

## Information

# Informal ill health guidance for FRAs

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## About this guide

This document gives guidance on the procedures Fire and Rescue Authorities (FRAs), as an employer, should follow when dealing with Ill Health and/or injury retirements.

The guide sets out the different stages of the process and differentiates between the role of the Independent Qualified Medical Practitioner (IQMP) providing a medical opinion and the role of the FRA as the employer, who makes the final decision.

The ill health and injury certificates have been broken down, to help with understanding which certificate is needed, when, and what each question means, and the entitlement linked to its response.

The guide also covers what an FRA needs to do should an employee appeal the decision made. As well as how an FRA should carry out a review of the entitlement, subject to the recommendation of the IQMP.

There is a separate guidance document Informal Guidance for IQMPs, which should be read in conjunction with this guide.

## Introduction

1. [The Firefighters' Pension Scheme Regulations 2014](#) introduced a Care Average Revalued Earnings (CARE) pension scheme from 1 April 2015 (FPS 2015).
2. [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.
3. 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.
4. An active member who has not reached normal pension age (60) is entitled to immediate payment of a lower tier ill-health pension if all of the following conditions are met:
  - a. the member is deemed incapable of performing any of the duties of the role in which the member was last employed because of incapacity of mind or body and this incapacity will continue until normal pension age;
  - b. the member has three months of qualifying service;
  - c. the member has been dismissed or retired from scheme employment; and
  - d. the scheme manager has determined that the member is entitled to a lower tier ill-health pension
5. An active member is entitled to immediate payment of a higher tier ill-health pension, in addition to the lower tier ill-health pension, if all of the following conditions are met:
  - a. the member is deemed incapable of undertaking regular employment because of incapacity of mind or body and this incapacity will continue until normal pension age;
  - b. the member has at least five years of qualifying service;
  - c. the member is entitled to a lower tier ill-health pension; and
  - d. the scheme manager has determined that the member is entitled to a higher tier ill-health pension.
6. For deferred members, there is no structured tiered system.
7. A deferred member who has not reached deferred pension age is entitled to immediate payment of their deferred benefits if all of the following conditions are met:

- a. the member has given written notice requesting payment of the pension before deferred pension age to the scheme manager;
  - b. the member is deemed incapable of undertaking regular employment because of infirmity of mind or body and this incapacity will continue until deferred pension age; and
  - c. the scheme manager has determined that the member is entitled to the early payment of the retirement pension.
8. In all cases, the scheme manager must instruct an Independent Qualified Medical Practitioner (IQMP) to give a medical opinion on points 4a, 5a and 7b set out above. More information about the role of the IQMP is set out from [point 22-30](#).

## Entitlement

9. For active members, their entitlement is dependent on the tier of pension they have been awarded. Some members may qualify in respect of both regular and retained duties.
10. Members who meet the criteria for a lower tier ill health pension are entitled to immediate payment of any pension they have accrued up to date of leaving. This figure is not subject to any enhancement, however, is payable without an actuarial reduction.
11. Members who meet the criteria for a higher tier ill health pension are entitled to the immediate payment of any pension they have accrued up to their date of leaving plus an enhancement. As detailed above the amount payable would not be subject to an actuarial reduction.
12. For deferred members, their entitlement is based on the current value of their deferred benefits, which again are paid immediately and without an actuarial reduction.

## The FRA and their role – Pre IQMP referral

13. This section sets out the steps that the Fire and Rescue Authority (FRA) should take before a case is referred to an IQMP.
14. Prior to any ill health referral, the FRA has a duty under [Section 20 of the Equality Act 2010](#) to consider whether reasonable adjustments to the member's current role are appropriate.
15. If reasonable adjustments are not deemed appropriate, then the FRA should consider what redeployment opportunities (if any) are available for the member. Any redeployment opportunity must be assessed on the member's skill set and medical constraints. An FRA should take into account the [Marrion & Ors, R v Board of Medical Referees & Ors case](#) when determining this.

16. If neither reasonable adjustments nor redeployment is available to the member, then the FRA must consider what is the alternative. If that alternative is termination on the grounds of ill health, then the FRA must consider whether the member is eligible for ill health retirement.
17. It is recommended that the FRA speaks with the member at the earliest opportunity and fully informs them of what the ill health retirement process looks like, how long the process should take, what the potential outcomes are and why they have discounted any alternatives. The member may wish to bring union or other representation to this meeting. As a matter of best practice, any discussion should be clearly documented and formally shared with the member and their representative post meeting.
18. Once the member is content with the ill health application, their consent must be sought so that the FRA can contact medical practitioners and request up to date, relevant medical information on their behalf. As a minimum, the consent must include detail on what information will be requested, why it is needed and who will be able to see it.
19. All relevant medical and relevant supplementary information should be collated in preparation to be shared with the IQMP ([see point 27](#) for recommendations on what information should be captured).
20. Prior to submission to the IQMP the member and, where appropriate, their representative should be given an opportunity to see what information has been collated and will be sent to the IQMP. Additionally, there is nothing in the regulations which prevent the member from requesting to include additional information for example a personal statement and/or non-medical evidence.
21. Once the member is happy with the contents and has provided their consent, then the information can be shared with the IQMP.

