



## Managing Police Officer and Police Staff Ill Health Retirement Policy (Surrey and Sussex) (542/2019)

### Abstract

This policy and procedure details Surrey Police and Sussex Police's approach to managing Police Officer and Police Staff Ill Health Retirement.

Any further queries, advice and support regarding this policy should be directed to Shared Business Services (SBS) in the first instance. If appropriate, SBS will escalate to the People Services Assistant Business Partner, who will make contact with the line manager and offer further advice and guidance.

### Policy

#### 1. Introduction

1.1 The retirement provisions relating to police officers and police staff constitute a key confidence issue. It is essential that a proper balance is struck between the requirement for financial prudence in the use of public funds and the need to provide a fair service to officers and staff facing serious health issues.

1.2 This policy is necessary in order to protect the needs of individuals and the broader needs of Surrey Police and Sussex Police. It is acknowledged that the financial consequences of decisions made as a result of this policy will be significant for the force, serving and retired police officers and police staff. Clear policy in this area will ensure that the reputation of Surrey Police and Sussex Police as an employer, is preserved. Compliance with this policy will ensure an effective standardised approach to a sensitive issue.

#### 2. Scope

2.1 The policy provides clear information on processes used in determining issues relating to ill health retirement and injury pension awards. The policy will be used in dealings with individuals suffering the effects of ill health, so severe that it has led to or may lead to ill health retirement.

#### 3. Policy Statement

3.1 Policies and associated guidance should inform decision making which should consider organisational values, professional judgement (on the context and circumstances of each situation) and 'policing principles'. Decisions and subsequent action taken should be proportionate, legitimate and ethical as informed by the National Decision Making Model.

Surrey Police and Sussex Police will administer the allocation and review of ill health pensions and injury awards objectively, fairly and in accordance with the law, Local Government Pension Scheme (LGPS) and Pension

Regulations. It will seek to ensure, that awards are timely, appropriate and in accordance with medical and other evidence available, giving due regard to the interests of the individual and its public responsibilities.

## Procedure

### 1. Introduction

1.1 Within the terms of the Police Pensions Regulations (PPR) 1987, Police (Injury Benefit) Regulations (PIBR) 2006, PPR 2015 and Local Government Pension Scheme (LGPS), Police Pension Authorities (PPA) have responsibility for assessing and instigating the relevant legislated procedures, leading to a police officer or police staff member being retired due to ill health, either with or without an injury award in accordance with the PIBR 2006.

1.2 It is important that throughout the individual's service, records are maintained of injuries received on duty and in some instances, off duty and that notes be kept on the individual's personnel file ('P' file) of any remedial action taken. In cases involving injury, any default on the part of the individual should be honestly, fairly and accurately recorded by the individual and their supervisors.

### 2. Management

2.1 Supervisors at all levels are required to ensure that sickness absence is monitored within their area of responsibility, in accord with the Forces Performance and Attendance Management Policy. Wherever an injury on duty is reported, whether or not it leads to absence, supervisors will ensure the appropriate records are completed and enquiries made to establish the facts as to how the injury occurred and where necessary, describe remedial action taken to avoid similar occurrences. The possibility that contemporaneous reports or statements may be required later, should not be discounted as the evidence obtained may not become relevant for some years into the future. Such evidence should be recorded and placed on the injured party's 'P' file.

2.2 Where necessary, due to the nature or cause of any absence, the absentee may be referred to Occupational Health and Wellbeing Department (OHWD), for assessment, as to their ability to resume their duties permanently, or through recuperative or restricted duties.

2.3 If after examination, the Force Medical Adviser (FMA) is of the opinion that the prognosis for full recovery is poor, this fact will be indicated to the individual's Divisional / Departmental People Services Business Partner, the individual's line manager and the Ill Health Retirement (IHR) case Officer, OHWD.

The options available include recuperative, restricted and adjusted duties inclusive of reasonable adjustments, or a referral to a Selected Medical Practitioner (SMP – Police) or Independent Registered Medical Practitioner (IRMP - Staff) for consideration of 'Permanent Disablement' in relation to IHR from the service.

