



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 03/2020

Date: 27 November 2020

Request:

I seek the following information from NIPB under FOI Legislation as under:-

1. Total number of Injury on Duty APPEALS sent by NIPB to DOJNI during 2019.

Answer:

The Northern Ireland Policing Board (the Board) takes this to mean appeals of Injury on Duty awards only, further to Regulation 30 of the PSNI & PSNI Reserve (Injury Benefit) Regulations 2006. The Board sent 59 appeals to the Department of Justice between January 2019 and December 2019.

- 2..Total number of IOD Appeals held by NIPB on the 23.12.19 and waiting to be sent to DOJNI

Answer:

For the sake of clarity the Board does not hold Injury on Duty appeals, rather these are the responsibility of the Department of Justice. The Board therefore takes this question to mean instead how many appeals arising out of Selected Medical Practitioner appointments held by the Board on 23 December 2019 are currently waiting to be sent to the Department of Justice. The answer to same is zero.

- 3..Confirm AVERAGE TIME over past 12 months taken by NIPB to send IOD Appeals to DOJNI

Answer:

The Board does not record this information and in any event appeals were suspended in their entirety between March – October 2020 and, as such, the Board did not refer any documentation to DOJ during this period.

4. Provide NIPB policy document for processing and actioning IOD Appeals requiring to be sent to DOJNI

Answer:

Please see document attached.

5. How many complaints has NIPB received relating to IOD Appeal applications during 2019?

Answer:

The Board does not retain this information.

6. What immediate action does NIPB take upon receipt of a completed IOD Appeal application? Does NIPB periodically update Appellants on the state of Appeal applications. If not why not? If yes what are the time intervals for individual application notification for delay?

Answer:

Please refer to the attached document in relation to the processing of appeals.

7. The IOD Regulations 2006 are silent regarding method of referral of Appeal applications to NIPB. Is submission of an IOD appeal acceptable to NIPB in email format? If not, why does NIPB insist on IOD Appeals requiring to be completed in other format, thus requiring unnecessary cost by mail or hand delivery to Waterside Tower.

Answer:

The Board, as Scheme Manager under the PSNI and PSNI Reserve (Injury Benefit) Regulations 2006, reserves the right to set operating parameters and procedures in respect of the scheme. By way of background information which may be of assistance, the Board follows the guidance set out in the Government Protective Marking Scheme 2014. This is designed to assist staff with the process of handling information appropriately. The use of e-mail is covered in the Board's ICT Policy (which mirrors wider civil service policy). Given the contents of same it would not be appropriate for the Board to encourage applicants to submit sensitive personal details via e-mail.

8. The 2006 IOD Regulations confirm upon receipt of Notice of Appeal and Statement of Grounds for Appeal NIPB SHALL FORWARD THE PAPERS TO THE SECRETARY OF STATE (DOJNI). Why is NIPB failing to act promptly in accordance with this existing legal requirement and holding some Appeal Papers for inordinate lengths of time?

Answer:

The Board processes all appeal applications in chronological order. All appeals were suspended in March 2020 owing to the ongoing Covid-19 pandemic. This process resumed in October 2020 and are progressing in the ordinary manner. Any delays in this respect were unavoidable and pertained to the ongoing global pandemic.

If you have queries about this request or the decision please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at:-

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone: - 0303 1231114

Email: - ni@ico.org.uk

Please be advised that Policing Board replies under Freedom of Information may be released into the public domain via our website @ www.nipolicingboard.org.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

APPEALS TO THE INDEPENDENT MEDICAL REFEREE

Both serving and retired officers have the statutory right of appeal to the Independent Medical Referee (**IMR**) following an application to the Northern Ireland Policing Board's (the **Board**) Selected Medical Practitioner (**SMP**).

The applicable statutory basis for appeal will be dependent on whether the applicant is appealing an Injury on Duty (**IOD**) only and/or if the applicant wishes to appeal a pensions related matter.

All appeals will be progressed under *at least* one of the following:

Regulation H2	Royal Ulster Constabulary Pensions Regulations 1988
Regulation 30	PSNI and PSNI Reserve (Injury Benefit) Regulations 2006
Regulation 68	Police Pension (Northern Ireland) Regulations 2009
Schedule 1, Section 3	Police Pension Regulations (Northern Ireland) 2015

In all cases an applicant may appeal the refusal and banding of an award and (in the case of the 2015 Regulations only) the tier of an Ill Health Retirement (**IHR**).

