

## FOI DOF/2024-0097

**Request**

1. I would be grateful if you could please provide me with information and / or documents relating to the definition of 'gainful employment' in the context of ill-health retirement from the NI Civil Service.
2. I also seek information / documents that relate specifically to Upper Tier eligibility, that is, what is defined as 'gainful employment' for a person in receipt of the Upper Tier ill-health pension?
3. Additionally, if a person is granted ill-health retirement from a specified NI Civil Service role, and documentation provided to that individual makes no reference to 'gainful employment' limitations, can that person then take up employment either (i) within or (ii) outside the limits of the definition of 'gainful employment' without that person losing their Upper Tier eligibility?
4. In addition to any other relevant information / documents can the Department please provide copies of documentation at 2.04 Retirement on Medical Grounds (Policy) that is referenced on the the following webpage - [Ill-Health Retirement | Department of Finance \(finance-ni.gov.uk\)](https://www.finance-ni.gov.uk/ill-health-retirement)

**DoF Response**

I can confirm the department holds the information requested.

1. The criteria for **Lower Tier** ill-health retirement are that the individual has suffered a permanent breakdown in health and the resulting incapacity prevents them from discharging their substantive duties. This means they are incapable of doing their own or a comparable job.

**Incapable of doing their own or a comparable job** is defined as; incapable of doing their own job or a comparable one within their PCS(NI) or alpha pension scheme employment. They will however be capable of a range of other types of work.

The criteria for **Upper Tier** ill-health retirement are that the individual has suffered a permanent breakdown in health and the resulting incapacity prevents them from;

1. discharging their duties **and of**
2. undertaking any other gainful employment.

**Incapable of undertaking other gainful employment** is defined as; the individual's functionality (i.e. their ability to carry out any work) should have been impaired by more than 90%. That is, they may be capable of undertaking

some types of job, but this is severely restricted by their loss of function caused by the illness. In other words, they may be capable of doing some jobs, but these will be greatly below the overall weight of the job they are leaving.

2. This question is addressed at paragraph 1 above.
3. A member who is retiring with an upper tier ill-health retirement pension would be advised in their quotation letter that, as they satisfy the criteria for upper tier ill-health retirement, they are entitled to receive increased benefits on top of their lower tier ill-health pension. The letter would also advise that the scheme rules require that upper tier pensions are reviewed by the scheme medical adviser at least every five years and gives the following upper tier criteria:
  - that an individual has suffered a permanent breakdown in health, and
  - the resulting incapacity prevents them from discharging their duties and undertaking any gainful employment.

Members are further advised that if their condition improves so that they no longer meet the criteria for the upper tier, their pension will be reduced to the lower rate. Periodical reviews stop when the person reaches their scheme pension age.

Should a member in receipt of an upper tier ill-health pension be deemed to be capable of gainful employment at a future date, then they would no longer meet the upper tier criteria and would be reduced to lower tier benefits.

The pension schemes rules and regulations set out the relevant ill-health retirement criteria as well as the mandatory periodical review mechanism. The rules and regulations are the legal basis of the pension schemes and cannot be overridden by any documentation or scheme literature.

4. The information you have requested is held by the department but is exempt under Section 21(1) of the Freedom of Information Act. Section 21 applies to information that is already reasonably accessible to the applicant by other means. Section 21 is an absolute exemption and the department is not required to consider whether the public interest favours disclosure of this information. This information is provided on the Department of Finance website at: <https://www.finance-ni.gov.uk/publications/2-leaving-service>.