# HR DepartmentProcedure

## Ill Health Retirement Fire Service

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| **Version Control** | **Changes Made** | **Author** |
| V1 January 2019  | Updated post titles and broken links | People Management |
| V2 September 2024 | Rebranding | HR Department |

### Introduction

This document sets out the procedure to be followed in cases where ill health retirement has been identified as a possible outcome. This procedure refers to Fire Service related pension schemes only (shown below), for other pensions schemes refer the scheme information for guidance on ill health retirement.

• Firefighters Pension Scheme (FPS or 1992 scheme)

• Firefighters 2006 Pension Scheme (NFPS or 2006 scheme)

• Firefighters 2015 Pension Scheme (2015 scheme)

Further information on each of the schemes is available at the ‘Your Pension Service’ Firefighters’ scheme webpages.

The pension schemes provide for early payment of benefits to scheme members who are found to be permanently disabled to undertake the duties of their role (formerly rank): the level of benefits payable to a member is determined by length of service, final pensionable pay and capability to undertake regular employment.

# Occupational Health

Before an employer can make a decision regarding ill health benefits a medical report and certificate must be obtained from an independent qualified medical practitioner (IQMP) qualified in occupational health medicine and registered with the General Medical Council. To be able to provide a certificate for ill health retirement the medical practitioner must confirm they have neither:

• Previously advised, given an opinion or been otherwise involved with the case; or

• Be acting or have previously acted as the representative of the member, the employer or any other party.

The manager with support from HR will refer the employee to Occupational Health for an initial assessment and provide the relevant certificate for completion and will complete the relevant sections. The Service Medical Advisor (SMA) compiles medical evidence relevant to the case and refers the case to the IQMP.

The questions to be addressed by the IQMP when providing a medical opinion fall into four stages and are as follows:

1. Is the member **disabled from performing their duty, i.e. as applicable to the job within their role** (with reasonable adjustments as appropriate as set out in the introduction)? If so, is that disablement likely to be **permanent**?

In accordance with the Court of Appeal’s decision in Marrion & others, if redeployment is not possible, the question stops with the duties of the current job within role which the member had been carrying out and which may include operational firefighting.

If so, under the provisions of rule A15 of the FPS 1992, Rule 2 Part 3 of the FPS2006, or Rule 65 of the FPS2015 the FRA may retire the person on an ill health pension with a lower tier ill health pension being payable..

1. f the member is permanently disabled for duty, is he or she **also disabled for regular employment (defined as at least 30 hours a week on average over a period of not less than 12 consecutive months beginning with the date on which the issue of the person's capacity for employment arises**)?

This determines whether a higher tier award is payable (see below).

1. Has any permanent disablement been caused by a **qualifying injury**? (see below)

If so, the FRA may make an injury award to be paid.

1. If disablement has been caused by a qualifying injury, what is the **degree of disablement**?

This determines the level of the injury award (see below).

The Service must have carried out all processes necessary to redesign and reasonably adjust the role or identify suitable alternative jobs within a reasonable timescale prior to referring a case to the IQMP.

 The IQMP may be asked to determine if a retired member is still both permanently disabled for the last role they held in the fire and rescue service and/or is still incapable of regular work – see review section below.

The IQMP will then complete the relevant sections of the certificate and return this along with any report to Occupational Health who will inform the manager and HR.

# Tiers

The IQMP will complete the medical certificate and indicate which tier of ill health retirement they believe is appropriate. There are 2 tiers of ill health benefits.

[**Lower**](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc) **Tier**

The employee is certified as being permanently disabled for the performance of the duties of the role.

[**Higher**](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc) **Tier**

As above but also for any other regular employment. Regular employment is defined as 30 hours a week on average over a 12 month period.

# Firefighters Compensation Scheme and Injury Award

The Firefighters’ Compensation Scheme (FCS) allows the award of further benefits where the incapacity has been occasioned by a qualifying injury: the level of benefits payable is determined by his or her earnings capacity. Further information is available at the ‘Your Pension service Website’

# [Review](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)

FRAs are required to carry out regular reviews of awards in accordance with the relevant scheme. To conduct the review the Service would again seek the written opinion of the IQMP before making a determination as to whether the ill health pension would continue.

The ill health pension can be reviewed as long as the firefighter

* has been in receipt of an ill-health pension for less than 10 years, and
* is under state pension age

The authority can consider at intervals as they think proper whether the firefighter has become capable of

* performing any duties appropriate to the role from which they retired on grounds of ill-health, and
* of undertaking regular employment.

The date of the review is to be determined with consultation from the IQMP.

