

Firefighters' Pension Scheme Circular

Circular Number:	FPSC 08/2008	Date Issued:	24/10/2008
Action:	For Information [informal (non-statutory) guidance]		
Title:	<i>Commentary on Ill-health retirements</i>		
Issued by:	Martin Hill Workforce Pay and Pensions Division		

Summary:	<i>This circular provides new, informal guidance on the regulations which allow for the award of ill health retirement pensions in the Firefighters' Pension and New Firefighters' Pensions Schemes for England.</i>
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1.0 Commentary on ill-health retirements

- 1.1 This circular supersedes guidance previously issued as FPSC 11/2006 on 4 September 2006. Throughout this circular “firefighters” is used to mean members of the Firefighters’ Pension Schemes.

Policy framework

- 1.2 The Government is fully committed to the continued provision of decent pensions for firefighters. The maintenance of a decent pension requires that the pension scheme remains affordable. The fire and rescue service has made huge strides in managing ill-health retirements in recent years. Managing early retirements is a key factor in maintaining affordability. Ministers are on record as confirming that firefighters who are suffering from poor health and disability in the terms set out in regulations should always be granted ill-health retirement.
- 1.3 The Government also believes that keeping skilled and dedicated firefighters in work is preferable to losing them from the service. Every effort must be made - through reasonable adjustments and re-designing of jobs within an authority - to enable and encourage firefighters to stay in work if they can, rather than be retired early.

Ill-health Review Group

- 1.4 Ministers invited a specialist group of national experts, including representatives of firefighters and management, to consider the operational effect of the current regulations and guidance and to look more widely at workforce arrangements for managing ill-health cases. As a context for their work, the group had full regard to the statement made during the course of an adjournment debate on 22 January 2008 by the, then, Fire Minister, Parmjit Dhanda MP, when he said *“It was never the Government’s intention for an injured firefighter not to receive an appropriate award or to be left with no job or recompense. It is really important to have that on record so that fire and rescue authorities are aware of that when they take these decisions.”* (<http://www.publications.parliament.uk/pa/cm200708/cmhansrd/cm080122/debtext/80122-0022.htm#0801233000002>)
- 1.5 The group met four times and made constructive progress across several fronts. Communities and Local Government have prepared this new informal CLG guidance to replace the 2006 guidance and, in addition, have in hand the updating of guidance for Independent Qualified Medical Practitioners (IQMPs). The Association of Local Authority Medical Advisors (ALAMA) is preparing guidance on medical capability criteria which links to the new IQMP guidance. The Local Government Association is preparing HR best practice guidance for fire and rescue authorities.
- 1.6 Ministers are grateful to the group and believe that this package is the right way forward and enables fire and rescue authorities to meet the expectations of Ministers and firefighters.

Purpose of the current regulations

- 1.7. The award of an ill health pension by a fire and rescue authority is governed by the Firefighters’ Pensions Scheme 1992 and the New Firefighters’ Pension Scheme 2006.
- 1.8 Within that framework it is for each fire and rescue authority to determine each potential ill health award on its own merits, and on an individual basis. In doing so an authority must act reasonably and within the legal framework of the regulations. It must take into consideration **all** the factors it considers to be relevant. Those factors will vary from case to case. Authorities will wish to take their own legal advice on individual cases, as appropriate.

- 1.9 The onus is on a fire and rescue authority to make every effort, through reasonable adjustments, including reasonable re-designing of jobs within an authority - to enable and encourage firefighters to stay in work within the role if they can, rather than be retired early. In the case of retained duty system firefighters any redesign and readjustment should be consistent with the duty system. But of course it will not always be possible for firefighters to stay in work. In considering the case for ill-health retirement the fire and rescue authority will need to consider the application of the criteria in the regulations in the light of the facts and circumstances of individual cases. These facts and circumstances include the realistic prospect of suitable employment. This is not a simple matter: before reaching a final determination as to the absence of any suitable employment within the role, the fire and rescue authority must consider whether they can create a suitable post through adjusting posts within their structure, rather than simply look at matching the employee to existing opportunities. The absence of a realistic prospect of suitable employment within the role at the end of this process is material to the decision on whether the criteria apply, and whether an award is made.
- 1.10 Before considering ill health retirement, fire and rescue authorities should consider the possibility of redeployment within the role, or the reasonable prospect of redeployment within the role, to such posts as are available for firefighters to take up either at that time or within a reasonable period. CLG consider that - whilst it is not possible to lay down a rigid time frame - it would be reasonable to give three months as an indicative time within which to see if a job is available, subject to the circumstances of the case. Accordingly, if there is a realistic prospect that a job within the role is likely to be available in that timescale, the fire and rescue authority should defer reference to the IQMP in order to redeploy. When reference is made to the IQMP, the fire and rescue authority should set out in its report to the IQMP all the steps it has taken in its management of the case.
- 1.11 In addition, fire and rescue authorities when considering redeployment within the role should explore other possibilities on a voluntary basis with the individual.

Guidance for Independent Qualified Medical Practitioners (IQMP)

- 1.12 The Ill Health Review Group considered the wording of relevant parts of the Guidance for IQMPs issued under cover of FPS Circular 8/2007, issued on 5 September 2007, and agreed that the second sentence of paragraph 3.16 should be deleted (i.e. the words "Provided the member can carry out one of the duties of the role he/she cannot be permanently unfit."). Other changes are also being made to reflect the fact that IQMPs may need to clarify issues with the fire and rescue authority before reaching a final decision, and will need to assess incapacity based on the member's job within the role, and any other jobs within the role which are actually available for him/her to take up. This ensures that this important element of individual facts and circumstances can inform the final decision by the fire and rescue authority.
- 1.13 The revised IQMP guidance and key capability guidance being prepared by ALAMA will be available in due course.

Best Practice Guidance

- 1.14 The Local Government Association is producing its own current HR best practice guidance for fire and rescue authorities, against a background of fair and affordable pension provision, to help manage medical incapacity and long term sickness cases which may result in ill health retirement and, in particular, to enable them to avoid reaching that outcome as far as practicable.

1.15 Enquiries about this circular can be made to: -
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