

**GUIDANCE BOOKLET ON
MEDICAL PENSIONS AND
INJURY ON DUTY AWARDS**

FORMER POLICE OFFICERS

**(also used as a guidance document by
the Board's Selected Medical Practitioner)**

December 2011

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**INFORMATION AND GUIDANCE ON ILL HEALTH
RETIREMENT PENSION AND INJURY ON DUTY AWARD
ENTITLEMENTS FORMER POLICE OFFICERS
Revised November 2011**

INTRODUCTION

This guidance was prepared in order to provide information to former members of the PSNI, RUC and RUC Reserve who may be eligible to make application for consideration in respect of a Retrospective Ill Health Pension and/or Injury on Duty (IOD) Awards.

This guidance addresses a number of key questions that you may have in relation to making an application for an Ill Health Pension and/or Injury on Duty Award and also details the procedures involved. It also explains the review process that is required to take place every 5 years to reassess a percentage injury on duty award previously made.

Since the first version of this guidance was produced in March 2005, there has been new legislation introduced on a number of occasions, Police Negotiating Board and Department of Justice Circulars which have required amendments to policies and procedures. It is essential that this guidance is updated on a regular basis in order to reflect current legislation, policies, procedures and guidance.

This guidance is written to reflect the questions that have in the past been referred to the Board's Police Administration Branch by former police officers or their representatives on a regular basis. New questions continue to be added to the guidance in order to reflect any additional questions that have been referred to the Police Administration Branch. This ensures that the information and guidance contained in this document reflects the changing needs and questions raised by former police officers or their representatives.

If you have any question that you consider is not contained in this version of the guidance and you would wish it to be included please refer this to the Board's Police Administration Branch and this will be added when the guidance is next revised. The contact details for the Board's Police Administration Branch are contained on page 19 of this guidance.

A copy of the guidance including application and consent forms which require to be completed, are also available on the Board's website. This guidance will be updated as necessary to reflect the introduction of new legislation or other changes in policy as a result of Circulars or Guidance received from the Department of Justice (DOJ) and/or the Home Office (HO). A new Injury on Duty Scheme is being introduced by Government in 2012 and this guidance will be amended when this new scheme becomes law and applies in Northern Ireland.

In 2010, the Minister of Justice initiated a joint review by the NIPB and DOJ in respect of the medical pension arrangements. The requirement was to examine the manner in which the initial assessment for an ill health pension and/or injury on duty award and also an injury on duty review were conducted by the Board. It also examined the manner in which the Department of Justice managed the medical pension/injury on duty appeal process. The report dated 30 September 2010 contained 17 recommendations for change all of which the Department of Justice and the Board has agreed to implement. Recommendations in the report which relate to the Board's areas of responsibility are reflected in this revised guidance.

A copy of the review report entitled Medical Pension Arrangements 30 September 2010 is available on both the Board's and the Department of Justice web sites.

As a result of a procurement process managed by the Government Procurement Directorate, the Board has appointed Blackwell Associates Belfast to act as the Board's Selective Medical Practitioner. The new contract commenced on 1 April 2011 for a 3 year period and is subject to 2 x 1 year extensions. More information is provided in section 7 of this guidance.

There has been some confusion as to whether or not it is possible to appeal directly from an Independent Medical Referee (IMR) decision to a Medical Appeal Tribunal (MAT). As any appeal to a MAT must be in relation to a decision made by the Board, the Board has always been clear that it is not possible to appeal directly from a IMR decision to a MAT. A new section 23 has been added to this guidance to provide further explanation.

In April 2010 the Home office and the Department of Justice gave a direction that all reviews of percentage injury on duty awards be suspended. As this decision had also the potential of impacting on new applications for injury on duty awards from former police officers the Board took the decision to also suspend consideration of any new cases received.

At the Human resources committee meeting in November 2011 Members agreed to recommence the review of percentage injury on duty awards and also the consideration of new application for injury on duty awards being held in respect of former officers. As there is a significant number of cases these will take many months to process and will be considered in the date order to be reviewed and for new applications, the date received. We would ask everyone for patience and understanding and these will be processed as soon as ever practical.

The decision of the IMR is final subject to the decision being challenged via a Judicial Review.

The Home Office revised guidance on injury on duty reviews is still in draft form and is unlikely to be finalised and issued in the immediate future.

Members of the Northern Ireland Policing Board hope that you find this revised guidance document both helpful and informative.

November 2011

ROLE OF THE BOARD'S POLICE ADMINISTRATION BRANCH

The Board's Police Administration Branch is responsible for the management of all retrospective ill health retirement applications/injury on duty (IOD) award applications, including IOD reviews, from former police officers. It is the role of the Branch to ensure that all applications and reviews are conducted in a professional and timely manner.

The Branch staff are committed to providing a high standard of service and to treat all former officers fairly and equally. The race, ethnic origin, age, gender, sexual orientation, religious belief, political opinion or any disability will not affect how you are treated. The staff of the Branch will at all times be polite and helpful in all verbal and written communications with you or your representative.

The Branch quality assures all SMP reports and certificates in order to ensure a high level of consistency, professionalism and accuracy are maintained at all times.

Throughout the assessment process we ensure that all files and documents are stored and processed in accordance with the Board's Data Protection Policy. The Board's Selective Medical practitioner is also required, as part of the contract terms, to store and manage all files and documents in a professional and secure basis.

In order to ensure that staff can devote as much time as possible to the processing of cases we request that telephone calls are only made to the Police Administration Branch on a Tuesday afternoon and a Thursday afternoon from 12 Noon to 5.00 pm.

YOUR QUESTIONS ANSWERED

1. How Do I Apply For A Retrospective Ill-Health Pension And/Or Injury On Duty Award?

Should you wish to be considered for a Retrospective Ill-Health Pension and/or Injury on Duty Award, the first step in the process is to write to the Police Administration Branch of the Northern Ireland Policing Board, indicating that you wish to make an application.