Wherever the FMA/IRMP considers it appropriate, the individual may be referred to a 'treating' or 'independent' specialist for additional information. The individual will be required to attend any appointments scheduled, for this purpose.

2.4 If it is determined the individual is likely to be 'permanently unfit' for the ordinary duties of a police officer, or their current role for police staff (in accordance with the Pension/LGPS regulations), the IHR Case Officer in OHWD will advise but not determine, in liaison with the individual's People Services Business Partner and the FMA, the most appropriate outcome for future employment, having regard to all relevant and available factors.

2.5 It is for the PPA, to determine the individual's future with the service, at that time, taking into account all the relevant factors as they are known, or as they become known. IHR should not be seen as automatic or inevitable.

### 3. Ill Health Retirement

3.1 This is a sensitive issue with personal and financial implications for the individual and the force. It must be

administered with sensitivity, understanding and confidentiality.

### 3.2 What is the process for ill health retirement?

There are different rules and regulations to determine whether an individual is eligible for Ill Health Retirement (IHR).

3.3 IHR will only be considered in cases where all workplace adjustments and/or redeployment have been explored.

3.4 Following a discussion at the Sickness Management Group (SMG), any request for IHR, that are to be considered by the PPA, should be submitted by management or by an individual (informing the line manager), to the Director of People Services via the IHR Case Officer.

3.5 This submission must include details of the role the individual performs and workplace adjustments that have been considered and/or made. In addition, details relating to redeployment options considered must be included.

3.6 Police officers can also request to be considered for IHR without SMG involvement by submission to the PPA. The Director of People Services has been appointed 'deferred powers' by the PPA and will be forwarded all applications for IHR to progress on their behalf.

3.7 If the PPA grant permission for an application to proceed to the SMP, the (FMA) will prepare a medical report detailing the medical history of the individual's condition. This report, accompanied by relevant clinical information, will be forwarded to an independent Selected Medical Practitioner (SMP). A copy of the FMAs referral and if requested, medical report, can be supplied to the individual concerned.

3.8 The SMP will be asked to examine the medical evidence and assess the individual, in order to answer the question on permanence (for police officers) and determine likelihood of undertaking employment (for police staff), in line with the relevant Regulations.

3.9 The SMP will then prepare a report for the PPA advising if the individual is unable to perform their duties, again using the relevant Regulations. The organisation will then make a decision as to whether the individual is to be retained or retired on the grounds of ill health.

3.10 An individual will remain on their current pay status (full/half or nil pay) once they have made their application for IHR, unless they fail to co-operate with the process. Once authority is given for the individual to be ill health retired, they will revert to full pay.

3.11 Although IHR can often be very acceptable to the individual, the process of ending the individual's employment and/or service is still counted as a dismissal under employment legislation and the minimum statutory procedures must be adhered to.

3.12 For police officers – for IHR to be recommended the officer must be deemed to be permanently disabled until retirement age from the ordinary duties of a police officer. Further details on ill health retirement are available from OHWD and the Police Federation.

3.13 For police staff - the SMP will determine whether the individual is incapable of efficiently discharging the role for which they were employed or any other comparable role because of their ill health and advise whether the individual is eligible for a category of ill health retirement pension at tier 1, 2, or 3.

3.14 Both police officers and police staff have the right to appeal the SMP's decision.

## **4. Cancellation of Ill Health Awards**

4.1 In some cases where a police officer retires from the service with an ill health pension, the PPA may consider at such intervals, as it may feel appropriate, whether or not the disability has ceased in accordance with PPR.

4.2 If it is determined the disability has ceased, the individual may be notified by the PPA that they may re-join the service in the rank they held at the time of their retirement, provided they do so within three months of the date of notification.

The decision to offer re-appointment or not, will be made by the Director of People Services in liaison with the OHWD after full consultation with the FMA and any other relevant interested parties, as likely to offer useful information.

4.3 Whenever an individual re-joins, or declines to re-join, the OHWD will notify the appropriate Pensions Department for the individual's Force, as adjustment must be made to the pension entitlements, in accordance with PPR.