## The IQMP and their role

22. Independent Qualified Medical Practitioners (IQMPs)<sup>1</sup> play a pivotal role in all ill health retirements. [Part 12, chapter 1, regulation 152\(1\)](#) of the FPS 2015 confirms that in making a determination as to whether a person is entitled to an award, the scheme manager must obtain the written opinion of an IQMP on any issue which is wholly or partly of a medical nature.
23. When selecting an appropriate IQMP you must ensure that they are appropriately qualified, as defined by the FPS 2015 regulations and that they have not previously advised, or given an opinion on, or otherwise been involved in the particular case for which the opinion has been requested. Additionally, you must ensure that the IQMP is not acting, and has not at any time acted, as the

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<sup>1</sup> means 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.

representative of the member, the scheme manager, or any other party in relation to the same case. A list of contacts of some of the IQMP's are available within the [member restricted area](#) of the FPS regs website.

24. Once an IQMP has been selected and all relevant medical information from the member has been collated, this evidence, along with an appropriate certificate (refer to section on [understanding the certificates](#)), is to be shared with the IQMP for their consideration.
25. The IQMP will be asked to provide an opinion on the following issues:
  - 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.
26. It is recommended that the medical information an FRA sends is as comprehensive as possible. Any missing or unknown information may result in the IQMP not being able to make a determination.
27. An example of what to include is as follows:
  - a. [Capability assessment](#)
  - b. Occupational health records
  - c. GP records
  - d. Consultant/specialist reports (where applicable)
  - e. Accident report(s) (in the circumstance of an injury on duty)
28. It is also recommended that any IQMP referral is supported with an informative covering letter. An example of what information should be included on the covering letter is as follows:
  - a. Reason for referral including brief details of the member's condition
  - b. A detailed breakdown of the evidence submitted
  - c. What regulations you would like the IQMP to consider

- d. Confirmation that reasonable adjustments and redeployment has been considered and why they have been discounted
29. The IQMP will then consider their determination which will be provided in writing to the scheme manager. There are four possible outcomes:
- a. The IQMP confirms that the member's condition meets the lower tier ill health criteria only.
  - b. The IQMP confirms that the member's condition meets the higher tier ill health criteria.
  - c. The IQMP confirms that the member's condition does not satisfy the lower tier ill health criteria.
  - d. The IQMP confirms that they have insufficient information/evidence to make a determination at this stage.
30. Clarity on how to interpret the certificate can be found in the [understanding the certificate](#) section of this document.

## The FRA and their role – Post IQMP referral

31. [Part 12, chapter 1, regulation 152\(4\)](#) confirms that IQMPs opinion is binding on the scheme manager. However, [case law](#) confirms that FRAs should not act blindly on an IQMP determination. Each decision should be robustly scrutinised for accuracy, assurance is needed to ensure that there are no gaps in the IQMP findings, and that relevant evidence has not been overlooked.
32. The scheme manager must consider the IQMPs opinion and confirm to the member the outcome within 14 days ([Part 12, chapter 1, regulation 152\(8\)](#)). To do this, the FRA will need access to the completed certificate, as well as accompanying report.
33. It is possible that, during this review, the scheme manager may find contradictory information or require additional clarity on something before committing to a final decision. In this case, the scheme manager should write to the IQMP, set out the questions they have and wait for an answer before making a decision. It is recommended that the member, and their representatives, are kept updated on any delays within the decision-making process.
34. Once the scheme manager is content with their decision an outcome letter should be provided to the member.
35. The outcome letter should confirm the decision, rationale, next steps, routes of appeal and, where appropriate, the scheme manager's review procedure – Please refer to the [reviews](#) section for more information on this.

36. In accordance with [part 8, chapter 3, regulation 118](#) if an ill health pension is awarded, the FRA must pay additional contributions into notional pension fund account. The amounts<sup>2</sup> are as follows:
- a. Lower tier – amount equal to 2 x pensionable pay
  - b. Higher-tier – amount equal to 4 x pensionable pay

## Appeals

37. The member has three official routes of appeal.

### **Review of medical opinion (Not applicable for injury on duty cases)**

38. [Part 12, chapter 1, regulation 153\(1\)](#) confirms that where new evidence, on an issue wholly or partly of a medical nature, is presented to the scheme manager by a member then the scheme manager should give the IQMP opportunity to review their original opinion in the light of the new evidence.
39. Any new evidence should be presented to the scheme manager within 28 days of the member receiving a copy of the FRAs final determination ([part 12, chapter 1, regulation 153\(1bi\)](#)).
40. An IQMP's response is binding on the scheme manager ([part 12, chapter 1, regulation 153\(3\)](#)), however, as set out in point 31 the scheme manager should not act blindly and a level of scrutiny is required.
41. As soon as reasonably practicable after receiving a response from the IQMP the scheme manager must reconsider their determination.
42. Within 14 days of that reconsideration, the scheme manager must give written notice of the revised determination.