Please remember to put your name, service number and contact address on your letter request so that an application form may be posted to you. You will find all contact details and other useful addresses/phone numbers on page 20 of this booklet.

Information and application/consent forms are available from the Board's Police Administration Branch at the address provided in the booklet. Information and application/consent forms (including a copy of this booklet) may be downloaded from the Board's website at www.nipolicingboard.org.uk

Completed application and consent forms should be forwarded to the Board's Police Administration Branch. Forms **should not be faxed or e-mailed as it is not possible to provide a secure e-mail facility**. The Board also needs to have your signature on all applications and consent forms, therefore the application and consent forms, when completed, must be posted or hand delivered to the Board's Police Administration Branch.

On page 24 of this guidance, you will find a diagram that we hope will assist you in understanding the assessment process. This may also provide additional information for you to consider when you fill in your application form and throughout the assessment process.

2. How Does The NIPB Ensure Confidentiality Of My Information?

The Data Protection Act (DPA) came into effect on 1 March 2000, replacing the 1984 Data Protection Act. It sets out rules for processing "personal data" particularly that which is held on computers, but it also applies to some manual (mainly paper) records.

The Board has a Data Protection Policy and the Police Administration Branch has approved Guidance and Procedures to ensure the identity of any ex officer is established before any application for Pension and/or Injury on Duty (IOD) Award is processed. There are also procedures to ensure that information is only supplied to the appropriate ex officer, his or her solicitor or nominated representative. The information pack an ex officer receives to make application to the Board explains the requirements of these procedures and is also on the Board's website.

On each occasion that you contact the Board regarding any application, you will be asked a number of questions to establish your identity before any information can be released. Telephone calls may be made to Police Administration Branch, Monday to Friday 9.00am to 4.45pm excluding Bank and Public Holidays.

The Board's Police Administration Branch will not discuss or correspond with any third party regarding any application unless the person has been nominated in writing to act on behalf of the former officer who has made an application/s and a copy of the written nomination is held by the Police Administration Branch.

A copy of the Guidance and Procedures for the Board's Administration Branch may also be found on the Board's website www.nipolicingboard.org.uk

3. What is the next stage in the process?

When the letter of application/e-mail is received by the Policing Board, a member of the Police Administration Branch team will be appointed to be responsible for all aspects of the administration of your application. At this stage, the staff member will act as your case co-ordinator and will be there to provide information and guidance throughout the process. The case co-ordinator will also provide you with a direct line telephone number.

You will be issued with an Application Form, which will detail the necessary information you will be required to supply in order that your case may be fully and accurately assessed. It is essential that the Application Form is completed and returned, together with the information requested and all additional information you feel will support your application. There are also a number of consent forms to be completed to enable information to be made available for the assessment of your application. All the forms and information will be made available in an "Application Pack".

All forms, letters and documents have been revisited as a result of the recent joint review of administration processes conducted by the NIPB and DOJ as referred to in the introduction to this guidance.

4. Will PSNI be required to supply information on my policing career?

The PSNI Human Resources Manager, who is responsible for the last District Command Unit/Department in which you served, will be required to supply to the Policing Board information in respect of your service. The information provided will include sickness, absence, injury on duty records and history of police service etc.

This information will be forwarded to the Board's Police Administration Branch together with medical information. The medical information will be placed in a sealed, secure envelope by PSNI Occupational Health and Welfare addressed to the Board's SMP. This is referred to as the 'Red Envelope'. Board officials will not have sight of any medical information at any stage throughout the process.

5. Who will have sight of my medical information?

The Board's Selected Medical Practitioners (SMP), who is currently Blackwell Associates, will receive and have access to your medical information as part of the assessment process. In addition, any Independent Medical Referee (IMR) appointed by the Department of Justice (DOJ), in any subsequent appeal will, with your consent, have access to both medical and non medical information considered by the SMP. The SMP may also be required to obtain GP and/or specialist/s reports or to commission specialists reports. It is the SMP that considers all medical information and this is not made available to the Board Members or Board officials.

6. How will my application be considered?

Your application for ill-health retirement will be considered in accordance with the Royal Ulster Constabulary (RUC) Pensions Regulations 1988, or alternatively, the New Police Pension Scheme 2006, if you are a member of that Scheme. Applications for injury on duty awards are considered in accordance with the PSNI and PSNI Reserve (Injury Benefit) Regulations 2006. The Board will consider whether your application should move forward for formal assessment to the SMP. The vast majority of applications will be dealt with under delegated authority which has been granted by the Board to officials.

In some situations, applications may be required to be referred to the Policing Board's Human Resources Committee for consideration at its monthly meeting as to whether or not the case should be referred to the SMP. When a case is referred to the SMP, the occupational health doctor will complete an assessment which will include a face-to-face meeting and also consideration of both medical and non-medical evidence received via the Board.

7. Who is the Board's Selected Medical Practitioner?

As the result of a procurement process managed on behalf of the Board by the Government Procurement Directorate Blackwell Associates Belfast have been appointed as the Board's Selective Medical Practitioner. The new contract commences on 01 April 2011. Blackwell Associates have an experienced team of Occupational Consultants who will work on the contract. The new SMP is contracted to complete the assessment and review of all medical pension and injury on duty cases referred to them.

The contract is for a 3 year period with the possible extension of the contract for a further 2 x 1 year. To minimise the inconvenience and any possible discomfort of injury on duty reviews, the present Board policy is that reviews only take place once every 5 years. This means that a former police officer will only be assessed or reviewed by the SMP on one occasion during the duration and possible extension of the new contract period.

8. How will the assessment be arranged?

Should the Board refer your case to the SMP, a date and time will be made for the assessment to take place. As the Board's Administration Branch does not release your contact details to the SMP, the letter inviting you to attend for assessment will be forwarded to you by your case co-ordinator in the Policing Board's Administration Branch.

