**Letter to employee**

**[Print on letter head]**

[Address block]

Dear [Employee first name],

Key points:

1. You are required to submit to an independent medical examination.
2. Your appointment with Dr [Dr surname], a specialist [speciality], is on [date and time] at [location].
3. Dr [Dr surname] will advise me of their opinion once they have examined you, and once I receive that report, I will consult with you about any proposed outcomes.
4. My goal is to work with you, with a focus on continuing employment.

I am requiring you to submit to an independent medical examination (IME). The purpose of the IME is to obtain medical advice to help me decide if you can perform your substantive position (including with any reasonable adjustments) and, if not, what other positions you may be able to perform.

I have explained my reasons for directing you to submit to the IME in **Attachment A**. There are some specific requirements under the *Public Service Act 2008* that need to be met to allow me to make this direction and I’ve set these out in **Attachment B**. I encourage you to read both documents.

I have made an appointment for you to see Dr [Dr name], a specialist [specialty e.g. psychiatrist / physician / orthopaedic surgeon, etc]. I’ve asked Dr [Dr surname] to provide me with advice and, where applicable, a report to assist me. Importantly, no decisions will be made following the advice provided by the doctor, without you having the opportunity to input. A copy of my letter to Dr [Dr surname] is enclosed.

**Your appointment with Dr [Dr surname] is on [date and time] at [location].**

If Dr [Dr surname] advises me that they require you to obtain any diagnostic tests as part of their independent medical examination prior to your scheduled appointment, I will let you know as soon as possible.

[Agency name] will cover all your reasonable costs associated with attending the appointment, including travel to and from the appointment if required. *(DETAIL TRAVEL ARRANGEMENTS IF KNOWN)*

If it is not possible for you to attend your appointment, please notify [Name] by [phone number] as soon as possible so alternate arrangements can be made. Please note, if you do not attend the appointment and do not have a reasonable excuse, you may be liable for disciplinary action. You may also be unable to access sick leave until you submit to the independent medical examination.

Some general information about what may happen at the IME and the process that follows is provided in **Attachment C**, including what I may do with the report once received, and your appeal rights. I’ve also included a copy of the Managing Employee Health, Safety and Wellbeing – Independent Medical Examinations (IME) directive in **Attachment D**.

I would encourage you to use the free, confidential counselling and advice available to you and your family through the Employee Assistance Service on… [EAS details].

When the IME report has been received, [the agency] will contact you again in respect of the next steps. In the meantime, if you have any concerns or questions, please contact [Name] on [phone number].

Yours sincerely,

[Insert name]

[Insert position – e.g. HR Manager or authorised delegate]

**Attachment A – Reasons for requiring you to attend an IME**

*(*Insert the basis, in summary, upon which the authorised delegate is reasonably satisfied that section 174 of the PS Act authorises the IME in this case. In most cases, there should be written material to support the proposed action. A copy of the letter to the IME doctor should also be included in most cases.

The reasons should clearly set out:

For a current absence –

* details of the current absence AND
* information or evidence that supports the delegate forming a reasonable suspicion that the current absence is caused by a medical condition.

For unsatisfactory performance –

* evidence that supports the delegate being reasonably satisfied of unsatisfactory performance AND, where practical, that this has been discussed with the employee
* information that supports the delegate forming a reasonable suspicion that the unsatisfactory performance is caused by a medical condition.

**What might be used as supporting information?**

* Leave records.
* Performance reports.
* Statements from an employee’s supervisor/colleagues.
* A chronology of the impact of the employee’s mental or physical incapacity on the work and the supports/actions implemented by the agency.

**Information that should not be included**

* Workers’ Compensation documents including WorkCover medical reports cannot be used or paraphrased where action under s178 of the PS Act is or will be considered as it is contrary to section 572A of the *Workers Compensation and Rehabilitation Act 2003.)*

**Attachment B – Legislative basis for referral to an IME**

**Part 7** **Mental or physical incapacity**

**174 Application of Part 7**

This part applies to a public service employee if—

(a) the employee is absent from duty or the employee’s chief executive is reasonably satisfied the employee is not performing his or her 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.

**175 Chief executive may require medical examination**

The 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.

**176 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 the requirement.

**177 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 it.

(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.

**178 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—retire the employee from the public service.

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

**179 Record of requirement and report**

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

(a) the requirement; 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.

**179AA Directives about applying this part**

(1) A directive of the commission chief executive may provide for matters relevant to how this part is to be applied in relation to a public service employee.

(2) In acting under this part, a chief executive must comply with any relevant directive under subsection (1).

**Attachment C – Frequently asked questions**

1. **What do I need to do?**

You need to attend the appointment that has been made for you. Where travel arrangements such as flights are required for you to attend the IME, they will be made for you.

It is expected you will actively participate in the process, and this includes attending the appointment, answering the doctor’s questions, submitting to reasonable non-invasive diagnostic tests (e.g. x-rays, mental health tests), and participating in any processes about the outcome of the IME report. You do not need to provide your historical medical records to the IME doctor, although the IME doctor may ask you questions about your medical history.

No decisions regarding your employment will be made without you being given the opportunity to have input, so it is important you are available and ready to participate. If you have any concerns about participating in this process, please contact [Name] by [phone number] as soon as possible.

1. **What advice will be requested from the doctor?**

In accordance with section 177 of the PS Act, the doctor will be asked to provide an opinion on whether you have a mental or physical illness or disability that may adversely affect your performance, or explain your current absence from duty. You will be provided with a copy of this request.

