

Ill-health Retirement Process

Agenda overview

- Resources
- Qualifying criteria and entitlement
- The FRA and their role – Pre IQMP
- The IQMP and their role
- The FRA and their role – Post IQMP
- Appeals
- Reviews
- Consequences of review
- Injury on Duty (IOD)
- Reassessment due to remedy

Resources



What we have

[Ill Health process guidance](#)

[IQMP guidance on early payment of deferred pensions](#)

[IQMP guidance \(4th Edition\)](#)

[Template Certificates](#)

[IQMP Contacts](#)



What we are working on

Ill Health member guidance

Injury member guidance

Updating IQMP guidance

Ill-health and injury section – Member area

Ill-health and injury

While the FCWG continue to review the IQMP forms and guidance, we felt it would be helpful to collate all existing resources [Edit](#) into a central location.

The following page contains information and resources to assist practitioners in administering ill health and injury benefits to members.

The resources section contains guidance and training materials.

The subsequent sections are divided by scheme and contain certificates that were prepared in 2015 and circulated as drafts for authorities to use if they wished. Note, however, that these forms have not been endorsed by the LGA or the Home Office. Authorities should satisfy themselves that the certificates meet all of their requirements and do not leave the opinion open to challenge

Latest news	▼
IQMP/IQMP provider contact information	▼
Resources	▼
Medical appeals	▼
FPS 1992	▼
FPS 2006	▼
FPS 2015	▼
FCS	▼
Severe ill health	▼

You are here: [Home](#) / [Member Area](#) / Ill-health and injury

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Qualifying criteria – Active members

- [Part 5, chapter 4, regulations 65 to 69](#) of the FPS 2015 provide a provision for members to retire early on the grounds of ill health
- For active members, a basic structure of a two-tier ill-health retirement system applies. These tiers are formally referred to as lower and higher
- All active members moved into FPS 2015 on 1 April 2022
- All active ill health retirements are therefore assessed and paid from FPS 2015

Qualifying criteria

Lower	Higher
<ul style="list-style-type: none">• the <u>member</u> deemed incapable of performing any of the duties of the <u>role</u> in which the <u>member</u> was last employed because of incapacity of mind or body and this incapacity will continue until <u>normal pension age</u> (60);• the <u>member</u> has three months of <u>qualifying service</u>;	<ul style="list-style-type: none">• the <u>member</u> is deemed incapable of undertaking <u>regular employment</u>* because of incapacity of mind or body and this incapacity will continue until <u>normal pension age</u> (60);• the <u>member</u> has at least five years of <u>qualifying service</u>

*Regular employment is defined as:

“employment for 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”

Entitlement

Lower	Higher
Immediate payment of accrued pension up to date of leaving	Immediate payment of accrued pension up to date of leaving + Enhancement to NPA

Actuarial reductions do not apply

What about deferred members?

- There is no tiered system for deferred members
- Qualifying criteria is as follows:

FPS 1992	FPS 2006	FPS 2015
<ul style="list-style-type: none"> • the <u>member</u> is deemed incapable of firefighting because of infirmity of mind or body and this incapacity will continue until <u>deferred pension age</u> • the <u>member</u> is deemed incapable of undertaking <u>regular employment</u> because of infirmity of mind or body and this incapacity will continue until <u>deferred pension age</u> (60) 	<ul style="list-style-type: none"> • the <u>member</u> is deemed incapable of undertaking <u>regular employment</u> because of infirmity of mind or body and this incapacity will continue until <u>deferred pension age</u> (65) 	<ul style="list-style-type: none"> • the <u>member</u> is deemed incapable of undertaking <u>regular employment</u> because of infirmity of mind or body and this incapacity will continue until <u>deferred pension age</u> (state pension age, with a minimum of 65)

Entitlement

Deferred

Immediate payment of deferred benefits

Actuarial reductions do not apply

The FRA and their role – Pre IQMP

- Reasonable adjustments
- Re-deployment
- Open communications with the member, union or personal representative
 - What you're doing
 - Why you're doing it
 - Potential outcomes

Division of duties - HR or OH?

- Consent to request medical information
- Preparation of medical information
- Selection of IQMP
- Referral to IQMP

IQMP Bundle

- Detailed covering letter
- Appropriate [certificate](#)
- Job description
- Occupation health notes
- Capability assessment
- GP notes
- Consultant notes, x rays, scans etc.
- Accident reports (in the case of IOD)
- Anything else?

