Office of the Deputy Prime Minister
Creating sustainable communities

Fire and Rescue Service
Circular

Circular number	**21/2004**	Date issued	**11 August 2004**
This circular is	**For action**	Select deadline...	**From date of receipt**
This circular is	**Relevant to the National Framework**		
Status	**This circular reminds FRA's of arrangements for the handling of medical appeals under Rule H2 of the FPS set out in FSC 4/2003; and provides further information.**		

The Firemen's Pension Scheme Order 1992(FPS):Processing of medical appeals under Rule H2

Issued by:

Martin Hill
Fire Legislation, Safety and Pensions Division
Fire and Rescue Services Directorate

Addressed to:	Please forward to:
The Chief Executive of the County Council	**Pension and human resources managers**
The Clerk to Fire and Rescue Authority	**The Fire and Rescue Service Medical Advisers/occupational health managers**
The Commisioner of the London Fire and Emergency Planning Authority	**Active members of the FPS**
The Chief Fire Officer	

Summary

This circular covers (A) the management of medical appeals; it introduces new forms to assist in processing cases; (B) provides key learnings; (C) information on ombudsman cases; and updates the list of venues for appeal hearings.

This provides guidance relevant to paragraphs 5.24 – 5.28 of the National Framework

For further information, contact:

See final paragraph of circular

A. MANAGEMENT OF MEDICAL APPEALS

1. Fire Service Circular 4/2003, dated 17 January 2003, set out the new arrangements for the provision of Regional Boards of Medical Referees to deal with appeals under Rule H2 of the FPS from 1st February 2003. In that circular, ODPM said that we would report on the monitoring of the new contract and share information that may be of general benefit to firefighters and the Fire and Rescue Service as a whole.

2. This circular provides the first such report.

3. It is clear that many staff in authorities and brigades who are responsible for handling medical appeals are not familiar with the arrangements set out in FSC 4/2003 for submission of appeals and the supporting documentation. We therefore think it may be helpful to remind them of the requirements and to draw particular attention to the following points:

(i) Receipt of notice of appeal under Rule H2

4. With the commencement of the new contract, the H2 forms were amended to meet the new requirements. The revised forms contain key pieces of information to facilitate the medical appeals process. Failure to use the appropriate forms may result in delays in processing the case. Forms can be found annexed to the Commentary on the FPS on the ODPM website. (access:Fire > Fire and Rescue Service > Pensions > Firefighters' pension scheme commentary).

5. An authority should not delay submitting an appeal whilst attempts to resolve matters are considered internally. The Pensions Ombudsman has made clear that an appeal should be submitted without delay. The relevant case is referred to at D. below.

6. When completing the Rule H2 notice of appeal it would be helpful if the firefighter could be specific about the grounds for the appeal rather than merely stating that he/she disagrees with the statement made on the H1 certificate. The notice of appeal form can be reformatted to enable more information to be supplied or additional information can be supplied on a separate sheet. There have been cases recently where it has become clear only at a late stage that the case should have been considered under Rule H3, and not H2, resulting in unnecessary costs and delays. It is also important that when lodging an appeal the firefighter recognises that he/she is accepting responsibility for active participation in the process and should expect to provide supporting evidence; as well as being prepared to attend the hearing and to present his/her case for consideration.

(ii) Rule H2 or H3?

7. Where it is only the earnings to be obtained from alternative employment that is being challenged, rather than medical issues relating to the capability to perform certain tasks, the case should be considered under Rule H3. At present the Board of Medical Referees may only decide on medical issues, on which their decision is binding.

(iii) Referral of papers to ODPM

8. When submitting papers to ODPM it is essential that all the evidence required for the case is provided and that the papers can be readily identified. (FSC 4/2003 provides a check list of the papers BUPA require in all cases). On checking this list you may find that some papers were not obtained during the original consideration of the case by the authority. It is important that such papers are obtained quickly. You may wish to consider reviewing your arrangements with the BMA to include a requirement to provide papers in a timely and appropriate manner. **Care should be taken to ensure that photocopied documents are complete and legible.**

9. We have asked for medical records to be submitted in sealed envelopes with a list indicating the records inside. The list is our only means of checking that papers are complete and thus enabling referral to BUPA. Chasing missing and additional papers is time consuming and can cause considerable delay in the allocation of a hearing date.