An appeal on the basis of the implementation date alone cannot be made as this is not one of the statutory questions considered by the SMP. However, on appeal, the IMR may recommend a different implementation date to that decided by the SMP.

IHR and IOD awards are made and considered under separate legislation however they may be considered at the same time provided the correct statutory questions are raised with the SMP and IMR.

SERVING OFFICERS

Serving Officers are prioritised throughout the appeals process. Their appeal is undertaken through PSNI HR Attendance Management Team.

Please mark all correspondence relating to serving officers outlining their status as a serving officer.

ATTENDANCE MANAGEMENT TEAM CONTACT DETAILS

TEMPLATE LETTERS

- A copy of template letters, marked by stage, are available within HPE 336~16.
- Template letters should be saved as a new copy in the applicant's TRIM folder (and then amended).

APPEAL STAGE 1

Notification of Appeal received in writing from the Applicant. Notification of Appeal received by way of letter/email¹ from retired officers and from PSNI HR in the case of serving officers.

Upon receipt of Notification of Appeal:

- Check Notification of Appeal is received within the statutory timeframe further from the date the Applicant received the original SMP result.
- If Notification of Appeal is received outside of the statutory timeframe then a reason may be provided in writing which can be considered by Police Administration Branch (**PAB**) management. If an appeal is lodged in/around the statutory timeframe then discretion may be applied but if you have any queries or concerns please raise these with PAB management.
- Consider if the Applicant has raised any complaints, DPA and/or FOI requests in conjunction or simultaneous to the appeal.
- Consider if the Applicant has submitted any new conditions. **New conditions cannot be introduced at the appeal stage** as the IMR is only statutorily permitted to consider the original conditions originally assessed by the SMP.
- If the Applicant has a live complaint(s) and/or DPA/FOI requests and/or has raised new conditions please pass the Notification of Appeal to an EO1.
- Open new hard copy file and lodge hard copy Notification of Appeal on file and write Appeal Grounds in red on the file front. Communications should be put in the yellow file and the appeal form, FME or other evidence should be put in the orange (referral) file.
- Each Applicant has their own folder set up on HPE for all appeal correspondence and Appeal Submission. Use an empty folder and rename it with the Applicant's name and service number (by right clicking > properties > amend the name). Note SERVING if applicable

This is under Classifications > Police Admin > Pay & Conditions > Appeals > and then split file into the following subsections:

APPEAL TYPE	HPE NUMBER
Against refusal of (Retro) IHR and/or IOD	1029-05
Against Disablement awarded	1030-05
Against refusal of Defpen	1028-05

- Compliance Branch, will set up more empty cells on request – just give them the HPE Number.
- Ensure appeal notification has been moved from original application folder into Applicant's appeal folder. Please ask Compliance branch to move relevant document.
- Set up the *Initial Appeal Letter* to Appellant HPE: 296040 (enc form) / Appellant's Solicitor 296004 (enc form) or 297344 (serving officer where PSNI has issued form), ensuring that the correct reason for appeal is used in the letter i.e. retro refusal, refusal defpen, refusal IHR etc. [Appeal form is HPE 375242].
- Set up under Appeals on Access Database –
 - Search - appeals to ensure that a record has not already been set-up
 - Input data
 - Appeals – insert:
 - Force Number
 - Select Ex or Serving
 - Rank
 - Initials
 - Surname
 - Nature of Appeal – *'Against the decision of the Selected Medical Practitioner'*
 - Date papers received
 - BF date – 6 weeks
 - Comments – insert the date forms were issued and that he file can be located at appeal stage 1 in the run.
- Add to the tab 1 and tab 2 of HPE 72245 (appeals spreadsheet) ensuring that all of the relevant information has been captured including:
 - Name
 - Service no
 - Date appeal notification was received
 - The date on which forms should be back to Board (awaiting forms column)
 - BF date
 - Further and/or additional information (if necessary)
- Pass draft letter to EO1/ SO for approval of letter and checking of the above steps.

- Following approval print on headed paper, sign and write envelope – pass to EO/ISO for second check.
- Scan approved letter into HPE.
- Issue letters.
- Bf for 6 weeks (shared calendar, personal calendar & mark on file) for return of completed forms.
- Place file in Stage One section of the appeal run.
- If appeal forms have not been received after six weeks please expedite (during busy periods given expedites can be extended for a further four weeks). Template letters can be found at HPE 384718 (Applicant) and HPE 384717 (Solicitor).