## **5. Injury Awards - Police Officers**

5.1 Injury pension awards are governed by the Police (Injury Benefit) Regulations 2006 (PIBR). To qualify for such an award, the injury must have caused, or substantially contributed to the disability, without the individual's own serious and culpable negligence or misconduct. Evidence will be required to substantiate a claim for an injury award, from the claimant and also, where it is relevant, of any default on the part of the officer.

5.2 The PPA will not consider the issue of an injury award for an officer at the same time as an ill health retirement, particularly where further enquiries, either factual or medical are considered necessary. In such cases, ill health retirement will not be delayed and police officers, who consider they have justification for an injury award will be invited to apply in writing to the OHWD, providing evidence to substantiate their claim.

Where such claims are substantiated at a later date and the application has been made within a year of the date, of the last day of service, for the officer, payment of the injury award will be backdated to the day after, the last day of Service.

5.3 In cases where the PPA determine that consideration will be given to an injury award application, from an officer, they shall refer to an SMP, questions as to whether the disablement resulted from an injury received in the execution of duty and if so, the degree of disablement in accordance with PIBR.

This is to be illustrated as the percentage by which the individual's police salary would fall, in order to reach the level of salary likely to be commanded in another occupation despite the injury. The SMP in such cases may be the FMA.

5.4 Prior to any consultation or decision by the SMP, the OHWD will supply to the SMP, a report setting out the history of the officer concerned.

This will include details of education, training, postings, skills and experience and any other information which may have a bearing on the officer's earning potential, once they have left the service.

Any evidence that an officer brought about, or substantially contributed to the injury which led to disablement, should be attached to the file, as the PPA is empowered to refuse awards, or reduce their amount in such cases (PIBR refers).

5.5 The SMP will issue a report dealing only with the questions referred under PIBR.

## **6. Appeals – Police Officers**

6.1 When an officer disagrees with the decision of the PPA not to accept a claim for ill health retirement or injury award and to refer questions to an SMP, the officer may appeal the decision to the Crown Court (PPR and PIBR refers). In such cases the police officer will be asked to complete an appropriate medical records consent form and such records will be sought from the officers GP.

The FMA will prepare a report setting out the medical evidence explaining why the officer is not permanently

disabled. Wherever necessary, the OHWD will provide a report detailing any supplementary information or evidence, which may be considered appropriate and the papers will be submitted to the Force's Legal providers.

6.2 Where the officer is considered permanently disabled, the SMP will complete a report, relevant to the questions raised by the PPA in accordance with the relevant PPR that affect that officer and the officer will be formally notified of the decision in writing, by the PPA.

The Assistant Chief Officer will also comment in writing on the SMP's report as it deals with the officer's suitability and aptitude to be retained in the service despite disability. Copies of the SMP's report dealing with medical questions and the Assistant Chief Officer's comment, will be provided to the officer.

The officer may choose to appeal the decision and in doing so should provide the PPA with such notice within 28 days of receiving the report. The officer should then provide a statement of appeal within a further 28 days. Once the statement is received the PPA may consider offering an internal review.

If this fails or is refused, the PPA will inform the Home office and Police Medical Appeals Board (PMAB) of the appeal, either way, within 14 days of receiving the officer's statement.

6.3 Where an officer is already retired and is dissatisfied with any decision by a SMP concerning entitlement to an injury award, the officer may appeal the decision within 28 days of being supplied with a copy of the SMP's certificate.

An internal review may be considered, but if this is refused or fails, the PPA will instigate the procedures in accordance with the PIBR, in liaison with the Home Office and Police Medical Appeal Board (PMAB).

## **7. Reviews**

7.1 Where it is necessary to determine the level of an officer's disablement, it shall be determined by reference, to the degree by which their earning capacity has been affected.

7.2 An individual who is in receipt of an ill health pension and would not, had they stayed in the police, have been entitled to reckon 25 years pensionable service, or could have been required to retire on the grounds of age, may be considered by the PPA at intervals, in consultation with an SMP as to whether the disablement has ceased in accordance with the appropriate PPR.

7.3 Where an injury award is payable, the PPA shall consider whether the degree of disablement has substantially altered in accordance with the advice of the SMP who determined the injury award and if it has, the award will be revised accordingly in accordance with PIBR.