Action:- Each set of papers should be collated by type (e.g. GP records; occupational health records; accident and incident reports; etc), indexed and each page numbered.

10. Any time taken by BUPA to prepare medical documents for consideration by their consultants will be charged as an additional cost to the Fire and Rescue Service.

11. Three copies are required. **Under no circumstances should papers be submitted direct to BUPA.**

12. Some of the personal data will be included in the report of the outcome of the appeal and it would be helpful if this could be extracted by the brigade.

Action : - In future we should be grateful if the proforma at Annex A could be submitted for each case.

(iv) Consent form

13. The new consent form makes it clear to the appellant that they may see all the papers to be put before the Medical Board if they choose to do so. At the bottom of the first page there is a declaration stating whether consent is given to access medical information and whether there is a wish to see medical information before it is sent. It is

important that this declaration has been completed. In some cases when the appellant has stated that he/she does not wish to see the information before it is sent, the fire and rescue authority has assumed that there is no need to make copies available to the appellant or his representatives before the hearing.

14. Under Part 1 of Schedule 9, paragraph 5 of the FPS, it is the responsibility of each party to ensure that the other has any written evidence or statements upon which it intends to rely at the appeal hearing. We take the view therefore that in all cases copies of **all** the documentation should be made available to the appellant and his representatives. In a number of cases recently failure to make all documents available resulted in the appellant considering applying for Judicial Review. As we were satisfied that documents had not been provided to the appellants or their representatives we directed that the cases should be re-heard at the cost of the fire authority. It is **not** BUPA's responsibility under the FPS or contractually to provide copies of documents.

Action :- We recommend that copies of all the documentation upon which the fire authority intends to rely at a hearing should be copied to an appellant and his/her representatives.

(v) Agreement of Question to be addressed

15. It is important that all parties have agreed the question(s) to be addressed by the Board prior to the hearing. Where there is any doubt, ODPM will try to resolve this to the satisfaction of all parties before referral to BUPA. In future BUPA have been asked to include the question to be put to the Board in the letter notifying the date of the hearing. Any difficulties or disagreements must be raised with ODPM as soon as possible. The Chairman of the Board will confirm the question to be addressed at the hearing but we would not expect any amendment to be made at that stage.

(vi) Submission of late evidence

16. As set out in Schedule 9, paragraph 5(1), evidence will not normally be

accepted less than 7 days before the date of the hearing. Whilst there is discretion to accept written statements or evidence after this date this is only likely to be acceptable when it had not been possible to obtain the papers earlier. Evidence that had or could have been made available within the times laid down is unlikely to be accepted. We have issued guidance to BUPA indicating that cases should not normally be adjourned due to the submission of late evidence. We have suggested that, if necessary, the hearing may be adjourned for a short while for the papers to be considered by the other party.

(vii) Notification of date of hearing

17. You should expect to be given 2 months notice of an appeal hearing. Exceptionally you may be offered a date at shorter notice. In such circumstances all parties must be given time to consider whether there is sufficient time to prepare their case etc and will be asked for their agreement **in writing**. Once the date has been accepted postponement/adjournment will not be granted other than in circumstances outlined below.

(viii) Postponement/adjournment

18. Postponements can only be granted with the authority of ODPM and in the limited circumstances set out in FSC 4/2003 i.e.

- **In respect of the appellant's illness (which will require a doctor's statement)**
- **Attendance at a Court hearing**
- **Bereavement (and then only of a close relative).**

Although the Chair has limited discretion to adjourn a case on the day of the hearing this will not normally be agreed. Costs incurred will be sought from the party requesting adjournment.

