



FREEDOM OF INFORMATION REQUEST

FOI Reference number: FOI 09/2014

Date: 25 March 2014

Request:

The information sought relates to a direction issued by an unknown person to Capita Health Solutions (The Selected Medical Practitioners) at a joint meeting of NIPB with Capita HS, held on the 21st September 2009 and is as per Paragraph 6 in the minutes of the meeting. A copy of the minutes of the meeting and also a copy of the relevant Policy Document issued from NIPB Human Resources Committee (HRC) on 13 June 2007 where it states and I quote "THAT THE SMP SHOULD NOT BE INSTRUCTED TO PLACE THE EX OFFICER IN BAND ONE," has been provided to the Chief Executive Mr Sam Pollock. I also quote the exact wording of the directive from that portion of the minutes of the meeting of NIPB/CAPITA HS held on 21st September 2009 as follows:- " EVERY OFFICER MUST BE REVIEWED AT 65 AND ISSUED BAND 1 NOT ZERO RATED. (NAME REDACTED) HAS ISSUED UPDATED GUIDANCE.

1. Identify the person who issued the directive to Capita HS. If unable or unwilling to so confirm then please indicate the position held by the person in NIPB who issued the directive.
2. Please confirm why the specific directive was issued to Capita HS (Selected Medical Practitioner) as it appears to have contravened the then NIPB policy. What authority, if any, had the person to issue the directive to Capita HS?
Did Capita HS object to the directive? As a result of the directive did the SMP, in some cases, fail to act independently and make decisions contrary to the clinical findings but in accordance with the directive?
3. Had the person who issued the directive, have either authority or delegated authority to do so from more Senior Officials in NIPB, or the HR Committee? If the person had no such authority, please confirm why the directive was issued without proper authority.
4. As a result of the directive being issued, what effect did it have in subsequent Injury duty review decisions of retired officers approaching or over 65 years, conducted by Capita HS? If necessary you should arrange to discuss direct this specific request with the Senior Management of Capita HS and quantify the impact the directive has had on ALL the review cases conducted of those retirees over 65 years by Capita HS from the date of the directive up until the termination of Capita's contract as the appointed SMP to NIPB, and similarly with the replacement SMP to Capita HS
5. At a meeting of the NIPB HR Committee held on the 13th June 2007, policy was approved by the HR Committee, that the SMP should not be instructed to place the ex Officer in Band 1 at age 65. Clearly the directive issued to Capita HS appears to be in total contravention to the then policy agreed and approved by the HR Committee. Please so confirm in your response. Was the person who issued the directive aware of the policy approved by the HR Committee

before issuing the directive to Capita HS? Why did the person fail to act in strict accordance with the HR approved policy, disregard the policy and act unilaterally by issuing the directive as per Paragraph 6 of the minutes of the joint meeting with Capita HS held on 21st September 2009?

6. When did NIPB Senior Management become aware of the directive having been issued to Capita HS? On becoming aware, what action did NIPB Senior Management take to counteract the directive? Was the directive issued to Capita HS ever cancelled? If not, why not? Has there been an internal investigation re the issuing of the directive? If so, what was its findings. Will NIPB be conducting a Disciplinary investigation or has it already done so and if so what was its findings? Has NIPB reported issue of the directive to the Police for possible criminal investigation or is it considering doing so? If not, why not?

7. What specific action, if any, has NIPB Senior Management taken to quantify the extent of injustice the directive has caused and what steps has NIPB taken in putting matters right by retrospectively restoring bandings, paying arrears and apologising to all those retired officers so affected?

8. Why has NIPB failed to take action and cancel the directive. Confirm NIPB will now do so and advise its action prominently on the NIPB website.

9. Please also provide a full copy of the updated guidance then issued by the person (name redacted) as per Paragraph 6 of the minutes of the meeting held on 21st September 2009.

