

SCOFFIELD REVIEW – UPDATED ACTION PLAN FOR IMPLEMENTATION OF RECOMMENDATIONS

RECOMMENDATION	RESPONSIBILITY	REQUIRED ACTION	CURRENT POSITION as at June 2020	
1	That the Board and Department, in consultation with other relevant stakeholders, consider major reform of the injury award system and replace it with a simpler scheme.	DOJ (with evidence/data from NIPB)	Reform of the Injury Award System	NOT YET PROGRESSED
2	New Regulations should deal expressly and unambiguously with how the injury awards scheme is intended to apply to those reaching compulsory retirement age and/or state pension age.	DOJ	Draft new regulations	IN PROGRESS The issue is being considered in drafting of the new regulations. It should be noted that the new regulations will not be retrospective and current cases will be processed under existing regulations.
3	New Regulations should radically simplify the decision-making process for IOD awards. In particular, they should remove the distinction between decision-makers, and separate appeal routes, for medical and non-medical questions.	DOJ (with evidence/data from NIPB)	Draft new regulations	NOT YET PROGRESSED
4	A time limit should be introduced restricting the ability of former officers to make retrospective applications many years after the relevant events.	DOJ	Draft new regulations	IN PROGRESS This provision is being made within the new regulations. It should be noted that the new regulations will not be retrospective and current cases will be processed under existing regulations i.e. only injuries that occur after the commencement date will be assessed under the new regulations.

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<p>5 New Regulations should provide that compensation recovered in relation to an injury which later forms the basis of an IOD application be subtracted from any IOD award payable.</p>	<p>DOJ</p>	<p>Draft new regulations</p>	<p>IN PROGRESS</p> <p>The issue is being considered for inclusion in the new regulations.</p> <p>It should be noted that the new regulations will not be retrospective and current cases will be processed under existing regulations.</p>
<p>6 Serious consideration should be given to legislative amendment moving the responsibility for administering IOD awards for former officers away from the Policing Board and to the Chief Constable.</p>	<p>DOJ</p>	<p>Draft new regulations and agreement with PSNI</p>	<p>IN PROGRESS</p> <p>The Department will make provision in statute for the delegation of this function to the PSNI and associated transfer of the medical appeals function at a future date.</p>
<p>7 One authoritative, Northern Ireland-specific guidance document should be issued to assist SMPs and IMRs to interpret and apply the Regulations in a consistent manner (and to enable applicants to understand how this will be done). This should be agreed at least between the Board and the Department, although ideally also with officers' representatives.</p>	<p>NIPB (DOJ)</p>	<p>New guidance to SMP/IMRs</p>	<p>IMPLEMENTED</p> <p>The Policing Board published guidance for Selected Medical Practitioners on its website. The Department of justice has agreed that this will be issued to Independent Medical Referees.</p>
<p>8 In the course of development of this further guidance, serious consideration should be given to abandoning the currently</p>	<p>NIPB (DOJ)</p>	<p>New guidance to SMP/IMRs</p>	<p>IMPLEMENTED</p> <p>The Policing Board has introduced a new assessment policy, available on the website.</p>

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<p>recommended method of calculating percentage disablement, including detailed reliance on the ASHE survey and comparison with the officer's notional uninjured police salary, in favour of a much more basic approach, whereby the relevant medical authority would simply make a judgment in the round as to the severity of the impact of the duty injury on the officer's earning capacity, so as to select the officer's appropriate band without the need to calculate a specific percentage disablement figure.</p>			<p>The new assessment method will be used by the Selected Medical Practitioner and Independent Medical Referee in all cases.</p>
<p>9 In such guidance, given the approach of the case-law such as the <i>Simpson</i> case, the word "permanent" should be taken to mean for the rest of the officer's life, rather than simply until at least the attainment of compulsory retirement age for their rank.</p>	<p>NIPB (DOJ)</p>	<p>New guidance to SMP/IMRs</p>	<p>IMPLEMENTED</p> <p>The Policing Board has included clarification in its guidance to SMP/IMRs.</p>
<p>10 The guidance should also provide SMPs and IMRs with more detailed assistance, in as straightforward language as possible and drawing upon recent case-law, on how to avoid impermissibly revisiting matters finally determined in previous</p>	<p>NIPB (DOJ) dependent on progress of 7, 8 & 9</p>	<p>New guidance to SMP/IMRs</p>	<p>IMPLEMENTED</p> <p>Further clarification is included in the Board's guidance to the SMP/IMRs.</p>