(ix) Venues

19. A list of current venues is attached at Annex B. This may be of use to appellants when completing consent forms.

(x) Legal Representation at hearings

20. Legal representation should not normally be necessary at an appeal hearing. If required by either the appellant or the authority it is essential that all parties, including BUPA, are informed, as they too may wish to arrange their own legal representation. A recent case was adjourned as the Board felt that the presence of two legal advisers for the authority, who had attended without notice, was unnecessarily intimidating to the appellant. Costs of the adjournment were charged to the authority. Neither party should expect a case to be adjourned because of the failure of a legal representative to attend as arranged or, if attending, not to be fully briefed.

(xi) Non - attendance at hearings

21. Schedule 9, paragraph 4(4), allows a hearing to proceed if the appellant fails to attend. Consequently, while it is desirable for both parties to be represented, if one or other is absent the hearing should go ahead. If exceptionally, it should prove necessary to adjourn a case due to the failure of one party to attend we would expect the costs of the adjournment to fall to that party.

(xii) Additional costs

22. On occasions there will be a need for the Board to consider additional X rays /scans or to ask for further tests to be carried out. Where this is considered essential to the consideration of the case, the fire and rescue authority will be expected to meet the additional costs and will be invoiced accordingly.

(xiii) Evaluation Forms

23. ODPM issue evaluation forms to both appellants and fire and rescue authorities as part of the contract management process. There has been a disappointing response and it would be helpful if these could be completed and returned as they inform our discussions at our quarterly meetings with BUPA.

(xiv) Note to appellants

24. In order to ensure that appellants are aware of what is required ODPM will send the "note to appellants" at Annex E to each appellant on receipt of their appeal from the fire and rescue authority. This will be issued with a covering letter giving the case reference and asking the appellant to confirm the question to be addressed by the Board.

B KEY LEARNINGS

25. BUPA Wellness has agreed to identify points in the course of processing an appeal that might have implications for other brigades. Three cases of interest are given at Annex C. These relate to a case that (i) may have been vexacious or frivolous, (ii) a below knee amputation and (iii) monocular vision, respectively.

C PENSIONS OMBUDSMAN CASES

26. There have been two cases recently which have implications for the handling of pension issues and medical appeals. The first relating to Rule A10 confirms disregard of secondary employment when deciding to what extent earnings capacity has been affected. The second makes clear the requirement for a Rule H2 appeal to be submitted to ODPM without delay. These are outlined at Annex D.

D Enquiries

27. There have recently been some changes to the staff dealing with FPS matters.

Policy and general enquiries: Martin Hill
E-mail: **martin.hill@odpm.gsi.gov.uk**
020 7944 8641
Andy Boorman
E-mail: **andy.boorman@odpm.gsi.gov.uk**
020 7944 8123

Pensions Review Jean Archer

E-mail jean.archer@odpm.gsi.gov.uk

020 7944 5862

Project Manager for Pensions Review

Tracey Humphreys
E-mail tracey.humphreys@odpm.gsi.gov.uk
020 7944 8157

Medical appeals:

Maggie Smith
E-mail maggie.smith@odpm.gsi.gov.uk
020-7944-6787 or

Kirsten Hills
E-mail kirsten.hills@odpm.gsi.gov.uk

020 7944 6207

Policy, Medical Appeals and general enquiries

Anthony Mooney
E-mail: anthony.mooney@odpm.gsi.gov.uk
020 7944 8087

Martin Hill
Pensions and Special Projects
Fire Legislation, Safety and Pensions

ANNEX A

PENSIONS APPEAL BOARD PROFORMA
To be Completed by Appellant

1. Personal Details

NAME:	
D.O.B.	
ADDRESS:	
TEL No.	
E-MAIL:	

2. Fire Brigade Career.

DATE ENTERED SERVICE	
RANK ON LEAVING SERVICE	

LOCATION	DATE FROM	DATE TO	RANK

(PLEAE CONTINUE ON SEPARATE SHEET IF NECESSARY)