10. At a meeting on 18th June 2012 at which the applicant was present, arranged by NIRPOA, two NIPB officials were present. The directive issued by NIPB to Capita HS, as referred to above, was raised and discussed. No satisfactory explanation for issue of the directive was forthcoming from the NIPB officials. Subsequently a letter from the Chair of NIRPOA was forwarded to ██████ at NIPB seeking a specific investigation into the issuing of the directive at the meeting with Capita HS. (A copy of this letter is available to NIPB, if required) Can you please confirm the investigation as requested was conducted and attach a copy of the investigation report and resultant action. If no investigation was conducted then please advise why this did not happen. Was the Interim Acting NIPB Chair advised of the investigation request made to NIPB by the NIRPOA Chair?

Answer:

The Policing Board has deemed this request to be vexatious and therefore engaged Section 14 of the Freedom of Information Act (FOIA) 2000.

Section 14 (1) of the FOIA 2000 states:

- *Section 1(1) does not oblige a public authority to comply with a request for information if the request is vexatious.'*

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: - 0303 1231114
Email: - ni@ico.org.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.



FREEDOM OF INFORMATION REQUEST

FOI Reference number: FOI 9/2014

Date: 7 November 2014

The Information Commissioner has completed a review of the Policing Board's handling of this information request following a Section 50 complaint brought by the applicant.

The Commissioner's decision is that the Policing Board was entitled to rely on section 14(1) as the request could reasonably be categorised as vexatious. The Commission does not require any steps to be taken.

The Commissioner's decision is set out in full below.

**Freedom of Information Act 2000 (FOIA)
Decision Notice**

Date: 4 November 2014

Public Authority: Northern Ireland Policing Board
Address: Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast
BT1 3BG

Complainant:
Address:



Decision (including any steps ordered)

1. The complainant requested information from the Northern Ireland Policing Board relating to its handling of Injury on Duty (IOD) awards and subsequent reviews of these awards. The Policing Board refused the request under section 14(1) of the FOIA. The Commissioner's decision is that the Policing Board was entitled to rely on section 14(1) as the request could reasonably be categorised as vexatious. The Commissioner does not require any steps to be taken.

Background

2. The Policing Board for Northern Ireland is responsible for the management and administration of the ill-health pension retirements of police officers¹, including injury on duty award (IOD) applications.

¹ <http://www.nipolicingboard.org.uk/index/our-work/pensions-and-administration.htm>

IOD claims may be submitted by serving police officers, or retrospectively by ex-police officers.²

3. The Policing Board suspended all IOD reviews at age 65 in March 2013 so that it could undertake a review of its processes and procedures in relation to IOD awards. A working group was established in February 2013 comprising representatives from the Policing Board and the Department of Justice as well as a number of stakeholder groups representing police officers. The Policing Board is currently awaiting legal advice, and it is expected that new guidance on conducting IOD reviews will be developed following receipt and consideration of this advice.
4. The complainant has a personal case with the Policing Board in relation to an IOD review, and has had a number of related complaints upheld by the Pensions Ombudsman. The Pensions Ombudsman found that the Policing Board had carried out IOD award reviews that were not in accordance with the relevant regulations. The Pensions Ombudsman ordered that the Policing Board set aside its review decisions and restore the complainant's original IOD award.
5. The Commissioner is assisted by the Pensions Ombudsman's explanation³ of the events that led to the complainant's request:

"In June 2007, NIPB [the Policing Board] provided their medical advisers (then Capita Health Solutions Limited) with a copy of the Northern Ireland Office (NIO) Policing Division Circular 6/2007, which they said had been approved by their Human Resources Committee. Amongst other things, NIPB said that one of the main points in the guidance was that all officer receiving injury benefits at Bands 2 to 4 were to be reviewed at age 65. The Committee minutes recorded that they resolved,

"that the SMP should not be instructed to place the ex officer in Band 1 at age 65 but that the current policy to place an ex officer in Band 1 should they request a review at age 65 and the review is completed."

