



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 09/2013

Date: 4 April 2013

Request:

Question 1. Copies of all instruction issued by NIPB to Blackwell Associates since their appointment as the SMP, either in letter form, email or verbally, relating to relevant judicial decisions and Pension Ombudsman determinations regarding injury on duty awards. Also details of any joint meetings held relating to above and copy of any records/minutes of those specific meetings. Also details of any meetings that were specially convened between NIPB and Blackwell Associates to discuss the implications and necessary action to ensure compliance by BA with all relevant recent judicial decisions and Pension Ombudsman determinations including details of specific directions given to BA with their legal obligations when conducting reviews under the 2006 Regulations, and copy of meeting minutes.

Answer 1. As the judicial decisions and Pension Ombudsman determinations have been made quite recently no meetings have yet been arranged between the various stakeholders to discuss the implications. Blackwell Associates have been advised that all reviews have been suspended until further notice. Information on the suspension of reviews has also been placed on the NIPB website. The Board will take time to look at the important issues and review and develop new policy if required in the near future.

Amended answer following Internal Review on 8 July 2013.

A search of Board records has failed to identify any recorded information in reference to (i) instructions issued to the Selected Medical Practitioner and (ii) meetings held with the Selected Medical Practitioner within the scope of the information sought.

Question 2. Details of all meetings between NIPB and NIRPO, DPOA and Police Federation over the past 12 months relating to injury on duty awards together with copies of the minutes of those meetings. Also copies of exchange letters following these meetings.

Answer 2. A Working Party has been commissioned recently to consider the current policies and procedures for the review and appeal of injury on duty percentage awards and make recommendation to the NIPB and DOJ on changes to the present policies and procedures. It has been decided to withhold details of the meetings under the FOI exemption at Section 35(1) (a) – formulation or development of government policy.

Section 35 is a class based exemption which means that any information which falls under its scope is exempt. It is however also a qualified exemption which means that even though the information is exempt the Policing Board must consider whether there is an equal or greater public interest in disclosure.

The Policing Board has conducted a Public Interest Test to determine if in all the circumstances of the case, the public interest in maintaining the exemption outweighs the public interest in disclosing the information. A copy of our public interest test document is enclosed for your information. In the circumstances of this request the Policing Board has determined that the information should not be released.

Amended answer following Internal Review on 8 July 2013.

The Panel acknowledged that the decision maker when addressing this question has interpreted the request as being for details of meetings involving the Board and all 3 other named organisations.

However the Panel noted comments which were submitted as part of the request for an internal review ie

“There have been, of course other meetings, letter exchanges etc between NIPB and other organisations since 1Jan2012 re IOD awards.”

The Panel firstly considered the meetings that were held collectively with these organisations. In respect of the papers, associated with the working group, which had been withheld under the exemption at Section 35 (Policy Development) the Panel determined that the exemption was not engaged. It was further determined that the papers should be released. The following papers are therefore being released:

- Minutes of the IOD working group meeting on 18.02.13
- Letter from the Chief Executive to the representatives on the working group dated 08.03.13.
- Minutes of the IOD working group meeting on 12.03.13
- Please note that a meeting of the IOD working group took place on 08.05.13 however that no minutes are available for this meeting.
- E-mail from the Chief Executive to the representatives on the working group dated 24.06.13.

The Panel then considered details of meetings held with each individual organisation. The Panel determined that the following information should be provided:

- Officials met with the DOJ on 25 April 2012 to discuss the issue of Injury on Duty Awards.
- A briefing took place between Board officials and the Dept of Justice on 16 April 2013. No minutes were taken.
- A meeting took place with the NIRPOA on 18 June 2012. No further recorded information has been located in respect of this meeting.
- A meeting was held with the NIDPOA in early 2012. No further recorded information has been located in respect of this meeting.

Question 3. Copy of all relevant correspondence relating to referral of appeals from NIPB back to the IMR under the Sect 31(2) of the IOD Regulations 2006. Also total number of appeals so referred including details of the number of reconsidered appeals where bandings in IOD awards have been increased, since January 2012.

Answer 3. Since January 2012 eleven officers have requested that the Independent Medical Referee reconsider their medical appeal decision. Of these reconsiderations, 6 cases were increased in banding. A copy of the template used to refer such reconsiderations to the DOJ is attached for your information.

Amended answer following Internal Review on 8 July 2013.

No amendments made to original answer.

Question 4. What action has NIPB implemented in contacting those officers in receipt of IOD awards to ensure they are aware of the policy for such referrals under Reg 31(2) of the 2006 Regulations agreed by NIPB in 2012. Why has the information not been displayed on the NIPB website?

Answer 4. There was an administrative decision made not to contact officers or place information on the NIPB website in relation to reconsiderations under Reg 31(2) of the 2006 Regulations.