### **Appeal to Board of Medical Referees**

43. [Part 12, chapter 1, regulation 154\(1\)](#) confirms that a member who wishes to appeal against a scheme manager's determination on an issue of a medical nature may do so to a board of medical referees.
44. The member must give written notice of appeal against a determination on an issue of a medical nature stating:
- a. the appellant's name and address; and
  - b. the grounds of the appeal,

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<sup>2</sup> [80592-ODPM-FirefighterGuidance \(publishing.service.gov.uk\)](#)

45. This notice must be given to the scheme manager within 28 days of the date on which the member receives confirmation of the scheme manager's final determination.
46. However, in accordance with [part 12, chapter 1, regulation 155\(2\)](#), the scheme manager may extend the period for giving notice for such length, not exceeding six months from the date of final determination.
47. On receiving a notice of appeal, the scheme manager must supply the Secretary of State with three copies of:
  - a. the notice of appeal;
  - b. the notice of the relevant determination;
  - c. the opinion, response or evidence (as the case may be) supplied to the appellant (member); and
  - d. every other document in its possession or under its control which appears to it to be relevant to the issue that is the subject of the appeal.
48. The medical referee board will liaise with the appellant to agree a convenient date and time for a formal appeal hearing to take place. The scheme manager, and any of their representatives deemed appropriate for the case, will have the option to attend the hearing and give an account of the facts.
49. The medical referee board must supply the Secretary of State with:
  - a. A written report of its decision on the relevant medical issues; and
  - b. If the board is of the opinion that the appeal was frivolous, vexatious or manifestly ill-founded, a statement to that effect (which may form part of the report).
50. The Secretary of State will then supply both the appellant and scheme manager with a copy of the report.
51. The determination of this process is binding on the scheme manager.

### **Appeals on other issues**

52. [Part 12, chapter 3, regulation 163](#) confirms that, where a member disagrees with a scheme manager's determination and the disagreement does not involve an issue of a medical nature, the member can lodge an appeal using the FRA's Internal Dispute Resolution Process (IDRP).
53. Written notice of such appeal must be given to the scheme manager within 28 days of receipt of the determination.



## Reviews

54. [Part 5, chapter 4, regulation 68](#) confirms that where a member has been in receipt of an ill-health award (either lower or higher tier) for less than 10 years, and is under deferred pension age, the scheme manager must consider, at such intervals as it considers appropriate, whether they have become capable:
- a. of performing any duty appropriate to the role from which the member retired on grounds of ill-health; and
  - b. of undertaking regular employment
55. Additionally, in the case of a deferred ill health retirement, the scheme manager must consider, at such intervals as they consider appropriate but before the member reaches deferred pension age, whether the member has become capable of undertaking regular employment.
56. In making a determination as to whether a person is entitled to keep an award the scheme manager must obtain the written opinion of an IQMP on any issue which is wholly or partly of a medical nature.
57. When selecting an appropriate IQMP for a review of an ill health benefit, unlike mentioned at [point 23](#), the scheme manager may request a further opinion from the same IQMP as determined in [Part 12, Chapter 1, Regulation 152\(6\)](#).
58. The recommendations set out in points [26 and 27](#) remain. However, as this is a review, the reviewing IQMP does not necessarily need to have access to the member's full medical history. It is therefore recommended that only the following is included:
- a. GP records – From date of original determination to date of review
  - b. Consultant/specialist reports (where applicable) – From date of original determination to date of review
  - c. Copy of the original IQMP determination – Certificate and IQMP report
  - d. Board of medical referees' determination (where applicable) – Copy of outcome letter
59. As mentioned in [point 28](#), an explanatory covering letter should be constructed and should include:
- a. Reason for referral including brief details of the member's condition
  - b. A detailed breakdown of the medical evidence you have submitted, along with any additional material, for example original IQMP report or certificate.
  - c. What regulations you would like the IQMP to consider

60. The IQMP will then consider their determination which will be provided in writing to the scheme manager. Full details on potential outcomes and next steps can be found in the [consequences of a review section](#).

## Consequences of a review

61. [Part 5, chapter 4 regulation 69](#) sets out the consequences of a review for members under the 2015 scheme.

62. It is worth noting that, if the member's condition has deteriorated, ill health pensions cannot be reviewed upwards. However, should the member's condition have improved, their ill health entitlement can be reviewed downwards, from higher tier to lower tier, or even removed all together.

