

# Incapacity retirement from active service

## Taking your benefits early if you are ill and unable to work

Provided you meet certain criteria, you may be able to take your benefits early.

This factsheet sets out the circumstances under which you may retire from active service due to ill health and the benefits you may be entitled to from USS.

### Retirement on the grounds of partial or total incapacity

#### 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).

The trustee 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, that it is paid to those who fulfil the criteria. The trustee 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 has first been obtained.

#### Eligibility for benefit

In order to be eligible for early payment of benefits 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 if you are voluntarily absent from employment, or are seconded to another employer and are 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 since last joining 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** above.)

If this applies to you, you can seek an opinion from the trustee 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 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'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's medical advisers and a small number of senior personnel at the trustee who deal with the administration for incapacity retirement.

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

If your application is approved and you do not retire within six 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 has a formal appeals procedure that you can follow, which is detailed later in this factsheet.

### **Benefits granted under partial or total incapacity**

The benefits you receive will depend on whether you have retired on the grounds of partial or total incapacity.

#### **Partial incapacity**

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, after you have retired your employment status changes, then the trustee must be informed immediately and a judgement will be made as to whether the payment of your pension will be suspended or ceased.

Under partial incapacity you receive the benefits you have earned up to the date of incapacity. However, for any period of your membership since 1 October 2016, if your benefits in USS Retirement Income Builder are restricted by the salary threshold, the benefits for incapacity retirement will be re-calculated based on your full salary.

In lieu of this enhancement, any contributions above the salary threshold you and your employer paid in to the USS Investment Builder, including any match contribution paid by your employer, would be credited back to the scheme.

If you have used Scheme Pays, transferred out benefits or taken one or more cash lump sum payments from USS Investment Builder funds built up as a result of these contributions, a deduction will be made from the incapacity retirement benefits payable. This is to ensure all members are treated fairly.

### How does this work?

This is a very simplified example to illustrate the general principle. In this example we have increased the threshold by 1% for the 2019/20 tax year, however to keep things simple we haven't increased the annual amounts of pensions earned. Also, the salary increases are quite generous, again this is just to illustrate how the calculation works in relation to re-calculating of benefits to remove the impact of the salary threshold.

In this example, to 31 March 2016 a member had built up a pension of £3,000 per annum (pa). For the following years leading up to retirement, these are the amounts of benefit earned:

	Salary pa	Pension pa actually earned	Salary threshold pa	Pension pa based on full salary
1 April 2016 - 31 March 2017	£50,000	£ 666.67	£55,000	£ 666.67
1 April 2017 - 31 March 2018	£60,000	£ 740.67	£55,550	£ 800.00
1 April 2018 - 31 March 2019	£65,000	£ 762.89	£57,216.50	£ 866.66
1 April 2019 - 31 March 2020	£70,000	£ 770.52	£57,788.67	£ 933.33
<b>Total</b>		<b>£ 2,940.75</b>		<b>£ 3,266.66</b>

So, in this simplified example we can see the member had actually built up a pension at retirement of £5,940.75 per annum (£3,000 + £2,940.75) but the re-calculated amount, ignoring the salary threshold provides a pension of £6,266.66 pa. In addition to this pension, a tax-free cash sum of three times the pension is payable.

### Total incapacity

Under total incapacity, an enhanced incapacity pension and lump sum will be paid. 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 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 enhanced pension and lump sum effective from the agreed date of retirement.

Enhancement means that your pension will be based on the pension earned in the scheme to date, plus the pension you could have earned had you remained in the scheme to age 65. To do this we work out the pension you had at the point of retirement. We then work out what pension you had built up during the last 12 months of service. The future pension is then assumed to be your future service, to either age 65 or to 40 years' service if less, times the last year of pension.

In all of these calculations, just as with partial incapacity, we re-calculate your benefits earned since 1 October 2016 using your full salary and estimate your future benefits using your full salary, ignoring the salary threshold that would normally apply.

Again, in lieu of this enhancement, any contributions above the salary threshold you and your employer paid in to the USS Investment Builder, as well as any match contribution paid by your employer, would be credited back to the scheme. If you have used Scheme Pays, taken a cash payment or transferred out benefits from the USS Investment Builder funds built up as a result of these contributions, a deduction will be made from the incapacity retirement benefits payable. This is to ensure all members are treated fairly.

