

Incapacity retirement

General

All applications for a member to retire on the grounds of partial or total incapacity require the approval of Universities Superannuation Scheme Ltd (the Trustee Company).

The Trustee Company has a duty of care to all members of the scheme to ensure that all benefits are paid in accordance with the scheme rules and in the case of incapacity benefit is paid to those who fulfil the criteria. The Trustee Company must ensure that retirement on the grounds of incapacity is carefully controlled and only those members who fulfil the strict criteria will qualify for this benefit. Your employer cannot enter into any commitment to allow you to draw pension on such grounds until the written consent of the Trustee Company has first been obtained.

Eligibility for benefit

In order to be eligible for a pension on the grounds of partial or total incapacity you must:

- be under age 65, and
- have completed two years' active membership in USS at the date it is proposed that the relevant employment should end, and
- be in the opinion of your employer suffering from long-term sickness or infirmity.

Note 1: *If you do not have the appropriate active membership in USS but, immediately prior to joining USS, you were employed by the same institution and were superannuated in an appropriate occupational pension scheme, the period of membership of that scheme can be aggregated with your active membership in USS and will count towards the qualifying period.*

You cannot be considered for partial or total incapacity whilst you are voluntarily absent from employment or are seconded to another employer and not paying any contributions to the scheme. If you wish to be eligible for partial or total incapacity benefits (and death in service benefits) during a period of absence you can pay a special contribution to USS.

For more information, please see the 'Absence' factsheet.



You may not qualify for a total incapacity pension if you have less than five years' active membership and retire as a result of a medical condition known to you or to your employer at the time that active membership commenced. (See also Note 1 below.)

If this applies to you, you can seek an opinion from the Trustee Company as to whether or not any known medical condition that you have on joining USS might affect your eligibility for incapacity retirement benefits within this initial five years' membership of the scheme.

To receive an opinion please write in strict confidence to:

**The USS Medical Panel
C/O The Pensions Operations Manager
Universities Superannuation Scheme Limited
Royal Liver Building
Liverpool
L3 1PY**

Medical evidence

The Trustee Company must approve every partial or total incapacity application. In order to approve an application, we must be satisfied that you are suffering from long-term sickness.

The requirement for sickness to be 'long-term' means that, in order to qualify for incapacity benefits under USS, the incapacity must be determined on the balance of probabilities to be more likely than not to last for a period running from the date of the member's application for incapacity early retirement benefits under USS, to the greater of:

- (a) five years; or
- (b) the period up to the average age at which members of USS retire from service under that scheme (not taking into account incapacity cases), as advised by USS from time to time.

We will require a medical report from your doctor to assist the Trustee Company's medical advisers in assessing your fitness to attend work and carry out your duties. You will therefore be asked by your employer to sign a consent form to obtain a medical report from your doctor. The contents of this report will be seen only by the Trustee Company's medical advisers and a small number of senior personnel at the Trustee Company who deal with the administration for incapacity retirement.

If additional medical information is required, you will be contacted by the Trustee Company.

If your application is approved and you do not retire within 6 months of the effective date of approval then the process of applying for incapacity retirement must begin again

If your application is declined the Trustee Company has a formal appeals procedure that you can follow, which is detailed later in this factsheet.

Benefits granted under partial or total incapacity

Total incapacity

To qualify for a total incapacity pension, you must be deemed in the long-term to be unable to discharge the duties of your own job or any other office, post or employment although it may be acceptable to perform

some very limited duties e.g. marking examination papers or proof-reading and earn a small fraction of the salary you would be earning had you not retired. We would consider 10% or less to be a small fraction. This should however be taken as a rough guide as individual circumstances will be taken into account. If you do decide to take up employment then the Trustee Company must be informed immediately and a judgement will be made as to whether the payment of your pension will be reduced, suspended or ceased.

If you satisfy the medical evidence and eligibility conditions for total incapacity, you will be entitled to an unreduced pension and lump sum effective from the agreed date of retirement based on the amount of pensionable service you would have completed by your 65th birthday (subject to a maximum of 40 years or your actual service at retirement, if greater) but based on your current pensionable salary.

Partial incapacity

If you do not qualify for a total incapacity pension, you may qualify for a partial incapacity pension. You will qualify if you are unable in the long-term to perform your own job or any similar job, but may be able to undertake some other level of employment, whether or not such other employment is available.

If you do not satisfy the conditions for total incapacity but qualify for a partial incapacity pension, you will receive an unreduced pension and lump sum based on your pensionable service calculated at the date of retirement without enhancement (but not reduced by an early retirement factor). If, after you have retired your employment status changes, then the Trustee Company must be informed immediately and a judgement will be made as to whether the payment of your pension will be suspended or ceased.