### Lower tier awards

63. [Part 5, chapter 4 regulation 69\(3\)](#) confirms that, if following the review process, a scheme manager determines that a member who is in receipt of a lower tier ill-health pension has become capable of performing the duties appropriate to the role from which the member retired on grounds of ill-health; and the employer makes an offer of employment in that role, the member's entitlement to a lower tier ill-health pension must cease whether they accept or decline the offer of reemployment. The regulations are silent on what happens if the employer does not have a role to offer the member. It is therefore assumed that if no employment is available the lower tier ill health pension would continue in payment.

64. The employer must confirm to the member in writing a specific date by which, if the member has not accepted the offer of redeployment, it will be taken that the member has declined the offer.

65. The lower tier ill-health pension ceases to be payable on the earlier of the following dates:

- a. The date on which a member re-enters scheme employment; or
- b. Such date after the offer of reemployment is declined by the member

66. Where a lower tier ill health award is withdrawn, a deferred member's account must be established and will become payable under the terms of this arrangement ([Part 5, chapter 4 regulation 69\(6\)](#))

### Higher tier awards

67. [Part 5, chapter 4 regulation 69\(1\)](#) confirms that, if following the review process, a scheme manager determines that a member who is in receipt of a higher tier ill-health pension has become capable of undertaking regular employment, the member's entitlement to that pension must cease with immediate effect.

68. A lower tier ill-health pension must continue to be paid unless the scheme manager determines that the member has become capable of performing the duties appropriate to the role from which they retired on grounds of ill-health; and the employer makes an offer of employment in that role. In this case, the member's entitlement to a lower tier ill-health pension must cease whether they accept or decline the offer of reemployment and the process set out in [points 64 to 66](#) is to be followed.

### **Deferred benefit awards**

69. [Part 5, chapter 4 regulation 69\(7\)](#) confirms that, if following the review process, a scheme manager determines that a deferred member, whose deferred pension is being paid early, has become capable of undertaking regular employment, the member's entitlement to early payment of their pension must cease with immediate effect.

70. The member's deferred account must be reinstated immediately.

## **Understanding Ill Health certificates**

### **Where are the certificates stored?**

71. All medical certificates can be found in the [restricted area](#) of the FPS regulations and guidance website.

72. The certificates continue to be maintained and reviewed at regular intervals. To ensure that the most up to date certificate is used we suggest that the current version is downloaded from the website as and when a case arises.

### **Which certificate should be sent?**

73. This is dependent on whether the member who is subject to the IQMP referral is active or deferred and whether this is a new referral, review of medical opinion following new evidence or general review case.

74. In all new active member referrals, a severe ill health check is required and the [Finance Act 2004 Section 229 Medical Certificate](#) should be sent alongside other appropriate certificates.

### **Active member – New referral**

75. In this scenario [Medical Certificate A – Ill health medical opinion](#) should be used.

### **Active member – Review of medical opinion following new evidence**

76. In this scenario [Medical Certificate C – Review of medical opinion following new evidence](#) should be used.

### **Deferred member – New referral**

77. In this scenario, subject to which scheme the member's deferred benefits are held, the relevant certificate should be used:

- [FPS 2015 Medical Certificate B – Deferred pension medical opinion](#),
- [FPS 2006 Medical Certificate B – Deferred pension medical opinion](#)
- [FPS 1992 Medical Certificate B – Deferred pension medical opinion](#)

### **Deferred member – Review of medical opinion following new evidence**

78. In this scenario [Medical Certificate C – Review of medical opinion following new evidence](#) should be used.

### **Active member – Review of ill health pension**

79. In this scenario [Medical Certificate D – Review of ill health pension](#) should be used.

### **Deferred member – Review of ill health pension**

80. In this scenario [Medical Certificate E – Review of deferred pension](#) should be used.

### **Firefighters' compensation scheme – New referral**

81. In this scenario [FCS Medical Certificate A - Injury Award Medical Opinion](#) and [FCS Medical Certificate B Assessment of Degree of Disablement](#) should be used.

### **Firefighters' compensation scheme – Review of injury award**

82. In this scenario [FCS Medical Certificate C - Review of Injury Award](#) should be used.

### **What sections does the FRA need to complete?**

83. Each certificate comes with a [comprehensive set of notes](#) which set out the sections of the certificate which require completion by the FRA.

84. As a minimum, all certificates require the FRA to complete the personal details of the member.

85. Medical certificates A – E require the FRA to capture details of the member's mind or body infirmity.

86. [Medical certificate C – Review of medical opinion following new evidence](#) requires additional input from the FRA. As well as asking for personal details (page 1), the FRA is also expected to complete the sections titled request for reconsideration of medical opinion (also page 1) and documents provided for review (page 2).