When attending at the SMP offices for assessment, you should bring a form of identification ie. a driving licence, passport etc. A photograph ID is essential. The time of your arrival and leaving the SMP offices will be recorded and the doctor will also record the start and finish time of your assessment.

In the event that you are unable to attend on the date/time advised for your SMP assessment, you should contact Police Administration Branch as soon as possible but at least 48 hours (2 working days) prior to your appointment in order that the SMP may be advised of the cancellation. You will then be advised in due course of an alternative date/time for the SMP assessment.

9. How will the assessment be conducted?

When you attend the SMP for assessment, a doctor will review your medical history and consider all medical and non-medical information received. If necessary, the doctor may also decide to include a medical examination.

You may be accompanied at the assessment by a family member, colleague or friend by agreement with the SMP doctor.

The assessment will be undertaken by a qualified and experienced doctor in occupational medicine as recommended by the Police Negotiating Board.

At your first assessment, the SMP will require to ask questions regarding incidents and events in your police career or private life that you may find it difficult to talk about. This information is necessary for the SMP to be aware of all facts that may have had an impact on your condition. The SMPs are trained professionals and such questions will be addressed on a considerate and sensitive basis.

10. GP and/or Specialist Reports

On occasions, the SMP may decide he will require a report from your GP and/or a Specialist. The SMP may also request you to attend an independent specialist for a report. You will be required to give your written consent for this information to be obtained or to attend for a specialist assessment.

In order not to delay a decision indefinitely on your application, the SMP allows a maximum period of 12 weeks for a report to be returned by your GP and/or Specialist from the date it is requested. You will receive copies from the Board of reminders forwarded by the SMP to the GP and/or Specialist during this period.

At the end of the 3 month period if the GP and/or Specialist have not supplied a report to the SMP as requested, the SMP will make a decision on your application based on the information available.

It is in the interests of all former officers to play an active part in the process by encouraging their GP or Specialist/s to urgently respond to any request for a report/s made by the SMP.

11. Medical Retirement – How is a permanent disability defined?

In considering a medical retirement, the focus of the SMP is whether the disability is likely to be 'permanent'. Having completed a consultation process, the then NIO issued circular 04/2009 dated 27 April 2009 containing guidance on the definition of the term 'permanent' to reflect the Police Negotiating Board (PNB) guidance and the definition used in England and Wales. This guidance circular was approved by the Board at the Human Resources Committee meeting on 14 May 2009.

With effect from 1 June 2009, the guidance provided to the Board's SMP for the consideration of an application for an injury on duty is as follows:

'The Regulations do not define "permanent" since the word arguably speaks for itself, meaning for the rest of one's life. The PNB Guidance states that if, in a case where the officer is still in the early stages of his career, such a long-term view is difficult to determine. The test should be that the officer is likely to remain disabled for the ordinary duties of a member of the force until at least the compulsory retirement for his

or her rank, which is age 60 for ranks from constable up to and including chief inspector and age 65 for ranks from superintendent and above’.

The DOJ guidance further states as follows:-

The issue is to be decided more on the balance of probabilities than on the basis of “beyond reasonable doubt” and in the present, taking account of current medical knowledge.

Since 12 April 2010 responsibility for police medical appeals has passed from the NIO to the DOJ.

12. Ill-Health Retirement – What is the position if I am a Member of the New Police Pension Scheme 2006?

Officers who are members of the New Police Pension Scheme and who, in the future, may be considered for an Ill-Health Retirement or ex officers, who had been members of the New Police Pension Scheme and apply for Retro Ill-Health Retirement, will also be required to be assessed by the Board’s SMP.

In the New Police Pension Scheme (NPPS) there are two levels of Ill-Health Retirement Pension and these are as follows:-

- If you are permanently disabled for the ordinary duties of a member of PSNI, you may be entitled to a **standard ill-health pension**;
- If you are permanently disabled for the ordinary duties of a member of the PSNI, and in addition you are permanently disabled for any regular employment, you may be entitled to an **enhanced top-up ill-health pension** in addition to a standard ill-health pension. For this purpose “regular employment” means employment for an annual average of at least 30 hours per week.

The maximum possible Ill-Health Pension is 35/70ths and there is an associated lump sum of four times the pension.

If, when you joined or rejoined NPPS, you were designated by the PSNI (following a medical examination) as being ineligible for ill-health benefits, you cannot receive an Ill-Health Pension, although you might still be required to retire on ill-health grounds. If so, you would be entitled to an ordinary pension if you were age 55 or over or, if you were under 55, to a deferred pension payable at age 65.

Should you indicate when applying to the Board for a Retro Medical Retirement and/or Injury on Duty Award, that you have been a member of the New Police Pension Scheme, you will then be supplied with a copy of the Member Guide to the New Police Pension Scheme.

13. How does the SMP assess an Injury on Duty?

The SMP, when undertaking an assessment for Injury on Duty (IOD), will be required to provide an opinion as to whether the condition or conditions occurred as a direct result of an injury received in the execution of duty. The injury/s and/or conditions should be deemed to have caused or substantially contributed to permanent disablement.

In July 2006, the PSNI and PSNI Reserve (Injury Benefit) Regulations 2006 became law. These regulations removed injury awards from both the 1988 Pension Scheme and the New Police Pensions Scheme 2006. It also ensured that injury awards would continue not to be subject to income tax deductions.

14. How can I assist the SMP to consider my application?

In considering any application you make for an ill-health retirement pension and/or injury on duty award, in addition to being required to attend for a medical assessment, the SMP will also consider both medical and non-medical evidence.

Medical evidence can include reports from OHW, your GP and/or other doctors and specialist/s who may have treated you. Your written consent will be requested before any information is released to the SMP. Only the SMP will have sight of your medical records/reports. The SMP may, on occasions, request former officers to attend a further specialist to obtain additional information of his/her condition as referred to in Section 10 of this guidance. The cost of such an assessment will be met by the NIPB.

