

# **Heddlu Dyfed-Powys Police**



## **Attendance Management Policy and Procedure for Police Officers (including Sick Pay and Guidance on the Use of the Police Performance Regulations, 2008 as it affects attendance at Appendix 1)**

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# **Sickness Absence Policy and Procedure – Police Officers**

## **1. Policy Statement**

This procedure applies to all police officers up to and including the rank of Chief Superintendent. The Force wishes to secure genuine equality of opportunity in all aspects of its activities as an employer and will, therefore, seek to ensure the policy and procedure is implemented in a non-discriminatory manner.

## **2. Scope**

2.1 Through application of this procedure the Force aims to:

- Ensure a fair and consistent approach to the management of absence, which applies equally to all officers;
- Maximise attendance and achieve and maintain set target levels of attendance;
- Minimise disruption to operational services, the effect on the quality of the service and the burden placed upon officers required to cover for colleagues' absences;
- Provide support to those officers who are absent from work through ill-health to encourage a planned and structured return to work.
- Provide Occupational Health support to those officers whose pattern of attendance is affected by ill-health.

2.2 This procedure applies to the processes for recording and monitoring absences and in particular as defined below:

- Self Certificated sickness absences, particularly, short term absence which may be intermittent / persistent;
- Periods of medically certificated long term absence i.e. over 28 days.

## **3. Procedural Statement**

3.1 Dyfed-Powys Police will encourage and support the regular attendance at work of all its officers and institute fair, effective and consistent arrangements for managing absences.

3.2 The Force recognises that officers are its most valuable resource and therefore strives to be a caring employer and will encourage and develop initiatives to promote the health, fitness and well being of its employees.

3.3 The responsibility to ensure the health, safety and welfare of its officers is taken seriously. The Force will promote the health, safety and well being of all employees, including use of risk assessments to identify and manage hazards impacting on health in the work place.

- 3.4 This policy will enable the Force to ensure the public receive the level of service to which they are entitled, there is minimum disruption to operational services and a monitoring of the burden placed upon colleagues or police officers required to cover for absent colleagues.
- 3.5 In cases where all reasonable steps have been exhausted and the pattern of absence continues to be unacceptable, then formal procedures under this policy will commence, which could result either in ill-health retirement or dismissal.

#### **4. Roles and Responsibilities**

- 4.1 BCU Commanders and Heads of Department, whether police officer or police staff have the overall responsibility for the effective management of sickness absence in her / his service area. Within each service area, Line Managers are responsible for monitoring and controlling absence on a day-to-day basis. Human Resource Managers should be consulted when Line Managers require guidance or when considering formal action under the policy.
- 4.2 **All officers** of Dyfed-Powys Police have a role to play in endeavouring to minimise their own absence. Officers therefore have a responsibility to:
- Attend work unless unfit to do so.
  - Not abuse the sickness absence procedures or sick pay scheme. Any abuse will be dealt with under the Police Officer Misconduct Procedures.
  - Bring to the attention of their Line Manager as soon as they are aware of any issue which may affect their attendance at work, e.g. child care problems, family illness, carer responsibilities, or any other reasons. Staff are reminded of the special, discretionary, parental and flexible working and time off for dependants (if applicable) provisions of the Force, and counselling services, which are available to accommodate a range of circumstances which may necessitate absence from work for reasons other than sickness.
  - Report absence as defined within, and in accordance with, this procedure.
  - Submit appropriate documentation for all periods of absence in accordance with this procedure and produce evidence of sickness when required to do so. Failure to do so may result in suspension of payment of sick pay.
  - Keep in regular contact with their designated Line Manager during the duration of their absence and, subject to genuine practical constraints e.g. hospitalisation, advise of all developments relating to their absence.
  - Take reasonable care of their own health and safety and attend work unless prevented from doing so by ill-health, authorised leave, or other authorised time off.
  - Refrain from undertaking activities during sickness absence, whether paid or unpaid, that may knowingly adversely affect a return to work. Medical advice must be sought if the effect of an activity is unclear / unknown.
  - Attend for medical examination or meetings as required where a medical condition is causing concern.

- A copy of the Sickness Absence Reporting Procedure will be given to officers on appointment.

## **5. Absence Recording and Reporting Systems**

### **5.1 Line Managers must ensure that:**

- **all absence information is recorded accurately;**
- **HR Managers are kept up to date with absences;**
- **a record should be kept of visits and contact to monitor all contact with the absent employee by the Line Manager and copied to the HR Manager;**
- **return to work documentation and interviews are completed and returned to the HR Managers within 5 working days of the return to work of the member of staff.**

**Where this is not undertaken, this will be reported upon to the BCU Commander / Head of Department.**

- 5.2 HR Managers should ensure that the data on the HR system is kept up to date and current.
- 5.3 The HR Manager will monitor absence in their BCUs / Departments and apply the Bradford scoring system and other trigger mechanisms. This system should be used to flag up areas of concern for investigation. These will be brought to the attention of BCU Commanders / Heads of Departments and action agreed.
- 5.4 The HR Manager will meet monthly with the Head of HR and / or deputy and Occupational Health to discuss any areas of concern regarding sickness absence.
- 5.5 The quarterly and annual cost of sickness absence will be published within the HR Department's Management Information Pack.

## **6. Confidentiality**

- 6.1 Confidentiality will be maintained by Occupational Health Unit staff in compliance with the Access to Medical Reports Act, 1988. Line Managers and HR Managers should keep sickness data confidential and comply with Data Protection guidance in managing personal records.

## **7. Benchmarking**

- 7.1 Absence reduction must be seen by all employees as an integral part of our best value commitment to our public. It is subject to Benchmarking and achieving targets will result in efficiency savings being made for the benefit of the Service, its employees and the wider community. Targets in relation to sickness have been set and reflect national targets established by Central Government.

## 8. **Notification of Absence**

- 8.1 In order for services to be maintained, it is essential for Line Managers / Supervisors to know when an officer is unable to attend work due to illness. Failure to inform the Line Manager / Supervisor of absence may lead to the absence being considered unauthorised, resulting in loss of pay and possible disciplinary action.
- 8.2 Officers should inform their Line Manager or another Line Manager as soon as they know they will be unable to report for work due to sickness absence by telephone. The officer will notify their Line Manager / Supervisor or, in their absence a fellow Supervisor if they are unable to attend for work for any reason. Exceptionally, if the officer is unable to telephone themselves, they should arrange for someone to telephone on their behalf. They should then make contact with their Line Manager as soon as possible thereafter. If no contact is made, Line Managers will initiate contact within 24 hours of the absence. Officers **should not** report sick to colleagues.
- 8.3 The officer must provide the Line Manager / Supervisor with details of:
  - 8.3.1 The reason for the absence.
  - 8.3.2 When they anticipate returning to work.
  - 8.3.3 If it is due to an injury in work or any other injury.
  - 8.3.4 Any outstanding work which is urgent and requires completion or re-arranging.
- 8.4 An on line A316 form will be completed for each absence by persons receiving the notification. The A316 form will be treated as confidential and input into the DMS System by Line Managers. From 8<sup>th</sup> December, 2008 Managers input of sickness absence will be on line via DMS which will inform the HR / Payroll System (i.e. Trent) direct.
- 8.5 Although certified unfit for duty, an officer may attend court as a witness, subject to her / his condition and entitlement to sickness payment will not be affected. Any court warning for any member of staff absent due to sickness must be brought to the attention of their Line Manager / Supervisor in order to review attendance in liaison with the Witness Care Unit. If an officer cannot attend it will be their responsibility to provide the court with a doctor's note certifying their unfitness to attend.
- 8.6 If the absence is due to an injury sustained in the course of duty the Line Manager / Supervisor who receives details should complete an accident report form (A324) within 48 hours of the injury occurring. Staff can check on line whether a report is submitted in their name. Support and, where agreed, treatment will still be provided via the Occupational Health Unit. "Three day injuries", i.e. injuries which result in the person being unable to report for work for more than three days, including weekends, must be reported to the Health and Safety Executive via the A324.
- 8.7 Where an officer is injured off duty, Line Managers should refer the issue to their HR Manager for the advice of the Occupational Health Unit if the injury is likely to have an impact on their ability to work when they return from sickness absence.

- 8.8 If an officer is absent from work due to sickness, which either the Supervisor or the officer concerned considers may be work related, the Supervisor should contact the HR Manager who may refer them to the Occupational Health Unit.
- 8.9 If the absence continues the officer must telephone their Line Manager / Supervisor on the 4<sup>th</sup> calendar day of absence with the reason for their continued absence and the expected date of return to work. Weekends, rest days, bank holidays, extra statutory days etc. are included in calculating the 4<sup>th</sup> day. Should the 4<sup>th</sup> day of absence fall upon a non-working day the telephone call should be made on the next working day.
- 8.10 Where an officer is in work and becomes unwell during their working day and feels unable to continue their duties they will notify their Line Manager / Supervisor of the need to leave their place of work, who should record their absence on the A316 form.
- 8.11 Where an officer is fit to resume duty, they should inform their Line Manager even when resuming on a leave or rest day. This is important because the days of sickness recorded may have an impact on sick pay and efficiency action taken by the Force.

## **9. Certification**

- 9.1 Every absence has to be certified to ensure prompt and correct payment of occupational and statutory sick pay and to ensure that accurate records are maintained. Misleading or false statements will be dealt with under the Police Officer Misconduct Procedures.
- 9.2 If the absence lasts, or is expected to last, more than seven calendar days the officer must obtain a medical certificate, signed by their doctor, by no later than the 8<sup>th</sup> day of absence. The officer will contact the Line Manager / Supervisor to inform them of the reason for continued absence and the likely duration as indicated on the medical certificate. The certificate should then be sent to the Line Manager / Supervisor within 24 hours of receipt. If there is any problem in obtaining an appointment with a doctor, the Line Manager should be made aware as soon as possible. Failure to do so will result in the withdrawal of sick pay.
- 9.3 Should the sickness continue, the officer must submit to the Line Manager / Supervisor concurrent medical certificates to cover the whole period of absence. Failure to do so will result in the withdrawal of sick pay.
- 9.4 The Line Manager / Supervisor must ensure that appropriate and timely certificates are received from the officer. However it is the individual officer's responsibility to obtain the certificate from their doctor.
- 9.5 If contact is not made by the officer as required during the absence and their absence is unexplained, the manager will take all reasonable steps to contact them e.g. telephone call, home visit. Failure to comply with absence procedures may result in a suspension of payment of occupational sick pay.
- 9.6 In some circumstances an officer may feel well enough to return to work prior to the expiry of the medical certificate. In such circumstances, advice should be taken from the Occupational Health Unit.



## **10. Contact during Absence**

- 10.1 First Line Supervisors, Section Heads and Section Inspectors will also be responsible for monitoring their officer's absence and will liaise regularly with the relevant HR Manager.
- 10.2 When someone is away from work due to sickness it is important that weekly contact is maintained between the manager and officer. Keeping in touch with employees who are sick lets them know they are missed, ensures the provision of any support which they need and eases their return to work. This may be either via telephone or visit, whichever is appropriate. The Line Managers / Supervisors approach should be supportive. A home visit should be undertaken by the Line Manager or another supervisory officer known to the officer by the 21<sup>st</sup> day of absence at the latest.
- 10.3 There may be occasions where an individual does not wish contact with the Force directly. The officer must, however, agree an appropriate person to act as a liaison with the Force during their absence, e.g. relative or work colleague.
- 10.4 After 7 days of absence, a Liaison Officer will be appointed for the individual, this generally being their Line Manager. This person will submit a report on progress to the Line Manager or Second Line Manager as appropriate. If applicable this report should include an agreed Action Plan to assist recovery and a return to work. The Action Plan will also identify any need for medical or welfare support, which will be actioned by the HR Manager. Each case should be considered on its merits. In all cases referrals to Occupational Health, should be made at the latest after 28 calendar days' absence. HR Managers will discuss all cases, with the Occupational Health Unit and take appropriate action with Line Managers.
- 10.5 The Liaison Officer will contact the individual thereafter every week and at the end of the 3<sup>rd</sup> week of absence will submit an update report to the Line Manager or Senior Line Manager as appropriate, on the progression of the Action Plan in respect of the continued absence.
- 10.6 This period can be less if any matter needs to be brought to the notice of the Senior Line Manager. Similar update reports are to be submitted thereafter, by the Liaison Officer to the Line Manager or Senior Line Manager every 4 weeks in respect of the individual.
- 10.7 A confidential record of all reports and actions appertaining to that absence period will be maintained. These records must be stored in a secure area to maintain confidentiality. The HR Managers will prepare a weekly report for the Head of Department / BCU Commander providing details of those on sick leave, sickness triggers, Bradford score, dates of visits and numbers of times on sick leave, etc.
- 10.8 The HR Manager will subsequently discuss any issues with Line Managers.