Under the heading "Review of Injury Pensions once Officers reach Age 65", Circular 6/2007 stated,

² <http://www.nipolicingboard.org.uk/index/our-work/pensions-and-administration/content-pensions-injury-on-duty.htm>

³ <http://www.pensions-ombudsman.org.uk/determinations/docs/2013/apr/po-643.doc>

"Once a former officer receiving an injury pension reaches the age of 65 they will have reached their State Pension Age irrespective of whether they are male or female. The Board then has the discretion, in the absence of a cogent reason otherwise, to advise the SMP to place the former officer in the lowest band of Degree of Disablement. At such point the former officer would normally no longer be expected to be earning a salary in the employment market."

Request and response

6. On 23 February 2014, the complainant wrote to the Policing Board. His letter largely focused on the "directive issued to Capita HS" in 2009 in relation to reviews of IOD awards when the individual receiving the award reached the age of 65:

"I also quote the exact wording of the directive from that portion of the minutes of [a meeting between the Policing Board and Capita] held on 21st September 2009 as follows:- "EVERY OFFICER MUST BE REVIEWED AT 65 AND ISSUED BAND 1 NOT ZERO RATED. (NAME REDACTED) HAS ISSUED UPDATED GUIDANCE".
7. The complainant's request asked a number of questions including why the "directive" was issued, the authority for doing so and the impact on retired police officers. The full text of the request is included at annex 1 at the end of this notice.
8. The Policing Board responded to the complainant on 25 March 2014, advising that the request was considered vexatious within the meaning of section 14(1) of the FOIA.
9. The complainant requested an internal review on 31 March 2014, challenging the Policing Board's decision to categorise the request as vexatious.
10. Following an internal review the Policing Board responded to the complainant on 13 May 2014, advising that it had upheld its reliance on section 14(1).

Scope of the case

11. The complainant contacted the Commissioner on 5 June 2014 to complain about the way his request for information had been handled. The complainant has argued that his request is not vexatious and that the Policing Board should provide him with a full response.
12. The Commissioner is not required in this decision notice to consider whether the requested information ought to be disclosed to the complainant. The scope of this case is to determine whether the request of 23 February 2014 is vexatious within the meaning of section 14(1) of the FOIA.

Reasons for decision

Section 14(1): vexatious requests

13. Section 14(1) of the FOIA states that a public authority is not obliged to comply with a request if the request is vexatious. The term vexatious is not defined in the FOIA, but the Commissioner's published guidance⁴ explains that the term is intended to have its ordinary meaning and there is no link with legal definitions from other contexts (e.g. vexatious litigants).
14. The Upper Tribunal considered the issue of vexatious requests in the case of *Information Commissioner v Devon CC & Dransfield*.⁵ The Tribunal commented that the Commissioner's guidance that consideration of whether the request is likely to cause distress, disruption or irritation, "*without any proper or justified cause*",

"...provides a useful starting point, so long as the emphasis is on the issue of justification (or not)".
15. The Commissioner considers this to mean that it is important to consider all the circumstances of any particular request. It is possible

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http://ico.org.uk/for_organisations/guidance_index/freedom_of_information_and_environmental_information#vexatious

⁵ GIA/3037/2011

that a request which appears vexatious may not be so if it can be demonstrated that the request is justified.

The Policing Board's position

16. Firstly, the Policing Board highlighted the frequency and volume of the complainant's requests. The Policing Board indicated that, prior to the request of 23 February 2014, the complainant had submitted 25 requests for information over a period of approximately four years. The Policing Board also said that there had been over 1000 individual points of contact and pieces of written correspondence with the complainant. The Policing Board said that it had implemented a "single point of contact" in order to manage the volume of correspondence from the complainant.
17. The Commissioner understands that the complainant has been in correspondence with the Policing Board for several years. Based on the figures provided by the Policing Board the Commissioner estimates that the complainant has submitted an average of five requests per year, which in abstract does not appear excessive. The Policing Board pointed out that on 11 occasions the complainant had submitted further requests within the statutory time for response to the initial request. However in other cases a period of several months lapsed between requests. Therefore the Commissioner does not consider the number of information requests to constitute clear evidence of the current request being vexatious.
18. The Policing Board was of the view that compliance with the request of 23 February 2014 would lead to further correspondence, requests, complaints and questions. However the Commissioner notes that, despite refusing the request of 23 February 2014 as vexatious, the Policing Board continued to correspond with the complainant. On 19 May 2014 the Policing Board wrote to the complainant, providing explanatory information in relation to parts of the request of 23 February 2014.
19. The Commissioner asked the Policing Board why it had written to the complainant, given that the request of 23 February 2014 had been refused as vexatious. The Policing Board explained that it recognised the importance of dealing with the complainant's personal case and had sought to address the wider issues raised by the complainant. However the Policing Board was of the view that the complainant was continuing to revisit issues that had previously been addressed. For example, the complainant's IOD award had been fully restored as directed by the Pensions Ombudsman. In addition the Policing Board had suspended IOD award reviews, and its position would not change until it had received and considered the legal advice sought.