3. Employment

Are you currently employed? Y / N **(PLEASE CIRCLE ONE)**

IF YES

STATE NATURE OF WORK	
FULL TIME OR PART TIME	

IF NO

LAST DATE OF EMPLOYMENT	

4. Dates Not Able to Attend Appeal Hearing

APPELLANT	
BRIGADE	

ANNEX B

VENUES

Aberdeen

Abermed Industrial Doctors Ltd
56 Carden Place, Aberdeen, AB10 1UP

Birmingham

BUPA Occupational Health Transport & Engineering
7th Floor, 102 New Street, Birmingham, B2 4HQ

Brentwood

BUPA Hartswood Hospital
Eagle Road, Brentwood, Essex CM13 3LE

Bristol

BUPA Wellness Offices
5th Floor, Intercity House, Victoria Street, Bristol, BS1 6BH

Edinburgh

BUPA Murrayfield Hospital
122 Costorphine Road, Edinburgh EH12 6UD

Glasgow

The Glasgow Nuffield Hospital
1000 Great Western Road, Glasgow G12 OPJ

Harpenden

BUPA Hospital Harpenden
Ambrose Lane, Harpenden, AL5 4BP

Leeds/Halifax

BUPA Hospital Elland
Elland Lane, Elland HX5 9EB

London

London Independent Hospital
1 Beaumont Square, Stepney Green, London E1 4NL

BUPA

Bury Place,15 - 19 Bloomsbury Way, London WC1A 2BA

BUPA Wellness

300 Grays Inn Road, London, WC1X 8DU
[Mid May to end August 2004 only]

Manchester

BUPA Hospital Manchester
Russell Road, Whalley Range, Manchester, M16 8AJ

Reading

BUPA Dunedin Hospital
13 Bath Road, Reading, Berkshire RG1 6AB

Warrington

BUPA North Cheshire Hospital
Fir Tree Close, Stretton, Warrington, Cheshire WA4 4LU

ANNEX C

Key Learning 1

Whether an appeal was manifestly Ill-founded

1. The Appellant was considered to have cervical and lumbar spondylosis, hypertension and osteo-arthritis of the hips.

2. The Board acknowledges that service injuries significantly contributed to his lumbar spondylosis. A previous appeal (1998) had already established that the cervical spondylosis was not a Qualifying Injury and furthermore there was no evidence that his hypertension or subsequent osteo-arthritis of the hips was due to any Qualifying Injury.

3. The fact that his degenerative disorders were quite widespread and have continued years after leaving the Fire Brigade suggested that his degenerative disorders were largely constitutional in nature. His service record of injuries was not out of the ordinary.

4. The fact that his overall condition had deteriorated with age was not surprising but the effect of his Qualifying Injury had actually been diluted by the additional medical problems he had experienced hence the Degree of Disablement had not increased and was in fact lower than it was when he left the Brigade in 1994.

5. In his H2 Notice of Appeal the Appellant put forward two complaints. Firstly that the Degree of Disablement was too low and secondly his wish to know who the Brigade Medical Adviser discussed his case with prior to giving a report of his review of Disablement. This latter question cannot be grounds for an appeal but should have been addressed by the Fire Authority prior to the Hearing. The Fire & Rescue Service were not represented at the Appeal Hearing nor does there appear to have been any discussions immediately prior to the Appeal or any further submissions. Furthermore the Appellant clearly had a false expectation that the Appeal Board would reconsider the question of his neck condition and indeed any other medical condition in relation to a Qualifying Injury which was clearly outside the remit of the Appeal. The Appellant was under the misconception that a letter sent to him by the Personnel Department of the Fire Authority which referred to a recent Crown Court Judgment affecting the current approach adopted by Boards of Medical Referees in determining the percentage Degree of Disablement computation, meant that much wider issues would be considered by the Board. This was a false interpretation of that Judgment and if he had had a further meeting with the Fire Authority prior to the Appeal it is possible that he may have withdrawn his appeal if the situation had been clarified.

6. The Appellant did not provide any new medical evidence or any specific new submission and the Board did seriously consider whether

this appeal was manifestly ill-founded. However the Board felt that this was based on the Appellant's lack of medical knowledge and training and a lack of opportunity to fully discuss the issues with the Fire Authority and are reluctant to recommend application of this censure.