The Board will also request PSNI to supply other information in relation to your police career, such as copies of Injury on Duty reports, sickness/absence records, notebooks, station records, incident logs etc. All this information will assist the SMP in fully assessing your application and reaching a decision.

It would assist the assessment of your case if you could provide copies of any information you may have in respect of your police career. Statements from colleagues which support your attendance at scenes of crime and/or incidents would also be of particular value. It is essential that at this stage you provide **all evidence**, reports and information available.

15. What does percentage disablement mean?

Once permanent disablement has been established and an Injury on Duty has been determined by the SMP, the next step is to calculate an estimate of the percentage disablement. It is important to remember that the percentage disablement awarded by the SMP is based on the degree to which your earning capacity has been affected by a condition which has resulted from an injury on duty.

The SMP is required to make a comparison between your basic gross earnings (including CRTP if in payment at the date of retirement) as a police officer against your potential earnings outside the police service. Although the medical condition, or conditions, may have disabled you from continuing to work as a police officer, where fitness standards are high, you may potentially be capable of undertaking other civilian employment.

The percentage disablement calculation method cannot, therefore be compared directly with other sources of benefit, such as the Industrial Injuries Benefit Scheme. **The calculation is based on the loss and/or impact of the condition or conditions on your earning capacity, not the actual physical/mental injury(s) or condition(s) you may have sustained whilst on duty as a police officer.**

16. How does the SMP calculate the percentage disablement award?

If you are not previously left the service as a result of and being awarded an ill health retirement, the first decision the SMP is required to make is whether you are fit to undertake the role of a Police Constable regardless of the last rank held. The next decision the SMP is required to make is whether your condition (if it is considered you are unfit to undertake a Constable role) is whether your condition is as a result of an injury sustained in the execution of duty. If the SMP considers the condition is as a result of an injury or injuries sustained in the execution of duty, a calculation is required to be made.

The impact of the disablement is determined by the degree to which your earning capacity has been affected as a result of the injury or injuries sustained whilst on duty. The SMP is provided with information in respect of the assessed potential basic gross pay (plus CRTP) you would be receiving if you were still a serving officer.

The SMP will make a professional and informed assessment of the loss of functional ability, which is considered to be directly attributable to the Injury on Duty. An assessment is also made of your capabilities and the potential basic earnings you may receive in other occupations.

In the calculation of an Injury on Duty award, the SMP will use the Northern Ireland ASHE (Annual Survey of Hours and Earnings), not inclusive of income tax. ASHE is an annual pounds figure calculated by using National Insurance contributions. It is validated and produced each year by Government.

The percentage calculation may be reduced if the SMP considers that conditions and factors, not work related, also contributed to your condition and functionality. The percentage disablement calculation made by the SMP determines into which of the four percentage disablement bands you are placed, in order that PSNI's Pension Branch may calculate the pension payable to you.

Here is an example:-

Example 1

Assessed basic police pay	£35,610.00
Less – potential basic earnings using the ASHE (Annual Survey of Hours and Earnings) – Skill level 3	£27,224.00
Calculation – $35,610 - 27,224 \times 100$ divided by 35,610	23.55% Band 1
All calculations are presented to 2 decimal places	
Less 1/3 apportionment for pre-existing and/or non injury on duty related conditions/ factors	15.7% Band 1

Example 2

Another example is a former officer with an injury to his lower back. The SMP determines the injury was sustained whilst on duty. The symptoms persist with only mild disability and occasional exacerbations. The SMP considers the former officer is fit for all administrative work with reasonable adjustments on a full time basis. The calculation is, therefore, as follows:

Assessed basic police pay	£25,000.00
Less – potential basic earnings using the ASHE (Annual Survey of Hours and Earnings) – Skill level 2	£15,000.00
Calculation – $25,000 - 15,000 \times 100$ divided by 25,000	40% Band 2
All calculations are presented to 2 decimal places	

As your case will be assessed on an individual basis, in accordance with the evidence and information available to the SMP, please bear in mind that the above examples are used for illustration purposes only. The SMP will make an assessment on the percentage reduction for non work related factors and the use of 1/3 in Example 1 is only used for illustration purposes. The above example also demonstrates that a percentage award may be reduced as a result of non work related factors or conditions. Provided the percentage remains in the same band, there is no impact on the amount of injury on duty award payable.

17. What are the skill levels in the ASHE Survey and how are they defined?

As stated in section 16 the ASHE (Annual Survey of Hours and Earnings) survey is based on statistics collected by Government statisticians in Northern Ireland on an annual basis. The SMP, as a result of all the medical, non medical documentation available at the time of the assessment/review, plus the information obtained from the discussion/assessment meeting, makes a professional judgement as to the range of work and skill level you may be able to perform. This then indicates which one of the 4 skill levels you may be capable of performing. The ASHE survey then indicates a potential level of earnings. The SMP may, on occasions, consider that a person may only be capable of part time work and the ASHE survey figure is adjusted accordingly.

Job classification can be undertaken by the SMP in two ways. Both methods make use of the Standard Occupation Classification SOC.

Firstly, if no specific occupation can be clearly identified, an estimate based on Skill Level can be used and definitions are provided below. Secondly, if a specific occupation or set of occupations are identifiable; these can be listed as appropriate to the individual. Once again reference to SOC should be made if there is any doubt as to the 'general tasks' inherent to the job or experience/qualifications required for these occupations.

The Skill Levels and definitions are as follows:

Skill Level One – Equates with the competence associated with a general education, usually acquired by the time a person completes his/her compulsory education and signalled via a satisfactory set of school-leaving exam grades. Competent performance of jobs classified at this level will also involve knowledge of appropriate health and safety regulations and may require short periods of work-related training. Examples of occupations defined at this level include postal workers, hotel porters, cleaners and catering assistants.