If the employee advises, the Service that employment has been found and the Service considers it to be gainful employment the pension may be suspended until normal retirement age and may recover any overpayment of pension in which they consider the employee was in gainful employment.

# [Making](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc) the Decision

The Service is not bound by the IQMP’s opinion and is entitled to consider other evidence when arriving at the decision. The decision will be made by the Area Manager with the support of HR to ensure consistent decision making and correct application of the regulations. The manager must have all the relevant details including other options which have been explored, on which to make an informed decision. This may require seeking further medical information and / or opinion.

Any decision to award ill health retirement pension benefits will result in a cost to the Service’s budget and whilst this is not a factor in the decision, budget managers need to ensure the costs are accounted for.

# [Process](http://www.intouch.ccc/elibrary/Content/Intranet/536/671/5053/6001/41410105256.doc)ing the decision

Following receipt of the IQMP report and opinion certificate from Occupational Health the manager will notify HR who will request a pension estimate from YPS.

Following receipt of the pension estimate the manager will:

1. inform the employee of their pension estimates
2. complete the notification form which can be found in the appendix 1 and send this to the Assistant Director (Chief Fire Officer) and Finance Manager so they can consider the cost in relation to their budget.

The manager will meet with the employee to review the pension benefits and arrange a stage 3 hearing in line with the Service’s Disciplinary Procedure.

Following the stage 3 hearing the individual will be informed of the outcome and informed that they have a right to request to be given a copy of the opinion of the IQMP and if they wish to exercise this right they need to do so within 14 days of receipt of the outcome letter by informing the manager.

Individuals should also be informed that they also have a separate right of appeal to an independent medical referee if they wish to exercise this right of appeal they must write to the Service within 14 days of the receipt of the letter and must give written details of the grounds for appeal.

The firefighter must fully complete all their pension forms prior to leaving employment. Otherwise the firefighter will have to pay tax on the lump sum he/she receives employment.

# Appeals

Where an employee is dismissed on medical grounds and appeals against the dismissal his or her period of notice shall be extended if necessary so that the result of the appeal is known before his or her service is terminated. Further information is available in the ‘Grey Book’.

An employee can appeal against the advice provided by the IQMP, Appeals are heard by a Board of Medical Referees. However, if the member provides new evidence of a medical nature and the member and the Service agree, the IQMP can be asked to review the medical opinion in light of the new evidence.

1. The individual completes the following forms:
* Information for Board of Medical Referees – Appeal Against a Medical Opinion on a Medical Issue – Form 1
* Notice of Appeal to Board of Medical Referees – Form 2
* Firefighters Consent to Application for an Release of Personal Medical Information Form – Form 3
1. HR following receipt of the above forms will complete the relevant sections in the above forms as needed and also complete:
* An Appeal Notification Form – Form 4
* List of Documents Submitted to the Chairman of the Board of Medical Referees – Form 5

The above forms are available on request.

For the "reconsideration" stage of a non-medical appeal individuals can use the two-stage Internal Dispute Resolution Procedures ("IDRP") provided by the Pensions Act 1995 (i.e. the appeal process you would use if dissatisfied with a benefit awarded under the NFPS). You may also be assisted by the Pensions Advisory Service ("TPAS") or the Pensions Ombudsman.

The employee has the right to appeal against the stage 3 dismissal and the process for this appeal can be found in the Service’s Disciplinary procedure.

If you disagree with a non-medical aspect of the Authority's decision, you can ask the

Authority to reconsider and, failing satisfaction, can take your appeal to Crown Court.

# YPS responsibilities

Where the decision is made to agree to the release of pension benefits in relation to ill health retirement YPS process and pay the pension benefits.

# Review

This guidance will be reviewed periodically in the light of developments in the law, pensions regulations, and changes in the needs of the organisation in order to ensure continuing effectiveness and relevance.

**November 2015.**

Appendix 1 – Notification Form – Fire Service

**Ill Health Medical Notification Form**

**To be completed by the manager**

|  |  |
| --- | --- |
| Employee Name: |  |
| DOB: |  |
| Length of Service: |  |
| Current role: |  |
| Manager leading on the case: |  |
| Tier level recommended by IQMP: |  |
| Indicate date of review: |  |
| Details of any previous Fire Service ill health benefits: |  |
| Total cost of IHR (supported by YPS paperwork): |  |
| Details of any additional costs (annual leave / notice pay etc): |  |
| Brief overview of events to date in terms of managing the absence: |  |
| Details of any attempts of work reintegration / reasonable adjustments |  |