## **11. Application of the Procedure**

- 11.1 It is accepted that there may be circumstances where the nature of the illness may make it preferable for the return to work interview or welfare visit to be conducted by a person of the same gender as the officer in place of the line manager. The Line Manager should consider this where appropriate.

- 11.1.1 If the absent officer wishes to be seen at work rather than visited at home such a request should be accommodated where possible.
- 11.1.2 The Force reserves the right to arrange a medical examination of an officer at any time where there is concern about their mental or physical health or sickness record, irrespective of whether they are absent from work or not.
- 11.1.3 Decisions will be taken on the basis of available evidence in cases where employees refuse to co-operate in the obtaining of medical evidence or to undergo medical examination.
- 11.1.4 Any period of sickness absence not covered by a self or medical certificate will not be paid and will be considered to be unauthorised unpaid leave.

## **12. Monitoring Sickness Absence Levels**

- 12.1 Each BCU Commander / Head of Department will ensure that absence forms are completed and sent to their HR Manager in line with paragraph 5.1.
- 12.2 The Human Resources Department will provide sickness statistics to all BCUs and Departments.
- 12.3 Each BCU Commander / Head of Department will consider this information at their senior management team meetings on at least a monthly basis.
- 12.4 Each manager must monitor sickness absence levels within their team and consult with their HR Manager when trigger points are reached and / or where there are concerns about an officer's absence levels.

## **13. Return to Work Interviews**

- 13.1 Following every period of absence, whether self or medically certified, a return to work interview will be carried out by the Line Manager / Supervisor on a one to one basis.
- 13.2 The interview should, wherever possible, take place on the day the officer returns to work. It is important that the part of A316 form indicating return to work (i.e. resumption) is completed without delay and forwarded to HR to ensure that absence records and pay adjustments can be updated.
- 13.3 The Line Manager / Supervisor should consider length of service, reason for absence, sickness record to date and the period of current sickness before deciding on the most appropriate context in which to approach the discussion. Sickness absence can be a sensitive area and no two cases are exactly alike. Previous good records should also be a consideration.
- 13.4 The return to work interview will provide the opportunity to discuss the nature of the absence and any patterns of absence, which may be occurring and to make sure the officer is fit to return to work and to consider any reasonable support to assist. The attention of staff should be drawn to the Force's Flexible Working Policies, time off for dependants and other provisions as appropriate.

- 13.5 In the case of the officer returning from long-term absence (i.e. 28 days) a return to work strategy should be agreed as appropriate with support from the Occupational Health Unit in consultation with the HR Manager.
- 13.6 Where an absence may be related to a recognised disability or be pregnancy related this should be discussed, and an appropriate way forward will be agreed to accommodate the recognised disability or pregnancy as far as is reasonably practicable. Where an absence is disability or pregnancy related, this should be recorded on the A316 and on the return to work interview form.
- 13.7 The Line Manager will ensure that all periods of absence are covered by the appropriate absence certificate in accordance with this policy.
- 13.8 The salient points of the interview will be recorded on the Return to Work Interview Form. This form will become a part of the officer's sickness record retained in a sickness file.
- 13.9 These should cover:
- Is the employee fit enough to be in work and fully recovered from illness and / or injury, and able to undertake the full range of duties;
  - To consider, if the employee is disabled, any reasonable adjustments to facilitate attendance;
  - The reason for absence and any possibility of re-occurrence;
  - To remind all employees of the need for good attendance in order to maintain service provision and of the financial effect that sickness has on the Force;
  - To certify the self-certification form in the light of the information given;
  - To consider factors such as stress, hazards, bullying / harassment, employee shortages, job design and size, etc.
- 13.10 Reports will be produced by HR Managers for BCU Commanders / Heads of Department outlining:
- Whether first line managers are contacting staff within 24 hours of the individual reporting sick and maintaining and recording contact thereafter;
  - Whether first line managers are carrying out and recording home visits by the 21<sup>st</sup> day of absence;
  - Whether line managers are carrying out and recording return to work interviews;
  - Whether individuals are notifying line managers on the first day of sickness;
  - Whether individuals are notifying a line manager on the first day of fitness to resume duty / work.

## **14. Occupational Health Referrals**

- 14.1 Referral for medical assessment can be made by the appropriate Line Manager or Human Resources Manager in consultation with the Line Manager. The Line Manager or Human Resource Manager must inform the officer that they are referring them, the reason for doing so and send them a copy of the referral. There are a number of limited occasions when staff may self refer to the unit:
- Self referral for individuals under the substance misuse policy (currently in draft);
  - Self referral for Welfare Support;
  - For officers of senior rank, e.g. Superintendent and above.
- 14.2 The Force's Occupational Health Unit may be consulted at any stage in the procedure wherever there is a concern about the health of an officer but should be consulted before action is taken.
- 14.3 The purpose of referral is to obtain a medical assessment of the officer's health in the context of his / her employment, which will aid the Force in supporting the officer and making appropriate decisions regarding their employment. Referral is not a sanction or form of quasi-disciplinary action and must not be used or presented in this way.
- 14.4 An appointment for medical assessment will be made directly with the officer by the Occupational Health Unit at the earliest opportunity. The appropriate Human Resources Manager will be informed of any appointments made, who will inform the Line Manager / Supervisor accordingly.
- 14.5 The officer has statutory rights under the Access to Medical Reports Act, 1988. Their consent is required for the Force to apply to a doctor, who has responsibility for their care, for a statement giving information about their current health situation. The Occupational Health Unit will seek consent before making any such requests for information. If the officer refuses to give their consent they will be advised that any subsequent decision taken will be based on the facts that are available.
- 14.6 **Disputes Regarding Fitness for Duty**
- 14.6.1 If, notwithstanding the issue of a medical certificate, a registered medical practitioner appointed or approved by the Police Authority has examined the officer and considers him / her to be fit for duty, the Police Authority shall, if the medical practitioner who issued the certificate of unfitness for duty agrees, within 28 days of the difference of opinion coming to their attention, arrange for a third registered medical practitioner to examine the officer and to report in writing to the other two practitioners concerned; the third registered practitioner shall be acceptable to the practitioner who issued the certificate of unfitness for duty and to the practitioner who has examined the officer on behalf of the Police Authority, except that in the event of a failure to agree, the Police Authority may appoint such third medical practitioner as it considers appropriate; and if the third registered practitioner certifies the officer to be fit for duty, or if the medical practitioner who issued the certificate of

unfitness for duty does not agree to such further examination, the officer shall no longer be entitled to be absent from duty. The officer should return to duty. If he / she does not, the matter will be treated as a conduct issue.

- 14.6.2 For the purposes of the above the Selected Medical Practitioner (SMP) will be deemed to be the "third medical practitioner".

## **15. Return to Work Strategies**

### **15.1 Recuperative Duties**

Recuperative duties are defined as temporary rehabilitative duties or working conditions approved to assist the officer's ultimate return to full duty following illness or injury by permitting return to or continued work in a less demanding or adjusted capacity. Further details of recuperative duties are covered in the Recuperative Duties Policy.

- 15.2 The Force will support individuals in their attempts to return to work as soon as they are able to resume working.

- 15.3 Any individuals incapacitated through sickness or injury may be authorised to return to work on recuperative duties provided:

- The individual indicates their desire to return to work.
- The Force Medical Adviser certifies that the individual is likely to make a full recovery and that the likelihood is that the recuperative duties will be required for a limited time, i.e. less than 6 months. This period may be reviewed and amended by the Force Medical Adviser in consultation with the Head of HR.
- The Occupational Health Adviser should be kept advised that the individual is on recuperative duties and the details of the Return to Work Strategy.

- 15.4 There will be monthly reviews of the Return to Work Strategy by the Line Manager and officer to ensure that there are no issues are left unresolved hindering a return to full duties.

- 15.5 Consultation will take place between Line Managers, HR Managers, the Force Medical Adviser / Occupational Health Adviser and the individual regarding the duties which can be undertaken. These will be reviewed on a monthly basis.

### **15.6 Restricted Duties**

- 15.6.1 Restricted duties are defined as duties or conditions approved for other than recuperative purposes and can be for fixed periods for police officers unable to perform one or more aspects of full operational duties for a specific reason, e.g. pregnancy / disability. Where possible, reasonable adjustments will be made to enable the officer to remain in their current post. Further guidance can be obtained via the Force Guidance on Recuperative and Restricted Duties.

## 15.7 **Pay During Recuperative Duties**

15.7.1 Officers returning on recuperative duties are fit for work. On some occasions Occupational Health will recommend a staged return to work, ie reduced hours per day or days per week. Full pay will be paid during this period for the first three months and reviewed in conjunction with Occupational Health. Extensions to paid periods will be decided upon by the Chief Constable on a monthly basis taking into account the individuals illness and their progress in returning to full hours. The process will be the same as for sick pay panel. If the Chief Constable considers that the officer ought to have returned to full hours the officer will be asked to consider:

- a. whether they wish to request part time working
- b. whether they wish to take annual leave to cover the hours they are not in work and then consider part time working.

15.7.2 If the Officer does not wish to choose either of these options the OCD/Head of Department will inform them in writing that from a date no less than ten working days after the Chief Constables decision that they are required to work their full hours on whatever basis the OCD/Head of Department see fit including any reasonable adjustment for disability. If they do not attend work for the whole of their working hours the OCD/Head of Department may then ask the Appropriate Authority whether there is a case for misconduct ie that the officer member of staff has contravened the provision in the Police Officer/Police Staff Code of Conduct which requires them to be fit for duty.

## 15.8 **Reasonable Adjustments**

15.8.1 A central budget will be held by HR to enable the purchase of any equipment needed for reasonable adjustment. Where reasonable adjustments are being considered, suitable independent specialist advice should be taken via the Occupational Health Unit to ensure everything reasonably practicable is done to assist the officer / member of staff concerned.

## 15.9 **Treatment**

15.9.1 In some instances the Force will fund private treatment to aid recovery. It is not a substitute for the NHS. The Police Authority has made available a limited budget within the Occupational Health Unit to fund private treatment. Where there is a clear cost benefit to the organisation, and availability of resources funding is available and the NHS waiting times are unreasonable consideration may be given to access private treatment. This is at the discretion of ACPO. Any treatment will be classified as a benefit in kind and as such is potentially taxable.

## **16. Monitoring Triggers for a Review of Absence**

- 16.1 It is important for a Manager to monitor absences in their area of responsibility. This will facilitate the early identification of problems or trends. They should ensure that every effort is made to address any areas of concern which are flagged up.
- 16.2 The procedure will be triggered by one, or a combination, of the following with effect from 1<sup>st</sup> January, 2010.
- Bradford Score of 200+;
  - 3 or more instances of absence in 12 months;
  - 4 weeks' consecutive absence.
- 16.3 When a Bradford Score of 200+ or any of the above trigger points are reached, this may generate action under the Performance Regulations. If BCU Commanders / Heads of Department in consultation with their BCU Commanders / Heads of Department feel that there are extenuating circumstances why this should not take place, then the rationale for this decision should be documented and retained on file.

**Note:** Each case must be viewed on its particular circumstances.

- Pregnancy related illness must be discounted. Where practicable, relevant advice should be taken from HR Managers on discounting any absence, which is likely to affect women only.
- In the case of a recognised disability.
- The definition of "disability" is a physical or mental impairment, which has a substantial and long-term adverse effect on their ability to carry out normal day-to-day activities. "Long term" is defined as lasting for over 11 months, likely to last for over 11 months, or likely to last for the rest of the affected person's life or likely to re-occur if in remission.
- Disability absence can be discounted except where all reasonable adjustments have been made but the employee continues to be unable to maintain a regular pattern of attendance, which is impacting on the department. In this case, advice should be sought from the Occupational Health Unit regarding alternative work, ill-health retirement.

