**Letter to independent examining doctor**

**[Print on letter head]**

[Address block]

Dear Dr [insert surname]

**Re: [Insert employee’s name] D.O.B. [Insert employee’s date of birth]**

An appointment has been made for you to independently examine [insert employee’s name] on [insert appointment details] under the provisions of chapter 3, part 8, division 5 of the *Public Sector Act 2022* (the Act)*.*

[Insert employee’s name] has been **required under legislation to submit to this medical examination** for you to advisewhether or not [he/she/they] [has/have] a current mental or physical illness or disability that may adversely affect their performance or cause them to be absent from the role of [insert position title and details] (refer to **Attachments 1 and 2** for background information and requirements of the position).

If you require the employee to obtain any diagnostic tests before the scheduled appointment in order for you to be able to provide an opinion, please let me know as soon as possible so that these can be arranged.

Your medical report will be:

* used to make decisions about how [insert employee’s name] can be best supported in the workplace
* provided to third parties such as [insert employee’s name] and/or their treating doctor.

**Please do not include a general prohibition on release to third parties in your report.**

The letter sent by the employer to the employee directing them to submit to this medical examination advises them how the report of the medical examination may be used.

Our employees’ personal privacy is important to us. Please **do not include** medical or other information (e.g. employee’s personal, family, gynaecological or sexual history) that we do not need to know to understand your report, and to support [insert employee’s name]in the workplace. If the report contains information that I consider may be irrelevant, I will contact you to discuss whether the information can be removed, and the report reissued.

Our employee is attending this examination under a legislative requirement and a failure to actively participate may be grounds for discipline. As you are engaged by the [insert public sector entity name], you are bound by the *Information Privacy Act 2009* (Qld) for the purposes of providing the medical examination services. This means that the employee is **not required and cannot be asked to consent** to the collection of their personal information for the purpose of the medical examination, or consent to the medical examination itself. Your medical examination should proceed irrespective of consent.

Your opinion is sought about whether [insert employee’s name] has a mental or physical illness or disability that is causing or contributing to their [current absence **OR** unsatisfactory performance] *(delete whichever does not apply*).

It is important to us for you to answer all relevant questions set out below in your report.

**Questions**

Would you please address the following: (Questions 1 and 2 are mandatory, Questions 3-8 are recommended for inclusion as applicable and further questions may be added depending on the circumstances of each case)

1. Does the employee have a mental or physical illness or disability that may adversely affect the employee’s performance (including workplace conduct), or which is the cause of their current absence? (Please refer to **Attachments 1 and 2** for background and requirements of the position).

If you consider the employee does *not* have a mental or physical illness or disability that may adversely affect their performance or which is the cause of their current absence, please provide your reasons in your report.

**As our employee’s privacy is important to us, please only include information that is essential to explain your conclusion.**

1. If you consider the employee *does* have a mental or physical illness or disability that may adversely affect their work performance (including workplace conduct) or which is the cause of their current absence, please advise:

* the likely direct or indirect effect of the illness or disability on the employee’s performance or absence
* an estimate of how long the illness or disability or its effects are likely to last
* whether or not disclosing the information in your report to the employee might be prejudicial to the employee’s mental or physical health or wellbeing.

1. Based on the information provided, are there any workplace factors that may adversely affect the employee’s performance or contribute to their current absence?

**Rehabilitation questions***(delete if not applicable)*

1. If applicable, when will the employee be able to commence a graduated return to work?
2. Please provide advice in relation to the requirements of the employee’s graduated return to work program, including:

* the number of hours and days per week the employee will initially be able to work, and when this workload should be increased
* the medical restrictions to be taken into consideration when identifying appropriate suitable duties for the employee
* when you anticipate these restrictions will resolve to enable the employee to increase their hours or duties
* how long you anticipate it will take before the employee will be able to resume their full hours and full duties.

1. Does the employee have an ongoing or permanent disability as a result of their medical condition?

If so, what adjustments and supports would you recommend the agency consider implementing to assist the employee to undertake the duties of their position?