7. The questions that are normally to be addressed are:

- Was the appeal brought before the Board obviously unsustainable or not properly arguable?

- The question must be looked at in the light of the information known to the appellant at the time that he instituted and pursued his appeal.

- Has the firefighter a sensible and proper reason based on the relevant facts or circumstances known to him to doubt the accuracy of the medical practitioner's opinion?

- The approach of the Board to this question must not be with the benefit of hindsight and having regard to the examination of the appellant by the third Board member.

Key Learning 2

Whether a firefighter with a lower leg prosthesis should be ill health retired.

(i) The loading limitation of the lower leg prosthesis is considered to be of critical importance, the demands of operational fire-fighting being regarded as likely, on occasions, to exceed both the physiological limits of the amputation stump and the design limits of the Appellant's current prosthetic appliance.

(ii) Whilst recognising that the loading limit of the Appellant's current prosthetic appliance can be overcome by using an appliance designed to withstand greater loading, it was also noted that such an alternative would deprive the Appellant of the increased level of ankle joint mobility provided by the current model of prosthesis.

(iii) Of equal importance is the issue of the Appellant's aerobic capacity, it being recognised within the scientific literature that walking with a lower limb prosthesis requires greater energy consumption than is the case for the able-bodied. Consequently, in the instant case, the percentage of aerobic capacity available for operational fire-fighting would inevitably be reduced thereby compromising the Appellant's ability to perform in situations in which maximal exertion may be required.

(iv) The absence of proprioceptive sensation from the lost joints, muscles and tendons of the right lower limb and the loss of motor power due to absent muscles has had a substantially adverse effect upon the Appellant's balance and stability, as demonstrated during the Third Board Member's clinical assessment. This situation is incompatible with both the personal safety of the Appellant and the general safety of other Fire-fighters in a wide range of operational fire-fighting situations, particularly activities involving working on ladders or at heights.

Key Learning 3

Appeal against ill-health retirement for reasons of monocular vision

1. The Appellant has one functioning eye and is thus monocular, his other eye having been surgically enucleated following the diagnosis of a serious eye condition. He feels well in terms of his general health.

2. Monocularity is likely to pose significant additional risks on the fire-ground compared to firefighters previous binocular state, both to himself and to others who might be affected by his actions or inactions in the event of a hazard arising.

3. For monocular individuals, protecting and safeguarding the remaining 'good' eye is of paramount importance. Fire-fighting carries appreciable risks of sustaining eye injuries (ref. Owen CG, Margrain TH, Woodward EG. *Aetiology and prevalence of eye injuries within the United Kingdom fire service*. Eye 1995;9: 54-8) and, while assiduous compliance with wearing eye protectors would substantially reduce the risk of catastrophic eye injury and total blindness, this is unlikely to be an assured preventive. Personal protective equipment, while extremely helpful in hazardous situations, is seldom recommended as an effective control measure in itself.

4. The Appellant's monocularity does not meet the Group 2 driving standard (Medical Aspects of Fitness to Drive, Medical Commission on Accident Prevention, HMSO 1995) and he would therefore not be eligible to drive a large goods vehicle or passenger carrying vehicle, though the Board acknowledged that this issue does not, in itself, render the Appellant unsuitable to continue in employment as a Fire-fighter.

5. In view of the medical evidence presented, the Board judged the Appellant to be permanently disabled for the regular duties of a fire-fighter.

6. In reaching their conclusions, the Board considered the following to be relevant:

   The Appellant's field of peripheral vision was reduced, compared to a person with two healthy eyes. There would be an increased, and significant, risk of inadvertent collision with objects on the right side of his visual field, particularly in certain environmental conditions, e.g. smoke, glare. Wearing breathing apparatus is likely to further compromise his field of vision.

   True stereopsis is never possible with one eye, even though monocular persons do rely more on other clues to aid perception of

distance or depth, e.g. relative size, shadows. Binocular vision, however, enables optimum stereoscopic perception of depth and perception of objects in three dimensions, facilitating manipulation, reaching and balance.

Monocularity reduces perception of convexity and concavity of objects.

