- > **Departmental covering letter** summarising the main features of the case.

6. Help with case presentation

Here are some tips for case managers preparing applications for invalidity retirement.

Your submissions will be processed with fewer delays if you:

- > Preface all applications with a brief summary of the case.
- > Present the fully completed application form (Form SPC) as the first document in the submission. This form, and others required for an invalidity application (for example Form SM2), can be downloaded from the [Forms section](#) of the [CSS](#) and [PSS](#) websites.
- > Ensure the checklist is completed at Section D of the SPC and include all relevant documents.
- > Collate the evidence in chronological order – earliest to latest, not file order, and not grouped in divisions such as specialists' reports, rehab report etc.
- > Present all copies of evidence in legible black print on white background, **single-sided**, loose-leafed, held together by a bulldog clip – not stapled or bound in any way.
- > Do not annotate the evidence by numbers and do not use tabs unless you are drawing attention to a particular document referred to in your covering letter.
- > Despatch the case in an envelope addressed to **APS Invalidation Assessment Unit, PO BOX 22 Belconnen ACT 2616**. This will ensure that the submission is delivered directly to the correct area of ComSuper.

7. Help with form SPC

Form SPC is the official application form for invalidity retirement and must be provided with every application. The information provided on the form is also used to calculate pre-assessment payments.

Complete all sections and please **print** within the boxes.

Do not use abbreviations – identify department names, position designations etc **in full**.

Date on which sick/compensation leave commenced – this is the date on which the employee commenced continuous sick or compensation leave, and has not returned to work since. Dates for subsequent accruals of sick leave are not required here

Checklist – tick each box as documents are attached.

Declaration must be signed and dated by appropriate departmental delegate.

8. Help with form SM2

The form SM2 **must be completed** by an AMP when a medical examination is conducted in order to establish whether or not the employee is totally and permanently incapacitated.

Employer and employee must **read** all printed information carefully.

Employer must complete all boxes in sections A and B.

Date on which sick/compensation leave commenced – see explanation for form SPC above.

Documentation – all reports and other relevant material should be supplied to the examining AMP with form SM2 prior to the examination, and to ComSuper when application is made.

Print answers within boxes using blue or black ink. Other colours and highlighters do not photocopy well.

Check that the scale of incapacity for each condition and ICD codes have been inserted by the AMP. This helps ComSuper identify whether the reports supplied are sufficiently detailed, having regard to the contribution each condition has made to the overall incapacity.

Check that the AMP has answered all questions in **section 6**.

Employees should be made aware that refusal to sign the authority and **declaration** at **section D** may cause difficulties and delays with the processing of the application.

If the AMP does not recommend TPI **do not send the application to ComSuper** but follow the medical recommendations. If this action is unsuccessful, the member should be reviewed by the AMP and another report obtained.

9. Help sheet – points to be addressed by the doctor

The Invalidation Assessment Panel and the Trustee rely solely on written evidence and it is important that the evidence is as comprehensive and current as possible, to assist them in reaching a considered and fair conclusion.

Does the medical evidence provide:

- > **history of the employee's illness or accident**
 - date of first consultation
 - history as recorded in medical notes
- > **current symptoms/signs**
 - as described by the employee
 - as observed by the practitioner at presentation
- > **diagnosis**
 - including the severity of the condition
 - whether the condition is transitory or long-term
- > **treatment**
 - current medications/physical therapy/psychotherapy and your comment on their results
 - your comments on the results of relevant testing conducted
 - a description of any additional treatment which you would recommend and your opinion about the likely results of those treatments
- > **prognosis**
 - normal course of this illness/disease/injury
 - expected outcome in this case
- > **Capacity for work/employment**
 - Could the member be rehabilitated back to his/her former position or its equivalent?
 - Could the member work modified duties or reduced hours?
 - Could the member be retrained for any other position?
- > **terminal conditions.** Your description of life expectancy will be used to determine processing priority and taxation treatment.

Is the member's medical condition of a terminal nature such that life expectancy is:

 - less than six months
 - less than 12 months
 - less than 24 months
 - Will the member require assistance with personal or nursing care on a daily basis within the next two years?

This page should be copied and provided to all doctors who are asked to provide information about an invalidity retirement applicant with the request that the issues listed be addressed in their reports.

10. Terminally ill

10.1 Fast track provisions

ComSuper has a fast-track process to provide rapid processing of applications for invalidity retirement for employees who are suffering from a terminal medical condition. The superannuation legislation's definition of terminal medical condition is:

- > a condition suffered by an affected person that has been certified by two or more medical practitioners, at least one of whom is not treating the affected person, who have experience in the condition(s), as being of either a terminal nature or of such severity that within two years of the date of their certificate the affected person would need assistance with personal or nursing care on a daily basis.