Therefore the Policing Board argued that the complainant's continuing requests served no practical purpose and did not assist the public's understanding of its decision making.

20. The Policing Board emphasised to the Commissioner that it was committed to corresponding with the complainant in respect of his personal case, but needed to distinguish between this, and the more general correspondence and requests submitted by the complainant.

The complainant's position

21. The complainant argued that his request is not vexatious, for the following broad reasons:

- This request is separate from previous requests and should be considered separately.
- The purpose of the request is to develop and assess the extent of any Board investigation into the directive to Capita.
- The request is not burdensome as a member of Policing Board staff should be able to produce the requested information in 2-3 hours.
- FOI requests have been necessary because the Board has failed to provide the complainant with the information he requires through other means.
- The Pensions Ombudsman has found evidence of maladministration of processing of local IOD awards in at least five cases.

Commissioner's consideration

22. The Commissioner considers that the complainant's request of 23 February 2014 clearly follows on from previous correspondence with the Policing Board. The complainant had previously raised the issue of IOD reviews and the "directive" with the Policing Board on a number of occasions. The Policing Board had provided recorded information under the FOIA, and various explanations as part of its "normal course of business". Therefore the Commissioner finds that the Policing Board was entitled to consider the request of 23 February 2014 in the context of the complainant's ongoing dispute and previous correspondence.
23. The complainant maintains that he has no personal reasons for making the request, but considers that the requested information would be of value to other individuals who had been treated unjustly

by the Policing Board in terms of IOD reviews. The complainant has argued that the Policing Board ought to be able to quantify the impact of its review system on these individuals.

24. The Commissioner acknowledges that the issue of IOD reviews at age 65 is extremely contentious, particularly in Northern Ireland, where the effects of the Troubles have resulted in larger numbers of police officers claiming IOD awards. In addition the Commissioner has acknowledged the legitimate public interest in informing the public about the Policing Board's administration of IOD awards in a separate case:

*"The Commissioner understands that there is a legitimate public interest in understanding how the Policing Board is addressing administrative and procedural issues relating to IOD awards and reviews. There is also a wider public interest in informing the public about how the Policing Board carries out its functions. The proper administration of IOD awards is a matter of public interest, not only because of the large sums of public money involved, but also because it affects a large number of individuals."*⁶

25. Although the Commissioner also acknowledges the complainant's strength of feeling and understandable concern, it is clear that the Policing Board is taking steps to rectify this situation. The Policing Board has complied with the determinations of the Pensions Ombudsman by restoring IOD awards where directed to do so. It has also suspended IOD award reviews and has sought expert legal advice on how to proceed. Therefore, the Commissioner finds that compliance with the complainant's request would not further assist the public in understanding how the Policing Board is currently dealing with the issue of IOD reviews.
26. The complainant claims his request is straightforward and would take 2-3 hours to respond. However the complainant's letter of 23 February 2014 is not a clear-cut request for recorded information under the FOIA. The request is in eight parts, and most of these parts contain requests for comment and explanation, for example:

"4. As a result of the directive being issued, what effect did it have in subsequent injury duty review decisions of retired officers approaching or over 65 years, conducted by Capita HS? If necessary you should arrange to discuss direct this specific request with the

⁶ Decision notice FS50513332 issued 19 March 2014

Senior Management of Capita HS and quantify the impact the directive has had on ALL the review cases conducted of those retirees over 65 years by Capita HS from the date of the directive up until the termination of Capita's contract as the appointed SMP to NIPB, and similarly with the replacement SMP to Capita HS."