Skill Level Two – Covers a large group of occupations, all of which require the knowledge provided via a good general education as for occupations at the first skill level, but which typically have a longer period of work related training or work experience. Occupations classified at this level include machine operator, driving, caring occupations, retailing, clerical and secretarial occupations.

Skill Level Three – This level applies to occupations that normally require a body of knowledge associated with a period of post compulsory education, but not to degree level. A number of technical occupations fall into this category, as do a variety of trades occupations and proprietors of small businesses. In the later case, educational qualifications at sub-degree level or a lengthy period of vocational training may be a necessary pre-requisite for competent performance of tasks, but a significant period of work experience is typical.

Skill Level Four – Relates to what are termed 'professional' occupations and managerial positions in corporate enterprises or national/local government. Occupations at this level normally require a degree or equivalent period of relevant work experience.

18. What is the Injury on Duty Disablement Bands?

There are four IOD Disablement Bands. These will determine the amount of award you will receive and are detailed in Schedule 3, section 3, page 30 of the PSNI and PSNI Reserve (Injury Benefit) Regulations 2006. They are as follows:-

Band 1	Zero to 25%
Band 2	Over 25% but not more than 50%
Band 3	Over 50% but not more than 75%
Band 4	Over 75%

19. What impact has the injury on duty percentage awarded on the monthly payment I will receive?

Section 16 of this booklet explains how the SMP will calculate an injury on duty award and section 16 explains how the percentage awarded places an ex officer in a particular banding. If, as the result of a review of the percentage IOD award, the percentage is either increased or reduced but the ex officer remains in the same banding, then there is no change to the award payable.

If however, there is a change to a banding as a result of a review of an injury on duty award, the change will be applied by PSNI Pensions Branch from the next payment after the date it receives a copy of the SMP certificate from the Board.

20. What happens after the assessment is completed by the SMP?

When the assessment is completed and the SMP has all the information available to make a decision, the decision is forwarded to the Policing Board for consideration in the form of a Certificate, together with a report, explaining the background to the medical determination. Should the SMP have awarded an injury on duty percentage disablement, the SMP report will illustrate how the percentage disablement award has been calculated, as illustrated at Section 16. It will also contain a list of all the doctors and specialists reports the SMP had sight of before arriving at a decision. The decision of the SMP, as specified in a certificate is final, subject to any appeal.

You will be advised of the SMP's decision by letter from the Board and you will also receive a copy of the Certificate and report issued by the SMP.

21. Can I appeal against the assessment or review decision of the SMP?

Yes. Having received and considered the SMP's certificate and report received, should you decide you wish to appeal the decision, you must advise the Board's Police Administration Branch in writing within 28 days. You will then receive for completion and return, an appeal form on which you are required to explain the grounds under which you wish to challenge the SMP decision.

In special circumstances, the Board may accept an appeal request received beyond the 28 day period. The appeal form is also available on the Board's website.

It is important that on the appeal form you explain what you are appealing against and why. It is not sufficient to state that you simply disagree with the decision reached by the SMP or the manner in which the SMP conducted the appeal. Even though your appeal may be, for example, against the percentage awarded the IMR may change any part of the SMP decision should he wish to do so as a result of your appeal assessment. It is important to remember that it is not provided for in legislation to appeal against the implementation date of any award made.

It is also essential that with the completed appeal form you also forward to Police Administration Branch, any and all new evidence/reports that may have become available since the SMP conducted your assessment/review. Depending on the content of the new evidence/reports they may require to be forwarded to the SMP in order that he reviews his original decision. Any delay in forwarding new evidence/reports in support of your appeal will delay the Department of Justice (DOJ) being able to process your appeal in a timely manner.

22. What is the appeal process?

Should you decide to appeal against the SMP assessment and you have, in writing, advised the Policing Board accordingly, your case would then be referred by Police Administration Branch to the Department of Justice (DOJ), which is responsible for the appointment of an Independent Medical Referee/s (IMR) to review your case.

You will then be advised by the DOJ of the subsequent decision of the IMR or Medical Tribunal in the form of a Certificate and report which shall, subject to the Provisions of Regulations H3 of the RUC Pension Regulations 1988 and section 30 of the PSNI and PSNI Reserve (Injury Benefit) Regulations 2006, be final.

If, after the DOJ has appointed an IMR/s and you have been advised of the appointment date/s and time/s and prior to your attendance for the appeal appointment/s, you supply new information or facts not previously made available to the SMP, the IMR appointment/s will be cancelled and your case may be referred back to the SMP for a review of the doctor's assessment in light of the new information provided. After the SMP has reviewed the new evidence, you will be advised by the NIPB of the SMP's decision and you will have the opportunity to cancel your appeal or request, in writing, that your appeal continues.

Should you, however, introduce at any stage during the appeal process a new condition not previously included in your initial application to the Board of review forms then the appeal will be cancelled and you will be required to make a fresh application to the SMP, to include this new condition, via the Board.

Having completed the appeal process, the DOJ will forward to you direct, a copy of the IMR's report and Certificate. A copy of the IMR's report and Certificate are also forwarded to the Policing Board by the DOJ and the Board advises Pensions Branch of the IMR's decision. The Board in turn will forward a copy of the IMR report to the SMP. This ensures that both the SMP and IMR have a complete file on each case and are

aware of the basis on which decisions have been reached. This is particularly relevant when a review of an injury on duty percentage award takes place at any future date.

It should be noted that the IMR will only issue a certificate should he disagree with any part of the decision made by the SMP.

A guidance document on the appeal process is available on the DOJ web site.