**Medical transfer or redeployment and ill health retirement questions** *(delete if not applicable)*

1. Do you believe the employee will be unable to perform the duties and requirements of a [insert position title] at [insert location of position] either permanently, or for the foreseeable future? If so, please provide your reasons.
2. Would the employee currently be able to work satisfactorily in any other form of employment in [insert public sector entity name], or in any other public sector entity? If so, please provide your reasons and details of medical restrictions, adjustments and supports that need to be considered when identifying appropriate alternative duties.

**Investigation, conduct and/or performance management questions** *(delete if not applicable)*

1. Is the employee able to comply with expected standards of appropriate workplace conduct, as provided for in the Code of Conduct (or other code or standard relevant to the entity)? Please provide your reasons and any relevant supports required.
2. Is the employee able to be managed by way of reasonable management action taken in a reasonable way, including the discussion of performance and/or conduct issues? Please provide your reasons and any relevant supports required.
3. Is the employee fit to participate in a workplace investigation process and/or disciplinary process in relation to their conduct in the workplace (if required)? Please provide your reasons and any relevant supports required.

**Additional information**

The following information is provided to assist in your examination of [insert employee’s name]:

* relevant background information, including a chronology of relevant events including [insert performance issues or absence history], connection with suspected medical issues and management response (**Attachment 1**)
* an explanation of the employee’s role and requirements of their position and an outline of the work environment, including [insert relevant supporting documents – e.g. position description, functional job requirement report, the relevant profile from the Leadership competencies for Queensland, the Work performance and personal conduct principles (section 40 of the Act), Code of conduct for the Queensland public service or other relevant code of conduct] (**Attachment 2**)
* medical reports from [QSuper or other third parties excluding workers’ compensation documentation, e.g. the employee’s treating practitioner] (*delete if not* *if applicable)* (**Attachment 3**)
* sections 103 to 109 of the Act (**Attachment 4**).

Could you please forward the medical examination report and subsequent account to me at [insert postal address] in an envelope marked “PRIVATE & CONFIDENTIAL”.

Please note that your medical examination report will be provided to the employee unless you advise, with your reasons, that release of the information might be prejudicial to the employee’s mental or physical health or wellbeing. If this is your advice, your report may instead be released to another doctor nominated by the employee (usually their treating practitioner).

Your medical examination report should not contain any personal or medical information of the employee that is not relevant to the questions I have asked.

If you have any queries in relation to this request, please do not hesitate to contact me by telephone on (07) [insert telephone number].

Thank you for your assistance in this matter.

Yours sincerely

[Insert name]

[Insert position – e.g. authorised delegate]

**ATTACHMENT 1**

**Background information**

*{NOTE: All information provided in the letter to the doctor is to be provided to the employee}*

**Absence information**

[Insert a summary of current absence information relevant to the requirement to submit to an independent medical examination.] For example, [insert employee name] commenced employment with [insert public sector entity name] on [insert commencement date] as a [insert position title]. On [insert date], [insert employee name] commenced sick leave and is currently still absent from work.

*{OR}*

**Performance information**

[Insert a summary of the unsatisfactory work performance issues.] For example, [insert employee name] commenced employment with [insert public sector entity name] on [insert date] as a [insert position]. During [insert year/month], work performance issues [including: x, y z] were identified and discussed with [insert employee name] and [x, y, z actions] were taken to address these issues, however, performance issues have continued.

*{AND}*

**Evidence relied on to support reasonable suspicion that mental or physical illness or disability is the cause**

[Insert a chronology of incidents or evidence that support a suspicion the employee has a mental or physical illness or disability. Describe the impacts this has had on work (show why the suspected illness or disability is thought to have adversely affected the employee’s work performance or cause the current absence).

Also identify the supports/actions that the agency has implemented and any outcomes of those.

Include details of any relevant information from medical certificates or other existing medical reports, excluding workers’ compensation documents (see note below).]

[Include any additional information contained in the Reasons for requiring the employee to submit to the medical examination, provided to the employee.]