87. [FCS Medical Certificate A - Injury Award Medical Opinion](#) requires additional input from the FRA. As well as asking for personal details (page 1), the FRA is also expected to complete the details of disablement section (page 1) and set out the details of the qualifying injury (page 2).
88. [FCS Medical Certificate B Assessment of Degree of Disablement](#) requires much more input from the FRA. In addition to the areas highlighted in points 84 and 85 the certificate also requires information on the individual's qualifications and employment history/experiences (both before and during, and in some cases, after their fire service employment). It is recommended that these questions are completed with input from the individual. Once this information has been determined the FRA must select three employments (see section titled occupations within the capability based on qualifications, experience and training...) which are in line with the individual's employment experience, qualification etc. and are possible taking into account any restrictions/limitations due to the individual's disability.

**What sections does the IQMP need to complete?**

89. Each certificate comes with a [comprehensive set of notes](#) which set out the sections of the certificate which should be completed by the IQMP.

**How should the certificate be interpreted?**

90. This is dependent on which certificate has been sent. Each certificate sets out a series of questions for the IQMP to complete and give opinion on.

**[Finance Act 2004 Section 229 Medical Certificate](#)**

91. There are two possible outcomes with this certificate. Either the IQMP agrees to the following statement or not:

I certify that, in my opinion, the above named	
<input type="checkbox"/> does	<input type="checkbox"/> does not
satisfy the following statement	
"He/she is suffering from ill health which makes him/her unlikely to be able (otherwise than to an insignificant extent) to undertake gainful work in any capacity reaching his/her state pension age or date"	

92. If the IQMP confirms that the statement **does** apply, then any benefits due **will not** be subject to annual allowance charges (if a breach was to occur).
93. If the IQMP confirms that the statement **does not** apply, then any benefits due **will** be subject to annual allowance changes (if a breach was to occur).

## Medical Certificate A – Ill health medical opinion

94. For a member to meet the qualifying criteria of a lower tier ill health pension then the IQMP would have to give a response to questions one, two and three as follows:

<p>1. The Firefighter -</p> <p><input checked="" type="checkbox"/> is <input type="checkbox"/> is not</p> <p>suffering from the infirmity of mind or body detailed on page 1 of this document.</p> <p>(Proceed to Point 2 if you have ticked the "is" box)</p> <p>2. The firefighter, because of the stated infirmity of mind or body -</p> <p><input checked="" type="checkbox"/> is <input type="checkbox"/> is not</p> <p>incapable of performing any duties of the role in which last employed</p> <p>(Proceed to Point 3 if you have ticked the "is" box). If you have ticked the "is not" box, process to Point 6 on the next page.)</p> <p>3. The incapacity for the duties of the role, to which Point 2 refers -</p> <p><input checked="" type="checkbox"/> will <input type="checkbox"/> will not</p> <p>likely to continue until normal pension age (age 60).</p> <p>(Proceed to Point 4 if you have ticked the "will" box)</p>
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95. For a member to meet the qualifying criteria of a higher tier ill health pension then, as well as giving a positive response to questions one, two and three, the IQMP also must give a response to questions four and five as follows:

<p>4. The Firefighter, because of the stated infirmity of mind or body -</p> <p><input checked="" type="checkbox"/> is <input type="checkbox"/> is not</p> <p>incapable of undertaking regular employment, i.e. 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.</p> <p>(Proceed to Point 5 if you have ticked the "is" box)</p> <p>5. The incapacity for regular employment, to which Point 4 refers -</p> <p><input checked="" type="checkbox"/> will <input type="checkbox"/> will not</p> <p>likely to continue until normal pension age (age 60).</p>
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### Medical Certificate B – Deferred pension medical opinion

96. For a member to meet the qualifying criteria for their deferred pension to be brought into payment early on ill health ground, then the IQMP would have to give a response to questions one, two and three as follows:

<p>1. The deferred member -</p> <p><input checked="" type="checkbox"/> is <input type="checkbox"/> is not</p> <p>suffering from the infirmity of mind or body detailed on page 1 of this document.</p> <p>2. The deferred member, by reason of the infirmity of mind or body -</p> <p><input checked="" type="checkbox"/> is <input type="checkbox"/> is not</p> <p>incapable of undertaking regular employment.</p> <p>("Regular employment" means 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.)</p> <p>3. The deferred member's incapacity from undertaking regular employment -</p> <p><input checked="" type="checkbox"/> will <input type="checkbox"/> will not</p> <p>continue until their deferred pension age.</p> <p>(A member's deferred pension age is their state pension age or age 65 if higher – see page 1)</p>
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### Medical Certificate C – Review of medical opinion following new evidence

97. The IQMP will indicate on page three of the certificate whether their original determination remains or whether, in the light of new evidence, they have reversed their determination:

Following consideration of the new evidence, I am of the view that:

- A**  The medical opinion dated ..... (date) remains correct
- B**  The medical opinion dated ..... (date) should be amended as follows.