23 Is it possible to appeal an Independent Medical Referee (IMR) decision to a Medical Appeal Tribunal (MAT)?

NO - There has been some confusion over the role and referral of cases to a Medical Appeal Tribunal. Whilst the Board has the responsibility of referring an application received for an Ill Health Retirement and/or Injury on Duty Award to the SMP, the decision of the SMP is final subject to an appeal to an IMR in which case the IMR decision is final.

Following an IMR decision, the only circumstances in which an IMR decision could be referred to a Medical Appeal Tribunal is where the Board decides not to apply part or all of the IMR decision .

The referral of a case to a Medical Appeal Tribunal is addressed in Section 63 of The Police Pension (Northern Ireland) Regulations 2009 which specifies the circumstances in which a case may be referred to a Tribunal as follows:-

- 63(1) Where a member of the Police Service or a person claiming an award in respect of such a member is aggrieved by:-
- (a) The refusal of the Board to admit a claim to receive as of right an award or a larger award than that granted;
 - (b) A decision of the Board as to whether a refusal to accept medical treatment is reasonable for the purposes of Regulation 3;
 - (c) The reduction under Regulation 50 by the Board of the amount of any pension payable to such a member, or;
 - (d) The forfeiture under Regulation 52 by the Board of any award granted to or in respect of such a member.

Section 63

- (a) Refers to a situation where the Board may decide not to refer an application received to the SMP for consideration or decides to refuse to implement part or all of the SMP or on appeal, the IMR decision.
- (b) Refers to a circumstance where the Board may decide not to make an award due to the officer/former officer refusing to accept medical treatment for his/her condition.

- (c) Refers to the Board, under Regulation 50, deciding to reduce a pension/award as it considers the officer/former officer brought about or substantially contributed to the disablement by his own default.
- (d) Refers to circumstances where the Board, under Regulation 52, has considered the case under forfeiture and, as a result, has reduced the pension/award payable.

As it is a decision made by the Board which is being challenged at a Medical Appeal Tribunal, it is only the issues as specified in Section 63 of the Regulations, which may be referred to a Medical Appeal Tribunal.

If an officer/former officer disagrees with any part of the IMR decision, with the agreement of the Board, the case may be referred back to the IMR for reconsideration. In all other circumstances, the only challenge on an IMR decision is to a possible judicial review.

This guidance, in respect of the Section 63 provisions contained in The Police Pension (Northern Ireland) Regulations 2009 has been provided by the Crown Solicitor's Office, including Junior Counsel.

24. If I am awarded an Injury on Duty Award, would it be subject to a future review?

YES - Should you be awarded an IOD Award, the SMP will state on the Certificate the percentage disablement awarded and a date when the award comes into effect. The SMP will also state whether the award is permanent or, alternatively, is subject to review.

Regulation 35(1) of the PSNI and PSNI Reserve (Injury Benefit) Regulations 2006, places a responsibility on the NIPB to review Injury on Duty Awards at such intervals as may be suitable. In keeping with the Home Office recommendation contained in guidance, currently Injury on Duty (IOD) percentage awards are only subject to review every 5 years. The period of 5 years is in place to ensure that reviews are not requested by NIPB at more regular intervals and, therefore, reduce the demands of more frequent reviews, particularly for those suffering from severe psychological conditions.

It is recognised that there will be many former police officers attending for review who may have significant Psychological conditions relating to previous traumatic exposures throughout their police career. During reviews there will be no requirement for the SMP to discuss in detail any previous traumatic exposure. The purpose of the review is for the SMP to gain an understanding of the former officer's current state of health and to determine the current level of functionality with a view to establish the current degree of disablement and its impact on earning capacity.

It is also Board policy that a different SMP should be appointed to conduct the review other than the person who conducted your first assessment, or your last disablement review, should a previous review have taken place.

There may also be situations when medical evidence suggests that a review at this time may not be appropriate due to treatment a former police officer is receiving. All such cases will be considered on an individual basis and based on the information provided.

Should you fail to fully cooperate in the conduct of any future review the SMP may make a decision based on the information available.

Should you request a review of your IOD disablement award, or the Board has requested a review, the SMP will issue a new Certificate which details your revised percentage disablement award, and whether it is permanent. If a further review is recommended, a date for this will also be included on the new Certificate.

If, having considered all the evidence available, the SMP is unable to determine an exact date when any changes to your percentage award should come into effect, the date will be taken as the day that the Policing Board received your written request for a review.

The process of reviewing your IOD Percentage award, and the right to appeal, would be conducted in the same manner as your first initial assessment.

25. Does the NIPB consider the setting aside of Injury on Duty Award Reviews in cases of severe psychological conditions?

Yes – Recommendation 2 of the Joint DOJ/NIPB Review Report of Injury Award Arrangements dated 30 September 2010, states as follows:

“In principle, there should be provision to allow for the need for reviews to be set aside in cases of the more severe psychological conditions where a suitably qualified specialist indicates the consequence of the review process might be to cause harm to the individual concerned. The precise terms will need to be included in detailed guidance, but it is envisaged this arrangement will normally apply in cases where a level 3 or 4 award has been made”.

In order to adopt a consistent approach, the following procedure will apply to all requests received by NIPB that the review of an IOD percentage award be set aside.

- The former police officer must be in receipt of an Injury on Duty Award, is currently in Band 3 or Band 4 and 5 years have elapsed since the assessment/last review.
- The setting aside of a review will only be considered in cases where the former officer is suffering from a severe psychological condition. This psychological condition must be the most significant condition impacting on the award currently of a Band 3 or Band 4 Injury on Duty.
- A former officer requesting that a review be set aside is required to obtain a detailed report from the specialist current treating him/her. A GP report will not be considered sufficient. The specialist report must specify the current condition of the former officer, treatment currently being received and also when in the future it would be considered possible for a review of the current Injury on Duty Award to take place. It should also state why it is considered that a review would not be appropriate at the present time. The

report should be placed in a sealed envelope and addressed to the Selected Medical Practitioner (SMP). The SMP will also require written consent in order, if considered necessary, to contact the specialist and clarify issues in relation to the report, treatment being received and the need to set aside the review at the present time.