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certificates and applying the concept of apportionment.			
11 There should be a move away from automatic review for all cases at any fixed interval set in policy. The judgment as to when a review is appropriate should be made on a more case-sensitive basis, driven particularly by medical advice on this issue from the SMP and/or IMR (although it ought to remain open to an officer to request a review himself at any time and the Board should also retain the right to initiate a review at any time if information comes to its attention identifying an apparent relevant change in circumstances). SMPs and IMRs should expressly be asked to provide the Board with advice on this issue in their completion of reports.	NIPB (DOJ) dependent on progress of 7, 8, 9 & 10	New guidance	<p>IMPLEMENTED</p> <p>On internal review it has been identified that all cases subject to reassessment have now exceeded the original recommended interval.</p> <p>At this time the Board’s suspension remains in place until a consultation on a draft Reassessment Interval Policy is undertaken. Following finalisation and publication of the policy, individuals will be called for reassessment in chronological order.</p> <p>SMP/IMRs have been instructed in the joint guidance to provide an opinion on the interval for reassessment in all cases going forward. A section has been inserted in the certificate to be issued by the IMR.</p>
12 More limited legislative amendment to that recommended above should be considered more urgently, if possible, to permit a review to be dealt with, at least in the first instance, on the basis of medical evidence provided without a reference to an SMP, where this is appropriate.	DOJ (NIPB)	Draft new regulations	<p>IN PROGRESS</p> <p>The Board has undertaken research in relation to the operation of other disablement assessment schemes. A draft Reassessment and Interval Policy will be prepared and placed before the Board for approval.</p> <p>A separate paper will be put to the Department for consideration of legislative amendment.</p>
13 For the moment, there should be	NIPB (DOJ)	New guidance	IMPLEMENTED

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no automatic reviews of officers at age 65 or other compulsory retirement age; nor should any such officer's banding be reduced on the basis of a calculation taking into account that, had he not been injured, he would in any event have ceased to be a police officer.	dependent on progress of 7, 8, 9, 10 & 11		Cases marked "permanent" will not be reassessed unless specifically requested or there is a compelling reason to do so and recipients will be notified accordingly.
14 Those officers who were told in clear terms that they would not be subject to review, or words to that effect, should not be further reviewed in the absence of a request from them or some compelling reason why a review is considered appropriate (such a reason not to include merely their attainment of a particular age).	NIPB	New guidance	<p>IMPLEMENTED</p> <p>Cases marked "permanent" will not be reassessed unless specifically requested or there is a compelling reason to do so.</p> <p>The Board has informed stakeholder and representative groups and asked for this position to be circulated to their members.</p>
15 SMPs and IMRs should not be precluded in future from designating a case as one for no further review but this should occur only very rarely and guidance should be formulated for them as to when this may be appropriate.	NIPB (DOJ)	Policy guidance	<p>IMPLEMENTED</p> <p>SMPs & IMRs are not precluded from designating a case as one for no further reassessment and this is outlined in the current joint guidance to medical practitioners.</p> <p>A draft Reassessment and Interval Policy will be considered by the Board following reconstitution prior to consultation with stakeholders. This incorporates guidance on when a case may be designated as 'no further reassessment'.</p>
16 Additional staff should be provided to the Police	NIPB	Identify available resources	<p>IMPLEMENTED</p>

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	Administration Branch within the Policing Board to assist it with its present case-load relating to applications for, and reviews of, IOD awards.		Agency staff have been engaged to provide additional support to Police Administration Branch.
17	Any suspended reviews which were prompted merely by the officer's attainment of age 65 or other compulsory retirement age should be abandoned.	NIPB	Policy decision IMPLEMENTED All such reviews have been abandoned.
18	Any suspended reviews which were prompted merely by the Board's five-yearly review policy should also be abandoned.	NIPB – cross reference with Rec 13.	Policy decision IMPLEMENTED All cases subject to reassessment have now exceeded the original recommended interval of five years. At this time the Board's suspension remains in place until a consultation on a draft Reassessment and Interval Policy is undertaken. Following finalisation and publication of the policy, individuals will be called for reassessment in chronological order. SMP/IMRs have been instructed in the joint guidance to provide an opinion on the interval for reassessment in all cases going forward.
19	Where a completed review has resulted in an officer having had his banding reduced by virtue of his attainment of a particular age, that is to say in a Simpson-type case, this should be looked at again, with a view to restoring the officer to the banding he was on	NIPB	Reconsideration and restoration of previous banding IMPLEMENTED Letters have been issued to all affected officers advising their pre-review bandings have been restored. Payment of all arrears has been made through PSNI Pensions Branch.

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	before the review (with consequential backdating of any payment) unless and until a lawful review has been conducted.		