APPEAL FORMS RECEIVED

Appeal forms will be received in the post for both serving and retired officers. These will be logged as per the post process and passed to the appeals team for processing. Upon receipt of appeal forms:

- Check that the forms have been completed properly and that no information has been omitted. Paying particular attention to:
 - If Appellant is represented ensure that page 5 – *‘Appointed Representative (AR)’* form is complete.
 - APP DEC and MED DISC forms are required for the SMP process and therefore should already be on file, however to double check that they are.
 - Page four of the form requires appellants to indicate if all information has been provided in support of their appeal. If the Appellant has ticked that they have not yet provided all information - give a further 6 weeks (bf'ing in your outlook calendar). Template letters can be found at HPE: 297258 (Appellant) and HPE:297259 (Solicitor). If further medical evidence has not been received in 6 weeks send letter confirming appeal has been moved to the next stage of the process, which involves preparing the appeal submission for the Department of Justice (DoJ). Example letters can be found at HPE:395294 (Appellant) and HPE:394538 (Solicitor).
- If all information has been provided:
 - Note in stage 1 column G of 72245 *‘Ready to be copied for DOJ’* and the date all information was provided. Appeals should then be copied in chronological order according to this date.
 - Update ACCESS

Appeal Update

If correspondence is received from an Appellant or an Appellant's Solicitor requesting an update on their appeal letter HPE: 395331 can be used as a response.

APPEAL STAGE 2

PROVISION OF APPEAL DOCUMENTATION TO THE DEPARTMENT OF JUSTICE

When the Notification of Appeal and Grounds of Appeal (in the form of the Appeal Application Form) have been received from the Applicant then the case is ready for referral to the Department of Justice.

-
- Retrieve the relevant appeal folder from Stage One of the appeal run.
 - Move the appellant's details from Stage 1 to Stage 2 on HPE 72245 and note that the submission is being copied.
 - Please also update the Master List Tab on HPE 72245 (Tab 1) recording the date the application form has been received.
 - Make a copy of the original SMP submission together with the Notification of Appeal, Grounds of Appeal,
 - Redact all third party information– keep in the Applicant's name, force number, date of birth and all doctor's names.
 - Make two clean copies of this redacted bundle – one for the Applicant and one for the Department of Justice.
 - Return original redacted copy and save this on the Board's hard copy file.
 - Tab the copied 2x copied bundles as follows:
 - TAB 1 - Notice and Grounds of Appeal
 - TAB 2 - SMP Report, Certificate and contemporaneous notes.
 - TAB 3 - Submission bundle originally considered by the SMP
 - *NB: Board staff do not tab the submission bundle.*

- Please do not tab any further evidence supplied by the Applicant in support of their appeal as this will be attached to the letter issued to the Department of Justice.
- Put file on Stage 3 shelf along with the redacted copy, then email EO1 and EO11 to inform them that it is ready to be checked.

**APPEAL
STAGE 3**

APPEAL SUBMISSION TO THE DEPARTMENT OF JUSTICE

- Appeal covering letter to Department of Justice: HPE 319285.
- An update letter to the Applicant/Applicant's representative should also be drafted (Solicitor HPE 296959) (Unrepresented HPE 296960).
- Save a copy of all of the above to the Applicant's HPE appeal folder.
- Once saved, redraft each of the documents to include the Applicant's details.
- Place the update letter to the Applicant, the appeal cover letter to the DoJ and any additional medical information on top of the submission.
- Pass the entire submission to EO1/ SO for approval.

APPROVAL OF SUBMISSION

When the submission has been approved the below steps should be taken:

- Place the Department of Justice covering letter and any additional medical evidence on top of both sets of submissions (Applicant and IMR) and place everything in a brown envelope/grey courier bag, seal and mark for the attention of Amanda Fitchie, Department of Justice Appeals Division.
- Complete and add IMR Appeals Submission Sheet (HPE 389559). Make a redacted copy for Applicant's folder.
- Put Appeal submission sheet and appeal bundle into red Department of Justice bag.
- Pass to security staff by 12pm on Thursday for secure courier collection.

Additional tasks for completion

- Post update letter to Applicant.
- Update Access comments box– '*Appeal to DoJ*' date and location of file i.e. appeal run stage 3. Also complete '*Date to NIO*' box & bf date.
- Move from Stage 2 to Stage 3 on HPE 72245. Please also update Master List
- BF for 3 months to expedite the Department of Justice.

- Upon receipt of signed copy of IMR submission sheet scan into HPE folder 187-19, copy and redact for each person's file.