## **17. Disability Related Leave**

- 17.1 Time off during working hours for disability related treatment e.g. rehabilitation, or assessment, will be with pay, and will not be recorded or monitored as sickness absence. Officers however should where possible, accommodate such appointments outside working hours.

## **18. Sickness Absence and Promotion / Selection for Specialist Posts**

Sickness absence records will be taken into account when assessing eligibility for promotion or appointment to specialist posts. Further details of this are contained in the Police and Guidance on the Assessment, Selection and Promotion of Police Officers.

**19. Guidance on the Use of the Police (Performance) Regulations, 2008 to Manage Poor Attendance (Police Officers and Special Constables) (also known as Unsatisfactory Performance Procedures [UPPs])**

- 19.1 The purpose of this guidance is to help managers to decide how and when to use the formal procedures in the Police (Performance) Regulations, 2008 to manage unsatisfactory attendance on the part of police officers.
- 19.2 The primary aim of the procedure is to improve attendance in the police service. It is envisaged that early intervention via management action should achieve the desired effect of improving and maintaining an officer's attendance to an acceptable level. There may, however, be cases where it will be appropriate for managers to take formal action under these procedures. Where attendance does not improve to acceptable levels or where there is no realistic prospect of return to work in a reasonable timeframe, a police officer's service may be terminated.

**20. Scope**

- 20.1 The procedures also apply to all special constables. However, given the nature of special constables as unpaid volunteers, cases where the procedures are initiated for special constables may be limited to those where the special constable either contests that his or her performance or attendance is unsatisfactory or agrees that it is unsatisfactory but expresses a desire to continue with his or her special constable duties. In other cases the special constable may choose to resign from his or her role as a special constable. In setting meeting dates and establishing panels, regard should be had to the nature of special constables as volunteers who may have other work or personal commitments.
- 20.2 The procedures do not apply to student police officers during their probationary period. The procedures governing performance and attendance issues in respect of student officers are determined locally by each force. These procedures are underpinned by Regulation 12 of the Police Regulations, 2003.

**Principles**

- 20.3 Attendance management in the police service is intended to be positive and supportive processes, with the aim being to improve performance or attendance.
- 20.4 All attendance matters should be handled in a timely manner while maintaining confidence in the process. UPPs should be applied fairly in both a non-discriminatory and non-adversarial way and matters must be handled in the strictest confidence.
- 20.5 Where the UPPs are used, line managers in the police service and others involved in the process must act in a way which an objective observer would consider reasonable. Examples include:
- being clear about the grounds for believing that a police officer's attendance is unsatisfactory;
  - ensuring that the police officer is aware of his or her right to be accompanied by a police friend at UPP meetings;
  - conducting the UPPs in accordance with the Performance Regulations and this guidance;



- ensuring that the level of any outcome imposed and any related remedial action, taking into account all the circumstances (including the nature of the working environment) is proportionate and fair in the circumstances; and,
- timeliness.

### **Management Action / Supportive Action**

- 20.6 Managers are expected to deal with unsatisfactory attendance issues in the light of their knowledge of the individual and the circumstances giving rise to these concerns.
- 20.7 There are, however, some generally well understood principles which should apply in such circumstances:
- a) the line manager must discuss any shortcoming (s) or concern (s) with the individual at the earliest possible opportunity;
  - b) the reason for dissatisfaction must be made clear to the individual as soon as possible and there must be a factual basis for discussing the issues i.e. the discussion must relate to specific absences;
  - c) line managers should seek to establish whether there are any underlying reasons for the unsatisfactory attendance;
  - d) consideration should be given as to whether there is any health or welfare issue that is or may be affecting attendance. If a police officer has or may have a disability within the scope of the Disability Discrimination Act this needs to be taken into account;
  - e) the line manager must make it clear to the police officer that he or she is available to give further advice and guidance if needed;
  - f) depending on the circumstances, it may be appropriate to indicate to the police officer that if there is no, or insufficient, improvement, then the matter will be dealt with under the Police Performance Regulations;
  - g) line managers are expected to gather relevant evidence and keep a contemporaneous note of interactions with the police officer;
  - h) challenging unsatisfactory attendance in an appropriate manner does not constitute bullying. In considering whether action constitutes bullying, forces should have regard to their local policy on bullying.
- 20.8 The principles outlined above cover the position when a line manager first becomes aware of some unsatisfactory aspect(s) of the police officer's attendance and is dealing with the issue as an integral part of normal line management responsibilities.

- 20.9 Management action taken as a result of identifying unsatisfactory attendance should be put on record (which may be the police officer's PDR). In particular, the line manager should record the nature of the attendance issue; the advice given and steps taken to address the problems identified. Placing matters on record is important to ensure continuity in circumstances where one or more members of the management chain may move on to other duties or the police officer concerned moves to new duties. It is also important to put on record when improvement has been made in his or her attendance.
- 20.10 Ideally, as a result of management action, attendance will improve and continue to an acceptable level.
- 20.11 Where there is no improvement, insufficient improvement, or the improvement is not sustained over a reasonable period of time (preferably agreed between the line manager and the police officer), it will then be appropriate to use the Police Performance Regulations.
- 20.11 The period of time agreed or determined by the line manager for the police officer concerned to improve his or her attendance prior to using the UPPs must be sufficient to provide a reasonable opportunity for the desired improvement or attendance to take place and must be time limited.
- 20.12 Throughout these procedures, the period of time in which an improvement in attendance is expected may be extended if, due to some unforeseen circumstance the police officer is unable to demonstrate whether or not the required improvement has been achieved.
- 20.13 References to managers in this guidance include both police and staff managers who will be able to use these procedures to deal with an officer's attendance unless otherwise specified.
- 20.14 Even taking into account trigger points as per the Bradford Score, there is no single formula for determining the point at which concern about a police officer's attendance should lead to formal procedures under the Performance Regulations being invoked. Each case must be considered on its merits. However the following points need to be emphasised:
- the intention of attendance management including formal action under the Police (Performance) Regulations is to improve attendance;
  - whether the police officer will be fit to carry out his / her duties on his or her return to work;
  - the duties that the police officer may be fit to undertake;
  - whether the police officer is a disabled person within the meaning of the Disability Discrimination Act;
  - whether there are any adjustments or adaptations to the work, equipment or workplace that might assist in improving attendance;
  - the likelihood of the illness recurring or of some other illness emerging;
  - any concerns raised by the police officer about their health and / or working environment;

- whether the police officer may be permanently disabled.

**21. Disability Discrimination Act 1995 (as amended) (DDA) and other statutory obligations**

- 21.1 In any unsatisfactory attendance case it is essential that managers and the force ensure compliance with their obligations under the Disability Discrimination Act.

## **The Unsatisfactory Performance Process Stages (UPPs)**

### **1. Stages**

- 1.1 There are potentially three stages to the UPPs, each of which involves a different meeting composition and possible outcomes.
- 1.2 A line manager can ask a HR professional or police officer (with experience of UPPs and who is independent of the line management chain) to attend a UPP meeting to advise him or her on the proceedings. A line manager may also obtain advice from HR prior to a UPP meeting if he or she is in any doubt about the process. The second line manager may also have an advisor (as above) in respect of the second stage meeting. For stage three meetings, an HR professional, police officer, counsel or solicitor may attend the meeting to advise the panel on the proceedings.

### **2. Improvement Notices and Action Plans**

- 2.1 At the first and second stages, if it is found that the police officer's performance or attendance is unsatisfactory, an improvement notice will be issued. Improvement notices require a police officer to improve on his or her performance or attendance and must state:
  - in what respect the police officer's performance or attendance is considered unsatisfactory;
  - the improvement in performance or attendance required to bring the police officer to an acceptable standard;
  - a "specified period" (see paragraph 7.2.3 below) within which improvement is expected to be made; and
  - the "validity period" (see paragraph 7.2.4 below) of the written improvement notice.
- 2.2 The improvement notice should also inform the police officer of the possible consequences if improvement is not made or maintained within the period specified by the appropriate manager or panel (as applicable) or within the 11 month validity period.
- 2.3 The "specified period" of an improvement notice is a period specified by the line manager (having considered any representations made by or on behalf of the police officer) within which the police officer must improve his or her performance or attendance. It is expected that the specified period for improvement would not normally exceed 3 months. However, depending on the nature and circumstances of the matter, it may be appropriate to specify a longer or shorter period for improvement (but which should not exceed 11 months).
- 2.4 The "validity period" of an improvement notice describes the period of 11 months from the date of the notice within which performance or attendance must be maintained (assuming improvement is made during the specified period). If the improvement is not maintained within this period then the next stage of the procedures may be used (see also paragraph 7.3.3).

- 2.5 Improvement notices must be accompanied by the written record of the meeting and a notice informing the police officer of his or her right to appeal against the finding, outcome or terms of the improvement notice (or all or any of these). Where applicable, that documentation must also inform the police officer of his or her right to appeal against the decision to require him or her to attend the meeting. Any such appeal can only be made on the ground that the meeting did not concern unsatisfactory performance or attendance which was similar to or connected with that referred to in the last issued improvement notice.
- 2.6 Written improvement notices must be signed and dated by the person responsible for issuing the notice e.g. in the case of an improvement notice issued following a second stage meeting by the second line manager.
- 2.7 An improvement notice would normally be followed by an action plan. An action plan describes what action(s) the police officer should take which should help him or her achieve and maintain the improvement required and would normally be formulated and agreed by both the police officer (and his or her police friend if desired) and his or her line manager. In particular the action plan should:
- identify any weaknesses which may be the cause of unsatisfactory attendance;
  - describe what steps the police officer must take to improve attendance and what support is available from the organisation e.g. training and support;
  - specify a period within which actions identified should be followed up;
- And
- set a date(s) for a staged review(s) of the police officer's attendance.

### 3. **Improvement Notice Extensions and Suspensions**

- 3.1 On the application of the police officer or otherwise (e.g. at the suggestion of his or her line manager), the appropriate authority may extend the improvement period originally specified if it considers it appropriate to do so. This provision is intended to deal with situations that were not foreseen at the time of the issue of the improvement notice. For example, where the police officer has not had sufficient time to improve due to an emergency deployment to other duties.
- 3.2 In setting an extension to the specified period, consideration should be given to any known periods of extended absence from the police officer's normal role e.g. if the police officer is going to be on long periods of pre-planned holiday leave, study leave, or is due to undergo an operation. The extension should not lead to the improvement period exceeding 11 months unless the appropriate authority is satisfied that there are exceptional circumstances making this appropriate. These circumstances should be recorded.
- 3.3 The period for improvement under an improvement notice and the validity period of an improvement notice do not include any time that the police officer is taking a career break. For example, if a police officer is issued with an improvement notice with a specified period of 3 months and then takes career leave two months into the notice, whenever the police officer returns, he or she will have one month left of the 3 month specified period and ten months of the validity period of the notice.

#### 4. **Multiple Instances of Unsatisfactory Attendance**

- 4.1 A police officer can move to a later stage of the UPPs only in relation to unsatisfactory attendance that is similar to or connected with the unsatisfactory attendance referred to in any previous written improvement notice. Where failings relate to different forms of unsatisfactory attendance it will be necessary to commence the UPPs at the first stage. If more than one UPP is commenced, then, given that the procedures will relate to different failings and will have been identified at different times, the finding and outcome of each should be without prejudice to the other(s).

#### 5. **Police Friend**

- 5.1 The officer concerned may choose:

- A police officer;
- A police staff member; or
- Where the officer concerned is a member of a police force, a person nominated by his staff association;

Who is not otherwise involved in the matter, to act as his police friend.

- 5.2 A police friend may:

- Advise the officer concerned throughout the proceedings;
- Unless the officer concerned has the right to be legally represented and chooses to be so represented, represent the officer concerned at a meeting under these Regulations;
- Make representations to the appropriate authority concerning any aspect of the proceedings; and
- Accompany the officer concerned to any meeting which the officer concerned is required to attend.

- 5.3 Where a police friend is a police officer or a police staff member, the chief officer of police of the Force of which the police friend is a member shall permit him to use a reasonable amount of duty time for the purposes referred to in paragraph 7.6.2.