Best practices

Involve the member in the referral process

Ensure any formal discussions are documented

Allow them to submit their own evidence

Allow them to see the bundle before it goes to the IQMP

Ask for informed consent of release of IQMP report

[III Health Process guidance](#)

The IQMP and their role

The [scheme manager](#) must request an [IQMP](#) to provide an opinion on the following issues for the purpose of determining any question arising under [this scheme](#)—

- a) whether a person is incapable of performing any duties of the [role](#) in which that person was last employed because of incapacity of mind or body;
- b) whether the incapacity in sub-paragraph (a) above is likely to continue until [normal pension age](#) or [deferred pension age](#), as the case may be;
- c) whether a person has become capable of performing any duties of the [role](#) from which that person retired on grounds of ill-health;
- d) whether a person is or has become capable of undertaking [regular employment](#); or
- e) any other issue wholly or partly of a medical nature.

What is an IQMP?

The regulations define an IQMP to be:

“A medical practitioner holding a diploma in occupational medicine, or an equivalent or higher qualification issued by a competent authority in an EEA State, or being an Associate, a Member or a Fellow of the Faculty of Occupational Medicine or an equivalent institution of an EEA State; and for the purposes of this definition “a competent authority” has the meaning given by section 55(1) of the Medical Act 1983;”

Where can I find one?

[IQMP contacts](#)

- These IQMP's are not endorsed by LGA or Home Office.
- It is up to each FRA to carry out their own due diligence.
- Some OH providers will have their own IQMP.
- You may want to consider this as part of any tender process.
- You do not need to inform the LGA of which IQMP you use, but they must hold the appropriate qualifications defined by the regulations which they will declare when they complete the relevant ill health certificate.

Good to know

The IQMP does not act as an occupational health advisor to the FRA.

The IQMP must certify that they haven't had any prior involvement in the case.

If there is any doubt about any procedural issue the IQMP should contact the FRA before proceeding further.

The IQMP is under an obligation to ensure that they are competent in performing the IQMP role and have the necessary knowledge and skills to perform this role.

The IQMP is required to have an awareness of relevant case law.

The IQMP should have regard to Pension Ombudsman guidance.

The IQMP should ensure that they clearly understand the job that the member performs or, in the case of a review, last performed in the Fire and Rescue Service.

The IQMP is under no obligation to examine the member.

The FRA and their role – Post IQMP

‘The IQMPs decision is binding, but do not accept blindly’

IQMP report and certificate

A member is required to provide consent to release IQMP report. This could be:

In full

In part

(may not want all medical evidence being shared)

Not at all

If member does not provide consent, then there may be no option other than to go with the certificate, or without medical evidence, as per Part 12, Chapter 1, regulation 152 (7) which could mean that eligibility has not been met.

Case law

Mrs G – (CAS-29778-J8R1)

Ill Health retirement

“If the College had read the medical report carefully it would have noticed the first IRMP had provided his opinion based on the wrong date”

“On receipt of the second IRMP opinion the College needed to understand the IRMP’s reasoning and not adopt the IRMP’s conclusion without question. In particular; - Where there is insufficient information or uncertainty, clarification must be sought from the IRMP”

“Where there is conflicting medical evidence the College must be clear that both have been considered and why one has been given more weight than the other”

“The question of untried treatments must be addressed properly. The IRMP must give their opinion of the likely effects of untried treatment and the prognosis”

How to avoid the Pensions Ombudsman?

TPO have a section on their website, which specifically talks about [ill health](#), as this is one of the most common areas that they receive complaints about:

The section sets out details of what they would be looking at as part of their investigation into this type of complaint and links to TPO guidance, further case studies and determinations relating to ill health.



Who decides if a member is eligible for an ill health pension?

The rules of the scheme will set out the party who must decide whether a member is eligible for an ill health pension. Usually, this will be the employer or trustee of the scheme. The scheme rules may also require the decision maker to seek a medical expert opinion.

For example, some scheme rules provide that the decision maker has discretion whether to pay an ill health pension, other scheme rules provide that an ill health payment must be made if certain criteria are satisfied.

What will TPO look at when investigating a complaint?

We are not medical experts and are not qualified to question medical advice received by the decision maker. If the decision maker has received medical advice that a member does not meet the eligibility criteria for an ill health pension set out in the scheme rules, we cannot direct the decision-maker not to take that medical advice into account.