27. In the Commissioner's opinion the above question does not constitute a valid FOIA request. The FOIA provides for access to recorded information, and requires that the applicant describe the information sought. Where a public authority does not hold recorded information, the authority is not obliged to create or generate information in order to respond to the request. The above question asks the Policing Board to liaise with a third party to provide an opinion or judgement as to the effect of a particular action, rather than to provide a copy of recorded information such as a letter or report.
28. Having had regard to the wording of the complainant's correspondence of 23 February 2014 the Commissioner is of the view that, in order to comply, the Policing Board would have to go through each part of the letter in detail to ascertain whether or not it described recorded information. The Policing Board would have to separate out those parts of the request that described recorded information, from those parts that requested comment or opinion. Given the length and nature of the correspondence the Commissioner cannot agree with the complainant that the request could be answered within 2-3 hours as it may arguably exceed this time merely to extract the requests for recorded information and ascertain the extent to which relevant recorded information is held. Therefore the Commissioner also finds that compliance with the complainant's request would cause an administrative burden that would be likely to distract the Policing Board from its normal duties.
29. The complainant alleges that he was required to submit information requests because the Policing Board failed to provide him with the information he required. The FOIA is motive-blind in that it does not require applicants to explain why they require information. However, as explained above the FOIA only provides for access to recorded information, and would not enable the complainant to obtain the extensive comment, explanation and justification that he seeks. Furthermore, if the complainant is dissatisfied with the Policing Board's response to any request he has made for recorded information he is entitled to complain to the Commissioner. The Commissioner notes that prior to the complaint which is the subject of this decision notice the complainant had submitted one complaint to the Commissioner. It appears to the Commissioner that, rather than pursue the right to access information through the FOIA the complainant has sought to continue his correspondence with the

Policing Board. The Commissioner has seen no evidence that compliance with the request of 23 February 2014 would satisfy the complainant. Rather, based on the history and volume of correspondence the Commissioner considers it likely that the complainant would continue corresponding with the Policing Board.

30. Finally, the complainant has referred the Commissioner to the fact that the Pensions Ombudsman has found in his favour against the Policing Board. The Commissioner understands that the Pensions Ombudsman has made two decisions with regard to the complainant, and in both cases found that on two occasions the Policing Board reduced the complainant's IOD benefit on the basis of reviews which had not been carried out in accordance with the relevant regulations. The complainant has not specified to the Commissioner precisely how the Pension Ombudsman's findings add weight to his argument that his request was not vexatious, and the Commissioner therefore also attaches limited weight to this argument.

The Commissioner's conclusions

31. The Commissioner is mindful of the Upper Tribunal's comments in *Dransfield*, where the Tribunal commented on the importance of considering a request in the context of previous correspondence:

"The present or future burden on the public authority may be inextricably linked with the previous course of dealings. Thus the context and history of the particular request, in terms of the previous course of dealings between the individual requester and the public authority in question, must be considered in assessing whether it is properly to be characterised as vexatious."

32. The Commissioner also considers that parallels can be drawn between this case and the case of *Betts v Information Commissioner Information Tribunal*.⁷ In *Betts*, the majority Tribunal found section 14(1) was engaged and commented:

"...the Appellant's refusal to let the matter drop and the dogged persistence with which he pursued his requests, despite disclosure by the Council and explanations as to its practices, indicated that the latter part of the request was part of an obsession. The Tribunal accepted that in early 2005 the Appellant could not be criticised for

⁷ Appeal no EA/2007/1009

seeking the information that he did. Two years on however and the public interest in openness had been outweighed by the drain on resources and diversion from necessary public functions that were a result of his repeated requests..." (para 38).

