

**REVIEW OF POLICE INJURY AWARD
ARRANGEMENTS**

Initial Report of Review Panel

30 June 2010

Introduction

- 1) Police injury on duty awards ensure that police officers and their families receive financial support for loss of earnings in the event of injury or death in the line of duty.

- 2) The scheme is governed by the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006. The regulations for the scheme are determined nationally by the Police Negotiating Board (PNB). This ensures consistency of treatment for police officers in all parts of the United Kingdom.

- 3) The practical arrangements underpinning the scheme are determined locally. In Northern Ireland, the scheme is administered by the Northern Ireland Policing Board (“the Policing Board”) and appeals against decisions are made to the Department of Justice (“the DOJ”).

- 4) In the light of public concern about the efficacy and efficiency of the process David Ford, Minister of Justice, initiated an urgent review of the practical arrangements underpinning the police injury on duty award system.

- 5) As there are parts of the system which are the responsibility of the Policing Board, the Minister invited the Policing Board to make it a joint review, thereby ensuring a holistic review of all parts of the process.

- 6) Following a special meeting of the Policing Board’s Human Resources Committee on 28 May, the Committee agreed to undertake a joint review. It was also agreed that Jimmy Spratt MLA, Chairperson of the Board’s Human Resources Committee, should represent the Policing Board and act as co-convenor of the review panel.

- 7) Peter May, Director of Policing and Community Safety is the DOJ’s lead in the review. Secretariat to the review panel is shared between Policing Board and DOJ officials.

Membership of Review Panel

8) The Policing Board's Human Resources Committee recommended that the review should be informed by an independent source to assist in drawing up recommendations for change.

9) The Minister of Health nominated Dr Paddy Woods, Deputy Chief Medical Officer, to sit on the review panel and provide independent medical expertise to the panel.

10) David McClurg, Chair of the Northern Ireland Police Fund and former secretary to the Police Federation for Northern Ireland was approached and agreed to join the panel. Mr McClurg has considerable knowledge of police pensions issues.

Review Panel

11) The review panel has been tasked to consider the workings of the scheme including the decision, review and appeal processes to ensure the process is fair, effective, efficient and that the system meets people's needs.

12) The terms of reference of the review panel were agreed at the first meeting on 21 June and are attached at Annex A.

Stakeholder Consultation

13) A number of key stakeholders were invited to contribute their views to the review panel in advance of the first meeting of the panel. The PSNI; Police Federation for Northern Ireland (PFNI); Police Superintendents' Association of Northern Ireland (PSANI); Chief Police Officers Staff Association (CPOSA); Disabled Police Officers' Association of Northern Ireland (DPOANI); Northern Ireland Retired Police Officers' Association (NIRPOA) and Police Rehabilitation and Retraining Trust (PRRT) were asked to provide initial views. To date, PSNI, PFNI, PSANI, DPOANI and PRRT have responded.

14) The initial views were considered by the Review Panel at the preliminary meeting on 21 June. The panel considered the inputs and agreed to extend the time for comments to 21 July 2010 to facilitate any further contributions the stakeholders might wish to offer.

15) Evidence is also being sought from others to aid in the identification of potential solutions. This will include those responsible for the process in GB and those who have experience of similar processes in other fields.

Scope of review

16) Initially, the review panel decided to focus on any immediate measures capable of being taken on those issues which were the subject of the greatest public concern, including those which had been highlighted by the Committee of Justice. These included reviews for severely traumatised officers; confidence in the review arrangements; backdating of successful appeals and timescales for the appeal process.

17) Other issues within the Terms of Reference will be considered at future review panel meetings.

18) This Northern Ireland review is distinct from the separate UK wide review of police injury benefits (which looks in greater detail at the policy behind the scheme). This review will look at the practical arrangements underpinning the scheme in Northern Ireland.

19) There are also currently two issues before the Courts in England. The first relates to the scope of what can be taken into consideration during the review of an injury award. This was heard by the Court of Appeal on 10 June and judgement is due later in the summer.

20) The second is a judicial review against the decision to reduce a former officer to the lowest band when he reached state pension age.

21) While both of these issues are areas of concern in Northern Ireland, the Review Panel concluded it should not address these areas, pending the court outcomes. The panel noted that all planned reviews were currently suspended pending the outcome of these cases.

22) The issues considered by the initial meeting of the Review Panel were:

- How initial assessments are conducted by the Selected Medical Practitioner (SMP);
- Reviews of those individuals who have suffered serious psychological trauma;
- The timescales for appeals;
- Backdating after a successful appeal.

Reviews of police injury awards

Regulation 35 of the PSNI and PSNI Reserve (Injury Benefit) Regulations provide that the Policing Board, shall, at such intervals as may be suitable, review the level of an individual's injury award. In the past, there was no standard timescale for calling back award recipients for review and some were called back every two or three years.