*{Please note: Workers’ compensation documents including WorkCover medical reports should not be used, referenced or paraphrased in any way when making a decision to take action under sections 104 or 107 of the Act, as it is contrary to section 572A of the Workers Compensation and Rehabilitation Act 2003. This includes for example, as evidence to support reasonable suspicion under section 103(b) of the Act, or as background information disclosed to an examining doctor when requiring an employee to submit to a medical examination under section 104 of the Act.}*

**ATTACHMENT 2**

[Insert explanation of employee’s role and position requirements, including but not limited to, an outline of the work environment, position description, functional job requirement report, relevant profile from the [Leadership competencies for Queensland](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/career-development/leadership-competencies-for-queensland), the [Work performance and personal conduct principles (section 40 of the Act)](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#sec.40), [Code of conduct for the Queensland public service](https://www.forgov.qld.gov.au/employment-policy-career-and-wellbeing/public-service-values-and-conduct/public-service-code-of-conduct) or other relevant code of conduct]

**ATTACHMENT 3**

[Insert relevant existing medical reports from another third-party excluding workers’ compensation documentation (for example, a medical certificate or report from the employee’s treating doctor, a work capability assessment from an occupational therapist or a report from QSuper). Any limitation on the relevance of the report, given the purpose for which it was obtained, should be noted.]

*{Please Note: for further information in relation to QSuper claims, refer to*

[*https://qsuper.qld.gov.au/employers/forms-and-publications/*](https://qsuper.qld.gov.au/employers/forms-and-publications/)*}*

**ATTACHMENT 4**

[**Chapter 3, part 8, division 5 of the *Public Sector Act 2022* – Mental or physical incapacity**](https://www.legislation.qld.gov.au/view/html/inforce/current/act-2022-034#ch.3-pt.8-div.5)

**103 Application of division**

This division applies to a public sector employee if—

(a) the employee is absent from duty or the employee’s chief executive is reasonably satisfied the employee is not performing the employee’s duties satisfactorily; and

(b) the chief executive reasonably suspects that the employee’s absence or unsatisfactory performance is caused by mental or physical illness or disability.

**104 Chief executive may require medical examination**

The employee’s chief executive may—

(a) appoint a doctor to examine the employee and give the chief executive a written report on the examination; and

(b) require the employee to submit to the medical examination.

**105 Employee not to be given sick leave if requirement not complied with**

The employee must not be given sick leave for any period during which the employee fails to comply with a requirement under section 104(b).

**106 Medical examination report**

(1) The report on the medical examination must include the examining doctor’s opinion as to whether the employee has a mental or physical illness or disability that may adversely affect the employee’s performance.

(2) If the doctor considers the employee has an illness or disability mentioned in subsection (1), the report must also include the doctor’s opinion as to the following—

(a) the likely direct or indirect effect of the illness or disability on the employee’s performance;

(b) an estimate of how long the illness or disability or its effects are likely to last;

(c) whether or not disclosing the information in the report to the employee might be prejudicial to the employee’s mental or physical health or wellbeing.

(3) If the doctor’s opinion is that the disclosure will not be prejudicial to the employee’s mental or physical health or wellbeing, the chief executive must give the employee a copy of the report as soon as practicable after receiving the report.

(4) If the doctor’s opinion is that the disclosure might be prejudicial to the employee’s mental or physical health or wellbeing, the chief executive must not disclose the contents of the report to the employee.

(5) However, if asked by the employee in writing, the chief executive must make the disclosure to another doctor nominated by the employee in the request.

**107 Action following report**

(1) If, after considering the report of the medical examination, the chief executive is reasonably satisfied the employee’s absence or unsatisfactory performance is caused by mental or physical illness or disability, the chief executive may—

(a) transfer or redeploy the employee; or

(b) if it is not reasonably practicable to transfer or redeploy the employee—

(i) for a public service employee—retire the employee from the public service; or

(ii) for a public sector employee mentioned in section 12(1)(b)—retire the employee from the employee’s employment.

(2) Subsection (1) does not limit the action that may be taken relating to the employee.

**108 Record of requirement and report**

(1) The chief executive must keep a record of—

(a) the requirement to submit to a medical examination; and

(b) the report on the medical examination.

(2) If the chief executive considers it necessary to protect the employee’s interests, the chief executive may keep the record separate from other records about the employee.

**109 Directive about mental or physical incapacity**

(1) The commissioner may make a directive providing for matters relevant to the way in which this division is to be applied in relation to public sector employees.

(2) The chief executive of a public sector entity exercising a power or performing a function under this division must comply with the directive.