#### 6. **Sources of Information**

- 6.1 Unsatisfactory performance or attendance will often be identified by the immediate line manager of the police officer as part of his or her normal management responsibilities.
- 6.2 Where the police officer currently works to a manager who has no line management responsibility for him or her, it is the responsibility of that manager to inform the police officer's line manager of any performance or attendance issues he or she has identified.
- 6.3 Line managers may be police officers or police staff members.

## **7. The First Stage Meeting**

### **7.1 Preparation and Purpose**

- 7.1.1 Having considered the use of management action (see paragraphs 20.6-20.14), where a line manager considers that a police officer's attendance is unsatisfactory and decides that the UPPs are the most appropriate way of addressing the matter(s), he or she will, as soon as reasonably practicable, notify the police officer in writing that he or she is required to attend a first stage meeting to discuss these issues and include in that notification the following details:
- details of the procedures for determining the date and time of the meeting (see paragraph 8.1.6);
  - a summary of the reasons why the line manager considers the police officer's attendance unsatisfactory;
  - the possible outcomes of a first stage, second stage and third stage meeting;
  - that a Human Resources Professional or a police officer (with experience of UPPs and who is independent from the line management chain) may attend the meeting to advise the line manager on the proceedings;
  - that if the police officer agrees, any other person specified in the notice may attend the meeting;
  - that prior to the meeting the police officer must provide the line manager with any documentation he or she intends to rely on in the meeting; and,
  - the police officer's rights i.e. his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force) and to be accompanied and represented at the meeting by a police friend.
- 7.1.2 The notice shall be accompanied by copies of related documentation relied upon by the line manager in support of the view that the police officer's performance or attendance is unsatisfactory.
- 7.1.3 Any document or other material that was not submitted in advance of the meeting may be considered at the meeting at the discretion of the line manager. The purpose of allowing this discretion is to ensure fairness to all parties. However, the presumption should be that such documents or material will not be permitted unless it can be shown that they were not previously available to be submitted in advance. Where such a document or other material is permitted to be considered, a short adjournment may be necessary to enable the line manager or the police officer, as the case may be, to read or consider the document or other material and consider its implications. The length of the adjournment will depend upon the case. A longer adjournment may be necessary if the material in question is complex.

- 7.1.4 The purpose of the meeting is to hear the evidence of the unsatisfactory attendance and to give the police officer the opportunity to put forward his or her views. It will also be an opportunity to hear of any factors that are affecting the police officer's performance or attendance and what the police officer considers can be done to address them.
- 7.1.5 The line manager will explain that there are potentially three stages to the procedures and that the maximum outcome of a stage one meeting is an improvement notice and the maximum outcome of a stage two meeting is a final improvement notice. The line manager will also explain that if the procedure is followed to the final stage, dismissal, a reduction in rank (in performance cases only) or an extended improvement notice (in exceptional circumstances) are possible outcomes.
- 7.1.6 Wherever possible, the meeting date and time should be agreed between the line manager and the police officer. However, where agreement cannot be reached the line manager may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the line manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the line manager, the meeting must be postponed to that time.
- 7.1.7 As soon as a date for the meeting is fixed, the line manager should send to the police officer a notice in writing of the date, time and place of the first stage meeting.

## 7.2 **At the First Stage Meeting**

- 7.2.1 At the first stage meeting the line manager will:
- (a) explain to the police officer the reasons why the line manager considers that the performance or attendance of the police officer is unsatisfactory;
  - (b) provide the police officer with the opportunity to make representations in response;
  - (c) provide his or her police friend (if he or she has one) with an opportunity to make representations (see role of Police Friend, paragraph 7.6);
  - (d) listen to what the police officer (and / or his or her police friend) has to say, ask questions and comment as appropriate.
- 7.2.2 The line manager may adjourn the meeting at any time if he or she considers it is appropriate to do so. An adjournment may be appropriate where information which needs to be checked by the line manager emerges during the course of the meeting or the manager decides that he or she wishes to adjourn the meeting whilst he or she makes a decision.
- 7.2.3 Where the line manager finds that the performance or attendance of the police officer has been satisfactory during the period in question, he or she



will inform the police officer that no further action will be taken.

- 7.2.4 Where having considered any representations by either the police officer and / or his or her police friend, the line manager finds that the attendance of the police officer has been unsatisfactory he or she shall:
- (a) inform the police officer in what respect (s) his or her attendance is considered unsatisfactory;
  - (b) inform him or her of the improvement that is required in his or her performance or attendance;
  - (c) inform the police officer that, if a sufficient improvement is not made within the period specified by the line manager, he or she may be required to attend a second stage meeting;
  - (d) inform the police officer that he or she will receive a written improvement notice;
  - (e) inform the police officer that if a sufficient improvement in his or her attendance is not maintained during the validity period of such notice he or she may be required to attend a second stage meeting.
- 7.2.5 It is expected that the specified period for improvement would not normally exceed 3 months. However, depending on the nature and circumstances of the matter, it may be appropriate to specify a longer or shorter period for improvement (but which should not exceed 11 months). In determining the specified period of an improvement notice, consideration should also be given to any periods of known extended absence from the police officer's normal role.

### 7.3 **Procedure following the First Stage Meeting**

- 7.3.1 As soon as reasonably practicable, following the meeting, the line manager will send the police officer a written record of the meeting and, where he or she found at the meeting that the performance or attendance of the police officer was unsatisfactory, provide the police officer with a signed and dated (by the line manager) written improvement notice. The written record supplied to the police officer should comprise a summary of the proceedings at that meeting.
- 7.3.2 The written improvement notice must set out the information conveyed to the police officer in paragraph 7.2 and be accompanied by a notice informing the police officer of his or her right to appeal, the appeal procedure, and the name of the person to whom the appeal should be sent. The notice must also inform the police officer of his or her right to submit written comments on the written record of the meeting and of the procedure for doing so.
- 7.3.3 The police officer may submit written comments on the written record not later than 7 working days after the date that he or she received it (unless an extension has been granted by the line manager following an application by the police officer). Any written comments provided by the police officer should be retained with the note. However, if the police officer has exercised his or her right to appeal against the finding or

outcome of the first stage meeting, the police officer may not submit comments on the written record.

- 7.3.4 It is the responsibility of the line manager to ensure that the written record, written improvement notice and any written comments of the police officer regarding the written record are retained together and filed in accordance with force policies.
- 7.3.5 Normally it will be appropriate to agree an action plan (see paragraph 7.2.7) setting out the actions which should assist the police officer to perform his or her duties to an acceptable standard. This may be agreed at the UPP meeting or at a later time specified by the line manager. It is expected that the police officer will co-operate with implementation of the action plan and take responsibility for his or her own improvement. Equally, the police officer's managers must ensure that any actions to support the police officer to improve are implemented.

#### 7.4 **Assessment of Attendance**

- 7.4.1 It is expected that the police officer's attendance will be actively monitored against the improvement notice and, where applicable, the action plan by the line manager throughout the specified period of the improvement notice. The line manager should discuss with the police officer any concerns that the line manager has during this period as regards his or her attendance and offer advice and guidance where appropriate.
- 7.4.2 As soon as the specified period of the improvement notice comes to an end, the line manager, in consultation with the second line manager or an HR professional (or both), should formally assess the attendance of the police officer during that period.
- 7.4.3 If the line manager considers that the police officer's attendance is satisfactory, the line manager should notify the police officer in writing of this. The notification should also inform the police officer that whilst the attendance of the police officer is now satisfactory, the improvement notice is valid for a period of 11 months from the date printed on the notice so that it is possible for the second stage of the procedures to be initiated if the attendance of the police officer falls below an acceptable level within the remaining period.
- 7.4.4 If the line manager considers that the police officer's attendance is still unsatisfactory, the line manager should notify the police officer in writing of this. This notification should also inform the police officer that he or she is required to attend a second stage meeting to consider these ongoing attendance issues.
- 7.4.5 If the police officer has improved his or her attendance to an acceptable standard within the specified improvement period, but then fails to maintain that standard within the 11 month validity period, it is open to the line manager to initiate stage two of the procedures.
- 7.4.6 In such circumstances the line manager should notify the police officer in writing of his or her view that the police officer's attendance is unsatisfactory and that as a consequence the police officer is required to attend a second stage meeting to discuss his or her failure to maintain a

satisfactory standard of performance or attendance.

- 7.4.7 In cases where the line manager, in consultation with the second line manager and / or the HR professional, decides that a second stage meeting is the appropriate course of action, the senior manager should direct that a second stage meeting be arranged.

## 7.5 **First Stage Appeals**

- 7.5.1 A police officer has a right of appeal against the finding and the outcome imposed at stage one of the UPPs. However, any finding and outcome of this first stage meeting will continue to apply up to the date that the appeal is determined. Therefore, where the police officer contests the finding or outcome, he or she should continue to follow the terms of the improvement notice and any accompanying action plan pending the determination of the appeal.
- 7.5.2 Any appeal should be made in writing to the second line manager within 7 working days of the receipt of the improvement notice and written record of the meeting (unless the period is extended by the second line manager following an application by the police officer). The notice of appeal must clearly set out the grounds and evidence for the appeal.

## 7.6 **Appeal Grounds**

- 7.6.1 The grounds for appeal are:
- that the finding of unsatisfactory performance / attendance is unreasonable;
  - that any of the terms of the improvement notice are unreasonable;
  - that there is critical new evidence that could not reasonably have been considered at the first stage meeting;
  - that there was a serious breach of the procedures set out in the Police (Performance) Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance / attendance or the terms of the improvement notice.
- 7.6.2 On the basis of the above grounds of appeal, the police officer may appeal against the finding of unsatisfactory attendance or the terms of the written improvement notice, those being:
- the respect in which the police officer's performance or attendance is considered unsatisfactory;
  - the improvement which is required of the police officer; and / or
  - the length of the period specified for improvement by the line manager at the first stage meeting.
- 7.6.3 The police officer has the right to be accompanied and represented by a police friend at the first stage appeal meeting.

- 7.6.4 Wherever possible, the meeting date and time should be agreed between the second line manager and the police officer. However, where agreement cannot be reached the second line manager may specify a time and date without agreement. If the police officer or his or her police friend is police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the second line manager, the meeting must be postponed to that time.
- 7.6.5 As soon as a date for the meeting is fixed, the second line manager should send to the police officer a notice in writing of the date, time and place of the first stage appeal meeting.

## **7.7 At the First Stage Appeal Meeting**

- 7.7.1 At this meeting the second line manager will:
- provide the police officer with the opportunity to make representations;
  - provide his or her police friend (if he or she has one) with an opportunity to make representations (see role of Police Friend paragraph 7.6;
- 7.7.2 Having considered any representations by either the police officer and / or his or her police friend, the second line manager may:
- confirm or reverse the finding of unsatisfactory attendance;
  - endorse or vary the terms of the improvement notice.
- 7.7.3 The second line manager may deal with the police officer in any manner in which the line manager could have dealt with him or her at the first stage meeting.
- 7.7.4 Within 3 working days of the conclusion of the appeal meeting, the police officer will be given written notice of the second line manager's decision. If the second line manager is in a position to send a written summary of the reasons for that decision, then this may also accompany the written notice of the decision.
- 7.7.5 However, where the second line manager sends only the written notice of the decision to the police officer, as soon as reasonably practicable after the conclusion of the meeting, he or she will send a written summary of reasons for that decision.
- 7.7.6 Any decision made that changes the finding or outcome of the first stage meeting will take effect by way of substitution for the finding or terms appealed against and as from the date of the first stage meeting.