- On receipt of such a request and medical report (in a sealed envelope), the Police Administration Branch will forward these to NIPB's Selected Medical Practitioner (SMP) for consideration.
- On receipt from NIPB of the request and medical report(s), the SMP will read the contents. Having considered carefully all the facts, he will make a recommendation to NIPB whether the planned review should continue or be set aside and if set aside, the specific date/month over the next 12 months when the review should take place or the file revisited/reconsidered.
- A review may only be set aside by the SMP for a maximum of a 12 month period from the date the review became due. This will be 6 years since the assessment/last review.

If after a further reconsideration of the case following the SMP specified period to set aside the review (up to a maximum of 12 months), the former police officer's specialist still indicates it would not be appropriate to complete a full review at that time, the NIPB will request the SMP to complete a "paper based review" of the former officer's Injury on Duty percentage award based on information currently available. The former officer will be invited to provide information to the NIPB which will be forwarded to the SMP in order that this may be considered as part of the paper based review.

It may also be possible for the Board to consider the postponement of a review in cases where a former officer is unable to attend such as in hospital as an in-patient. Each and every case and situation will be considered with sympathy on merit.

Former police officers may also nominate a family member, friend or other third party to act on their behalf in order to deal with all correspondence during the assessment or review process. Such a nomination is required by the NIPB in writing and signed by the former officer.

26. Is it possible for me to apply for consideration of an Injury on Duty Award if I have already left the Service and I am over age 60 or 65?

YES - The consideration of new applications received from former police officers who are over age 60 or 65 will be considered by the SMP on the same basis as a review at age 60 or 65.

Former police officers who left the service on a rank up to and include Inspector ranks and who successfully are awarded an Injury on Duty (IOD) by the Board's Selected Medical Practitioner (SMP), will have the IOD percentage award calculated using the ASHE survey only from age 60.

Former police officers who left the service on a rank of Superintendent and above and who successfully are awarded an Injury on Duty (IOD) by the Board's Selected Medical Practitioner (SMP), will have the IOD percentage award calculated using the ASHE survey only from age 65.

This is considered to be the most appropriate method of assessing new applications as it is accepted that anyone over age 65 can continue to be economically active in the employment marketplace. The Board is also in keeping with the Home Office Guidance.

I would refer you to Section 27 of this Guidance which contains information, and also an example of how an Injury on Duty (IOD) Percentage Award is calculated using the ASHE survey only.

27. Does the compulsory retirement age for police officers have an impact on the possible consideration, award and/or review of an injury on duty award?

The Board has adopted the guidance contained in Annex 'A' of the DOJ Policing Division Circular 6/2007 dated 30 May 2007. The circular and guidance is in keeping with the Home Office guidance issued for England and Wales. The guidance is applied by the Board's SMP and the IMRs appointed by the DOJ to consider appeals. The role of the IMR is contained in the guidance available from the DOJ.

New applications received by the Board for injury on duty awards from former police officers who are over 65 will not normally be referred to the SMP for consideration.

Once a former officer receiving an injury award reaches what would have been his compulsory retirement age, depending on the person's rank at the point of leaving the police service, the Board will conduct a review of the award payable since it is no longer appropriate to use the former officer's police pay scale as the basis for his or her pre-injury earning capacity. The compulsory retirement age for officers is 60 for ranks up to and including Chief Inspector and 65 for Superintendent and Chief Officer ranks.

In the absence of a cogent reason for a higher or lower outside earnings level, the new basis for the person's earning capacity, had there been no injury, should be the figures arising from the Annual Survey of Hours and Earnings (ASHE) at the time of review.

The ASHE figure is based on earnings in Northern Ireland and is taken as the average for the population overall. Separate figures for males and females are not considered. The loss of earning capacity for the purpose of establishing the degree of disablement should, therefore, be assessed by reference to the % proportion the person's actual earning capacity bears to ASHE.

This procedure should help to ensure that former officers are treated in a consistent way across the PSNI and across the UK. They will be placed on an equal financial footing with others in the employment market at a time when they could not have been assumed to be earning a police pay.

The following is an example of a calculation using only the ASHE Survey for an officer aged 60 in ranks up to and including Chief Inspector :

Potential alternative work salary without their disablement ASHE Skill Level 3	£27,224
Potential salary based on current functional ability using the ASHE Skill Level 3 – Capable of part time work only	£13,612
Resultant percentage loss of earning disablement (e.g. £27,224 - £13,612 / £13,612 x 100% Divide by £27,224)	50% Band 2
Less 60% apportionment for pre-existing and/or non injury on duty related conditions/factors	20% Injury on Duty Award Band 1

The above calculation is used for illustration purposes only and each calculation made by the SMP is based on his professional judgement assessing all the information and evidence/reports available at the time each individual assessment/review takes place.

Once a former officer in the rank of Superintendent and above reaches the age of 65 they may no longer service as a police officer. As a result of a review of an injury on duty award at age 65 the SMP will use the ASHE Survey only to calculate the percentage injury on duty award as illustrated above. It is not appropriate to use police pay in the calculation as at age 65 no former officer would continue to be a police officer.

All former officers who are in receipt of an IOD award in Bands 2, 3 or 4 will be reviewed at age 65.

Review at age 65 will be the final review.

The Board's present policy on the assessment and calculation of an IOD award, and the review of the award, may be subject to amendment at some future date in order to reflect changes in legislation and government policy.

28. May I still apply even if I have left the Police Service under Severance?

YES - If you have left the police service under the terms of the Severance Scheme, you are still eligible to apply and be considered for a retrospective IOD Award. You are not, however, entitled to be considered for a retrospective Ill-Health Pension. The present Board policy is that no adjustment will be made to the IOD implementation date as a result of payments made as part of the severance calculation.

