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Our ref: FIR/06/01/01

10 May 2005

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Dear All

## **Addendum to Scottish Fire Services Circular 5/2005 – the need for referral to the Independent Qualified Medical Practitioner**

Following the issue of Fire Service Circular 9-2005 (Scottish Fire Service Circular 5/2005 on 5 April 2005), the Office of the Deputy Prime Minister (ODPM) have received a number of queries requesting clarification of the procedures to be followed when considering ill health retirements and related matters. ODPM have also received some Rule H2 medical appeals where the original decisions have been unlawful due to a failure to obtain the opinion of an Independent Qualified Medical Practitioner (IQMP), although decisions have been taken on or subsequent to 13 September 2004. I therefore thought it might be helpful if we issued a further note in clarification.

**The position is that, under Rule H, before an FRA can make a decision one way or the other on entitlement to an award it must obtain the written opinion of an IQMP on any of the questions set out in Rule H1(2) - and clearly the questions have to be regarded as modified as appropriate to any case by the requirements of the Disablement Discrimination Act (DDA) and the amendment of the definition of "regular firefighter" by paragraph 26 of the Firefighters' Pension Scheme (Amendment) Order 2004.** This will ensure that an H1 certificate will be issued and gives the firefighter access to the appeal mechanism provided for by H2. The firefighter has a right of appeal against any decision of the FRA made under Rule H1 whatever the outcome, if he is dissatisfied with the opinion of the IQMP.

ODPM were asked about a case of a firefighter permanently unfit for firefighting duties but not for other role related jobs, who was already undertaking a fire safety role and who welcomed the reasonable adjustments that had been made; and whose pay would be unaffected. We agreed that in such a case it was probably excessively pedantic to refer to the IQMP although it might afford the FRA some protection if matters went awry at some later stage but that it was clearly for management to judge the risk.

For retained firefighters if there is no likelihood of a Qualifying Injury (QI) and, therefore, no possibility of a pension claim, a Rule H1 determination will not be at issue so no referral to an IQMP

should be necessary. If permanence is likely to be contested and/or there is a possibility now or in the future of a QI claim then reference would/could be appropriate.

If you have any queries please contact Dorothy Hamilton on 01896 893224 or e mail [dorothy.hamilton@scotland.gsi.gov.uk](mailto:dorothy.hamilton@scotland.gsi.gov.uk) .

Yours sincerely

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