Monocularity may well compromise the accurate pitching of ladders at times, even though the person may be able to demonstrate his ability to do so satisfactorily in test conditions.

It is accepted that adverse environmental conditions may seriously impair the sight of any fire-fighter at times, during the course of operational duties. However, there are likely to be many environmental situations that cause partly obscured vision, perhaps intermittently during the course of an incident, when the adequacy of a firefighter's residual visual capacity is important in a safety sense. Residual vision would afford a protective degree of perception, enabling appropriate action to be taken that might be crucial to health and safety, possibly life-saving.

7. The Board considered that the Appellant was permanently unfit for fiefighting duties because of his monocularity, and surgical enucleation of the right eye.

Key Learning 4

Whether Brigade service, particularly with respect to an incident in 1998, either caused or substantialy contributed to his medical condition, described as Anxiety State – Generalised Anxiety Disorder.

Medical Appeal

1. A Sub-Officer disagreed with the handling of an incident managed by the appellant , a station officer, and raised his concerns with the DO. On investigation the DO was satisfied that the appellant had acted reasonably and that there had been a breakdown of communication. The appellant felt that a serious allegation had been made against him and that it had not been resolved satisfactorily. This had damaged his health.

2. Although initially of the view that the incapacity had been caused by service the BMA subsequently provided a certificate to say that the injury was not qualifying. A decision was taken by the brigade that payment of an injury award was not appropriate.

3. The Board concluded that the Appellant had recurrent Generalised Anxiety disorder of longstanding, symptoms first being recorded in GP records as long as 15 years before the incident, its effects again becoming manifest after a "disagreement" with a sub officer at an incident although the appellant is fully recovered from all symptoms of the condition now.

4. In considering the Qualifying Injury (or condition) issue, the Board agreed that the Appellant's Brigade service had not caused his medical condition which was of long standing and indeed the appellant had a very successful career despite it. As to whether his brigade service contributed substantially to its emergence following the incident, the Board also considered that it had not. Not only was the event itself quite minor and led to neither formal enquiry or disciplinary action but the Appellant's reaction was largely if not wholly the result of his own dysfunctional approach to what was clearly a brief episode of workplace disharmony such as may occur in almost any employment setting and which, in this instance, simply erupted from nowhere.

5. The Board concluded that neither his Brigade service in general nor the incident in particular, either caused or substantially contributed to the Appellant's medical condition such that it should be designated a Qualifying Injury (or condition). The appeal was therefore dismissed.

JUDICIAL REVIEW

6. In submitting the Judicial Review, Counsel for the Appellant asserted that :

7. Firstly that the Board had applied the wrong test in ascertaining whether there had been a qualifying injury. The correct test being simply whether there was a causal connection between the employment and the condition. It was not necessary that what occurred was solely because of what was done in the execution of his duties, merely that it was an operative cause.

8. Secondly, the Board had taken into account an irrelevant consideration by looking at whether the stresses to which the petitioner was exposed could have been experienced in any employment.

9. Thirdly, the decision of the Board was irrational and unreasonable in that it contradicted the opinions of the BMA, three psychiatrists and the petitioner's general practitioner without giving any reason to justify this course of action. The Board had trivialised the incident by regarding it simply as a piece of workplace disharmony. It was beside the point that the petitioners reaction was dysfunctional.

10. Remit of the appeal to a differently constituted Board for reconsideration on the basis of the proper test was requested.

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Pensions Ombudsman

Note: copies of these adjudications can be found on the Pensions Ombudsman's website.

(i) Case M00758

Relationship between Medical Appeals and Informal Resolution of Disputes

In this case the Ombudsman criticised the inordinate amount of time which a medical appeal case took. This was partly due to the time taken within the medical appeal process which we had already taken steps to cut by setting the service provider, BUPA, a target of sixteen weeks from receipt of the papers to the appeal hearing. However, there were also issues which the Fire Authority was attempting to resolve locally on an informal basis. As a result, although the Rule H2 appeal was submitted to the Department, the Authority delayed submission of the supporting medical evidence for a significant period. The Ombudsman made it clear that the FPS does not envisage informal resolution of medical issues once a decision has been taken under Rule H1 and that the delay should be seen as maladministration. In consequence once the Fire Authority has made a determination under Rule H1, the firefighter has fourteen days in which to apply for a copy of the opinion of the medical practitioner and has a further fourteen days in which to give notice of the grounds of appeal. Once this notice under Rule H2 is given, a Fire Authority must forward the Notice of Appeal plus supporting documents to ODPM without further delay. The appeal will then be processed in accordance with the requirements of the FPS and guidance issued by the Department.