23) The panel considered the concerns raised by stakeholders and individual officers that the process was causing extra stress for the officers concerned, and confirmed that there should be an interval of at least five years between the final decision and future review. However, applicants should still have the right to request a review before the 5-year period if they believe their condition has materially changed.

RECOMMENDATION 1: There should be a minimum 5 year period before review for all cases. Any reviews currently planned with a review date of less than 5 years should be extended to the 5 year period. Individuals retain the right to apply for an earlier review if they believe their position has materially changed.

24) The panel also considered the issue of reviews for those officers who are suffering the most serious psychological conditions. Recognising the clear medical advice that the first duty is to avoid doing harm to applicants, the panel discussed how the impact of reviews on these officers could be reduced.

25) It was noted that in cases of the most serious psychological conditions, there is likely to be ongoing treatment and, as a result, the treating physician will be in a position to complete a report outlining the individual's condition; its course over time and indicating whether the fact of a review would be likely to have a detrimental effect on the individual.

26) The panel agreed that, in certain carefully defined cases, the need for review may be set aside. The panel noted the need to maintain the integrity of the system and to keep within the regulations which are negotiated nationally.

RECOMMENDATION 2: In principle there should be provision to allow for the need for reviews to be set aside in cases of the most 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 only apply in cases where a level 3 or 4 award has been made.

Role of the Selected Medical Practitioner (SMP)

27) Concerns have also been raised about only one doctor carrying out the initial assessment and the weighting the SMP gave to GP/consultant's/therapist's reports.

28) It was noted that these issues would require further research. However, in the interim, the panel felt that the pool of doctors available to act as SMP should be expanded and should operate on a rota basis.

RECOMMENDATION 3: The pool of doctors available to act as Selected Medical Practitioners should be expanded as part of the new contract to be let by the Policing Board later this year.

RECOMMENDATION 4: An individual should have the option of having their review carried out by a different Selected Medical Practitioner from the doctor who performed the initial assessment or the previous review.

Assistance for those officers approaching review or appeal

29) The injury benefits scheme is complex and some stakeholders indicated greater support for applicants should be provided. On that basis, the panel concluded that it would be beneficial if a service was available to assist individuals.

30) Given the role of the Police Rehabilitation and Retraining Trust (PRRT) in providing therapeutic services for serving and former officers, the panel suggested that PRRT be approached to establish whether the PRRT could assist in an advisory capacity to help the individual complete forms and collate any further evidence they may wish to submit.

RECOMMENDATION 5 – PRRT should be approached to establish whether the Trust could assist those approaching review or appeal by offering advice and guidance on the completion of forms and provision of evidence.

Further medical evidence

31) It is acknowledged that the current appeals process takes too long, with appeals closed in 2009/10 taking an average of 62 weeks to complete. The panel looked at a range of ways to speed the process up.

32) Analysis of the process revealed that one of the main sources of delay is the time given to the appellant to submit further medical evidence as the period is currently open-ended.

33) The panel considered the issue and concluded that it was important that the SMP doing the assessment or review had access to all relevant medical records and specialists reports. This would ensure that the appeal is being heard on the same information that was available at the first stage of the process. It would remain the right of an applicant to bring forward fresh evidence at any stage but any such evidence would lead to a new review and not be considered part of the appeal.

34) Improved guidance to former officers and the engagement of PRRT in an advisory capacity could help to ensure that the appeal was not unduly delayed by an officer producing new evidence which was not considered by the SMP.

RECOMMENDATION 6: Any appeal submitted after 30 July 2010 will consider only the evidence about the situation when the Selected Medical Practitioner made his decision. This means that those coming for assessment should ensure all relevant evidence is made available before or at the meeting with the Selected Medical Practitioner to ensure any appeal process could then commence immediately. Revised guidance will be issued to those coming to assessment by the Selected Medical Practitioner. If new medical evidence is produced, that would lead to a new review with the Selected Medical Practitioner.

RECOMMENDATION 7: For those cases already in the appeal process, those applicants who have already been asked to provide any additional medical information but have yet to reply, would be given a set period (of six weeks) to produce any further evidence and will be informed that dates are now being sought with the relevant specialist(s). Any further medical evidence produced after this date would lead to a new review by the Selected Medical Practitioner.

Timeliness of appeals

35) There are currently approximately 150 appeals at various stages and the panel explored how these appeals could be moved quickly to conclusion. Initial statistical evidence identified key areas where improvements could be made to make the appeal process more streamlined and efficient.

