

Resources Committee
Tuesday, 26 June 2012
Joint Report of the Chief Constable and
the Chief Executive and Treasurer

9a MEDICAL RETIREMENT PROCESS AND INJURY ON DUTY PENSION REVIEW SCHEME

1. Purpose of Report

1.1 To advise members about the practical workings of the ill health retirement process and on how the delegations to the Chief Constable in this area work in practice and to update members on the Injury on Duty Pension Review Scheme.

2. Information & Analysis

Background

2.1 At the April Resources Committee, meeting members were provided with a full update on the recent legal challenges with regards to injury on duty pensions. The Injury on Duty Pension Review Scheme had been suspended since 2010 pending case law to be decided by the courts.

2.2 As a result of discussions during the meeting it was decided that those pensioners whose bandings had been reduced as a result of a statutory retirement age review would be offered the opportunity of a review of those decisions.

2.3 It was agreed that a further report would be provided to the committee to advise on the implications of the case law and on how the Injury on Duty Pension Review Scheme should be progressed in light of that.

2.4 Also in April 2012 a report was taken to the Police Authority to amend the scheme of delegation just to clarify the inclusion of the Injury on Duty Pension Review Scheme in that.

The Delegations in practice

2.5 Given the recent activity in this area it was felt that this would be timely opportunity to advise members how the delegations in this area of work operate in practice.

2.6 The Derbyshire Police Authority scheme of delegation to officers provides for the delegation to the Chief Constable of all matters relating to Police Pensions regulations.

- 2.7 In practice, the functions are then delegated by the Chief Constable to the HR department to perform on his behalf. The HR department therefore works to the Chief Constable in carrying out this function, although there may occasions when discussions will take place on matters between HR and Police Authority staff in order to progress matters effectively. The Chief Constable however remains accountable to the Police Authority for the carrying out of the delegated functions.

Management of Ill Health Protocol

- 2.8 With regards to the particular delegation which relates to police pensions regulations matters. The protocol for managing the process has been updated.

- 2.9 This document provides the Authority and the Force with an agreed framework which will operate when consideration is being given to the medical retirement of police officers (excluding ACPO ranks). In addition it clearly outlines the arrangements for delegation and how this should be applied.

- 2.10 The protocol contains the following information:

- the extent and level of delegation by the authority to officers for action to be taken in its name on the reference of permanent disablement questions and medical retirement decisions (see H1 & A20 [1987] and 71 & 21 [2006]) in cases which do not involve ACPO ranks
- the name of Force managers who will take action on the reference of permanent disablement questions and medical retirement decisions (see H1 & A20 [1987] and 71 & 21 [2006]) in cases which do not involve ACPO ranks
- the procedure for officers, Force managers and the Force Medical Advisor to adopt when reporting cases
- the qualifications of the Force Medical Advisor and the Selected Medical Practitioner
- the arrangements for each case involving referral of statutory medical questions (see H1 [1987] and 71 [2006])
- the monitoring arrangements of the referral and who acts as a point of contact for the police officer whose case is under consideration
- the reporting arrangements in relation to the disablement questions and medical retirement decisions.

- 2.11 A copy of the protocol is attached to this report at **Annex A**.

Protocol on Injury on Duty Pension Review Scheme

- 2.12 Following from the advice given in the report to the April meeting of this Committee regarding the recent legal challenges in this area, the HR department has undertaken more detailed consideration of the most appropriate way forward for the Injury on Duty Pension Review Scheme.
- 2.13 In the absence of revised Home Office Guidance which remains delayed, it is important to ensure a framework is developed for injury reviews that provides guidance to the Selected Medical Practitioner and ex-officers on how the Force intends to undertake its review programme in the future.
- 2.14 The key considerations of the Police Pension Regulations and case law have been taken into account in developing a protocol. This document outlines the approach to be taken in relation to the timing of reviews and the administrative processes associated with an injury review programme. The document also provides a framework for the Selected Medical Practitioner in relation to assessing the qualifying injury.
- 2.15 The protocol contains the following information:
- The criteria for a review in accordance with Regulation 37
 - The information required to determine whether a review is necessary in line with current case law
 - The assessment process to be undertaken by the Selected Medical Practitioner.
 - The sourcing of earnings information.
 - The administrative processes and data associated with the review programme.
- 2.16 A copy of the document is attached to this report at **Annex B**.

3. Crime and Disorder Implications

3.1 None.

4. Equal Opportunities/Diversity Considerations

4.1 Any vulnerability of direct and/or in-direct disability discrimination claims being made in relation to the use of the procedures will be managed by the use of a clear justification based on case law and the police pension regulations.

5. Legal/Personnel & Environmental Considerations

5.1 Inherent in the report.

6.1 Human Rights Considerations

6.1 Any vulnerability to claims of a breach of Human Rights will be managed by the use of a clear justification for taking proportionate action in line with agreed Force procedures and legislation.

7. Health & Safety Considerations

7.1 Health & Safety considerations form part of the day to day management of individual cases and are mitigated by multi disciplinary risk assessments involving the line manager, occupational health, HR and where appropriate Health & Safety.

8. Financial Considerations

8.1 Additional funding has been provided for the HR Budget to facilitate additional Selected Medical Practitioner resources for the injury review programme and medical retirements.

OFFICER RECOMMENDATION

That Member's note the contents of the report.

**Attachments: Annex A - Management of Ill Health Protocol
 Annex B - Protocol re Injury on Duty Awards**