Amended answer following Internal Review on 8 July 2013.

The Panel noted that while the information provided in response to this question is correct the decision maker has omitted to reference the measures taken by the Board to ensure the position adopted by the Human Resources Committee at their meeting on 14 June 2012, and ratified at the Board meeting on 5 July 2012, was brought to the attention of a wide audience. The Panel noted that the Committee's decision was to:

Approve a policy that a former officer must request a possible referral back to the Independent Medical Referee (IMR) within 3 months of being advised in writing of the IMR's decision. This time limit may however not be imposed in special circumstances such as the SMP / IMR decision which is deemed to be unlawful.

The Panel determined that the applicant should be informed of the following actions:

- During a meeting between a Board official and the Northern Ireland Retired Police Officers Association (NIRPOA) on 18 June 2012 reference was made to the HR Committee's decision.
- This was reiterated in a letter to the Chair of the NIRPOA on 27 June 2012. The letter was copied to a range of interested parties ie Disabled Police Officers Association Northern Ireland (DPOANI), Police Federation for Northern Ireland (PFNI) and the Department of Justice (DOJ). This was in an attempt to ensure all possible information sources accessed by serving and former police officers were made aware of the impact

of the 'Simpson' and 'Howarth' judgements and the Board's policy on the referral back to the DOJ for reconsideration by the Independent Medical Referee (IMR).

Question 5. Details of meetings held between NIPB and DOJ relating to processing of applications under Reg 31(2) of the IOD 2006 Regulations together with details of joint agreed policy and copy of minutes of all meetings.

Answer 5. There are no recorded details held of any meetings between NIPB and DOJ relating to processing of applications under Reg 31(2) of the IOD Regulations.

Amended answer following Internal Review on 8 July 2013.

A meeting between NIPB and DOJ, relating to applications made under Regulation 31 (2) of the PSNI (Injury Duty) Regulations 2006, was held on 25 April 2012. There were no minutes of the meeting. Nor were there any agreements made at the meeting.

There is no recorded information to indicate that any further meetings took place with the Department of Justice on this subject matter.

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:-

The Information Commissioner's Office – Northern Ireland
3rd Floor
12 Cromac Place
Gasworks
Ormeau Road
Belfast
BT7 2JB.

Telephone: - 02890 269 380
Email: - ni@ico.gsi.gov.uk

Please be advised that all Policing Board replies under Freedom of Information will 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.

INJURY ON DUTY WORKING GROUP

FIRST MEETING – 18 FEBRUARY 2013

In attendance: Sam Pollock Chief Executive, NIPB
 Peter Gilleece Director of Policy, NIPB

[REDACTED] Superintendent's Association

[REDACTED] PSNI

[REDACTED] Northern Ireland Retired Police Officers Association

[REDACTED] Disabled Police Officers Association

[REDACTED] Retired Police Offices Association

[REDACTED] Police Federation
 [REDACTED] Police Federation

Jonathan Craig Chair – Resources & Improvement Committee, NIPB
 (Left meeting after item 4 of the Agenda)

1.	Terms of Reference	Agreed
2.	<p>Sam Pollock correspondence to David Ford 8 February 2013, seeking support for temporary suspension of IOD reviews - no response yet received from Minister.</p> <p><i>Sam Pollock advised the meeting Board have sought legal advice and understand that the processing of reviews can be suspended temporarily.</i></p> <p>Sam Pollock will put proposal to suspend to Human Resources Committee on Wednesday 20 February 2013 to be approved by full Board in March. Will give Working Party space to consider issues of concern.</p> <p>In response to query from [REDACTED] Sam referred to legal advice provided by Crown Solicitor's Office and clarified position of an officer who may wish to request a review in the course of the suspension period.</p>	<p>Agreed</p> <p>Agreed</p>

3.	<p>Discussion on requirement or otherwise to retire at 60/65.</p> <p>Current position for regular police officer can receive extension of 2 years at 60 and thereafter yearly risk assessment.</p> <p>Currently 29 part-time reserve officers still working after age 65.</p> <p>Basis for conducting reviews at age 65 one of the main issues to be considered by the Group.</p>	
4.	<p>Sam Pollock referred to content of correspondence and the advice that PSNI Circular 6/2007 Annex A could no longer be relied upon.</p> <p>Former officers are getting letter called back for review at age 65 – correspondence makes reference to March 2012 correspondence and requirement to retire at age 65.</p>	
5.	<p>Sam Pollock referred to the discussion at the last meeting regarding the number of officers automatically reduced to lowest band without applying ASHE calculation.</p> <p>Sam Pollock advised all those officers (approximately 47) deserve the opportunity for a review.</p> <p>The practice goes back to 2007, since the PSNI Circular 6/2007.</p> <p>Discussion took place about how these officers may be identified. It was agreed further work would be undertaken by PSNI Pension Branch.</p> <p>Clarification that there are 2 separate issues: (i) use of ASME as opposed to auto zero rate, (ii) compulsory retirement at age 65.</p>	
6.	Agenda for next meeting	
	(i) Legal framework for retirement age for police officers.	
	(ii) Identification of police officers automatically zero settled since May 2007 (guidance introduces since 1 July 2007).	