98. The certificate goes on to add that, should the IQMP select option B, they are to indicate the part of the previous medical opinion that should be amended by reference to the Point number in the Certificate in which the opinion was given.

## Medical Certificate D – Review of ill health opinion

99. For a member to retain the right to a lower tier ill health pension then the IQMP would have to give a response to questions one and two as follows:

<p>1. The person -</p> <p><input checked="" type="checkbox"/> is                      <input type="checkbox"/> is not</p> <p>suffering from the infirmity of mind or body detailed on page 1 of this document.</p> <p>(Proceed to point 2 if you have ticked the "is" box.)</p> <p>2. The person, who is currently in receipt of a lower tier ill health pension -</p> <p><input type="checkbox"/> has                      <input checked="" type="checkbox"/> has not</p> <p>become capable of performing any duty appropriate to the role held at the time he/she retired on grounds of ill health.</p> <p>Complete in all cases. If you ticked the "has" box, also complete Point 4 to indicate which duties could be undertaken.</p>
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100. For a member to retain their right to a higher tier ill health pension then, as well as giving a positive response to questions one and two, the IQMP also must give a response to question three as follows:

<p>3. The person, who currently has entitlement to a higher ill health pension -</p> <p><input type="checkbox"/> has                      <input checked="" type="checkbox"/> has not</p> <p>become capable of undertaking regular employment.</p>
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## Medical certificate E – Review of deferred pension

101. For a member to retain the right to early access of their deferred pension then the IQMP would have to give a response to questions one and two as follows:

<p>1. The person -</p> <p><input checked="" type="checkbox"/> is                      <input type="checkbox"/> is not</p> <p>suffering from the incapacity detailed on page 1 of this document.</p> <p>2. The person -</p> <p><input type="checkbox"/> has                      <input checked="" type="checkbox"/> has not</p> <p>become capable of undertaking regular employment.</p> <p>“Regular employment” means employment of 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.</p>
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## **Injury on duty considerations**

102. Occasionally an individual’s ill health may have been caused by an injury they sustained whilst on duty.

103. If this is the case, as well as being considered for an ill health pension, consideration should also be given as to whether the individual should also benefit from an injury compensation.

104. The injury compensation regulations are covered in [The Firefighters' Compensation Scheme \(England\) Order 2006](#) which are separate from the FPS 2015 regulations.

105. Subject to satisfying the conditions for eligibility, all the following have cover for an injury award:

- a. a whole-time or part-time regular firefighter
- b. a firefighter undertaking retained duties
- c. a volunteer firefighter
- d. other employees of a fire and rescue authority in certain circumstances and at the discretion of the authority
- e. a surviving spouse or civil partner or child of the above

- f. a dependent relative of a firefighter at the discretion of the fire and rescue authority.
106. To be considered to be an eligible member the firefighter must satisfy the [eligibility criteria](#) for FPS 2015.
107. It is worth noting that a firefighter does not have to be a member of the FPS 2015 to have cover for an injury award under the Compensation Scheme. Optants-out have cover too. As do individuals who have left service (either by way of retirement or resignation). These cases are often referred to as an "after-appearing" injury and can be assessed as a post-leaver disablement providing their injury is linked to a pre-leaving qualifying injury.
108. There is no minimum or maximum age for a firefighter's entitlement to an injury award.
109. Some firefighters may qualify in respect of both regular and retained duties, however, the FPS 2015 and the Compensation Scheme contain rules which prevent the duplication of injury benefits in these circumstances ([schedule 1, part 10, paragraph 3](#)).
110. Should a member have multiple employments, it is the employment in which they suffered the injury in which should be assessed for compensation purposes.
111. To qualify for an injury award a firefighter must have retired and be permanently disabled by an infirmity occasioned by a qualifying injury ([schedule 1, part 1, paragraph 8](#)).
112. For a spouse, civil partner or child to qualify for an injury award as a dependant of a firefighter, the firefighter must have died from the effects of a qualifying injury, or infirmity of mind or body occasioned by a qualifying injury.
113. Wherever a qualifying injury is mentioned in the context of an injury award in it means an injury received by a person without their own default in the exercise of their duties as a regular firefighter ([schedule 1, part 1, paragraph 7](#)).
114. The Compensation Scheme rules say that an injury will be treated as having been received without a person's default unless it is wholly or mainly due to their own "serious and culpable negligence or misconduct" ([schedule 1, part 1, paragraph 7\(5\)](#)).
115. If a firefighter contributed to the infirmity by their own default the scheme manager can reduce the injury award payable by up to half ([schedule 1, part 9, paragraph 3](#)).
116. An injury award would result in both an injury gratuity which is a single lump sum payment, and an injury pension which is an annual amount normally paid in monthly instalments ([schedule 1, part 2, paragraph 1](#)).