We can investigate whether the decision maker followed the correct process in reaching its decision, including looking at which factors they took into account, and whether the eligibility criteria in the scheme rules were interpreted correctly. If the correct process has not been followed, we can direct the decision maker to reconsider its decision. We can also make an award for any distress and inconvenience the member may have suffered.

TPO Guidance

You may find the following guidance useful to pass to your members.

- [ill health](#)

Case studies

- [ill health \(not upheld\)](#)
- [ill health \(resolved by ERS\)](#)
- [ill health \(resolved by ERS\)](#)
- [ill health \(resolved by ERS\)](#)
- [ill health \(upheld\)](#)

Determinations

- [ill health \(upheld\)](#)
- [ill health \(partly upheld\)](#)
- [ill health \(not upheld\)](#)

Consider the IQMPs findings

How

- Designated person?
- Panel of adjudicators?

What

- Inconsistencies?
- Overlooked evidence?
- Lack of detail generally?
- Lack of detail on treatments and prognosis?

Member outcome

To provide within 14 days:

- Formal letter
 - Decision
 - Rationale
 - Next steps
 - Future considerations i.e. reviews
 - Appeal options
- Member guidance coming soon

Cost of ill health retirement

An FRA should **not** determine whether someone meets the relevant regulatory criteria and is entitled to an ill health retirement by how much it will cost.

- Pensions Ombudsman (PO) case Mrs G ([CAS-29778-J8R1](#))
 - “Cost considerations should not have been taken into account by the College in its decision”

Funding

Ill-health pensions are paid using the pensions account; however, the FRA will have to make a one-off contribution:

Lower	Higher	Deferred
2 x pensionable pay	4 x pensionable pay	2 x pensionable pay

Routes of appeal



Review of medical opinion

28 days
New evidence
Submit to same IQMP



Board of medical referees'
referral

28 days
Disagrees with Scheme Manager
determination



IDRP

Non-medical issues i.e.
administration

Reviews



Regulatory requirement



IQMP to give steer on suggested date, however, Scheme Manager has ultimate discretion



Different IQMP



Consent and evidence gathering required

Timescale of reviews

FPS 1992	FPS 2006/Special FPS 2006	FPS 2015
<ul style="list-style-type: none"> • Individual has been in receipt of an ill health pension for less than 10 years, and • is under the age of 60 	<ul style="list-style-type: none"> • Individual has been in receipt of an ill health pension for less than 10 years, and • is under state pension age 	<ul style="list-style-type: none"> • Individual has been in receipt of an ill health pension for less than 10 years, and • is under deferred pension age

At intervals as the scheme manager considers appropriate.

An IQMP should consider whether the member has become capable:

- (i) of performing any duty appropriate to the role from which they retired on grounds of ill-health, and
- (ii) of undertaking regular employment.

Consequences of review

Lower	Higher	Deferred
Entitlement removed	Entitlement reduced to lower tier Or Entitlement removed	Entitlement removed

Ill health pensions cannot be uprated

Injury on Duty – Useful to know



Determined at the outset of discussions with member.



Considered at the same time as ill health referral.



FRA to select 3 suitable, alternative occupations

Regard given to skills, experience, qualifications and training as well as the individuals capabilities

Best practice



Request capability assessment from OH



Ask member to provide details on training, qualifications, experience etc.



Involve the member when selecting suitable jobs



Provide the IQMP with information on why you think these jobs are suitable

IOD and multiple employments

‘Should a member have multiple employments, it is the employment in which they suffered the injury in which should be assessed for compensation purposes’

Funding

Injury amounts are **solely** funded by the FRAs operating budget and **not** the pensions account.

Reassessments due to remedy

Sargeant

- [Coffee 'morning' presentation on 8 November](#)
- [Factsheet](#) and [Letter templates](#)

Matthews

- Regulations updated to allow for retrospective ill health retirements.

Any questions



Resources

- www.fpsboard.org
- www.fpsregs.org
- www.fpsmember.org
- [Monthly bulletins](#)
- [Regulations](#)
- [GAD Guidance](#)
- [Age discrimination](#)
- [Second Options Exercise](#)

Disclaimer

- The information contained in these slides are the authors interpretation of the current regulations.
- Readers should take their own legal advice on the interpretation of any particular piece of legislation.
- No responsibility whatsoever will be assumed by LGA or their partners for any direct or consequential loss, financial or otherwise, damage or inconvenience, or any other obligation or liability incurred by readers relying on information contained in these slides.

Thank you for listening!

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