

**Improving the management of police officers on ‘restricted duty’ (now called ‘limited duty’)**

Introduction

On 13 February 2014, the Home Secretary announced her decision to implement reform of the way in which officers on restricted duties are managed. Police Regulations 2003 (and associated determinations) will be amended accordingly, to specify the procedure for determining the circumstances in which an officer may be placed on restricted duty, the arrangements which a Chief Constable may make for officers on restricted duty, and the adjustments to the pay of such officers.

There will be new definitions of recuperative and restricted duties to include the following three categories of ‘limited duty’:

- (i) Recuperative Duty
- (ii) Management Restriction of Duty
- (iii) Adjusted Duty (to include all those who are not ‘fully deployable’)

If, after a period of time on adjusted duty (which will often follow a period of recuperative duty), during which enabling adjustments must have been fully explored, an officer is unable to return to full duties and the range of duties they are able to undertake is such that it has an impact on the operational resilience of the force, they may be retained at a reduced rate of pay that reflects this.

Policy aims

Operational resilience is the ability of a force to respond effectively and flexibly to the demands placed on it on a daily basis, whether that demand is local or national. In order to meet those demands in a way that makes the best use of resources, chief officers must be confident that they have officers that have the appropriate level of capabilities that are needed and that each officer is being deployed to the full extent of their capabilities. In order to do this, it is essential that good quality information is maintained in relation to:

- a. the level of demand/ operational requirement, including contingency for periods of exceptional demand and to meet statutory requirements under the Strategic Policing Requirement;
- b. the resources needed to meet that demand, including the number of fully deployable officers;
- c. which officers are deployable, for what range of duties, at what times.

In the past, officers who are not fully deployable for medical reasons were categorised as being on ‘restricted duty’. This definition encompassed a wide variety of officers, and it was often the case that no real distinction was drawn between those awaiting the outcome of misconduct investigations, officers who were not fully deployable on a short term basis or who were recuperating and those who needed to have long term restrictions on their deployment.

The new definitions and a new process have been introduced with a view to:

- modernising workforce management practices;
- making the process fairer for officers and staff;
- enabling forces to better determine what resources they have available at any one time to meet operational demand; and
- enabling forces to improve resilience by deploying officers in a more efficient way.

Placing an officer on adjusted duties represents an intention to retain an officer in the force in a substantive policing role that matches their individual capabilities, on the understanding that this may necessitate long term or permanent workplace adjustments.

Guidance to accompany the Regulatory changes has been designed to help forces deploy the individual capabilities of each officer to the fullest possible extent, commensurate with their role or rank, to support the overall operational resilience of the force.

The guidance and legislation does not aim to set out in full the process for recuperation, but to set some principles in order to provide context for the management of adjusted duty officers. Forces should have their own policies and procedures for the effective management of officers on recuperative duty.

#### Pay deductions

Pay deductions should be viewed as a means of encouraging managers to focus on returning officers to full duties wherever possible, and limiting the use of adjusted duties whilst still retaining valued officers in police roles in a way that is fair to police staff and to fully deployable officers.

We expect that most officers will make a full recovery and return to full duties before they reach the point at which a reduction in pay is considered. The decision to deduct an element of pay will not be automatic: there will be a right of appeal, and chief constables will have discretion over whether to apply a reduction in pay in every case.

Officers on recuperative or management restrictions will not be included in the pool of officers that may have the X-factor element of pay removed.

#### Implementation

We do not intend legislation to be entirely prescriptive about how forces should implement the process, since each individual officer will need to be assessed on a case by case basis to ensure a balance between the needs of the individual and the needs of the force. However, determinations (planned to come into effect from May) will set out the principles of the process to ensure consistent application and this will be supported by detailed guidance for forces, owned by chief constables.

Implementation and ongoing use of these measures will be monitored by the Police Advisory Board of England and Wales (PABEW), and the impact of any pay adjustments will be monitored by the Police Remuneration Review Body (PRRB) (data on the number of officers on recuperative and adjusted duty, in addition to the number subject to pay deductions will be part of the annual dataset submitted to that body by the Home Office).

## Summary of the evidence considered in demonstrating due regard to the Public Sector Equality Duty.

Throughout the development of this policy, extensive consideration was given to the potential impact on groups with protected characteristics under the Equality Act 2010. In particular, it was identified and acknowledged early on that the policy would have an impact on disabled officers since it covers all those who may not be fully deployable for medical reasons.

During negotiations on this issue in the Police Negotiating Board (PNB) and discussions at the PABEW during 2012-2013, a range of issues and evidence were considered. This was summarised in evidence submissions from the PNB Official Side and the PNB Staff Side provided to the Police Arbitration Tribunal (PAT) after a failure to agree was registered at PNB on those elements relating to pay. The PAT decision was published in January 2014, concluding that reforms should be implemented according to the Official Side's version of the proposals, which included a definition of 'adjusted duty' incorporating all officers classified as being not fully deployable. The Home Secretary agreed to adopt PAT's recommendation.

PAB considerations on these matters were summarised separately in a paper from the independent Chair of PABEW, John Randall, to the Home Secretary in July 2013. In that paper, Mr Randall noted that the position reached by PAB differed from the original Winsor recommendations, which had "*addressed restricted duty primarily through a mechanism for moving officers from restricted duty to leaving the service*". Essentially, PAB had agreed to shift the focus from a process framed by automatic pay deductions and dismissals to a process which would help forces to deploy the individual skills and capabilities of every officer to the fullest extent possible - especially where officers had been retained on the understanding that they were not able to undertake the full range of duties.

