

**GUIDANCE ON MEDICAL APPEALS
UNDER THE POLICE PENSIONS REGULATIONS 1987 AND THE POLICE
(INJURY BENEFIT) REGULATIONS 2006**

SECTION 6

NOTICE OF APPEAL AND SUBMISSION OF GROUNDS AND EVIDENCE

Regulation H2/31 provides for a right of appeal where a person is dissatisfied with any part of the decision of the selected medical practitioner (SMP) as set out in his or her report under regulation H1/30 (including a report for the purposes of regulations K1 or K3, or regulations 37 or 38). An appeal will be heard by a board of medical referees. Details of how the appellant is required to give notice of an appeal and to state the grounds of appeal are set out in paragraphs 32 to 34 of the PNB Guidance. The purpose of the appeal board is to determine a medical appeal in a fair, orderly and authoritative way, with both parties given the opportunity at the hearing to put their case fully and to answer each other's points. Although the hearing will be conducted without too much formality or the need for legal representation, both parties will be required to have provided prior written submissions setting out the key points of their case in order to minimise the need for adjournments giving rise to additional cost and delay.

Grounds of appeal

2. On receipt of a notice of appeal the police authority should confirm receipt and provide the appellant with a form (Appeal Form A) to use for stating the grounds. On receipt of the statement of grounds of appeal the police authority should check whether there is scope for offering the appellant an internal review of the case under regulation H3/32. Such a review may help to avoid an unnecessary appeal, but would be without prejudice to the appellant's appeal proceeding if the issue could not be resolved.

New medical evidence

3. If the appellant refers in the grounds of appeal to medical evidence unknown to the SMP, he or she should be asked to produce the relevant medical report or opinion for the SMP so that, if both parties agree, the SMP's decision may be reviewed in the light of this under regulation H3/32.

4. If an internal review under H3/32 is agreed and the SMP requires further medical details to consider the issue fully, the appellant should be asked for consent to any records which are relevant being released to the SMP and, where appropriate, being added to the OH file. (Some records, which do not relate to an appellant's service in the force, may not be suitable for the OH file, but should be seen by the SMP and, if the appeal proceeds, the appeal board.) The police authority will bear the reasonable expenses involved in obtaining those records.

Preparation of medical documents for appeal

5. Where there is no internal review of the SMP's decision under H3/32, or where such a review produces no new decision, the police authority will proceed with the dispatch of the appeal documents as soon as possible to Health Management Ltd (HML). To that end the appellant will be asked in Appeal Form A to provide in addition to the statement of grounds already supplied:

- the name of any specialist who has previously treated the appellant for the condition in

question; this is to avoid such a person being appointed to the board for the appeal hearing;

- his or her written consent (solely for use in connection with determining the appeal) for the release of the Occupational Health file, together with any other records released to the SMP, direct to the medical practitioner appointed to chair the board of Medical Referees; and
- confirmation, where consent for the release of the OH file is given, whether he or she wishes to receive a copy of any such records
- where applicable, details of the appellant's representative and authorisation, where necessary, for appeal correspondence to be sent to the representative.

6. When the police authority sends the case to HML it will send a letter to the appellant confirming this and setting out where further help and information on the process may be found. The agreed text for this letter is as an annex at the end of this section.

7. It will be for the board chair appointed by HML to arrange as necessary for the appellant's consent to release other medical records, as applicable, from:

- the appellant's General Practitioner
- any hospital or specialist which has treated the appellant, together with details of any tests and final reports.

HML will send the appellant the necessary consent form. Any reasonable costs necessarily incurred by the board in obtaining these records will be added to the board's expenses at the end of the case.

Despatch of non-medical documents to Appeal Board

8. The police authority will send to HML's designated contact point and the Home Office each of the following –

- a copy of an appeal notification (Appeal Form B) from the police authority – see paragraph 62
- a copy of the appellant's notice of appeal
- a copy of Appeal Form A
- copy of the SMP's report with the decision under H1/30 against which the appeal is made.

9. The appeal notification (Appeal Form B) should include:

- details of the appellant's full name, date of birth and current address;
- a statement whether correspondence should be sent to the appellant or to a representative, and the contact address, and telephone number if available, for the purpose of communications about the appeal. (Except in the case of a legal representative or a representative acting under power of attorney, the appellant should provide written consent to the representative acting on his or her behalf for this purpose.) The appellant or representative must notify the police authority and the appeal board of any subsequent change of contact details;
- whether the SMP wishes to attend – or an indication of when this information can be given;
- the name and status of any person or persons wishing to attend on behalf of the police authority – or an indication of when this information can be given;
- a list of all documents attached.