## **8. The Second Stage**

### **8.1 Preparation and Purpose**

- 8.1.1 Initiation of the second stage must be for matters similar to or connected with the unsatisfactory attendance referred to in the improvement notice issued at the first stage.
- 8.1.2 Where, at the end of the period specified in an improvement notice, the line manager finds that the police officer's attendance has not improved to an acceptable standard during that period or that the police officer has not maintained an acceptable level of attendance during the validity period of the notice, then the second line manager will notify the police officer in writing that he or she is required to attend a second stage meeting. The notification will state:
- the details of the procedures for determining the date and time of the meeting (see paragraph 9.1.8);
  - a summary of the reasons why the line manager considers the police officer's attendance unsatisfactory;
  - the possible outcomes of a second stage and third stage meeting;
  - that the line manager may attend the meeting;
  - that a human resources professional or a police officer (with experience of UPPs and who is independent from the line management chain) may attend the meeting to advise the second line manager on the proceedings;
  - that if the police officer agrees, any other person specified in the notice may attend the meeting;
  - that prior to the meeting the police officer must provide the second line manager with any documentation he or she intends to rely on in the meeting; and
  - the police officer's rights i.e. his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force) and to be accompanied and represented at the meeting by a police friend.
- 8.1.3 The notice must also include copies of related documentation relied upon by the line manager in support of the view that the police officer's attendance continues to be unsatisfactory.
- 8.1.4 In advance of the meeting, the police officer shall provide the second line manager with any documents on which he or she intends to rely on in support of his or her case.
- 8.1.5 Any document or other material that was not submitted in advance of the meeting may be considered at the meeting at the discretion of the second line manager. The purpose of allowing this discretion is to ensure fairness to all parties. However the presumption should be that such documents or

other material will not be permitted unless it can be shown that they were not previously available to be submitted in advance. Where such a document or other material is permitted to be considered, a short adjournment may be necessary to enable the second line manager or the police officer, as the case may be, to read or consider the document or other material and consider its implications. The length of the adjournment will depend upon the case. A longer adjournment may be necessary if the material in question is complex.

- 8.1.6 The purpose of the meeting is to hear the evidence of the unsatisfactory attendance and to give the police officer the opportunity to put forward his or her views. It will also be an opportunity to hear of any factors that are continuing to affect the police officer's attendance and what the police officer considers can be done to address them.
- 8.1.7 The second line manager will explain that there is potentially a further stage to the procedures and that the maximum outcome of stage two is a final improvement notice. The second line manager will also explain that if the procedure is followed to the final stage, dismissal, a reduction in rank (in performance cases only) or an extended improvement notice (in exceptional circumstances) are possible outcomes.
- 8.1.8 Wherever possible, the meeting date and time should be agreed between the second line manager and the police officer. However, where agreement cannot be reached the second line manager may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the second line manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the second line manager, the meeting must be postponed to that time.
- 8.1.9 As soon as a date for the meeting is fixed, the second line manager should send to the police officer a notice in writing of the date, time and place of the second stage meeting.

## 8.2 **At the Second Stage Meeting**

- 8.2.1 At the second stage meeting the second line manager will:
  - explain to the police officer the reasons why he or she has been required to attend a second stage meeting;
  - provide the police officer with the opportunity to make representations in response;
  - provide the police officer's police friend (if he or she has one) with an opportunity to make representations (see Role of Police Friend);
  - listen to what the police officer (and / or his or her police friend) has to say, ask questions and comment as appropriate.
- 8.2.2 The second line manager may adjourn the meeting at any time if he or she considers it is appropriate to do so. An adjournment may be appropriate where information which needs to be checked by the line manager

emerges during the course of the meeting or the manager decides that he or she wishes to adjourn the meeting whilst he or she makes a decision.

8.2.3 Where the line manager finds that the attendance of the police officer has been satisfactory during the period in question, he or she will inform the police officer that no further action will be taken.

8.2.4 Where, having considered any representations by either the police officer and / or his or her police friend, the second line manager finds that the attendance of the police officer has been unsatisfactory (either during the period specified in the written improvement notice or during the validity period of the written improvement notice) he or she shall:

- inform the police officer in what respect (s) his or her attendance is considered unsatisfactory;
- inform the police officer of the improvement that is required in his or her attendance;
- inform the police officer that, if a sufficient improvement is not made within the period specified by the second line manager, he or she may be required to attend a third stage meeting.
- inform the police officer that he or she will receive a final written improvement notice; and
- inform the police officer that if a sufficient improvement in his or her attendance is not maintained during the validity period of such notice, he or she may be required to attend a third stage meeting.

8.2.5 It is expected that the specified period for improvement would not normally exceed 3 months. However, depending on the nature and circumstances of the matter, it may be appropriate to specify a longer or shorter period for improvement (but which should not exceed 11 months). In determining the specified period of an improvement notice, consideration should also be given to any periods of known extended absence from the police officer's normal role.

### 8.3 **Procedure following the Second Stage Meeting**

8.3.1 As soon as reasonably practicable following the meeting, the second line manager will send the police officer a written record of the meeting and, where he or she found at the meeting that the attendance of the police officer was unsatisfactory, provide the police officer with a dated and signed (by the second line manager) final written improvement notice. The written record supplied to the police officer should comprise a summary of the proceedings at that meeting.

8.3.2 The written improvement notice must set out the information conveyed to the police officer in paragraphs 9.2.4 – 9.2.5 and be accompanied by a notice informing the police officer of his or her right to appeal, the appeal procedure and the name of the person to whom the appeal should be sent. The notice must also inform the police officer of his or her right to submit written comments on the written record of the meeting and of the procedure for doing so.

- 8.3.3 The police officer may submit written comments on the written record not later than 7 working days after the date that he or she received it (unless an extension has been granted by the second line manager following an application by the police officer). Any written comments provided by the police officer should be retained with the note. However, if the police officer has exercised his or her right to appeal against the finding or outcome of the second stage meeting, the police officer may not submit comments on the written record.
- 8.3.4 It is the responsibility of the second line manager to ensure that the written record, written improvement notice and any written comments of the police officer on the written record are retained together and filed in accordance with force policies.
- 8.3.5 Normally it will also be appropriate to agree an action plan (see paragraph 7.2.7) setting out the actions which may assist the police officer to perform his or her duties to an acceptable standard e.g. attending training courses or a recommendation that the police officer seek welfare or medical advice. It is expected that the police officer will co-operate with implementation of the action plan and take responsibility for his or her own development or improvement. Equally, the police officer's managers must ensure that any actions to support the police officer to improve are implemented.

#### 8.4 **Assessment of Attendance**

- 8.4.1 It is expected that the police officer's attendance will be actively monitored against the improvement notice and, where applicable, the action plan by the line manager throughout the specified period of the final improvement notice. The line manager should discuss with the police officer any concerns that the line manager has during this period as regards his or her performance or attendance and offer advice and guidance where appropriate.
- 8.4.2 As soon as the specified period of the improvement notice comes to an end, the line manager, in consultation with the second line manager or an HR professional (or both), should formally assess the attendance of the police officer during that period.
- 8.4.3 If the line manager considers that the police officer's attendance is satisfactory, the line manager should notify the police officer in writing of this. The notification should also inform the police officer that whilst the attendance of the police officer is now satisfactory, the final improvement notice is valid for a period of 11 months from the date printed on the notice so that it is possible for stage three of the procedures to be initiated if the attendance of the police officer falls below an acceptable level within the remaining period.
- 8.4.4 If the line manager considers that the police officer's attendance is still unsatisfactory, the line manager should notify the police officer in writing of this. The notification should also inform the police officer that he or she is required to attend a third stage meeting to consider these ongoing attendance issues.



- 8.4.5 If the police officer has improved his or her attendance to an acceptable standard within the specified improvement period, but then fails to maintain that standard within the 11 month validity period, it is open to the line manager to initiate stage three of the procedures.
- 8.4.6 In such circumstances the line manager should notify the police officer in writing of his or her view that the police officer's attendance is unsatisfactory and that as a consequence the police officer is required to attend a third stage meeting to discuss this failure to maintain a satisfactory standard of attendance.
- 8.4.7 In cases where the line manager, in consultation with the second line manager and / or the HR professional, decides that a third stage meeting is the appropriate course of action, the senior manager shall direct that a third stage meeting be arranged.

## 8.5 **Second Stage Appeals**

- 8.5.1 A police officer has a right of appeal against the finding and the outcome imposed at stage two of the UPPs and against the decision to require him to attend the meeting. However, any finding and outcome of this second stage meeting will continue to apply up to the date that the appeal is determined. Therefore, where the police officer contests the finding or outcome, he or she should continue to follow the terms of the improvement notice and any accompanying action plan pending the determination of the appeal.
- 8.5.2 Any appeal should be made in writing to the senior manager within 7 working days of the receipt of the improvement notice (unless the period is extended by the senior manager following an application by the police officer). The notice of appeal must clearly set out the grounds and evidence for the appeal.

## 8.6 **Appeal Grounds**

- 8.6.1 The grounds for appeal are as follows:
- that the finding of unsatisfactory attendance is unreasonable;
  - that any of the terms of the improvement notice are unreasonable;
  - that there is critical new evidence that could not reasonably have been considered at the second stage meeting;
  - that there was a serious breach of the procedures set out in the Police (Performance) Regulations or other unfairness which could have materially affected the finding of unsatisfactory attendance or the terms of the written improvement notice;
  - that the police officer should not have been required to attend the second stage meeting as the meeting did not concern unsatisfactory attendance which was similar to or connected with the unsatisfactory attendance referred to in the written improvement notice that followed the first stage meeting.

- 8.6.2 On the basis of the above grounds of appeal, the police officer may appeal against the finding of unsatisfactory attendance or the terms of the written improvement notice, those being:
- the respect in which the police officer's attendance is considered unsatisfactory;
  - the improvement which is required of the police officer;
  - the length of the period specified for improvement by the second line manager at the second stage meeting.
- 8.6.3 The police officer has the right to be accompanied and represented by a police friend at the second stage appeal meeting.
- 8.6.4 Wherever possible, the meeting date and time should be agreed between the senior manager and the police officer. However, where agreement cannot be reached the senior manager may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the senior manager, the meeting must be postponed to that time.
- 8.6.5 As soon as a date for the meeting is fixed, the senior manager should send to the police officer a notice in writing of the date, time and place of the second stage appeal meeting.

## 8.7 **At the Second Stage Appeal Meeting**

- 8.7.1 At this meeting the senior manager will:
- provide the police officer with the opportunity to make representations;
  - provide his or her police friend (if he or she has one) with an opportunity to make representations (See Role of Police Friend).
- 8.7.2 Having considered any representations by either the police officer and / or his or her police friend, the senior manager may:
- confirm or reverse the finding of unsatisfactory attendance;
  - endorse or vary the terms of the improvement notice.
- 8.7.3 The senior manager may deal with the police officer in any manner in which the second line manager could have dealt with him or her at the second stage meeting.
- 8.7.4 Within 3 working days of the conclusion of the appeal meeting, the police officer will be given written notice of the senior manager's decision. If the senior manager is in a position to send a written summary of the reasons for that decision, then this may also accompany the written notice of the

decision.

- 8.7.5 However, where the senior manager sends only the written notice of the decision to the police officer, as soon as reasonably practicable after the conclusion of the meeting, he or she will send a written summary of reasons for that decision.
- 8.7.6 Any decision made that changes the finding or outcome of the second stage meeting will take effect by way of substitution for the finding or terms appealed against and as from the date of the second stage meeting.

## **9. The Third Stage**

### **9.1 Preparation and Purpose**

- 9.1.1 Initiation of the third stage must be for matters similar to or connected with the unsatisfactory attendance referred to in the final improvement notice.
- 9.1.2 Where, at the end of the period specified in an improvement notice, the line manager finds that the police officer's attendance has not improved to an acceptable standard during that period or that the police officer has not maintained an acceptable level of attendance during the validity period of the notice, then the senior manager must, as soon as reasonably practicable, notify the police officer in writing that he or she is required to attend a third stage meeting to discuss these issues and include in that notification the following details:
- that the meeting will be with a panel appointed by the appropriate authority;
  - the procedures for determining the date and time of the meeting (see paragraph 10.5);
  - a summary of the reasons why the police officer's attendance is considered unsatisfactory;
  - the possible outcomes of a third stage meeting (see paragraph 10.11.7)
  - that an HR professional or a police officer (with experience of UPPs and who is independent from the line management chain) may attend to advise the panel on the proceedings;
  - that counsel or a solicitor may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting;
  - where the police officer is a special constable, inform him or her that a member of the special constabulary will attend the meeting to advise the panel (see paragraphs 10.4.1 to 10.4.4);
  - that if the police officer agrees, any other person specified in the notice may attend e.g. a person attending for development reasons; and

- the police officer's rights i.e. his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force) and to be accompanied and represented at the meeting by a police friend.
- 9.1.3 The notice must also include copies of related documentation relied upon by the line manager in support of the view that the police officer's attendance continues to be unsatisfactory.
- 9.1.4 The notice does not at this stage need to give the names of the panel members as these may not be known at the time of issue. However, as soon as the panel has been appointed by the appropriate authority, the appropriate authority should notify the police officer of the members' names (for details of panel membership and procedures, see paragraphs 10.2.1 to 3.1).
- 9.1.5 The purpose of the meeting is for the panel to hear the evidence of the unsatisfactory attendance and to give the police officer the opportunity to put forward his or her views. It will also be an opportunity to hear of any factors that are continuing to affect the police officer's attendance and what the police officer considers can be done to address them.
- 9.1.6 Where the police officer has reached stage three following stages one and two (i.e. not a gross incompetence meeting), the possible outcomes of this stage three meeting are as follows:
  - redeployment;
  - dismissal (with a minimum of 28 days' notice); or
  - extension of a final improvement notice (in exceptional circumstances)
- 9.1.7 Where the panel grants an extension to the final improvement notice, they will specify a new period within which improvement to attendance must be made. The 11 month validity period of the extended final improvement notice will apply in full from the date of extension.