	<p>Proposal that we consider use of ASHE as a mechanism for calculations for IOD payment.</p> <p>Use of over 65 ASHE survey figure discriminatory.</p> <p>IMR process takes too long, needs to be addressed.</p> <p>Need to identify inefficiencies in the system.</p> <p>Getting information from SMPs is very difficult also.</p>	
7.	<p>Date of Next Meeting</p> <p>Tuesday 12 March 2013 at 3pm</p>	

SAM POLLOCK
Chief Executive

Date: 8 March 2013

MEMBERS OF IOD REVIEW WORKING GROUP

Dear Colleague

INJURY ON DUTY WORKING GROUP – MEETING 12 MARCH AT 3.00PM

First of all I appreciate your attendance at our first meeting and thank you for the constructive manner in which we have initiated this important Review. I attach a note of the issues we discussed on 18 February 2013.

I would like to agree an agenda for Tuesday's meeting and would appreciate you identifying the core issues you would like to see covered from your perspective so that from the beginning we have a clear understanding of what we must cover and on Tuesday we will try to decide a plan and if possible, prioritise the key objectives to take us forward.

I appreciate time is short, but if it is possible for you to speak with myself or Peter on Monday on Tuesday morning we could try to list the issues for the meeting.

In this context, I have looked at the Review of Police Injury Award Arrangements which was undertaken in September 2010 and obviously the key issues and scope of work is embodied in the Report that was produced by the Panel. I have found it helpful in getting a background and I would like to list it as an item for discussion on Tuesday. If you require a copy of the final Report, I will ensure this is available.

If there is a specific issue which you would like me to put on the agenda for Tuesday, again could you please let me know as soon as possible. Otherwise, I look forward to seeing you on Tuesday.

Yours sincerely

A handwritten signature in cursive script that reads 'Sam'.

SAM POLLOCK
Chief Executive

Northern Ireland Policing Board
Waterside Tower, 31 Clarendon Road, Clarendon Dock, Belfast BT1 3BG
Tel: 028 9040 8500 Fax: 028 9040 8553 Email: information@nipolicingboard.org.uk
web: www.nipolicingboard.org.uk

Injury on Duty Working Group – 12 March 2013

In attendance: Sam Pollock Chief Executive, NIPB
Peter Gilleece Director of Policy, NIPB
[REDACTED] Police Administration, NIPB
[REDACTED] Disabled Police Officers Association
[REDACTED]
[REDACTED] Retired Police Offices Association
[REDACTED]
[REDACTED] Police Federation

1.	Apologies [REDACTED] [REDACTED] [REDACTED] [REDACTED]
2.	Minutes of last meeting Agreed
3.	Issues of reviews already progressed Sam Pollock asked should these continue to be progressed? Sam asked [REDACTED] for his input on the matter. [REDACTED] advised that no new review cases were being referred to the Selected Medical Practitioner (SMP) and the review cases already in progress with the SMP were being completed.
4.	IOD (age 65) Review Statistics [REDACTED] introduced paper on the statistics. [REDACTED] advised that the status showed that there was not an automatic reduction to Band 1 on review at 65. [REDACTED] raised questions about the 'stated cases' since DOJ correspondence in March 2012. Mr [REDACTED] queried the number of cases reviewed.. [REDACTED] stated that he had no objection to the principal of carrying out reviews but was concerned that review at age 65 was unlawful. Peter Gilleece referred to the Minister's letter of June 2012 and clarified the position in respect of the interpretation of the DOJ letter of March 2012. In March 2012 the Department withdrew Policing Division Circular 6/2007 as a result of the Simpson Judgement. The withdrawal of the circular was based on the reference to the inappropriate procedure for reviews at 65 (ie automatic placement at Band 1) and not on the principle of reviews at age 65. The June 2012 correspondence from the Minister, setting out the new process for review at