If the employer is notified that an employee is terminally ill, arrangements should be made to have the employee medically assessed by an AMP, asking for a home or hospital visit, if the employee is unable to attend the AMP's rooms. The employer must also obtain reports from the employee's treating specialist(s) and ensure that the reports include a prognosis from the doctor as to the member's life expectancy, in terms of weeks/months/years. Cases requiring fast-tracking should be clearly marked on the front page. Under the fast-track process, ComSuper is usually able to provide a decision in three working days.

Employers should obtain estimates of the range of possible benefits available to terminally ill employees, including comparison estimates between invalidity retirement and death in service benefits. Estimate request forms are available on the PSS and CSS websites.

10.2 PSS Terminal lump sum option

Terminally ill members of the PSS who provide evidence to show that they meet the definition of suffering from a terminal medical condition have the option of claiming their invalidity benefit as a lump sum. This is an alternative benefit to the invalidity pension options. It must be stressed that this benefit does not include a component for prospective service to age 60. Employees wishing to elect for this option should provide reports from two medical practitioners giving the life-expectancy in days/months/years.

10.3 Australian Taxation Office (ATO) taxation arrangements for terminally ill members

Employees who are exiting their employment by any means because they are terminally ill may be eligible to receive any lump sum component of their benefit tax free. In order to be considered for this tax concession, the case evidence should include medical opinions which shows that they meet the ATO definition of terminally ill, which is:

- > a payee will be taken to be terminally ill if it is certified by two medical practitioners (at least one of these a specialist) that they are suffering from an illness which in the normal course would result in death within a period of 12 months.

11. Practicality of employment

If the Invalidity Assessment Panel has recommended that the employee is not totally and permanently incapacitated (TPI), the Trustee must consider whether it is **practical** for the employee to find employment for which he/she is reasonably qualified, or could become reasonably qualified after retraining.

After considering evidence relating to this matter, the Trustee may approve an application on the ground that it is not practical for the employee to find suitable employment, even though it does not consider that the employee meets the criterion of TPI as defined in the legislation.

The importance of properly addressing the practicality issue cannot be overstated, and employers should investigate this matter thoroughly. It is suggested that the following issues are addressed:

- > Any specific recommendation, suggestions or observations made by the Panel.
- > The possibility of rehabilitating the employee back to his/her former position. All attempts at rehabilitation should be fully documented, and reasons for failure reported.
- > The employee's potential for employment having regard to his/her education, training, skills and interests.
- > The possibility of retraining or redeployment of the employee to another position either:
 - within the Department
 - within another Department or Agency or
 - within the private sector.

Report any other information which you consider relevant. For example, if the employee's incapacity is adversely affecting work colleagues, details should be provided.

Please note:

Your report and supporting documents should show proof of genuine attempts to identify and locate suitable employment for the employee through rehabilitation, retraining or redeployment.

Detailed reasons for the failure of retraining, or the inability to identify suitable positions should be provided. Do not rely on the argument that the member has been found to be TPI by medical practitioners and therefore cannot be rehabilitated or retrained. Remember that the Panel has already considered the medical evidence and has recommended that the member is **not** TPI.

12. Pre-assessment payments (PAPs)

Pre-assessment payments are designed to provide income maintenance in non-compensation cases during the invalidity retirement process. PAPs are generally payable until the Trustee decides whether to issue an invalidity retirement certificate. PAPs are not deducted from any invalidity benefit which might become payable, nor do they have to be repaid if an application is unsuccessful.

12.1 Eligibility for PAPs

PAPs are **not** payable:

- > while the employee still has sick leave credits (full or half pay)
- > while the employee is on compensation leave in respect of the condition in relation to which retirement is sought
- > to Limited Benefits Members of the PSS Scheme.

Before deciding to grant PAPs the Trustee must have a final report from an AMP containing a recommendation about the **likelihood** that the employee is, or will become, totally and permanently incapacitated.

When considering whether or not to make PAPs, the delegate of the Trustee must decide whether there is a **real likelihood** that the employee is, or will become, totally and permanently incapacitated.

The decision to commence PAPs **has no influence** on the eventual decision by the Trustee on the employee's application for the issue of an invalidity retirement certificate. The granting of PAPs is not a guarantee that an invalidity retirement certificate will be issued.

2.2 Commencement of PAPs

ComSuper will send written advice to the employer of the approval of PAPs, including eligibility dates, rates of payments and information about re-imbursement procedures.

Contributions to the superannuation scheme and any member premiums for additional death and invalidity cover are to be deducted from the PAPs each fortnight at the normal rate.