DOJ Contact: [REDACTED]

[REDACTED] details above) to request if there have been any changes to the officer's status i.e. required to resign, dismissed etc. If this is the case and the officer is appealing the refusal of Ill Health retirement, they should be informed that they are no longer entitled to apply for the Ill Health Retirement aspect of the Award. NB: for serving officers, prior to sending submission to DoJ, email [REDACTED]

Confirmation of IMR appointment

- Upon confirmation of IMR appointment:
 - update the SMP calendar with IMR appointment. Dark olive colour should be used for IMR appointments (this shows as separate from SMP appointments).
 - 24 hours prior to the IMR appointment the DoJ has been instructed to carry out a triage questionnaire. They have also been asked to inform the Board if anyone is accompanying the appellant to the appointment.
 - a further reminder should be added to own calendar for the day before the IMR appointment to remind that the DoJ will be in contact regarding the outcome of the triage questionnaire. If the DoJ is not in contact by 3pm the day prior to the appointment, please expedite the DoJ by phone and email. If no response from DoJ the matter should be urgently expedited to line manager.
 - if the DoJ advise, when answering the triage questionnaire, that the appellant (and anyone accompanying them) answered 'yes' to any of the questions, the appointment should be cancelled immediately.
 - update Branch Invoice Tracker (HPE: 376065);
 - update Access;
 - update relevant column on HPE 72245 with:
 - details of IMR appointment; and
 - Confirmation that triage questionnaire has been carried out by DoJ on appellant and anyone accompanying appellant to appointment.
 - Update Tab 2 (IMR tab) on committee paper with relevant information. Committee papers are created on a monthly basis and can be found in container HPE:62~19.
 - If appellant is being accompanied to the IMR appointment by medical professional Board to consider if it will be represented by SMP/duly qualified medical practitioner.

APPEAL

IMR REPORT & CERTIFICATE RECEIVED

- Upon receipt of an IMR report and/or certificate, the EO11 will print the report and/ or certificate, match with file and leave on the IMR result shelf in the secure store.
- The Master List tab on 72245 should also be updated to record the date the result received from DoJ.
- The result will then be reviewed by the DP to check factual accuracy.
- Following approval by the DP, the result will be sent to Resources Committee for decision.
- If there are more than five results received at the one time where awards have been granted, contact PSNI Pensions to inform them, specifically indicating if the implementation date is more than five years ago.

(If Ill Health Retirement has been granted for a serving officer – check with PSNI HR for any material changes i.e. disciplinary, dismissal, criminal proceedings)

Following decision by Resources Committee

- DP will update Resources Committee paper to reflect the Committee's decision.
- Result will be passed to EO11 for processing.
- If an award is granted or the banding has changed, complete letters to appellant and PSNI pensions–template letters can be found in HPE folder 152\16. If an award has been refused a letter should only be issued to the Applicant. Please note: if IMR has awarded a Band 1 it is the decision of the SMP that there will be no scheduled reassessment. However, the Applicant can request a reassessment at any time.
- Save letters to Applicant's HPE folder and print off hard copies for Applicant's paper folder.
- Reassessment dates should be recorded on the reassessment spreadsheet HPE: 334748.
- If it has been more than 12 months since correspondence was issued to Applicant, check the up-to-date address with PSNI pensions.

Invoice received

- Check that the invoice amount and dates match that which is recorded on the invoice tracker HPE: 376065.
- Check details of fees received with DOJ's covering letter
- Write "fees passed for payment"+ initial + date on (original) DOJ covering letter
- Copy covering letter for each fee and invoice(s).
- Put original covering letter + copy invoices on file
- Give copy covering letter + original invoice to AO for processing (including updating of the branch invoice tracker).

- Update invoice tracker (HPE: 376065) when invoice has been received.
- Pass letters and IMR checklist to EO1/SO for approval.
- Once EO1/ SO has checked and approved the letters, please issue.

APPEAL WITHDRAWN

An appellant can withdraw an appeal at any time. The Board can also withdraw an appeal if appeal forms have not been received from the appellant or there has been no contact with the appellant within 6 weeks of issue of appeal forms.

Appeal withdrawal letters can be found below:

Appellant Withdraws

Letter of withdrawal to Appellant	HPE: 297391
Letter of withdrawal to HR (<i>only if Serving</i>)	HPE: 297390

Board Withdraws

Letter of withdrawal to Appellant	HPE: 297391
-----------------------------------	-------------

- When letter has been drafted pass to EO1/ SO for approval
- Once approved print on headed paper, sign and write envelope – pass to EO1/SO for second check
- Update Access
- Update 72245 (Appeal withdrawn tab)
- Scan approved letter into HPE
- Issue letters