In determining the degree of disablement in this process, the PPA shall refer the matter to an SMP (the FMA may act in this role), who will be required to deal with it in accord with PIBR and will issue a report accordingly.

7.4 Prior to any consultation or decision by the SMP, the OHWD will supply a report setting out the history of the officer concerned. This will include details of education, training, postings, skills, experience, subsequent employment and any other information, which may have a bearing on the officer's earning and employability potential since they left the service.

7.5 The final part of the review process will involve an assessment by the SMP who will initially address the apparent disablement of the individual being reviewed, if necessary during private consultation and examination.

The SMP will first determine whether the individual's condition has remained the same since the original assessment, or last review; whether it has improved, or whether it has worsened.

Once this medical appraisal is complete, the SMP will consider the contents of the OHWD report, to assist in

determining the individual's potential earning capacity.

7.6 Individuals residing outside of force and who are subject to review, shall, at the discretion of the PPA, be required to attend OHWD, or elsewhere for any examination. Reasonable travel and subsistence expenses will normally be reimbursed.

7.7 An individual subject to a review and living abroad, may be directed to see an SMP within reasonable travelling distance of their homes, after consultation by the OHWD with British Authorities overseas (e.g. Embassies, Consuls, Armed Forces). Alternatively, the individual may be advised to attend a meeting with the SMP within the UK. Failure on the part of the individual to co-operate may be addressed in accordance with the PIBR.

## **8. Cases of Non Co-operation**

8.1 Where an individual fails to co-operate with the review of a pension, the PPA will consider the case in accordance with PIBR and will write to the individual, explaining the process and again seek their co-operation.

If the individual wilfully or negligently fails to submit to a medical examination, or to attend such interviews as the SMP may consider necessary in order to reach a decision, the PPA may make their determination on such evidence and medical advice, as in their discretion, they think necessary.

8.2 To assist with this determination, individuals who fail to co-operate, or only co-operate conditionally, will be provided with an appointment to see the SMP at their clinic, or other location specified by the PPA.

8.3 If they attend but have not completed a medical review questionnaire as supplied by OHWD, they will be provided with one by the SMP and asked to complete it forthwith. Once completed the SMP will conduct the consultation and examination but will delay any decision until the information on the questionnaire is examined by the OHWD and the appropriate report completed.

8.4 Should the individual fail to attend any meeting with the SMP, or fail to co-operate at all, the injury award percentage will be reduced to 0%, unless there are clear and unequivocal reasons for not doing so. Any subsequent appeal will be defended, or the case may be reassessed if the individual is then able to co-operate.

## **9. Payment of Salary Whilst Awaiting the Outcome of an Ill Health Retirement Referral**

9.1 An individual will remain on their current pay status (full/half or nil pay), once the PPA have granted permission for the IHR application to proceed, unless the individual fails to co-operate with the process. Once authority is given for the individual to be medically retired, they will revert to full pay from the date the PPA authorised the ill health retirement.

## **10. Appeals Police Staff - Internal Dispute Resolution Procedure (IDRP)**

10.1 Should an individual wish to appeal the decision of the IRMP, that they are not entitled to an ill health pension or disagree with the pension tier they have been awarded in accordance with the LGPS, they can write to the Assistant Chief officer with an explanation why they are appealing within 6 months or the date they were informed of the decision of the IRMP and in accordance with the LGPS IDRP process.

The Assistant Chief Officer has 3 months to investigate the content and reason for the appeal, at which point, they are required to notify the individual of the result. The Assistant Chief Officer cannot overturn the decision of the IRMP in the case, but can investigate to ensure the correct processes have been followed. If the individual is unhappy with the decision of the Assistant Chief Officer, they can escalate their appeal to be investigated by the Head of the Pensions Department administering the Pensions on behalf of the PPA.

## **11. Employment Data**

11.1 Surrey Police and Sussex Police collect and process personal data relating to police officers and police staff to manage the employment relationship. It is important that individuals understand how that data is collected and used in order to meet the force's data protection obligations. Further details can be located on the intranet by

searching for 'Privacy Notice'.

Team: People Services Department (Occupational Health)