117. The injury gratuity is a lump sum based on a percentage of their "final pensionable pay". The percentage is decided according to the degree of disablement as follows:

<b>DEGREE OF DISABLEMENT</b>	<b>GRATUITY</b>
Slight disablement (25% or less) <sup>3</sup>	12.5% of final pensionable pay
Minor disablement (more than 25% but not more than 50%)	25% of final pensionable pay
Major disablement (more than 50% but not more than 75%)	37.5% of final pensionable pay
Severe disablement (more than 75%)	50% of final pensionable pay

118. The injury pension is worked out in stages. As in the gratuity assessment, the first stage is a calculation based on a percentage of final pensionable pay according to the degree of disablement, but account is also taken of "relevant service". Relevant service is that which would count as pensionable service if a member of the FPS. For a regular firefighter who has served part-time, both the service and the final pensionable pay will be a notional whole-time amount.

119. The relevant degree of disablement percentage is as follows:

<b>DEGREE OF DISABLEMENT</b>	<b>PENSION AS A PERCENTAGE OF FINAL PENSIONABLE PAY</b>			
	<b>Less than 5 years' service</b>	<b>5 or more but less than 15 years' service</b>	<b>15 or more but less than 25 years' service</b>	<b>25 or more years' service</b>
Slight disablement (25% or less) <sup>4</sup>	15%	30%	45%	60%
Minor disablement (more than 25% but not more than 50%)	40%	50%	60%	70%
Major disablement (more than 50% but not more than 75%)	65%	70%	75%	80%
Severe disablement (more than 75%)	85%	85%	85%	85%

<sup>3</sup> This includes if a member is assessed as 0%.

<sup>4</sup> This includes if a member is assessed as 0%.

120. It is the fire and rescue authority that decide as to the individual's entitlement to an award, but they must first obtain a medical opinion from an IQMP to help them decide on the medical issues ([schedule 1, part 6, paragraph 1](#)).
121. For a serving firefighter, who is a member of the FPS 2015, the question of disablement will also be used to decide entitlement to an ill-health award and so it is usual for the authority to ask questions about the medical issues relating to an injury award at the same time as they seek an opinion on disablement for an award under the FPS 2015.
122. As mentioned in point 107 an injury award can also be considered for a firefighter who has opted out of FPS 2015. Or for a person who has retired on grounds other than disability but who has a post-retirement disablement which may be linked to a pre-retirement qualifying injury.
123. Where the question of injury arises on the death of a firefighter, the scheme manager will have regard to the circumstances of death and the death certificate.
124. The scheme manager will first have to decide if an injury sustained by a firefighter falls within the definition of a "qualifying injury" for injury award purposes (see point 111). Sometimes this can be decided without medical assistance. For example, if the firefighter is injured in a car accident whilst on holiday and not in the exercise of duty, this would not be a qualifying injury. But most cases are not so clear-cut meaning that they may need a medical opinion to help them with this question.
125. To assist FRAs, [standardised certificates](#) have been created which should be used when asking the IQMP to give an opinion on an injury case.
126. In the case of a new referral both of the following should be sent to the IQMP:
- a. [FCS Medical Certificate A](#) - Injury Award Medical Opinion; and
  - b. [FCS Medical Certificate B](#) - Assessment of Degree of Disablement

## Understanding Injury certificates

### [FCS Medical Certificate A - Injury Award Medical Opinion](#)

127. For an individual to meet the qualifying criteria for an injury award they must, in the first instance, have retired and be permanently disabled due to a qualifying injury. Details are covered under [Points 111 and 124](#).

128. The IQMP would have to give a response to questions one and two as follows:

<p>1. The (former) firefighter -</p> <p><input checked="" type="checkbox"/> is <input type="checkbox"/> is not suffering from the capacity detailed on page 1 of this document.</p> <p>2. The (former) firefighter, by reason of incapacity -</p> <p><input type="checkbox"/> is <input type="checkbox"/> is not permanently disabled for the performance of duty.</p>
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129. The IQMP will then give a response to questions three, four, five and six:

<p>3. The (former) firefighter, by reason of incapacity -</p> <p><input type="checkbox"/> is <input type="checkbox"/> is not Permanently incapacitated (as at the date of discharge from the service) for carrying on any occupation.</p> <p>4. The contribution of the injury (as detailed on Page 2) to the disablement (as detailed on Page 1) is -</p> <p><b>A</b> <input type="text"/> 100%</p> <p><b>B</b> <input type="text"/> .....% (give percentage) because of a pre-existing condition or injury not related to firefighting duties</p> <p>5. The disablement/injury -</p> <p><input type="checkbox"/> has <input type="checkbox"/> has not been brought about, or contributed to, by the firefighters' own default.</p> <p><i>(To be answered in a medical context only)</i></p> <p>6. The former firefighter's disablement can be considered to have commenced on ..... <i>(Give date if this opinion is being sought after the person left the service and if the date can be ascertained)</i></p>
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130. Question three determines eligibility, under [Schedule 1, Part 2, paragraph 3 \(1b\)](#), to compensation for permanent incapacity while on duty if they are also incapable of carrying out any occupation. This is in addition to the injury gratuity and allowance payable under Schedule 1, Part 2, Paragraph 1 (2a and 2b)., covered under [Points 117 to 119](#).