## 9.2 **Panel Membership and Procedure**

- 9.2.1 The panel will comprise a panel chair and two other members and be appointed by the appropriate authority of the force in which the police officer is a police officer. At least one of the three panel members must be a police officer and one should be an HR professional. Membership will be as follows:
- 9.2.2 **1st panel member (chair):** Senior police officer; or Senior HR professional (see paragraph 10.2.6).
- 9.2.3 **2nd panel member:** Police officer of at least the rank of superintendent; or HR professional who in the opinion of the appropriate authority is at least equivalent to that rank.
- 9.2.4 **3rd panel member:** Police officer of at least the rank of superintendent; or police staff member who in the opinion of the appropriate authority is at

least equivalent to that rank.

- 9.2.5 None of the panel members should be junior in rank to the police officer concerned i.e. they must be of at least the same rank or equivalent (in the opinion of the appropriate authority).
- 9.2.6 For the purposes of chairing a third stage meeting, the Police (Performance) Regulations 2008 define a "senior HR professional" as:
- "...a human resources professional who, in the opinion of the appropriate authority, has sufficient seniority, skills and experience to be a panel chair".*
- 9.2.7 In this context 'sufficient seniority' should be interpreted to mean that the panel chair is senior in rank (or, in the opinion of the appropriate authority, is senior in rank) to the police officer concerned.
- 9.2.8 The appropriate authority may appoint police officers or police staff managers from another police force to be members of a panel.
- 9.2.9 No panel member should be an interested party e.g. someone who is related to the police officer or has had prior involvement in the case.
- 9.2.10 As soon as the appropriate authority has appointed a third stage panel, it should arrange for copies of all relevant documentation to be sent to those members. In particular, any document:
- that was available to the line manager in relation to any first stage meeting;
  - which was available to the second line manager in relation to any second stage meeting;
  - which was prepared or submitted in advance of those meetings;
  - which was prepared or submitted following those meetings i.e. improvement notices, action plans and meeting notes;
  - relating to any appeal.
- 9.2.11 As soon as the appropriate authority has appointed a third stage panel, it must send the police officer written confirmation of the names of panel members.

### 9.3 **Objection to Panel Members**

- 9.3.1 The police officer has the right to object to any panel members appointed by the appropriate authority and any such objection must be made in writing to the appropriate authority no later than 3 working days after receipt of the notification of the names of the panel members. The police officer must include the ground of his or her objection to a panel member (s) in that submission.
- 9.3.2 The appropriate authority must inform the police officer in writing whether it upholds or rejects an objection to a panel member.

- 9.3.3 If the appropriate authority upholds the objection, a new panel member will be appointed as a replacement. As soon as practicable after any such appointment, the police officer will be informed in writing of the name of the new panel member.
- 9.3.4 The police officer may object to the newly appointed panel member in the same way as that described in paragraph 10.3.1 whereupon the appropriate authority must follow the procedure described above.

#### 9.4 **Special Constables and Third Stage Meetings**

- 9.4.1 In cases where the police officer is a special constable, as indicated above, the force will appoint a member of the special constabulary to attend the meeting to advise the panel. This is for the purpose of fairness so that any significant differences between the role of a regular and special police constable and which may have a bearing on the police officer's performance or attendance can be taken into account.
- 9.4.2 The special constable advising the panel must have sufficient seniority and experience of the special constabulary to be able to advise the panel. The special constable advising the panel can be a police officer serving in a different force.
- 9.4.3 The special constable advisor will not form part of the panel and will not have a role in determining whether or not the police officer's performance or attendance is unsatisfactory.
- 9.4.4 In arranging a third stage meeting involving special constables, due consideration should be given to the fact that special constables are unpaid volunteers and may therefore have full time employment or other personal commitments.

#### 9.5 **Meeting Dates and Timeframes**

- 9.5.1 Subject to paragraph 10.5.2, any third stage meeting should take place no later than 30 working days after the date that the notification described in paragraphs 10.1.2 to 10.1.4 has been sent to the police officer. Within that timeframe, wherever possible, the meeting date and time should be agreed between the panel chair and the police officer. However, where agreement cannot be reached the panel chair may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the panel chair, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the panel chair, the meeting must be postponed to that time.
- 9.5.2 If the panel chair considers it to be in the interests of fairness to do so, he or she may extend the 30 working day period within which the meeting should take place and the reasons for any such extension must be notified in writing to both the appropriate authority and the police officer.
- 9.5.3 As soon as a date for the meeting is fixed, the panel chair should send to the police officer a notice in writing of the date, time and place of the third

stage meeting.

## 9.6 **Procedure on Receipt of Notice of Third Stage Meeting**

- 9.6.1 Within 13 working days of the date on which a notice (as set out in paragraphs 10.1.2 and 10.1.4) has been sent to the police officer (unless this period is extended by the panel chair for exceptional circumstances), the police officer must provide to the appropriate authority:
- a) a written notice of whether or not he or she accepts that his or her attendance has been unsatisfactory;
  - b) where he or she accepts that his or her attendance has been unsatisfactory;
  - c) where the police officer does not accept that his or her attendance has been unsatisfactory or where he or she disputes part of the matters referred to in the notice that he or she has received:
    - the matters he or she disputes and his or her account of the relevant events; and
    - any arguments on points of law he or she wishes to be considered by the panel.
- 9.6.2 The police officer shall provide the appropriate authority and the panel with a copy of any document he or she intends to rely on at the third stage meeting.

## 9.7 **Witnesses and Evidence**

- 9.7.1 The police officer may propose witnesses to attend the third stage meeting in support of his or her case. The details of the witnesses that he or she proposes should attend must be submitted to and agreed with the senior manager. Where agreement cannot be reached, the police officer may submit to the appropriate authority his or her list of proposed witnesses (including their addresses) for consideration by the panel chair.
- 9.7.2 Where agreement has not been reached as above, the appropriate authority may also propose a list of witnesses.
- 9.7.3 As soon as reasonably practicable after any list of witnesses has been agreed or, in the case where no agreement could be reached, compiled by the police officer or the appropriate authority, the appropriate authority must send the list(s) to the panel chair. The panel chair will consider the list of proposed witnesses and will determine which, if any, witnesses should attend the third stage meeting.
- 9.7.4 The panel chair can determine that persons not named in the list should attend as witnesses.
- 9.7.4 No witnesses will give evidence at a third stage meeting unless the panel chair reasonably believes that it is necessary for the witness to do so, in

which case he or she will:

- in the case of a police officer, cause him or her to be ordered to attend the third stage meeting;
- in the case of a member of staff, cause him or her to be given notice that his or her attendance at the third stage meeting is required; or
- in the case of a member of the public, cause him or her to be given notice that his or her attendance at the third stage meeting is necessary.

9.7.5 Such notices will include the date, time and place of the meeting.

9.7.6 Where a witness attends to give evidence then any questions to that witness must be made through the panel chair. This does not prevent the panel chair allowing questions to be asked directly if he or she feels that this is appropriate.

9.7.7 The documents or other material to be relied upon at the meeting are required to be submitted in advance. Any document or other material that was not submitted in advance of the meeting may be considered at the meeting at the discretion of the panel chair. The purpose of allowing this discretion is to ensure fairness to all parties. However, the presumption should be that such documents or other material will not be permitted unless it can be shown that they were not previously available to be submitted in advance or that they relate to mitigation following a finding of unsatisfactory attendance that was contested by the police officer. Where such a document or other material is permitted to be considered, a short adjournment may be necessary to enable those present to read or consider the document or other material and consider its implications. The length of the adjournment will depend upon the case. A longer adjournment may be necessary if the material in question is complex.

## 9.8 **At the Third Stage Meeting**

9.8.1 At the third stage meeting the panel chair will conduct the meeting in accordance with the principles of natural justice and fairness and will:

- a) explain to the police officer the reasons why he or she has been required to attend a third stage meeting;
- b) provide the police officer with the opportunity to make representations in response;
- c) unless the police officer is entitled to be and has chosen to be legally represented, provide the police officer's police friend (if he or she has one) with an opportunity to make representations (see Role of Police Friend);
- d) listen to what the police officer (and/or his or her police friend) has to say and ask questions as appropriate.

9.8.2 Having considered any representations by either the police officer and / or his or her police friend or (where applicable) the police officer's legal



representative, the panel will come to a finding as to whether or not the attendance of the police officer has been unsatisfactory.

- 9.8.3 If there is a difference of view between the three panel members, the finding or decision will be based on a simple majority vote, but it will not be indicated whether it was taken unanimously or by a majority.
- 9.8.4 The panel must prepare (or cause to be prepared) their decision in writing which shall also state the finding. Where the panel have found that the police officer's attendance has been unsatisfactory, the decision must also state their reasons and any outcome which they order.
- 9.8.5 As soon as reasonably practicable after the conclusion of the meeting, the panel chair shall send a copy of the decision to the police officer and the line manager. However, the police officer must be given written notice of the finding of the panel within 3 working days of the conclusion of the meeting.
- 9.8.6 The copy of the decision sent to the police officer must also be accompanied by a notice informing him or her of his or her right to appeal to a police appeals tribunal (under regulation 38 of the Police (Performance) Regulations 2008).

## 9.9 **Records**

- 9.9.1 A verbatim record of the meeting should be taken. The police officer must, on request, be supplied with a copy of the record.

## 9.10 **Postponement and Adjournment of a Third Stage Meeting**

- 9.10.1 If the panel chair considers it necessary or expedient, he or she may direct that the third stage meeting should take place at a different time to that originally notified to the police officer.
- 9.10.2 The panel chair's alternative time may fall after the period of 30 working days specified in paragraphs 10.5.1 to 10.5.3.
- 9.10.3 In the event that the panel chair postpones a third stage meeting he or she should notify the following relevant parties in writing of his or her reasons and the revised time and place for the meeting:
- the police officer;
  - other panel members; and
  - the appropriate authority.
- 9.10.4 If the police officer informs the panel chair in advance that he or she is unable to attend the third stage meeting on grounds which the panel chair considers reasonable, the panel chair may allow the police officer to participate in the meeting by video link or other means.
- 9.10.5 In cases where the police officer is absent (for example through illness or injury) a short delay may be reasonable to allow him or her to attend. If this is not possible or any delay is considered not appropriate in the

circumstances then the person(s) conducting the meeting / hearing may allow the police officer to participate by telephone or video link. In these circumstances a police friend will always be permitted to attend the meeting / hearing to represent the police officer in the normal way (and, in the case of a gross incompetence meeting, the police officer's legal representative where appointed).

9.10.6 Where the police officer informs the panel chair that he or she will be unable to attend the third stage meeting, or in the absence of such notification does not attend the meeting, and the panel chair is satisfied that a good reason for such non-attendance is given by (or on behalf of) the police officer, he or she may postpone, or as the case may be, adjourn the meeting in the absence of the police officer.

9.10.7 The police officer's presence, in person or otherwise, is not necessary for the third stage meeting proceedings to be valid. Where a meeting is postponed or adjourned because of absence, the panel chair may nonetheless decide to hold the meeting or resume the meeting, as the case may be.

