

III-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

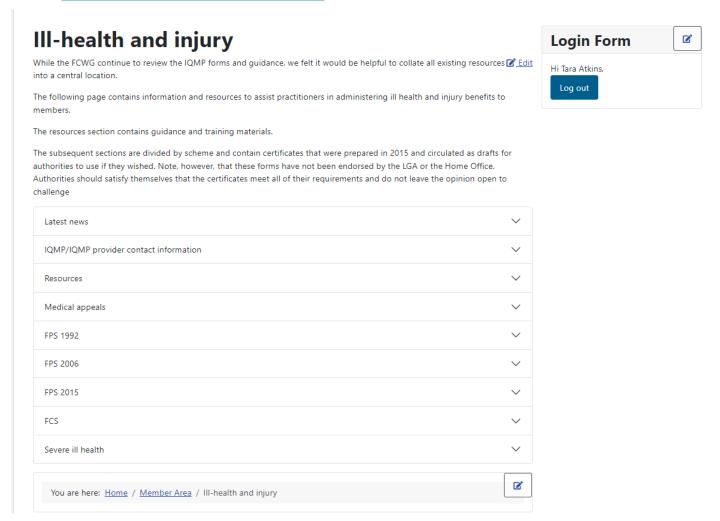


What we are working on

Ill Health member guidance
Injury member guidance
Updating IQMP guidance



Ill-health and injury section – Member area





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
 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>; 	 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	
 the member is deemed incapable of firefighting because of infirmity of mind or body and this incapacity will continue until deferred incapable of undertaking regular employment because of infirmity of mind or body and this incapacity will continue until deferred pension age (60) 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 (60) 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 (60) 	ertaking ent ity of mind ncapacity deferred e pension



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 <u>certificate</u>
- 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 <u>scheme manager</u> must request an <u>IQMP</u> to provide an opinion on the following issues for the purpose of determining any question arising under <u>this scheme</u>—

- a) whether a person is incapable of performing any duties of the <u>role</u> 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 <u>normal pension age</u> or <u>deferred pension age</u>, as the case may be;
- c) whether a person has become capable of performing any duties of the <u>role</u> from which that person retired on grounds of ill-health;
- d) whether a person is or has become capable of undertaking <u>regular</u> <u>employment</u>; 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 part
In full

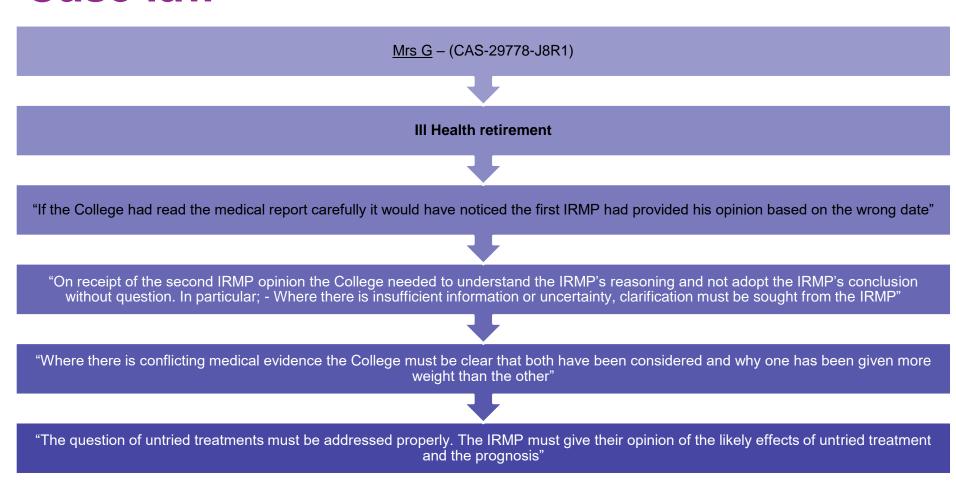
(may not want all medical evidence being shared)

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

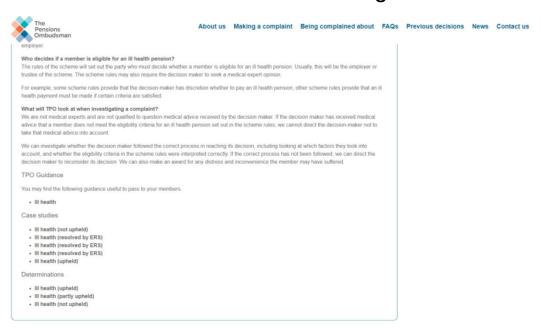




How to avoid the Pensions Ombudsman?

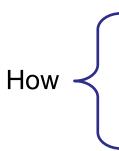
TPO have a section on their website, which specifically talks about <u>ill health</u>, as this is one of the most common areas that they receive complaints about:

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.

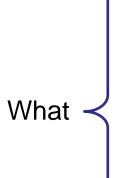




Consider the IQMPs findings



- Designated person?Panel of adjudicators?



- 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 (<u>CAS-29778-J8R1</u>)
 - "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
 Individual has been in receipt of an ill health pension for less than 10 years, and is under the age of 60 	 Individual has been in receipt of an ill health pension for less than 10 years, and is under state pension age 	 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	

III 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.
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Thank you for listening!

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