

Fire & Rescue Service Medical Appeals

Board of Medical Referees - considerations

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Scope

Regulations

Responsibilities of the BMR

Constitution

Process pre-hearing

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BMR decisions

BMR Reports

Common misunderstandings

What happens once an appeal is submitted to HML?

Regulations

FPS Order 1992 (amended 2008)

FPS (England) Order 2006 [NPFS]

FCS (England) Order 2006

FPS Order 2015

Scheme members entitled to appeal IQMP opinion.

No specific guidance for BMR. FPS circular 9/2010.

Regulations

Wide scope for appeal - any medical decision determined by the authority can be challenged.

An IQMP decision must have been made on the relevant matter first.

Reviews

- FPS - capacity for regular employment (tier), return to duty.
- FCS - whether DoD has substantially altered, whether disability ceased.

Responsibilities of the BMR

- To determine the appeal.
- “The board shall interview and medical examine the appellant at least once”.
- Scope for further interview/examination.
- Scope to postpone appeal if submissions late.
- To provide a written report of its decision on the relevant medical matters to the SoS (consent).
- To determine whether an unsuccessful appeal was frivolous, vexatious or manifestly ill-founded.

Constitution of the BMR

At least three RMPs, one as chair, one “a specialist in a medical condition relevant to the appeal”.

HML contract with HO -

- Specialist OHP as chair
- One OHP (AFOM or specialist)
- One or more relevant specialist

Process pre-hearing

- DCLG ceased to be intermediary for appeals in 2010.
- FPS circular 9/2010 - submission of forms and evidence.
- Review of submissions.
- No decision on F&V at this stage.
- Responsibility of parties to provide sufficient evidence to support their respective positions.
- Sharing of documents/evidence.
- Clarity of issue under appeal.

Hearing procedure

- Representation
- Attendance
- HML process for the appeal hearing
 - Introductions
 - Recordings and laptops
 - New evidence
 - *In camera* discussions
 - BMR written records
- Communication with BMR
- Medical treatment concerns

BMR decisions

- Refer to regulations for framework of decision.
- Apply relevant case law.
- No reference to IQMP/ALAMA guidance.
- Legal advice sought if required (rare).
- 100% unanimous decisions.
- Reconsiderations.
- Judicial review.

BMR report

- The sole output of the appeal process.
- Independently monitored for quality.
- Not in the public domain.
- Not intended to be a comprehensive medicolegal report.
- May include recommendations for treatment if permanence is an issue.
- Recommendations are the BMR's opinion, not mandatory for future considerations.

Misunderstandings

The BMR does not:

- Substitute an FRS internal review or the IDR process.
- Treat the appellant.
- Have any formal legal expertise.

• HML does not:

- Have any public finance agenda imposed by the HO.
- Have any outcome targets imposed by the HO.

• HML does:

- Report to the HO quarterly.
- Have SLAs to meet (which it does).

• The BMR is:

- Wholly independent.
- A *medical* decision-making panel.

What happens once an appeal is submitted to HML?

- Acknowledgement of bundle
- Case reviewed:
 - **Forms 1- 5;**
 - **IQMP Assessment**
 - **IQMP Report**
- Specialists identified for BMR
- Grounds of appeal letter sent to appellants
- Arrangements for appeal
- Confirmation of appeal date
- Appeal bundle issued to BMR

What happens once an appeal is submitted to HML cont/d?

- HML does not require:
 - Copies of Pension Regulations
 - Duplicate copies of reports

Questions?