Re-employment

Each case of re-employment after incapacity retirement will be considered on the specific circumstances affecting it, having regard to medical advice and the employment being considered in terms of duties, hours and remuneration. You should be aware however that the benefit is designed to cater for those members whose illness is such that it seriously affects their ability to carry out their normal employment and the generous provision of this benefit means that the Trustee Company must ensure that the strict criteria surrounding the payment of such benefits are met.

Pensionable service bought by AVCs

Monthly AVCs

If you qualify for a total incapacity pension and are paying monthly AVCs to USS to buy added years of pensionable service and your contract commenced five or more years prior to the date of retirement, you will be credited with the full amount of pensionable service which you contracted to buy. Where the contract commenced within five years of the date of retirement, you will receive a proportion of the amount you contracted to buy calculated using the fraction:

$$\frac{\text{Period during which AVCs have been paid}}{5} \times \text{total benefit at end of contract}$$

If you qualify for a partial incapacity pension, you will receive full credit only for the years and days purchased at the date of retirement.

Lump sum AVCs

If you bought added years of pensionable service by lump sum AVC and the payment was received one year or more prior to the date of retirement, you would be credited with the full amount of pensionable service which you contracted to buy. Where the payment was made within one year of retirement, part of the benefits bought by the lump sum AVC would be reduced by an early retirement factor. The proportion of the benefits which would be subject to an early retirement factor would be calculated using the fraction:

$$12 - \frac{\text{number of complete months since the lump sum was paid}}{12}$$

Part-time service (total incapacity only)

If you are in part-time employment at the date of retirement, your prospective service to age 65 will be scaled down by reference to the higher of your career average part-time service fraction taking into account your complete service history prior to the date of retirement and the part-time service fraction applicable at retirement.

How does it work?

Employment history

8 years' full-time employment followed by 2 years at 50% part-time employment.

Total employment is 10 years, pensionable service is 9 years.

The career average part-time service fraction used to calculate the pensionable service enhancement would be $9 \div 10 = 90\%$.

If, however, you had changed to part-time employment (or a lower part-time service fraction) as a result of ill-health, or at the request of your employer, and notification was in either case given to the Trustee Company at the time of the change, we will use the better of the career average part-time service fraction or the part-time service fraction effective before the change to calculate the pensionable service enhancement.

How does it work?

Employment history

4 years' at 50% part-time employment followed by 10 years' full-time employment reducing to 50% for 2 years due to ill-health.

Total employment is 16 years, pensionable service is 13 years.

Career average part-time service fraction:
 $13 \div 16 = 82\%$

As the member was employed full-time before the change the part-time service fraction used to calculate the pensionable service enhancement = 100%.

Pensionable service bought by a transfer value

The benefits bought by a transfer value will not be reduced even though you are retiring early.

Allocation

A member who is retiring on the grounds of partial or total incapacity is not eligible to allocate part of his or her pension. If an allocation has already been made and the date of retirement is within 12 months of the date of receipt of the application to allocate, the Trustee Company may cancel the allocation if the information about the member's health provided at the time of the allocation is found to be misleading.

Multiple appointment holders

If an application for early retirement on the grounds of partial or total incapacity is to be made in respect of a multiple appointment holder, the application will normally be in respect of all the appointments.

Commutation of pension for a lump sum

The Trustee Company has discretion to commute for a lump sum the total incapacity pension payable from the scheme to a member who is in circumstances of extreme ill-health. Tax is not normally payable on this lump sum unless the value is in excess of the lifetime allowance set by HM Revenue & Customs. The LTA is currently £1.8 million (reducing to £1.5 million from April 2012). Applications to commute pension can be considered only where:

- the member's expectation of life is unquestionably very short by comparison with the average for a member of the same age and sex; and
- the member can demonstrate that he or she has taken independent financial advice on the financial merits or otherwise of fully commuting his or her pension for a lump sum.

An application for full commutation cannot be considered until the Trustee Company has approved the member's retirement on the grounds of total incapacity.

If a member's pension is commuted no lump sum would be payable on death as described in the next section.

Lump sum payable on death after retirement

Death before age 65

If you die before reaching age 65 a lump sum will be payable under discretionary trusts. The amount of the lump sum will usually depend on the length of time from when you retired to when you die. The calculation is in three parts:

- 1 Three times pensionable salary (scaled down if you were employed on a part-time basis) indexed since the date of your retirement; plus
- 2 The difference between a quarter of your pensionable salary if you had remained in the same post after your retirement until your death and the amount of gross pension payable to your spouse/civil partner/dependant for the first three months following your death; less
- 3 The amount, if any, by which the retirement lump sum and gross pension paid to you since your retirement exceeds the notional gross salary you would have received during this period if you had not retired.