33. The Commissioner notes that the request of 23 February 2014 related to information obtained by the complainant in 2010, some four years earlier. In the intervening period the complainant has pursued his dispute via the Policing Board itself, the Pensions Ombudsman and the Department of Justice. The Pensions Ombudsman has made determinations in the complainant's case which have been accepted by the Policing Board. The Policing Board has accepted that its review procedures were flawed, and is in the process of undertaking a review which will be informed by legal advice. Consequently the Commissioner finds that the complainant's continuing correspondence on the matter has crossed the line from persistent to obsessive.
34. The Commissioner has also been assisted in his considerations by the Upper Tribunal's comments in the case of *Wise v Information Commissioner*:⁸

"Inherent in the policy behind section 14(1) is the idea of proportionality. There must be an appropriate relationship between such matters as the information sought, the purpose of the request and the time and other resources that would be needed to provide it."
35. The Commissioner is satisfied that the nature of the correspondence between the complainant and the Policing Board indicates a pattern of disproportionate persistence. The Policing Board has demonstrated that each response to the complainant has resulted in further correspondence, but that this correspondence has not assisted in resolving the complainant's dissatisfaction. The Commissioner agrees that it is likely that compliance with the complainant's request would result in further correspondence, and he has seen no evidence to suggest that compliance with the request of 23 February 2014 would satisfy the complainant or bring an end to the correspondence.
36. The Commissioner accepts that the complainant's correspondence constitutes a burden on the Policing Board in terms of resources, as well as diverting staff away from their core duties. The Commissioner is not persuaded that there is an overriding public interest which

⁸ GIA/1871/2011

means that the Policing Board should be required to expend further resources responding to continuing correspondence and requests which are not clear.

37. For the reasons set out above the Commissioner concludes that the complainant's request of 23 February 2014 was vexatious. The Commissioner is satisfied that compliance with this request, to the extent that it is a request for recorded information, would prolong correspondence and thus constitute an unfair burden on the Policing Board. Accordingly the Commissioner finds that section 14(1) is engaged, and the Policing Board was not obliged to comply with the complainant's request.

Other matters

38. Although it does not form part of this decision notice the Commissioner wishes to provide some advice for applicants. In particular the Commissioner would stress that applicants should identify the information sought as clearly as possible. Requests can be in the form of a question, rather than a request for specific documents, but the authority does not have to answer a question if this would mean creating new information or giving an opinion or judgment that is not already recorded.
39. Public authorities are obliged to provide advice and assistance to applicants, and the Commissioner would encourage applicants to contact the public authority to discuss their request if they are not sure what recorded information is held. Effective communication will assist applicants to make full use of their access rights, while public authorities will be assisted in fulfilling their obligations.
40. Further information and guidance is available on the Commissioner's website: [http://ico.org.uk/for the public/official information](http://ico.org.uk/for_the_public/official_information).

Right of appeal

41. Either party has the right to appeal against this decision notice to the First-tier Tribunal (Information Rights). Information about the appeals process may be obtained from:

First-tier Tribunal (Information Rights)
GRC & GRP Tribunals
PO Box 9300
LEICESTER
LE1 8DJ

Tel: 0300 123 4504
Fax: 0870 739 5836

Email: GRC@hmcts.gsi.gov.uk
Website: www.justice.gov.uk/tribunals/general-regulatory-chamber

42. If you wish to appeal against a decision notice, you can obtain information on how to appeal along with the relevant forms from the Tribunal website.
43. Any Notice of Appeal should be served on the Tribunal within 28 (calendar) days of the date on which this decision notice is sent.

Signed 

Alexander Ganotis
Group Manager
Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
Cheshire
SK9 5AF

Annex 1

Request to the Policing Board dated 23 February 2014

"The information sought relates to a direction issued by an unknown person to Capita Health Solutions (The Selected Medical Practitioners) at a joint meeting of NIPB with Capita HS, held on 21st September 2009 and is as per Paragraph 6 in the minutes of the meeting. A copy of the minutes of the meeting and also a copy of the relevant Policy Document issued from NIPB Human Resources Committee (HRC) on 13 June 2007 where it states and I quote "THAT THE SMP SHOULD NOT BE INSTRUCTED TO PLACE THE EX OFFICER IN BAND ONE," has been provided to the Chief Executive [name of chief executive]. I also quote the exact wording of the directive from that portion of the minutes of the meeting of NIPB/CAPITA HS held on 21st September 2009 as follows:- "EVERY OFFICER MUST BE REVIEWED AT65 AND ISSUED BAND 1 NOT ZERO RATED. (NAME REDACTED) HAS ISSUED UPDATED GUIDANCE.