7.	<p>65, consistent with the Board's approach, confirming this interpretation.</p> <p>Sam Pollock read from the Minister's correspondence of December 2012 which states: 'a further letter was issued by the Department in June 2012 advising that the current guidance had been withdrawn and new guidance which met the legal requirements was provided'.</p> <p>Further to Minister's letter of June 2012 Board attempted to identify all those affected by the change in policy. The Board are unable to clarify at this current time whether all affected have been contacted.</p> <p>— raised an issue with respect to those with injuries, determined to be: 'permanent' or 'award for life'? Why are these still being reviewed?</p> <p>expressed his view that there was no requirement to retire at 60/65.</p>
6.	<p>IOD Reductions since 2007</p> <p>Need to clarify with [redacted] dates of IOD reductions and explain why there is a disparity between the figure of 27 provided by [redacted] and the figure of 42 calculated by the Board.</p> <p>6. Survey and recommendations carried out by DPOANI</p> <p>[redacted] advised that the DPOANI survey has been completed by 81% of his members. It was agreed that the working group should take time to read and digest the document and discuss it in more detail at the next meeting.</p> <p>The main recommendations provided by the DPOANI include:</p> <ul style="list-style-type: none"> • Reviews should be suspended until NIPB have computerised all records of those receiving IOD's • Reviews at age 65 are unlawful and those officers' reduced should be reinstated • Clarification on the terms "permanent" and "for life" • The length of time between reviews should be extended • Concern the SMP did not refer to GP/Specialist reports • The ASHE calculation should be no longer used
5.	<p>Review of Police Injury Award Arrangements – September 2010</p> <p>Sam Pollock led discussion through recommendations made in the September 2010 review.</p> <p>Clarification provided in relation to recommendation 2 – implemented.</p> <p>Recommendation 5 may not have been implemented because PRT unable to provide support required. Recommendation now considered irrelevant.</p> <p>Recommendation 6 – concern expressed SMP did not read additional information. Also concern that the Custom survey should be separated from assessment process</p> <p>Recommendation 8 – issue of timelines to be included with this review.</p>

	Recommendation 15 concerning a 2 person panel is with DOJ.
8.	<p>National Association of Retired Officers Injury Awards and WDP Benefits</p> <p>National Attendance Management forum guidance documentation provided to group. Group asked to treat guidance document in confidence at this stage.</p>
9.	<p>Injury Award Reviews – West Yorkshire and Staffordshire</p> <p>Correspondence from other Police Authorities discussed. West Yorkshire Police decision 3 May 2012 and the action taken by Staffordshire Police.</p> <p>Following further discussion it was agreed that clarification was required regarding whether the age limit of 65 was lawful.</p>
10.	<p>NIPB/Capita Health Solutions – minutes – September 2009</p> <p>The group discussed item 6 in the above minutes that state “every officer must be reviewed at 65 and issued band 1 not zero rated”. It is clear from the statistics provided at item 4 of the agenda that officers are not being automatically reduced to band 1 at age 65 review.</p>
11.	<p>Any Other Business</p> <p>Decision of SMP to award banding until age 60 or ‘until age 65’ must be considered in this context.</p>
12.	<p>Date of Next Meeting</p> <p>8 May 2013 – 11 to 12.30pm.</p>

[REDACTED]

To:

Subject:

IOD REVIEW WORKING GROUP - UPDATE

Dear All

I would just like to update you on my current position in relation to the IOD Review Working Group.

First of all, I had intended, or hoped, that we would have a further meeting towards the end of June, though for a number of reasons this is proving to be impractical.

In the meantime you will know that the decision of the Board to support me in suspending Reviews was to end at June. I would like you to know that having briefed the Resources Committee on 20 June, I am putting a paper to the Board on 4 July which will ask for an extension of the decision to suspend reviews, and realistically it will be to the end of September.

I would like to clarify again, not least because of an MLA question in the Assembly this past week, that the suspension of reviews in no way stops a member who believes they would like, or need, to be reviewed from making that request to the Board through the normal process. It is my intention to send out an information circular to yourselves as member associations, and also to MLAs and MPs after the Board meeting.

The main reasons I have decided to ask the Board for an extension are as follows. Staff have been undertaking a very detailed analysis of all reviews that have been carried out on persons at the age of 65; the outcome of those reviews and the issues which stem from that. It will take further time to complete this analysis, and I am currently also dealing with some individual cases. On both counts I need more time to complete the examination of these cases.

Also, you will be aware from our last meeting that there is current consultation on the 2013 Regulations. This new legislation will not be retrospective. Nonetheless it is important that any proposals that go to the Board and the Department should be considered together with the new proposals.

For these reasons I am reluctant to initiate reviews again without clear framework of policy and guidance. I have already taken advice and I believe there is a continuing need to have Senior Counsel examine some of the very significant issues of contention in terms of compliance with regulations and good process.

I hope to have a further meeting with you, but only when we are in a position to put before you concrete proposals as to a better way forward.



Sam Pollock
Chief Executive
Northern Ireland Policing Board
Direct Dial No: [REDACTED]

Date: 24 June 2013