If the doctor considers you have an illness or disability, the doctor is to advise on:

1. the likely direct or indirect effect of the illness or disability on your performance;
2. an estimate of how long your illness or disability or its effects are likely to last; and
3. whether disclosing the information in the report to you might be prejudicial to your mental or physical health or wellbeing.

We may also ask the doctor to provide advice regarding other questions related to the impact of the illness or disability on your workplace performance or current absence.

The doctor may also be asked to advise on possible adjustments that may be made in the workplace to support your return to work or satisfactory performance. [Decision maker name] will then consider, in consultation with you, if these adjustments can be reasonably accommodated.

If you have any additional information you wish the doctor to consider (such as a medical report from your treating doctor), this should be supplied to the doctor prior to the examination.

The doctor will be asked to exclude from their advice any opinion or personal information that is not relevant to the current assessment of whether or not you have a medical condition that may adversely affect your performance. However, you should be aware that in some cases, personal information will be relevant to your current medical condition and its workplace impacts, and may be included in the IME report.

1. **What happens if I do not attend the appointment?**

If you do not attend the appointment, do not co-operate with the IME once at the appointment, or if you cancel the appointment without providing a reasonable amount of notice, you may be subject to disciplinary action under section 187(1)(d) of the PS Act.

In these circumstances, you will be given an opportunity to explain the reason for your non-attendance or late cancellation and if [Decision maker name] decides that the reason provided does not amount to a reasonable excuse, disciplinary action may be taken.

You will also not be granted sick leave (paid or unpaid) for any period during which you fail to comply with the direction to submit to the medical examination (section 176 of the PS Act)*.*

1. **What happens if the IME doctor finds that I don’t have a medical condition that may adversely affect my performance or be the cause of my current absence? Do I have to go to another IME?**

Where the IME doctor advises [Agency name] that there is no mental or physical illness or disability that may be adversely affecting your performance or causing your absence, any continuing absence or performance issues should be addressed through management action, including performance management where appropriate.

1. **What happens when the doctor’s advice or report is received? Who will see it?**

[Agency name] will receive advice from the doctor following your medical examination. Once this has been received, you will be provided with a copy of any report unless the doctor advises that disclosing the information in the report to you may be prejudicial to your mental or physical health or wellbeing, in which case I will provide a copy to another doctor nominated by you in writing. [Agency name] will pay the costs of you attending your nominated doctor to find out the contents of the IME report, where applicable.

The doctor’s advice and report, where applicable, will be stored on a confidential [Agency name] file. Only authorised [Agency name] employees, those who need to be involved in making or advising on decisions based on the report, will have access to this report, unless you provide your consent or unless otherwise required by law.

1. **What are the possible outcomes once the Agency receives the doctor’s advice and, where applicable, medical report?**

The delegate will consider the doctor’s advice and any report, consult with you and take into account any further information you provide.

Where the doctor has advised that there is no medical condition, the delegate will either take no further action or, where there is a continuing absence or performance issue, will continue or initiate action to manage your unsatisfactory work performance or current absence.

Where the doctor advises that there is a medical condition and provides a report, the delegate will take appropriate action, which may include:

1. continuing or commencing action to manage the workplace impacts of your illness or disability (e.g. providing a rehabilitation plan for a reasonable period);
2. providing you with reasonable adjustments to enable you to fully perform your substantive role;
3. if you are unable to perform your substantive role, conducting an internal search for a suitable alternative role and transferring or redeploying you to a suitable position within [the Agency] or broader public service; or
4. retirement.

You will have the opportunity to provide a response in relation to any proposed course of action before a final decision is made. You will have at least 10 working days or two weeks to provide any further submissions. This time can be extended by agreement with [Agency name] where you need more time to prepare your submission.

1. **Can I appeal the requirement to submit to an IME?**

Yes. You can appeal a decision to direct you to submit to a PS Act IME, under the directive Managing Employee Health, Safety and Wellbeing – Independent Medical Examinations under the Public Service Act 2008*.* You have 21 days to make an appeal to the Queensland Industrial Relations Commission if you consider the requirement for you to submit to an IME does not meet the conditions in section 174 of the PS Act.

1. **Who will see the IME advice and/or report and/or my personal information?**

In the course of the IME process, your personal information, including medical information, will be collected by the IME doctor to enable them to undertake the IME and provide their report.

The IME doctor is engaged by the State and is contractually required to comply with the *Information Privacy Act 2009* (Qld) in respect of any personal information collected for the purposes of them undertaking the IME and providing their report. Your consent to the collection of your personal information for the purpose of the IME is not required because you are being directed to undertake the IME under legislation.

IME doctors are asked to not include personal information in their report (such as your personal, family, gynaecological or sexual history) unless it is relevant to the [Agency name]'s understanding of the doctor's opinion about the impact of any medical condition on your employment.

The IME report will be provided to [Agency name]. Only the decision maker and those directly involved in the decision-making process will receive the IME advice and/or report. This information will be held confidentially and securely.

You will be provided with a copy of the IME report unless the IME doctor advises that providing you with the report may be prejudicial to your mental or physical health or wellbeing. If the IME doctor advises this, the IME report may instead be released to another doctor nominated by you (such as your treating practitioner).

1. **Who can I talk to if I have concerns about this process?**

[Contact officer details]

[EAS contact details]