### How does this work?

If you had built up a pension of £2,196.45 a year and the pension in the last 12 months was £562.50 and you retired due to total incapacity, the enhanced pension would be the pension built up so far, plus 20 (20 being the number of years between date of retirement and age 65) times the last 12 months' pension.

$$= (£2,196.45 + (20 \times £562.50))$$

$$= (£2,196.45 + £11,250.00) = £13,446.45 \text{ a year}$$

Remember, we re-calculate benefits already earned to remove the affect of the salary threshold and use your full salary to estimate your future pension benefits.

### 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 must ensure that the strict criteria surrounding the payment of such benefits are met.

### Treatment of USS Investment Builder benefits

As described in this factsheet, incapacity benefits are calculated by reference to your full salary, rather than salary restricted to the salary threshold for any period.

In lieu of this enhancement, any contributions above the salary threshold you and your employer paid in to the USS Investment Builder, as well as any match contribution paid by your employer, would be credited back to the scheme. If you have used Scheme Pays, taken a cash payment or transferred out benefits from USS Investment Builder funds built up as a result of these contributions, a deduction will be made from the incapacity retirement benefits payable. This is to ensure all members are treated fairly.

### Additional Voluntary Contribution arrangements set up before 1 April 2016

#### Monthly AVCs

If you qualify for a total incapacity pension and are paying monthly AVCs to buy either additional service or additional benefits in the former Added Years and Revalued Benefits AVC arrangements to the Revalued Benefits AVC, and your arrangement commenced five or more years prior to the date of retirement, you will be credited with the full amount of benefit which you set out to buy. If the arrangement commenced within five years of the date of retirement, you will receive a proportion of the amount you set out to buy calculated using the fraction:

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

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

#### Lump sum AVCs

If you bought additional benefits 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 benefit which you set out 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:

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

## Money Purchase AVCs

You are able to use the full fund to either:

- Provide additional tax-free cash benefits; or
- Provide an additional income from an annuity; or
- Buy additional income from USS in respect of any funds built up prior to 1 April 2016; or
- You may be able to transfer the fund to an alternative provider but you would need to check their rules as it would depend on whether they are willing to accept a transfer.

## Voluntary contributions to the USS Investment Builder

As described earlier, any funds you have built up as a result of voluntary contributions will be available for you to use to provide additional benefits.

## Part-time service (total incapacity only)

If you are in part-time employment at the date of retirement, your prospective pension to age 65 will be scaled down by reference to the higher of your career average pension taking into account your complete pension history prior to the date of retirement and the part-time pension in the 12 months prior to retirement.

## Benefits 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 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 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 (LTA) set by HM Revenue & Customs. See our website for the current LTA value. Applications to commute pension can be considered only where:

- The member is expected to live for less than one year; 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 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 Normal Pension Age

If you die before reaching Normal Pension Age 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 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 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 Normal Pension Age or over

If you die after Normal Pension Age, 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 tax charge on any lump sum paid on your death which will be at the beneficiaries marginal tax rate.

### 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.

USS will match increases in official pensions paid to public sector employees like teachers, civil servants or NHS employees for benefits earned in respect of membership before 1 October 2011. For benefits earned in respect of membership from 1 October 2011 USS will match the first 5% increases in official pensions. 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.

The trustee 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 has discretion to review any incapacity pension, prior to reaching Normal Pension Age, to reflect any changes to the medical condition giving rise to the incapacity retirement.

### **Movement between partial/total incapacity**

If you retire due to long-term sickness and are granted a partial incapacity pension, you might subsequently become eligible (with the agreement of the trustee) for a total incapacity pension if your condition deteriorates such that you meet the requirements for total incapacity. Your pension would be recalculated and you would receive an enhanced incapacity pension from the date that the total incapacity was established.

### **Total to partial incapacity**

If your health improves to such an extent that you are able to return to employment, the trustee may decide that it would be appropriate to pay the partial incapacity pension instead of a total incapacity pension. Your pension would be recalculated and you 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 the USS appeal form and sending it in to the trustee within six months, along with any new medical evidence not submitted previously.

Once an appeal is received the trustee 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 accept the appeal then 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.

### **Re-application**

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 will be treated as a separate application and the payment of the benefits will not be linked to the earlier application.

If you have left the scheme, you 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.

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 later prevail. 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. Any references to the Trustee or USSL in this document means Universities Superannuation Scheme Limited, the trustee company of Universities Superannuation Scheme and any references to the scheme or USS means Universities Superannuation Scheme.