RECOMMENDATION 8: A number of steps will be taken to reduce the time taken for various stages of the appeal process. These will include:

- (a) reduction in time taken for the Policing Board to submit an appeal to the DOJ;***
- (b) reductions in time taken by the DOJ to process the appeal when first received and to issue final letters to applicants;***
- (c) revised arrangements for the Independent Medical Referee to submit a written report within 3 weeks of appointment.***

36) The Panel's objective was to secure a reduction in the average period taken for new appeals (from receipt in the DOJ) to under 6 months and to speed the clearance of cases already within the system.

37) The Panel envisages that recommendations 6-8 will assist in reducing timescales towards that objective. Progress will be reviewed by the DOJ and the Policing Board's HR Committee after 6 months. The Panel agreed to

consider any other issues of timeliness which might contribute to reducing timescales.

Backdating following a successful appeal

38) One of the most emotive issues from the media coverage (which was also raised by the Justice Committee), was the fact that successful appeals are only paid from the date of the appeal decision rather than back dated. The Committee expressed the view that this is not fair, equitable or compatible with other appeal processes.

39) The panel noted the Policing Board decision to adopt this approach resulted from cases where individuals had been required to pay back substantial sums after the appeal reduced their awards. In view of this, the panel decided to consider potential solutions in greater depth in subsequent meetings.

40) The panel noted that, in the interim, improving the timeliness of the appeals process would help to alleviate the concern raised.

Future work of the review panel

41) This initial report has focused on the most immediate problem areas and proposed recommendations for immediate implementation which should address some of the significant problems.

42) However, the panel acknowledge that further work is required to meet the commitments in the terms of reference.

43) The review panel agreed to target completion of its work by end September 2010 and to present the report and further recommendations to the Policing Board and the Minister of Justice by this date.

RECOMMENDATION 9: The review panel agreed to target completion of its work by end September 2010.

Terms of Reference - Injury on Duty Review

In light of the considerable public concern about the issue of police injury on duty awards, the Minister of Justice and the Policing Board have initiated an urgent review of the arrangements for the delivery of the Police injury on duty awards scheme. The scheme is regulated through the PSNI & PSNI Reserve (Injury Benefit) Regulations 2006 in line with a UK-wide negotiated agreement; the practical arrangements are determined locally.

The review will consider the workings of the scheme in terms including the decision, review and appeal processes and consider:

- i) whether the decision, review and appeal processes adequately meet the needs of those affected and what improvements could be made, taking into consideration the experience of other organisations operating similar schemes;
- ii) how the timeliness of the scheme (and specifically the appeal process) can be improved whilst ensuring fairness;
- iii) how best to secure medical experts to undertake the appeal process;
- iv) whether there are wider issues affecting the guidance or legislation which regulates the scheme. Any such issues would need to be subject to subsequent negotiation through the Police Negotiating Board.

The review panel will be co-convened by the Department of Justice and the Northern Ireland Policing Board and will submit an initial report to the Minister of Justice and the NI Policing Board by the end of June and include within that report both any early recommendations for change and a more detailed timetable for completion of the remaining work.

SUMMARY OF AGREED POINTS

1. There should be a minimum 5 year period before review for all cases. Any reviews currently planned with a review date of less than 5 years should be extended to the 5 year period. Individuals retain the right to apply for an earlier review if they believe their position has materially changed.
2. In principle there should be provision to allow for the need for reviews to be set aside in cases of the most 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 only apply in cases where a level 3 or 4 award has been made.
3. The pool of doctors available to act as Selected Medical Practitioners should be expanded as part of the new contract to be let by the Policing Board later this year.
4. An individual should have the option of having their review carried out by a different Selected Medical Practitioner from the doctor who performed the initial assessment or the previous review.
5. PRRT should be approached to establish whether the Trust could assist those approaching review or appeal by offering advice and guidance on the completion of forms and provision of evidence.
6. Any appeal submitted after 30 July 2010 will consider only the evidence about the situation when the Selected Medical Practitioner made his decision. This means that those coming for assessment should ensure all relevant evidence is made available before or at the meeting with the Selected Medical Practitioner to ensure any appeal

process could then commence immediately. Revised guidance will be issued to those coming to assessment by the Selected Medical Practitioner. If new medical evidence is produced, that would lead to a new review with the Selected Medical Practitioner.

7. For those cases already in the appeal process, those applicants who have already been asked to provide any additional medical information but have yet to reply, would be given a set period (of six weeks) to produce any further evidence and will be informed that dates are now being sought with the relevant specialist(s). Any further medical evidence produced after this date would lead to a new review by the Selected Medical Practitioner.
8. A number of steps will be taken to reduce the time taken for various stages of the appeal process. These will include:
 - (a) reduction in time taken for the Policing Board to submit an appeal to the DOJ;
 - (b) reductions in time taken by the DOJ to process the appeal when first received and to issue final letters to applicants;
 - (c) revised arrangements for the Independent Medical Referee to submit a written report within 3 weeks of appointment.
9. The review panel agreed to target completion of its work by end September 2010.