131. Question four asks for the IQMP to give an opinion on whether a pre-existing condition has an impact on the individual's degree of disablement. In cases where it doesn't the IQMP is expected to tick box A.
132. Question five asks for the IQMP to give an opinion on whether the individual's disablement/injury has or has not been brought about, or contributed to, by the member's own default. If the IQMP confirms that, in their opinion, it has then under [schedule 1, part 9, paragraph 3](#) the FRA can reduce the individual's entitlement (see [point 120](#) for more information).
133. Question six asks for the IQMP to give an opinion on when the disablement from the injury arose. It is recommended that any compensation is backdated to the date specified by the IQMP or the individual's last day of employment (whichever is the later).

### **FCS Medical Certificate B Assessment of Degree of Disablement**

134. This certificate is used to confirm that the selected occupations shown on page three, in the last box, are within the capability of the individual having regard to their medical condition. It is recommended that this is completed by the person carrying out the assessment of the degree of disablement. This could be the IQMP or someone within the Fire Authority for example HR.
135. The IQMP may indicate that the roles are suitable, however, the individual may not be capable of full-time work. In this circumstance it is recommended that the salaries are prorated to take account of the reduction in the hours IQMP suggested are within the individual's capabilities.
136. For guidance on the process to follow after receipt of the IQMP opinion please refer to [the FRA and their role – post IQMP referral](#) section of this document.
137. For guidance on the appeal process available to the member please refer to the [appeals](#) section of this document.
138. As injuries are treated as compensation the financial structure works differently to an ill health pension. Instead of being paid out of the pension account, which is subject to government top up, compensation payments must be paid from the FRA's operating account.
139. As with ordinary ill health pensions, the scheme manager must ensure that injury awards are regularly reviewed. The review will consider whether the degree of disablement has substantially altered, or the disablement occasioned by the qualifying injury has ceased ([schedule 1, part 9, paragraph 1](#)).
140. Reviews are to take place at intervals decided by the scheme manager. The scheme manager has the discretion to decide that a particular case need not be reviewed if 5 years have passed since the injury award first became payable ([schedule 1, part 9, paragraph 1\(3\)](#)).

141. Unlike ordinary ill health pension reviews the individual's entitlement can be reviewed upwards as well as downwards. This means, that if the degree of disablement has altered the award maybe subject to be adjustment ([schedule 1, part 9, paragraph 1\(1-2\)](#)).
142. Please refer to the [reviews](#) section for more information on the review process.
143. If a person is re-employed as a firefighter by any fire and rescue authority, the Compensation Scheme gives the fire and rescue authority by whom the award is payable the discretion to withdraw it for the duration of the period of re-employment ([schedule 1, part 9, paragraph 3](#)). .
144. If a person is convicted of an offence under [part 4, paragraph 34\(6\) of the Fire and Rescue Services Act 2004](#) (acts or omissions for purposes of obtaining awards or other sums) the whole or part of the injury award will be forfeited at the discretion of the fire and rescue authority ([schedule 1, part 9, paragraph 5](#)). .
145. The fire and rescue authority has a discretion to withdraw an injury award in part or in whole, permanently, or temporarily ([schedule 1, part 9, paragraph 4](#)), if the pensioner is convicted of:
- a. an offence of treason, or
  - b. an offence under the Official Secrets Acts 1911 to 1989 for which the pensioner has been sentenced to a term of imprisonment of at least 10 years, or
  - c. an offence in connection with service as an employee of a fire and rescue authority which is certified by the Secretary of State to have been gravely injurious to the interests of the State or to be liable to lead to a serious loss of confidence in the public service.

## Resources

146. [The Firefighters' Pension Scheme \(England\) Regulations 2014](#)
147. [The Firefighters' Compensation Scheme \(England\) Order 2006](#)
148. [Fire and Rescue Services Act 2004](#)
149. [The Firefighters' Compensation scheme guides](#)
150. [FPS 2015 and FCS certificates](#)
151. [Capability assessment form](#)

This document has been prepared by LGA to give informal guidance on the rules of the pension scheme and associated legislation using the regulations as they stand at April 2023. To support a consistent national approach, we recommend that FRAs take the guidance into account when considering future cases.

However, the document should be used only as an **informal view** of the interpretation of the firefighters' pension scheme as only a court can provide a definitive interpretation of legislation. This factsheet should not be interpreted as legal advice.

Please address any queries on the content of this factsheet to [bluelightpensions@local.gov.uk](mailto:bluelightpensions@local.gov.uk)

April 2023