Following the PAT decision on pay adjustments, a PABEW working group was set up in May 2014 to continue discussion on the remaining Winsor recommendations and to provide advice on all aspects of restricted duties reforms. The proposed process as presented to PAT was used as a starting point and has undergone significant development since then, resulting in the production of detailed guidance for forces and officers.

### Evidence considered

- Police Negotiating Board minutes
- Police Advisory Board of England and Wales minutes
- Police Advisory Board Working Group on Limited Duty minutes
- Evidence to the Police Arbitration Tribunal from Official Side and Staff Side, including consideration of compliance with equalities legislation and case law by Home Office legal advisors.
- Written Ministerial Statement by the Home Secretary Feb 14
- Meetings with the Disabled Police Association
- Meetings with the Police Federation
- ECHR communications and findings of policy review (culminating in a decision by commissioners not to intervene)
- Meeting with Home Office Group Equality, Diversity & Inclusion Team 17/6/14
- Consideration of other public sector organisations approaches to medical capability policies.

- Comments submitted by the Police Federation and the Disabled Police Association outside of the Police Advisory Board and documents incorporating those comments into guidance and legislation.
- Consultation responses on draft legislation from representative bodies.

#### Risks identified:

- Impact on disabled and older police officers likely to fall into the category of 'adjusted duty', including those who would normally be eligible for ill-health retirement and associated additional benefits.
- Original recommendations included an element of automaticity around pay deductions which was highlighted as potentially discriminatory during discussion with PNB and PABEW partners.
- Potential indirect impact on other protected characteristics in relation to redeployment/job swaps, particularly gender.
- It was acknowledged during PNB and PABEW discussions and in subsequent work with partners that there are currently some gaps in the data for the numbers of officers on limited duty as a result of there being no consistent set of definitions or processes around limited duty - this makes impact assessment difficult and we will need to ensure that we are able to monitor any future impact once the reforms bed in.

#### Mitigating actions:

- Impact on disabled officers identified from an early stage and fully considered in development of policy documents prepared for and considered by the PNB, PAT and PABEW (see detail below). This involved adjusting the tone and wording to ensure it was fully aligned with the spirit of equalities legislation in addition to setting out protections afforded by it, how they apply to police officers and the expectation that forces will comply with it, particularly in relation to the process for making decisions about pay deductions.
- Additional work with partners (principally the Police Federation and the Disabled Police Association) on the detailed guidance outside of PABEW has also ensured that language reflects the spirit of the Equality Act 2010, promoting inclusiveness and creative deployment of disabled officers balanced with appropriate risk assessment and operational requirements.
- This led to various modifications of the proposed process which were reflected in draft legislation. Significant changes included:
  - Original Winsor recommendations modified to remove element of automaticity in pay deduction, introducing chief officer discretion and a full review process to consider pay deductions on a case by case basis.
  - Additional guidance was created, led by members of PABEW, to cover deployment of adjusted duty officers in the context of capabilities - this will help forces understand the balance between the needs of the individual and the needs of the organisation in a policing environment. The guidance will indicate that forces need to understand the capabilities that are required for each police officer post and also, for those officers who are not fully deployable, to categorise the capabilities of each individual. Forces will then be able to match individual capability to the requirements of the post (as well as being capable an officer will also need to demonstrate that they are suitable in terms of skills and competence). This will ensure that any financial decision is justifiable.
  - Detail added to cover transitional arrangements for those officers

- currently classified by forces as being on restricted duties.
- Safeguard added in respect of permanent medical unfitness or permanent disablement. Any officer being considered for ill-health retirement may not be placed on adjusted duty until the outcome of that consideration is known.
- A definition of 'fully deployable' was added to provide transparent criteria for decisions to allocate officers to adjusted duty.
- Groups already identified in other police policy documents as priority groups for re-deployment will retain priority status and are specifically covered in detailed guidance and in determinations relating to redeployment of officers.
- Examples of what is considered 'exceptional' have been included in supporting guidance in relation to the exercise of chief constables' discretion not to implement a pay deduction.
- Specific reference made to the fact that not every officer with a disability will be on adjusted duty (for example, those with dyslexia or diabetes may be able to demonstrate the full range of capabilities required for a particular role).
- PABEW members committed to jointly review the overall impact of the new process on an ongoing basis; the PRRB will monitor any equality impact on pay.
- HO will continue to collect data on numbers of officers placed on both recuperative and adjusted duties for the foreseeable future (and potentially also management restrictions). Current Annual Data Return definitions will be amended to reflect the new process so that we have more accurate records.

We would also expect forces to take account of the College of Policing's work on a new Equality Strategy for policing in implementing the reforms.

<b>SCS sign off</b>		<b>Name/Title</b>	Rachel Watson Head of Police Workforce & Capability Unit
<b>I have read the available evidence and I am satisfied that this demonstrates compliance, where relevant, with Section 149 of the Equality Act and that <u>due regard</u> has been made to the need to: eliminate unlawful discrimination; advance equality of opportunity; and foster good relations.</b>			
<b>Directorate/Unit</b>	Policing Directorate/ Police Workforce & Capability Unit	<b>Lead contact</b>	Harriet Mackinlay
<b>Date</b>	13 February 2015	<b>Review Date</b>	August 2016

**Retain the completed PES for your records and send a copy to [GEDI@homeoffice.gsi.gov.uk](mailto:GEDI@homeoffice.gsi.gov.uk) and your relevant business area Equality and Diversity Lead.**