Please supply information to the following. Nothing should be withheld as it is considered to be in the public interest for a full response to be supplied to each query.

1. Identify the person who issued the directive to Capita HS. If unable or unwilling to so confirm then please indicate the position held by the person in NIPB who issued the directive.
2. Please confirm why the specific directive was issued to Capita HS (Selected Medical Practitioner) as it appears to have contravened the then NIPB policy. What authority, if any, had the person to issue the directive to Capita HS? Did Capita HS object to the directive? As a result of the directive did the SMP, in some cases, fail to act independently and make decisions contrary to the clinical findings but in accordance with the directive?
3. Had the person who issued the directive, have either authority or delegated authority to do so from more Senior Officials in NIPB, or the HR Committee? If the person had no such authority, please confirm why the directive was issued without proper authority.
4. As a result of the directive being issued, what effect did it have in subsequent injury duty review decisions of retired officers approaching or over 65 years, conducted by Capita HS? If necessary you should arrange to discuss direct this specific request with the Senior Management of Capita HS and quantify the impact the directive has had on ALL the review cases conducted of those

retirees over 65 years by Capita HS from the date of the directive up until the termination of Capita's contract as the appointed SMP to NIPB, and similarly with the replacement SMP to Capita HS.

5. At a meeting of the NIPB HR Committee held on the 13th June 2007, policy was approved by the HR Committee, that the SMP should not be instructed to place the ex Officer in Band 1 at age 65. Clearly the directive issued to Capita HS appears to be in total contravention to the then policy agreed and approved by the HR Committee. Please so confirm in your response. Was the person who issued the directive aware of the policy approved by the HR Committee before issuing the directive to Capita HS? Why did the person fail to act in strict accordance with the HR approved policy, disregard the policy and act unilaterally by issuing the directive as per Paragraph 6 of the minutes of the joint meeting with Capita HS held on 21st September 2009?
6. When did NIPB Senior Management become aware of the directive having been issued to Capita HS? On becoming aware, what action did NIPB take to counteract the directive? Was the directive issued to Capita HS ever cancelled? If not, why not? Has there been an internal investigation re the issuing of the directive? If so what was its findings. Will NIPB be conducting a Disciplinary investigation or has it already done so and if so what was its findings? Has NIPB reported issue of the directive to the Police for possible criminal investigation or is it considering doing so? If not, why not?
7. What specific action, if any, has NIPB Senior Management taken to quantify the extent of injustice the directive has caused and what steps has NIPB taken in putting matters right by retrospectively restoring bandings, paying arrears and apologising to all those retired officers so affected?
8. Why has NIPB failed to take action and cancel the directive. Confirm NIPB will now do so and advise its action prominently on the NIPB website.
9. Please also provide a full copy of the updated guidance then issued by the person (name redacted) as per Paragraph 6 of the minutes of the meeting held on 21st September 2009.
10. At a meeting on 18th June 2012 at which the applicant was present, arranged by NIRPOA, two NIPB officials were present. The directive issued by NIPB to Capita HS, as referred to above, was raised and discussed. No satisfactory explanation for issue of the directive was forthcoming from the NIPB officials. Subsequently a letter from the

Chair of NIRPOA was forwarded to [named individual] at NIPB seeking a specific investigation into the issuing of the directive at the meeting with Capita HS. (A copy of this letter is available to NIPB, if required). Can you please confirm the investigation as requested was conducted and attach a copy of the investigation report and resultant action. If no investigation was conducted then please advise why this did not happen. Was the Interim Acting NIPB Chair advised of the investigation request made to NIPB by the NIRPOA Chair?