9.11 **Assessment of Final and Extended Final Improvement Notices Issued at the Third Stage**

9.11.1 Where the police officer has been issued with a final improvement notice or, in exceptional cases, the panel has extended a final improvement notice period, it is expected that the police officer's attendance will be actively monitored by the line manager throughout the specified period of the final / extended final improvement notice. The line manager should discuss with the police officer any concerns that the line manager has during this period as regards his or her attendance and offer advice and guidance where appropriate.

9.11.2 As soon as the specified period of the final / extended-final improvement notice comes to an end, the panel will assess the attendance of the police officer during that period. The panel chair must then inform the police officer in writing of the panel's conclusion following assessment i.e. whether there has been sufficient improvement in his or her attendance during the specified period.

9.11.3 If, at the end of the validity period of the final / extended-final improvement notice, the panel considers that sufficient improvement to the police officer's attendance has not been made or maintained during this period, the panel chair will similarly inform the police officer of the panel's assessment.

9.11.4 Any notification to the police officer that, in the opinion of the panel, there has been insufficient improvement in his or her attendance must also include notification that he or she is required to attend a further third stage meeting.

9.11.5 As with the initiation of stages one and two for unsatisfactory attendance, a further third stage meeting must relate to matters similar to or connected with the unsatisfactory attendance referred to in the final improvement notice extended or issued by the panel.

- 9.11.6 The panel should (where possible) be composed of the same persons who conducted the previous third stage meeting. However, there may be cases where re-constitution of the panel is either inappropriate or not possible. For example, original panel members may be on a career break or have left the force. In such circumstances the appropriate authority may substitute members as it sees fit subject to the requirements in the regulations described in paragraph 10.2. As soon as practicable after the appointment of any new panel member (s), the police officer should be notified in writing of the changes in panel membership. The police officer will have the opportunity to object to any new panel member (s) subject to the restrictions set out in paragraph 10.3.
- 9.11.7 A police officer may only be given an extension to a final improvement notice on one occasion. Therefore where the police officer is required to attend a reconvened third stage meeting and the panel find that the police officer's performance or attendance continues to be unsatisfactory, the only outcomes available to the panel are:
- Re-deployment;
  - Reduction in rank (only in performance cases); or
  - Dismissal (with notice).

9.11 **Third Stage Appeals**

- 9.11.1 A police officer who has been dismissed at a third stage meeting has a right of appeal against the finding and / or outcome imposed at that meeting. The appeal is made to the Police Appeals Tribunal.
- 9.11.2 However, any finding and outcome of the third stage meeting will continue to apply up to the date that the appeal is determined.

**10. Other Matters**

10.1 **Management Action and Medical and Attendance Issues**

- 10.1.1 Where absence is due to genuine cases of illness, either self certified or medically certified, the issue is one of capability and thus falls under the UPPs rather than the procedures relating to misconduct. In such cases management may need to take a sympathetic and considerate approach, particularly if the absence is disability related and where reasonable adjustments in the workplace also need to be made which might enable the police officer to return to work.
- 10.1.2 On the basis of the occupational health advice, management should consider whether alternative work is available. If there is some doubt about the nature of the police officer's illness or injury, the police officer will be informed that he or she will be examined by a force medical adviser (FMA). If the police officer refuses, he or she will be told in writing that a decision on whether he or she is subject to UPPs will be taken on the basis of the information available. The above will be applied in accordance with forces' own managing attendance procedures.

- 10.1.3 In accordance with local force attendance management procedures, the line manager and the police officer should keep in regular contact. If management wish to contact the police officer's doctor, normal force arrangements will be followed.
- 10.1.4 The police officer should be made aware at the start of the UPPs that if he or she remains unwell and if necessary adjustments cannot be made dismissal from the force is a possible outcome at stage three.

10.2 **Attendance at Each Stage of the Procedures and Ill-Health**

- 10.2.1 Attendance at any stage meeting is not subject to the same considerations as reporting for duty and the provisions of Regulation 33 (sick leave) of the Police Regulations 2003 do not apply. An illness or disability may render a police officer unfit for duty without affecting his or her ability to attend a meeting. However, if the police officer is incapacitated, the meeting may be deferred until he or she is sufficiently improved to attend.
- 10.2.2 A meeting will not be deferred indefinitely because the police officer is unable to attend, although every effort should be made to make it possible for the police officer to attend if he or she wishes to be present. For example:
- the acute phase of a serious physical illness is usually fairly short-lived, and the meeting may be deferred until the police officer is well enough to attend;
  - if the police officer suffers from a physical injury – a broken leg – for instance, it may be possible to hold the meeting at a location convenient to him or her.
- 10.2.3 Where such circumstances apply at a stage three meeting, the force may wish to consider the use of video, telephone or other conferencing technology.
- 10.2.4 Where, despite such efforts having been made and / or the meeting having been deferred, the police officer either persists in failing to attend the meeting or maintains his or her inability to attend, the person conducting the meeting will need to decide whether to continue to defer the meeting or whether to proceed with it, if necessary in the absence of the police officer. The person conducting the meeting must judge the most appropriate course of action. Nothing in this paragraph should be taken to suggest that, where a police officer's medical condition is found to be such that he or she would normally be retired on medical grounds the UPPs should prevent or delay retirement.

10.3 **Medical Retirement under Police Pension Legislation**

- 10.3.1 The Police Pensions Regulations 1987 in relation to the Police Pension Scheme and the Police Pensions Regulations 2006 in relation to the New Police Pension Scheme provide that where a police authority is considering whether a police officer is permanently disabled it shall refer the issue to the selected medical practitioner (SMP) for a decision.

- 10.3.2 Some cases of unsatisfactory attendance may raise the need to consider whether the police officer is permanently disabled within the meaning of the Police Pension Regulations 1987 or 2006. In such cases, this guidance should be read in conjunction with the PNB Joint Guidance on Improving the Management of Ill-Health.
- 10.3.3 Where a police officer is referred to the SMP for consideration of permanent disablement under the Police Pensions Regulations, no action shall be commenced or continued under the Police (Performance) Regulations 2008 with regard to the unsatisfactory attendance of a police officer until the issue of permanent disablement has been considered and the report of the SMP has been received by the Police Authority.
- 10.3.4 Where a police officer appeals to a Medical Appeal Board against a decision of the SMP that he or she is not permanently disabled or to a Crown Court against a decision of the Police Authority not to refer the permanent disablement questions to an SMP, no action shall be commenced or continued under the Police (Performance) Regulations 2008 with regard to the unsatisfactory attendance of the police officer until the appeal has been resolved.
- 10.3.5 Action can, however, be taken under the UPPs where a case has been referred or is the subject of appeal if the unsatisfactory attendance is unrelated to the condition forming the basis of the referral or appeal. However, forces must be confident that there is no connection as a decision to proceed in such circumstances may be challenged in the courts or tribunals. If the appropriate manager is unsure whether any condition forming the basis of a referral to the SMP or an appeal to either a Medical Appeal Board or Crown Court is related to the unsatisfactory attendance of a police officer, then advice should be sought from the HR professional acting on behalf of the Police Authority before any decision is taken to commence or continue the UPPs. Medical advice from the force medical advisor (FMA) may also be necessary.

#### 10.4 **Retirement under A19 of the Police Pensions Regulations 1987 and Regulation 20 of the Police Pensions Regulations 2006 and the 30+ Scheme**

- 10.4.1 A19 of the Police Pensions Regulations 1987 provides for the compulsory retirement of police officers who have built up 30 years of pensionable service (and are entitled to an immediate full pension) where the police officer is not fully effective *and* his or her retention would not be in the general interests of the wider force efficiency. Similarly, regulation 20 of the Police Pensions Regulations 2006 provides for the compulsory retirement of those police officers who are members of the new 2006 Police Pension Scheme, and can be retired immediately with a full pension, on the same grounds.
- 10.4.2 These regulations should not be used to remove a police officer in situations of unsatisfactory performance or attendance where there is no issue of wider force efficiency. The UPPs should be used in such cases.
- 10.4.3 UPPs can also be used where police officers have resumed service under the 30+ Scheme and where a termination of office under A19 or

regulation 20 is not appropriate (as above).

10.5 **Special Priority Payments and Competency Related Threshold Payments**

- 10.5.1 A finding or admission of unsatisfactory attendance at a UPP meeting will not automatically result in the removal of a police officer's competency related threshold payment or special priority payment. However, where a police officer has received an improvement notice or final improvement notice, this may trigger a review of the appropriateness of that police officer continuing to receive such payments. Any such review should take into account the qualifying criteria for payments under these schemes.

10.6 **The Use of Records Under UPPs**

- 10.6.1 Records of any part of the UPPs should not be taken into account after an improvement notice has ceased to be valid. Equally, where a police officer appeals and that appeal is successful, the record of that procedure should not be taken into consideration in any future proceedings or for any other purpose.

## **Action under the Police (Performance) Regulations, 2008**

Formal action under the Performance Regulations may be taken in cases of both unacceptable levels of persistent short-term absences and long-term absences due to sickness and / or injury. It should however be noted that it is not possible to be prescriptive about all circumstances where action under the Regulations may be appropriate.

In deciding whether to take action under the procedures managers must treat each case on its merits and consider all of the pertinent facts available to them, including:

- (i) the nature of the illness, injury or condition;
- (ii) the likelihood of the illness, injury or condition (or some other related illness, injury or condition) recurring;
- (iii) the pattern and length of absence(s) and the period of good health between them;
- (iv) the need for the work to be done i.e. what impact on the force's performance and workload is the absence having;
- (v) the extent to which a police officer has co-operated with supportive management action;
- (vi) whether the police officer was made aware, in the earlier supportive action, that unless an improvement was made, action under the Performance Regulations might be used;
- (vii) whether the selected medical practitioner (SMP) has been asked by the Police Authority to consider the issue of permanent disablement and / or the Police Authority is considering medical retirement;
- (viii) the impact of the Disability Discrimination Act.

Action under the Police (Performance) Regulations, 2008 should not be invoked unless:

- (ix) earlier supportive action was offered but the police officer either declined it or failed to co-operate and as a result there has not been the necessary improvement in the police officer's performance or attendance; and / or
- (x) the police officer is absent due to long-term sickness and, notwithstanding supportive management action having been taken; there is no realistic prospect of return to work in a reasonable timeframe; and / or
- (xi) the officer has a Bradford Score of 500.

Whether it is appropriate to take formal action in any particular case will depend on the known merits and facts of that case.

## **Measuring Disruption – The Bradford Factor**

The cost and disruption of persistent, short spells of absence is often greater than for occasional, longer periods of absence. To measure this problem, the Force uses a method often referred to as the Bradford Factor.

This 'Bradford' formula measures an employee's irregularity of attendance. It is calculated by multiplying:

$S \times S \times D$  = 'Bradford' points score

Where S is the number of spells of absence in the last 52 weeks and D is the number of total days' absence in the last 52 weeks.

So for employees with 13 duty days' absence in one year, differently distributed, the score can vary enormously:

One absence of 13 days is 13 points (i.e.  $1 \times 1 \times 13$ )

Seven absences of two days each is 686 points (i.e.  $7 \times 7 \times 13$ )

13 absences of one day each is 2,744 points (i.e.  $13 \times 13 \times 13$ )

For staff who have not been in the Force for a year take their average absence levels over the period they have been employed and calculate a projected Bradford Factor, i.e. a member of staff has 3 months' service and has had three separate days off would score – 1,728 (i.e.  $11 \times 11 \times 11$ )



## **Annual Leave / Discretionary Leave / Visits to Doctors, etc.**

### **1. Annual Leave**

#### **1.1 Carry Over of Annual Leave**

- 1.1.1 Regulation 33, Annex O, of Police Regulations applies, i.e. employees can carry over annual leave and is normally subject to a maximum of five days per annum, unless there are exceptional circumstances and it is in the interests of efficiency to carry over more. Any untaken leave will otherwise be lost.

