



FREEDOM OF INFORMATION REQUEST

FOI Reference number: FOI 38/2015

Date: 30 July 2015

Request:

Copy of NIPB Action Plan for full implementation of the SCOFFIELD review, as identified on NIPB Website at Agenda Item 11, NIPB Monthly Board Meeting held on 4th June 2015.

Answer

Please find enclosed a copy of the action plan which is due to be published on the Board's website shortly.

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.

SCOFFIELD REVIEW – ACTION PLAN FOR IMPLEMENTATION OF RECOMMENDATIONS

RECOMMENDATION		RESPONSIBILITY	REQUIRED ACTION	CURRENT POSITION @ 24.7.15
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 NIPB input)	No further action – review in 12-18 months	Major reform has been considered on a tripartite basis, and it has been agreed that there is insufficient data to inform a radical change of the current injury award system. The position will be reviewed when data from the new case management system is available.
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	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. The DOJ have included this issue as part of their policy review for discussion.
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	No further action – review in 12-18 months	The Department, together with the Board and the PSNI has considered the potential merit of major reform to the scheme, offset against the timescale involved. It has been agreed that radical reform is not appropriate at this time.
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	This provision is being made within the new regulations.

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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.	DOJ	Draft new regulations	The issue is being considered for inclusion in drafting of the new regulations.
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.	DOJ	Draft new regulations	Tripartite discussion is ongoing on this matter.
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.	NIPB (DOJ)	New guidance to SMP/IMRs	The Policing Board has almost finalised updated guidance for Selected Medical Practitioners. The Department of justice has agreed that this will be issued to Independent Medical Referees. A consultation with stakeholders will be undertaken shortly and a copy of the draft guidance will be published on the Board's website.

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8	<p>In the course of development of this further guidance, serious consideration should be given to abandoning the currently 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>	NIPB (DOJ)	New guidance to SMP/IMRs	<p>The Policing Board has drafted a new assessment policy. The policy proposes to remove a calculation from the assessment. We have received legal advice supporting this policy and we have written to the DOJ and PSNI. The Policing Board has undertaken a consultation and is currently equality screening the policy.</p>
9	<p>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>	NIPB (DOJ)	New guidance to SMP/IMRs	<p>The Policing Board has included clarification in its guidance to SMP/IMRs.</p>

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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 certificates and applying the concept of apportionment.	NIPB (DOJ) dependent on progress of 7, 8 & 9	New guidance to SMP/IMRs	Further clarification is included in the Board’s guidance to the SMP/IMRs.
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>A member of staff is being assigned to carrying out an analysis of the existing cases on hold since March 2013:</p> <ul style="list-style-type: none"> ➤ if the recommended date from the SMP (at last assessment) was not an automatic 5 years and has been exceeded we will send them for review in due course; ➤ if the SMP followed the 5 year policy and the due date for review has passed or is approaching (within a maximum of 2 years) we will refer back to the SMP/IMR in due course for consideration on the specified date; ➤ cases marked “permanent” will not be reviewed unless specifically requested or there is a compelling reason to do so. Recipients will be notified accordingly. <p>SMP/IMRs will be instructed to provide an opinion on the interval for review in the draft guidance.</p>

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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 <i>without</i> a reference to an SMP, where this is appropriate.	DOJ	Draft new regulations	This issue is being considered in drafting of the new regulations.
13	For the moment, there should be 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.	NIPB (DOJ) dependent on progress of 7, 8, 9, 10 & 11	New guidance	Revised Guidance and a new assessment policy have been prepared by the Policing Board and agreed with the DOJ. A consultation exercise will be undertaken in relation to both documents followed by equality screening. Cases marked "permanent" will not be reviewed 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>This has been agreed and draft guidance has been prepared. Cases marked "permanent" will not be reviewed unless specifically requested or there is a compelling reason to do so and recipients will be notified accordingly.</p> <p>A member of staff is being assigned to carrying out an analysis of existing cases to identify those which fall into this category.</p>

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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	The Policing Board has provide clarification to SMP/IMRs on when cases may be marked as “permanent - no further review” in the draft guidance.
16	Additional staff should be provided to the Police Administration Branch within the Policing Board to assist it with its present case-load relating to applications for, and reviews of, IOD awards.	NIPB	Identify available resources	This has been agreed internally and steps are being taken to identify staff and funding.
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	This is agreed. A member of staff is being assigned to carrying out an analysis of the existing cases. These cases will be captured within the new review policy, ie reviews will be abandoned.
18	Any suspended reviews which were prompted merely by the Board’s five-yearly review policy should also be abandoned.	NIPB – <i>cross reference with Rec 13.</i>	Policy decision	This is agreed. A member of staff is being assigned to carrying out an analysis of the existing cases. These cases will be captured within a new review interval policy.

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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 <i>Simpson</i> -type case, this should be looked at again, with a view to restoring the officer to the banding he was on before the review (with consequential backdating of any payment) unless and until a lawful review has been conducted.	NIPB	Reconsideration and/or potential litigation	Letters have been issued to all affected officers seeking their agreement to reconsideration under Regulation 31(2) with a view to restoring their bandings to the pre-review rate.
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