In practice the deduction under (3) above will be substantial if you die shortly after retirement. It will reduce progressively the longer you have been retired. The result is that the lump sum benefits payable are equitable with the amounts that would have been paid had you died whilst in employment as at date of death following death before age 65 whilst receiving a partial or total incapacity pension.

Note 2: This method of calculation would not apply if you did not satisfy the eligibility conditions for incapacity retirement because you have less than five years' active membership and retire as a result of a medical condition known to you or to your employer at the time that active membership commenced.

Death at age 65 or over

If you die after age 65, a lump sum may be payable if you have been retired for less than five years. The amount of the lump sum will be the lower of:

- three times salary less the amount of lump sum and gross pension paid from the main section of the scheme, and
- the balance of gross pension you would have received from the main section of the scheme if you had survived until the fifth anniversary of your retirement calculated at the rate payable at the date of your death.

If you die at age 75 or over, there will be a 40% tax charge on any lump sum paid on your death.

Pension increases

All pensions payable due to incapacity retirement are subject to pensions increase each year whatever the member's age i.e. the member does not have to have attained age 55 before pension increases are payable.

For service after 30 September 2011, USS will match increases in official pensions paid to public sector employees like teachers, civil servants or NHS employees for the first 5%. If official pensions increase by more than 5% USS will match half the difference to a maximum increase of 10%. So if, for example, official pensions increased by 15% then the USS increase would be 10% in that year.

For service before 1 October 2011, USS fully matches increases to official pensions.

The Trustee Company has discretion to increase pensions for any benefits provided under the enhancement for total incapacity. Historically these increases have been the same as the increases to the main section of the fund but no guarantee can be given that this will continue to be the case.

Duration of pension

An incapacity retirement pension is normally payable for life but the Trustee Company has discretion to review any incapacity pension, prior to reaching age 65, to reflect any changes to the medical condition giving rise to the incapacity retirement.

Movement between partial/total incapacity

Partial to total incapacity

Members who have retired due to long-term sickness and have been granted a partial incapacity pension might subsequently become eligible (with the agreement of the Trustee Company) for a total incapacity pension if their condition deteriorates such that they meet the requirements for total incapacity. The member's pension would be recalculated and he or she would receive an enhanced incapacity pension from the date that the total incapacity was established.

Total to partial incapacity

If a member's health improves to such an extent that he or she is able to return to employment the Trustee Company may decide that it would be appropriate to pay the partial incapacity pension instead of a total incapacity pension. The member's pension would be recalculated and he or she would receive a partial incapacity pension (without enhanced service) from the date that the partial incapacity was established (please read section entitled 'Duration of pension'), which may affect the incapacity pension paid to you.

Appeals

If your application is rejected, or you are granted partial incapacity, you may wish to appeal against the decision. You or your employer can appeal by completing USS form ME5 (Appeal) and sending it in to the Trustee Company with any new medical evidence not submitted previously.

Once an appeal is received, the Trustee Company will submit all of the medical evidence received in respect of your application to the panel of USS medical advisers. If the appeal is accepted, confirmation of the acceptance will be sent to you.

If the panel of medical advisers does not agree to accept the appeal then all of the medical evidence will be submitted to an appropriate independent specialist in the illness or condition from which you are suffering.

The specialist will be asked to make contact with you and will arrange to meet you, carry out a medical examination (including taking a medical history) and prepare an independent medical report. This report together with all

evidence submitted will then be assessed by a member of the medical panel not involved in the original decision. After considering the appeal, if the recommendation is to accept the appeal then we will contact you and your employer to advise you. Your pension will normally only be paid from the date when the appeal was accepted (i.e. the point from which it was established that you were suffering from partial/total incapacity). It will not be paid retrospectively to when your case was first submitted.

If however the recommendation is still to reject the case then a member/employer can appeal again after a further six months has elapsed and providing new medical evidence is available. If a member subsequently leaves the scheme he or she can apply for incapacity retirement as a deferred member of the scheme. If granted, only service accrued to the date of leaving the scheme will count towards the calculation of the retirement benefits.

Re-application

Alternatively, if your application is not approved, you may make a further application if you or your employer arrange for an updated medical report to be sent to the USS medical adviser. A re-application can only be considered if it is submitted more than six months after the date that your previous application was rejected.

This factsheet is based on the rules in force at 1 October 2011 and applies to all members in service on that date and any new members who have joined subsequently.

Any former member who left the scheme, retired or died before that date will be subject to the rules in force at the date they left the scheme, retired or died.

Details of the benefits payable to former members can be obtained from the Trustee Company.

This publication is for general guidance only. It is not a legal document and does not explain all situations or eventualities. USS is governed by a trust deed and rules and if there is any difference between this publication and the trust deed and rules the latter prevail. Every effort has been made to present accurate information at the date of publication and members are advised to check with their employer contact for latest information regarding the scheme, and any changes that may have occurred to its rules and benefits.