12.3 Rate of payment of PAPs

The rate of payment will be:

(a) in the **FIRST SIX MONTHS** after sick leave commences:

- i) zero payment of PAPs while the person is on paid sick leave, whether at full or half pay rates
- ii) equal to 50% of normal fortnightly salary (including recognised superannuation allowances) – the same as half pay sick leave.

LESS

- > partial invalidity pension
- and/or

- > compensation payments related to a condition that is not the condition causing the member to be off work (if any).

(b) in the **SECOND SIX MONTHS** (from the first working day after the first six month absence)

- i) a rate equivalent to the maximum invalidity benefit that would be payable if the person retired on that day and had not elected to take a refund of accumulated contributions.

LESS

- > the sum of any fortnightly amounts of sick leave pay
- > partial invalidity pension
- > compensation payments in relation to a condition other than the condition to which the retirement application relates

OR

- ii) 50% rate as calculated in (a)(ii) above.

Please note:

- > All **full pay** sick leave credits must be exhausted prior to commencing pre-assessment payments.
- > For partial invalidity pension recipients, **the updated former salary** (including recognised superannuation allowances) should be used.

12.4 Cessation of PAPs

Pre-assessment payments (PAPs) cease on a contribution day specified by the Trustee after:

- > notification of decision on invalidity retirement
- > the employee's return to work
- > the employee ceasing to be a member of the scheme
- or
- > the employee failing to commence a rehabilitation program or to undergo a medical examination without sufficient reason when directed by the Trustee.

12.5 Help with the PAP calculation

50% of fortnightly salary means **actual salary** – any salary adjustments are applied to actual salary and will therefore affect PAPs.

Maximum invalidity benefit is the amount of maximum pension the member would have received had invalidity retirement been effected on the day six months after commencement of continuous sick leave. This rate will be adjusted by the CPI increase, which will be advised by ComSuper. Salary adjustments occurring after six months of continuous sick leave **must not be applied**. The salary that this should be based on is the salary that you would report as the final salary had the member exited on invalidity grounds on that day, which would be the greater of:

- > annual salary at the date of exit
- or
- > the salary on which contributions are based
- or
- > the highest salary for superannuation purposes received on or after the last birthday anniversary.

12.6 Other information about PAPs

Approval of PAPs has no influence on the eventual decision of the Trustee regarding invalidity retirement.

If a compensation claim is later accepted and periods of payment overlap, PAPs are recoverable.

PAPs can be ceased for non-compliance with Panel or Trustee instructions, on instruction from ComSuper.

PAPs are paid by the employer but funded by ComSuper. The reimbursement arrangements appear later in this guide.

The date of cessation of PAPs will be advised by ComSuper.

12.7 Toolkit

The calculation sheet is available on the [Employer Administration Centre website](#) under [Toolkit](#). This [toolkit](#) is an automatic calculator.

A separate taxation invoice is required for each claim.

12.8 Reimbursement of PAPs

ComSuper will provide reimbursement of PAPs upon written request from the employer on the appropriate reimbursement claim form. The reimbursement can be calculated using the automatic [calculator](#) in the [Employer Administration Toolkit](#), and a copy of this sheet mailed to ComSuper with the employer's tax invoice attached.

Requests for reimbursement should be made at the completion of the invalidity case, or six-monthly in protracted cases.

Any overpayment of reimbursements are recoverable by ComSuper.

Requests for reimbursements should be addressed to:

ComSuper
APS Invalidation Assessment
PO Box 22
Belconnen ACT 2616

The ACT Government has a cost-sharing arrangement with the Commonwealth Government in respect of CSS and PSS benefits, including the payment of pre-assessment payments. Under this arrangement, the ACT Government is required to meet the costs arising from superannuation membership for the period commencing 1 July 1989. ComSuper will therefore not provide reimbursement of pre-assessment payments to ACT Government departments unless there is a pre-1989 component.

With regard to pre-1989 service, consideration is currently being given by the ACT Department of Treasury and Infrastructure for the Commonwealth portion of PAPs for pre-1989 service employees to be taken into account in the triennial actuarial reviews of ACT Government liabilities. This will negate the need for reimbursement to the ACT Government on a case by case basis.

13. Estimate of invalidity benefit

Forms to request invalidity benefit estimates are available for members' use on the [PSS](#) and [CSS](#) websites under [Forms and Publications](#), and for employer's use on the [Employer Administration website](#).

14. Contact details for Invalidation Assessment Unit

Mail

ComSuper
APS Invalidation Assessment Unit
PO Box 22
Belconnen ACT 2616

Email

invalidity.assessment@pss.gov.au
invalidity.assessment@css.gov.au

Web

www.employer.pss-css.gov.au
www.pss.gov.au
www.css.gov.au

Phone

PSS: 1300 000 377
CSS: 1300 000 277

Fax

02 6272 9815