#### **1.2 Annual Leave Whilst on Sick**

- 1.2.1 In the event of an officer falling sick during a period of annual leave, he or she should be regarded as being on sick leave from the date of the medical certificate and further leave should be suspended from that date.
- Police officers accrue annual leave whilst off sick but the normal rules regarding carry over of leave apply.
  - Police officers who are off sick (particularly long term) may take paid annual leave during their sick leave. Finance should be notified of this via the Line Manager.
  - Police officers who wish to take annual leave should book it with their line managers. The line manager should consider whether the intended holiday could have a detrimental effect on the current reason for absence and refer to OHU if necessary.
  - Where a police officer leaves the Force he / she is entitled to be paid for the unexpired portion of their annual leave for the leave year in which their last day of service falls. The calculation is:

$$(A \times B) - C$$

Where A is the period of leave to which the worker is entitled (i.e. their entitlement under regulations and local conditions of service), B is the proportion of the leave year which expired before the termination date expressed in 1/11<sup>th</sup> and C is the period of leave taken by the worker between the start of the leave year and the termination date, example given below.

For example:

(say) Entitlement 'A' = 24 days

(say) the leave year is April to March, with the leaver leaving at the end of May 'B' = 2/11

Therefore  $24 \times (2/11) = 4$  days' entitlement

'C' the leaver has taken 2 days' leave so far, the calculation is  $4 - 2 = 2$  days

Where fractions of a day occur they are rounded up or down to the nearest day.

- Where a police officer leaves the Force having been off sick for a proportion but not all of the leave year entitlements will apply. This will remain subject to review.

### **1.3 Absence on Public Holidays**

- 1.3.1 Should an officer be sick on one of the set public holidays, he/she is not entitled to have the public holiday reallocated.

## **2. Terminal Illness**

In the case of a terminally ill officer, there is a need to consider their situation and continued employment in a particularly sensitive way. As soon as a line manager / supervisor becomes aware that an absence is due to terminal illness, advice should be sought from the appropriate Human Resources Manager to ensure the best interests of the individual are provided for.

## **3. Discretionary Leave**

The term "Compassionate Leave" will now be known as "Discretionary Leave". BCU Commanders and Heads of Department will, therefore, be able to grant such leave at their discretion. Such leave will only be granted by the BCU Commander or Head of Department where an emergency or other like event occurs and "compassion" is necessary at the time (see time off for dependants' provisions).

## **4. Visits to Doctors and Dentists**

Routine visits should be scheduled outside duty time. Where this is not possible managers should ensure time is made up later. Time off with pay should be allowed for treatment, e.g. physiotherapy, etc., to enable the individual to return to full duties. Time off in this category should not normally be made up. Time off is granted at the discretion of the BCU Commander / Head of Department.

## **5. Sickness and Suspension**

Where an officer is suspended and becomes ill subsequently they should report the matter to the first line manager and supply sick notes as per this policy. The policy applies to them as per any other officer including referrals to the Force Medical Adviser and Occupational Health Adviser.

## **6. Statutory Medicals**

Time off to attend statutory medicals e.g. HGV medical, will be with pay and should not be recorded or monitored as sickness absence.

## **7. Cosmetic Surgery**

Where a member of staff undergoes cosmetic surgery, discretionary leave should not be granted. Where there are medical reasons for cosmetic surgery a sick note should be requested from a GP.

## **Policy in Respect of Sick Pay**

### ***For Police Officers***

Regulation 28, Police Regulations, 1995 and Determination, 2003, Annex K, set out the arrangements for the management of pay during sick leave. These are:

- (a) an officer will remain on full pay during the first six months of any sick absence in any 11 month period (inclusive of SSP).
- (b) an officer who has completed six months sick absence within a 11 month period will thereafter receive half pay (inclusive of SSP) for the next 6 month period of absence.
- (c) an officer who has completed 11 months sick absence within a 11 month period will thereafter receive no pay until returning to work.

It should be noted that in (b) and (c) above, the 6 and 11 months absences referred to are cumulative totals, i.e. 173 days or 365 days in any 11 month rolling period ending with that day's sick leave.

### **Sick Pay Extension**

The Chief Constable may extend the period of full or half pay for such period as he specifies and may from time to time determine to extend that period in line with PNB Circular 03/2. This advises that it is generally appropriate for chief employees to exercise the discretion favourably where:

- (a) The chief officer is satisfied that the officer's incapacity is directly attributable to an injury or illness that was sustained or contracted in the execution of his / her duty. A list of such injuries / illnesses and whether they are likely to extend sick pay or otherwise is given at the end of this Appendix.

A chief officer may decide not to exercise discretion favourably in a case which is covered by those guidelines, in particular a chief officer may decide not to exercise the discretion where there is evidence of default or neglect on the officer's part or the officer's actions may be delaying the process of recovery or the officer is unreasonably failing to co-operative with a rehabilitation programme or comply with requests to attend medical examinations or supply medical information.

The onus will lie with the individual who wishes the Chief Constable to exercise his discretion by disregarding any period of sickness or extending the relevant pay periods, to forward a written application with evidence in support to the Human Resources Department. Where the nature of the illness or injury clearly prevents the officer from making such an application, the onus will lie with the BCU Commander / Head of Department to make the application on the officer's behalf. The HR Department will also monitor the situation and inform employees, by way of letter, of their liability of being reduced to half pay / no pay. Officers should be reminded in writing by the HR Manager at the time they are put on unpaid sick leave of:

- their entitlement to make an election to pay pension contributions;
- the time limits which apply for making the election;

- the choice of payment by lump sum or instalments; and
- the fact that a lump sum payment may be deducted from pay as a pension contribution, but may not necessarily attract full tax relief.

The notice should be accompanied by a form which the officer is asked to complete and return **WITHIN 30 DAYS** of returning to duty or **BEFORE HIS OR HER LAST DAY OF SERVICE**, whichever is the earlier.

It is not possible to give a categoric assurance that any periods of sickness resulting from illness or injury, which are duty related can be ignored in the above calculations. Each case will be considered on its merits.

Decisions to cut to half pay / no pay or extend half pay / no pay will be reviewed monthly.

All reviews will be considered in the first instance by a panel comprising representatives of the relevant union or officer's association, HR and the Chief Officer with Personnel Responsibility. The panel will take into consideration any representations by or on behalf of the officer (who may make a personal appearance if he / she so wishes) to have periods of sickness disregarded, together with any report that may be available from the Force Medical Adviser, and will make a recommendation to the Chief Constable who will advise the officer concerned of his decision.

Officers wishing to be informed of their relevant total accountable sickness periods should apply in writing to the Human Resources Department.

Due to time constraints on the payroll system, employees should note, in their own interests, that requests for information on accountable sickness absence and an extension of sick pay should be made at the earliest opportunity.

## **1. Physical Injury**

1.1 The following are examples, which **would** normally attract favourable discretion:

- An officer injured whilst pursuing or arresting a suspect or assaulted by a person in his or her car;
- An officer injured whilst attempting to effect a rescue at a fire or serious accident / incident;
- An officer injured in a traffic collision whilst in a police vehicle on duty, including employees engaged in driver training;
- An officer engaged in Force directed and authorised physical training, including necessary warming exercises, under qualified instruction, for example, an officer who sustains an injury whilst being instructed in Officer Safety training and so on, would normally attract favourable discretion. However, an officer who sustains an injury through default, neglect or not under instruction the above examples would not attract favourable discretions.

1.2 The following are examples, which **would not** normally attract favourable discretion:

- An officer suffering a sporting injury (whether or not playing for a police team);

- An officer injured in an accident on police premises, for example, by tripping or lifting or carrying equipment, or whilst undergoing classroom-based training;
- An officer injured off duty whilst travelling to or from work;
- An officer failing to co-operate with a rehabilitation programme or comply with requests to attend medical examinations or supply medical information;
- The officer is actively engaged in a business interest during the period of absence.

## 2. **Illness**

2.1 The following are examples, which **would** normally attract favourable discretion:

- Or the officer is suffering from an illness, which may prove to be terminal.
- The case is being considered in accordance with the PNB Joint Guidance on improving the management of ill health and the Police Authority has referred the issue of whether the officer is permanently disabled to a selected medical practitioner. Discretion will be given where it is clear from the SMP that retirement is likely to be agreed without the need for further investigation, i.e. the case appears to the SMP to be clear.
- An officer suffering from an illness which may prove to be terminal.
- An officer suffering from a serious viral infection contracted from a victim during rescue.
- An officer suffering illness as a result of contact with a contaminated hypodermic needle during search of a person or premises.
- An officer contracting a contagious disease from a prisoner, and
- An officer suffering medically diagnosed post-traumatic stress disorder as a result of the performance of police duty.

2.2 The following are examples which **would not** normally attract favourable discretion:

- Chronic illness unrelated to any particular source or cause arising from the specific duties relating to the office of constable;
- Illness incapacitating an officer from the ordinary duties of a police constable, but which would not be incapacitating for other occupations;
- Stress related illness (including psychiatric illness) resulting from working conditions generally;

## **Equality Impact Assessment**

- (a) **Legislative Basis and Legitimate Aims** (list all legislation relied upon and legitimate aims identified under the Human Rights Act)

**Police Act, 1996**

**Police Efficiency Regulations, 1999 (as amended by the Police Efficiency Regulations, 2003)**

**Data Protection Act, 1998**

**Disability Discrimination Act, 1995 (as amended in 2004)**

**Access to Medical reports Act, 1988**

- (b) **Equality Impact Assessment**

***The policy proposal is designed to achieve:***

*The main aim of the Policy is to provide a framework whereby managers can manage and monitor sickness absence in a fair and constructive manner, ensuring that each situation is dealt with effectively having regard to all of the circumstances of the case.*

This policy does need a full impact assessment.

**Reason**

It is essential to ensure equal treatment across all diversity strands.

Signed: M.A. Waller Dated: 09/11/08

2. 2.1 What relevant quantitative or qualitative data has been considered (national or local) (age, disability, gender, race, religion / belief, sexual orientation, Welsh Language)? \*

See 2.2

*\* Delete whichever does not apply.*

- 2.2 What gaps in data / information were identified (national or local)?

Sickness information by Diversity Group and resulting action is not currently available.

- 2.3 Is further research necessary? If so please outline. If you need to monitor the impact of your policy because you cannot foresee its outcome clearly, detail your monitoring and review arrangements.

Yes – need to monitor. Full monitoring information will be available with the installation of a new HR system.

**3. If you consider you have enough information assess likely impact**

- 3.1 From the analysis of current data and information, has any potential for differential / adverse impact been identified?

3.2 Explain any intentional impact

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3.3 Explain justifiable adverse impact with an example

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**4. Consider alternatives**

4.1 Summarise what changes have already been made to the policy to remove or reduce the potential for differential / adverse impact. If none put n/a

Disability related sickness and pregnancy related sickness separately identified. Duty to make reasonable adjustments outlined.

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4.2 Summarise changes to the policy to remove or reduce the potential for differential / adverse impact that were considered but not implemented, and explain why this was the case.

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- 4.3 If potential for differential / adverse impact remains, explain why implementation is justifiable in order to meet the wider aims.

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**5. Consult formally**

- 5.1 Has the policy or will the policy be subject to consultation (national or local)? If no, please state why not. If yes, state which individuals and organisations were consulted and what form the consultation took. Were Welsh Language organisations consulted?

Being consulted internally.

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- 5.2 What was the outcome of the consultation?

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*Delete whichever does not apply.*

- 5.3 Has the policy been reviewed and / or amended in light of the outcomes of consultation?

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5.4 Have the results of the consultation been fed back to the consultees?

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**6. Decide whether to adopt the policy**

6.1 Provide a statement outlining the findings of the impact assessment process. If the policy has been identified as having a possibility to adversely impact upon diverse communities, the statement should include justification for implementation.

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**7. Make monitoring arrangements**

Monitoring and scrutiny is a critical part of any policy function process.

7.1 What consideration has been given to piloting the policy?

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7.2 What monitoring will be reported at a national level by the policy owning agency and / or other national agency?

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7.3 Is this policy intended to be implement by local agencies (e.g. partners) that have a statutory duty to impact assess policies? If so, what monitoring requirements are you placing on that agency?

N / A

7.4 Who reviews the monitoring information e.g. Police Authority and where will it be published and at what intervals?

To be considered at the Force Equality Group Quarterly once available and HR Section Heads.

(c) **Publication and Freedom of Information / Training** (detail where the policy is to be published and how distributed) (**NB** after FOI exemption process)



Is any staff training necessary and if so, how is this to be delivered?

Being considered.