(ii) **Case M00841**

Pension Ombudsman confirms disregard of secondary employmeny when deciding to what extent earnings capacity has been affected under Rule A(3).

The use of earnings as a firefighter for the purpose of deciding degree of disablement ewas challenged . A firefighter claimed that the fire authority should not only have taken account of his earnings as a firefighter, but also his earnings from his secondary employment, when deciding to what extent his earning capacity had been affected by the qualifying injury. The Ombudsman's conclusion was that to have regard to earnings other than those of a firefighter would lead to an anomalous result. Consequently he confirmed that the job of a firefighter (or something with the need for like skills and physical andmental abilities) should be used as the reference point in determining whether and to what extent earnings capacity is affected.

FireFighters Pension Scheme: Medical Appeals

A GUIDE FOR APPELLANTS

REASONS FOR APPEAL

- You must provide full reasons for disagreeing with the medical decision.
- The Board will expect you to provide supporting evidence.
- It is not sufficient to say “I don’t like the decision”.
- The decision of the board is binding.

DATES YOU WILL NOT BE AVAILABLE FOR A HEARING

- These must be notified to BUPA and ODPM immediately if they have not already been given.
- Postponements will not be granted. If necessary the appeal will proceed in your absence.

REPRESENTATION

- If you wish to be represented contact the individual now. The appeal will proceed whether or not they are available.
- If you intend to have legal representation you must notify all parties including BUPA of your intention. The full details can be supplied later.
- Prior notification of the attendance of an FBU representative is not required.

SUBMIT EVIDENCE AS SOON AS POSSIBLE

- Late evidence will not be accepted
- If you wish to submit further evidence begin obtaining this immediately.
- All evidence has to be with the Board at least 7 days ahead of the hearing.

- Papers and medical reports will not be accepted on the day.
- All papers must be copied to *all* parties.

CHECK THE QUESTION TO BE ADDRESSED

- On receipt of the notification of hearing check *the question to be addressed*.
- If you are unhappy notify ODPM immediately giving reasons and the question you wish to be addressed.
- Additional incapacities etc cannot be introduced at this stage.
- The appeal relates to the recommendation made by the BMA on the H1 certificate and the resulting decision of the Fire Authority

MEDICAL EXAMINATION

- At the hearing you should be prepared to answer any questions that may be put to you and to undertake a medical examination.
- If necessary further tests may also be instigated by the Board.

WITHDRAWALS

- If you wish to withdraw your appeal please notify all parties immediately. Costs may be incurred on a phased basis once a hearing date has been notified.

COSTS

- If the Board find that the appeal is frivolous of vexatious you may be asked to pay part of the costs.
- Only in **exceptional circumstances** will appeal dates be postponed. Where less than 10 working days* notice is given you may be required to pay the following postponement charges –

1 days notice or less (up to 23 hours 59 minutes)	£4,200
2 days notice (24 hours up to 47 hours 59 minutes)	£3,800
3 days notice (48 hours up to 71 hours 59 minutes)	£3,500
4 - 10 days notice (72 hours up to 239 hours 59 minutes)	£2,500

* A working day is defined as being Monday to Friday inclusive, excluding public holidays

CONTACTS

If you have any queries about your appeal these should be raised with **ODPM**. Call Maggie Smith on 020 7944 6787 or e-mail Maggie.Smith@odpm.gsi.gov.uk
BUPA will only deal with notification of hearing dates.

NB The version being issued has pictures to break up the text and colour is used to draw attention to key points. Due to technical difficulties these have not been included in this circular.