29. Who will calculate and pay my pension?

When a decision has been made by the SMP or on appeal by the IMR, the Policing Board's Administration Branch will advise PSNI's Pensions Branch of the details. All questions or queries that you may have in relation to the actual calculation/payment of your pension should be referred to the PSNI's Pensions Branch at the address on page 18.

When a serving officer is awarded an IOD, the actual date of implementation is set by Police Administration Branch following an established procedure. This is 6 weeks from the date of letter and will be the day after the officer leaves the service.

For a former police officer awarded a retro IOD, the actual date of implementation will be the date specified on the SMP certificate. On any subsequent reviews the date the new SMP certificate decision is implemented will depend on when Pension Branch are advised of the new certificate issued. If the notification is received by Pension Branch before the 15th of the month any change will be made to that month's payment calculation. If received after 15th of the month any change will be made to the next month's payment calculation. This seeks to avoid the possibility of an overpayment of award and former officers being required to pay back to Pensions Branch overpayments.

If on appeal the IMR issues a certificate to award a higher percentage award than that awarded by the SMP, either at the first assessment or any subsequent review, the IMR certificate will be applied from the date the reduction was made in the pension payment as a result of the SMP decision. If on appeal the IMR removes an award made by the SMP on a first assessment, or reduces the percentage IOD first assessment award or at any subsequent review, PSNI Pensions Branch will only apply the IMR certificate from the next IOD payment due as explained above.

As Pensions Branch will offset any injury award that may be awarded to you against state benefits which you might be entitled to, it is essential that you make application for state benefits as early as possible. Should you fail to make an early application for State benefits, this may delay the payment of your award. You are also required to advise PSNI Pensions Branch **immediately** of any changes to state benefits received as this may have an impact on the amount of the IOD award that you should be receiving.

You should obtain forms for Industrial Injuries Benefit and Employment Support Allowance from the Social Security Agency.

Further information on payments of ill health pensions and injury on duty awards are available from PSNI Pensions Branch and the contact details are available on page 20 of this guidance document.

30. Disability or Special Needs

People who may have a disability or special needs requirement should advise the Board's Police Administration Branch prior to attending for assessment/IOD review in order that the SMP can take practical steps to facilitate each individual who attends for medical assessment.

The premises occupied by the Board's SMP have a lift servicing the assessment area; toilet facilities also take into account the needs of different users. Anyone attending for medical assessment may be accompanied by a relative or friend if they consider this appropriate. No prior approval is required and it will be subject to the agreement of the SMP that the companion may also be present during the assessment process. In exceptional circumstances a home visit may be approved by the Board for a medical assessment. Each such request will be favourably considered on merit.

31. Complaints Policy

The Policing Board is committed to providing a high level of service and expects all its people to carry out their duties in a professional and courteous manner. Every effort will be made by staff to deal efficiently and effectively with you, our customer.

However, if you are unhappy with the way in which Policing Board staff engaged with you, or are unhappy with our internal processes or procedures, you may lodge a complaint in accordance with the Policing Board's Complaints Policy. A copy of our Complaints Policy is available on request, or can be downloaded from our website – www.nipolicingboard.org.uk

Blackwell Associates has also a Complaints Policy to investigate any complaint received in respect of the manner in which the SMP conducts assessments or reviews. A copy of the SMP Complaints Procedure is also available on the Board's web site or alternatively a hard copy may be provided by Police Administration Branch on request. All complaints must be made in writing to the Board's Police Administration Branch.

Staff from Police Administration Branch will be available to clarify and address any of the above questions or, indeed, any additional queries you may have

32. Information available from the Department of Justice (DOJ)

The Board and the DOJ have established a link between their respective websites. This will assist all former officers to obtain information on the DOJ's appeals procedures and also pensions and injury on duty legislation.

33. Other Pension Awards/Allowances

Information on other pensions and awards such as Dependents Allowance, Child Allowance, Survivor's Pensions, Deferred Pension brought into payment early etc, are available by contacting the Police Administration Branch.

34. The Legal Framework

The following regulations govern the areas of ill health retirement, Injury on Duty, including IOD reviews, and appeals:

- RUC Pensions Regulations 1988;
- PSNI and PSNI Reserve (Injury Benefit) Regulations 2006;
- Police Pension (Northern Ireland) Regulations 2009.

The above regulations are available from The Stationery Office Limited or on line at <http://www.statutelaw.gov.uk>.

ADDITIONAL QUESTIONS?

If you have any questions not included in this guidance please advise the Board's Police Administration Branch and these additional questions will be considered when the guidance is next being revised.

35. Useful Contact Details

The following contact details will be of assist to all former police officers:

Responsible for the management of Ill-health/IOD applications and IOD reviews

**Administration Branch
Northern Ireland
Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
BELFAST
BT1 3BG**

Telephone No:
(028) 90 408500

Fax No:
(028) 90 408570

E-Mail:
**For security reasons
the use of email is not
recommended**

Website:
www.nipolicingboard.org.uk

Responsible for Pension/IOD Payments

**PSNI Pension Branch
River House
48 High Street
BELFAST
BT1 2DR**

Telephone No:
(028) 90 700369

Fax No:
(028) 90 700378

E-Mail:
zpensions@psni.pnn.police.uk

Responsible for the management of Appeals

**The Medical Appeals
Co-ordinator,
Department of Justice
Police HR Policy Branch,
Level 4, Block A
Castle buildings
BELFAST
BT4 3SG**

Telephone No:
(028) 90 528356 or
(028) 90 520090

Fax No:
(028) 90 520063

E-Mail:
IODMailbox@dojni.x.gsi.gov.uk

Website:
www.dojni.gov.uk

NORTHERN IRELAND POLICING BOARD PENSIONS ASSESSMENT FOR FORMER POLICE OFFICERS

