

SCHEDULE 1

THE NEW FIREFIGHTERS' PENSION SCHEME (SCOTLAND)

PART 8

DETERMINATION OF QUESTIONS AND APPEALS

Determinations and decisions by Scottish fire authority

2.—(1) The question whether a person is entitled to any and, if so, what awards, shall be determined in the first instance by the authority.

(2) Subject to paragraph (6), before deciding, for the purpose of determining that question or any other question arising under this Scheme—

- (a) whether the person is disabled;
- (b) whether any disablement is likely to be permanent;
- (c) whether the person has become capable of performing any duties of the role from which the person retired on grounds of ill-health;
- (d) whether the person is or has become capable of undertaking regular employment; or
- (e) any other issue wholly or partly of a medical nature,

the authority shall obtain the written opinion of an IQMP selected by them.

(3) The IQMP must certify in the IQMP's opinion under paragraph (2)—

- (a) that the IQMP has not previously advised, or given an opinion on, or otherwise been involved in, the particular case for which the opinion has been requested; and
- (b) that the IQMP is not acting, and has not at any time acted, as the representative of the employee, the authority, or any other party in relation to the same case.

(4) An IQMP's opinion under paragraph (2) shall be binding on the authority unless it is superseded by his or her rule 3 response or the outcome of an appeal under rule 4 of this Part.

(5) Where, in consequence of an opinion given under paragraph (2), an employee has retired on grounds of ill-health, the IQMP who gave the opinion may, if so requested by the authority for the purposes of a review under rule 1(1) of Part 9, give a further opinion.

(6) If—

- (a) the person concerned wilfully or negligently fails to submit to medical examination by the IQMP selected by the authority; and
- (b) the IQMP is unable to give an opinion on the basis of the medical evidence available to the IQMP,

the authority may make a decision on the issue—

- (i) on such other medical evidence as they think fit; or
- (ii) without medical evidence.

(7) Within 14 days of making a decision or determination under this rule, the authority shall—

- (a) give written notice of it to the person concerned; and
- (b) in the case of a decision on an issue wholly or partly of a medical nature, unless paragraph (6) applies, supply the person with a copy of the opinion obtained under paragraph (2).