10. The police authority should also send a copy of these documents to the appellant. At the same time the authority should provide the appellant with a form – Appeal Form C – to use in order to compile his or her submission to the board in response to the SMP's report, and to advise the board of whom he or she wishes to bring with him to the hearing. (The form will advise the appellant of the need, to provide the board with any evidence upon which he or she intends to rely in advance of the hearing and of the time limits involved.) The police authority should also complete a form – Appeal Form D – to compile any submission to supplement the SMP's report, setting out its case to the board including any supporting evidence. Each party will be required to send their submission and any supporting documents to the board chair, copied to the other party at least 35 days before the hearing. Each party may make further written comments on the other party's submission up to 7 days before the hearing date. (Fuller details of are given in Section 7 - Preparation for Hearing). This simultaneous exchange should reduce the need for adjournments due to late submission of evidence and the consequential assignment of costs.

11. If at any stage of an appeal, an appellant or a police authority does not understand the nature of the other's case then every effort should be made to resolve the matter in correspondence between the parties. If this cannot be done then either party can write to the appeal board chair who will where necessary indicate what, if any, actions either or both parties should take in order that the appeal can be dealt with properly. Any party sending such correspondence should copy it to the other party and that other party should have the opportunity to comment before any decision is made by the appeal board chair. Both parties should be mindful of the power of the appeal board to assign the costs of any adjournment.

Despatch of medical documents

12. Where the appellant has given the necessary consent, the police authority will ensure that the OH Department send the chair of the appeal board, under cover of a medical documents form, the complete record from the force's Occupational Health file.

13. An appellant's decision to withhold written consent for disclosure of the medical information held on the OH file will be notified to the appeal board chair. The appellant should understand that withholding consent for the release of relevant medical information will, at the very least, make the board feel at a disadvantage in being able to decide the appeal and may even lead the board to conclude that the appellant is concealing information detrimental to his or her case. It is possible that gaps in the medical evidence will be filled by the detailed medical examination, and questions, of the appellant at the appeal hearing. However, unless the board can be satisfied that it has all the information from the appellant that it needs in order to make a fully informed decision, the board will dismiss the appeal.

ANNEX to Section 6 – Letter to Appellant

We have sent your appeal to the Police Medical Appeal Board under the provisions of Regulation H2 of the Police Pensions Regulations 1987*/(and*) Regulation 31 of the Police (Injury Benefit) Regulations 2006*. It will be for Health Management Ltd which runs the boards to set up a board and arrange a hearing date. They will contact you in due course with a date and venue.

Although the appeal procedure is intended to be as straightforward as possible you will need to decide whether you want help in preparing and presenting your case or whether you will do this on your own.

If you are or were a member of a staff association or you are a member of the National Association of Retired Police Officers you should contact your local branch for details of the help they may be able to give you. If you are unsure of your eligibility for assistance the local branch will be able to advise on whether they can help you.

If you are not going to be represented you should be aware of the Home Office and Police Negotiating Board medical appeal board guidance that is available on the internet. These are important documents, which outline the relevant regulations, procedures, time limits and possible costs of pursuing an appeal.

The guidance can be found on the websites as follows:

Home Office Police Medical Appeal Board Guidance

- Go to <http://police.homeoffice.gov.uk/human-resources> and select “Police Pensions”.
- On the left hand side of this page select “Ill-Health Retirement and Injury Awards”.
- On the right hand side of this page, under “see also” select “Police Medical Appeal Board Guidance”.
- The guidance is on this page in sections for easy download.

Police Negotiating Board joint circular on Managing Ill Health Retirement: Guidance on Medical Appeal Boards

- Go to <http://www.lge.gov.uk> and select “Pay” (**NB do not** select “Pensions”).
- On the left hand side of this page select “Police”.
- On the left hand side of this page select “Police Negotiating Board joint circulars”.
- Either select “2003” from the left hand side or “PNB joint circulars 2003” from the centre.
- You can then download “PNB Circular 03/19” either as a PDF or a word document.

If you do not have access to the internet you may wish to contact [Force contact] on xxxxxxxxxxxx for a copy of the guidance. This may be liable to an administrative charge.

*delete as applicable