



Home Office

# **REVIEW OF POLICE INJURY BENEFITS: SUMMARY AND ANALYSIS OF CONSULTATION RESPONSES**

April 2009

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## **Section One: Background**

The Home Office issued a consultation document in August 2008 in order to review the police injury benefits scheme. This is one of several reviews of such public service schemes.

The police injury benefit system provides vital reassurance for police officers who may often face adverse and dangerous situations in their routine working day. However, the current system of provisions (set out in the Police (Injury Benefit) Regulations 2006, the Police (Injury Benefit) (Scotland) Regulations 2006 and the Police Service of Northern Ireland and the Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2006) has been criticised for being difficult to understand and maintains criteria that are out of date and ill-suited to the demands of modern policing.

The broad aim of the new proposals was to ensure that the financial support currently given to police officers and their families for injury or death in the line of duty meets the conditions of modern policing, is properly targeted and is effectively administered. Opinion was sought on 51 proposals and issues. The consultation period ran for twelve weeks, and closed on 18 November 2008.

Changes to the injury benefits regulations will affect all officers serving at the time of any changes. Former police officers and their dependents will remain subject to the provisions applicable at the time that they ceased active service.

## **THE PROPOSALS**

The 51 proposals were separated into eight chapters, with a summary of proposals or invitations to comment included in the consultation document.

### **Introduction (Proposal 1)**

- It is proposed that any changes introduced to the provision of injury awards and awards for death attributable to police duty should apply to serving officers (including those who have already sustained an injury but have not retired prior to the changes taking effect) as well as new entrants and to the dependents of such officers. However, it is proposed that these changes should not apply retrospectively i.e. to former officers (or their dependents) who have retired or will retire before the changes are introduced. These officers should continue to be treated within the system as it stood at the time they retired.

### **Eligibility for Police Injury Awards (Proposals 2 -11)**

- It is proposed that injury awards remain payable only where the recipient is permanently disabled for the ordinary duties of a member of the force.
- Comments are invited on a new “top up” arrangement where disabled officers have the option of returning to work on a part-time basis.
- It is proposed that mental injuries should be considered as injuries qualifying for an award, as long as they continue to meet medical criteria which have general clinical recognition.

- It is proposed to restrict awards to cases where disablement is “wholly or mainly” caused by an injury, rather than the wider reaching “substantially”.
- It is proposed to develop the definition of a qualifying injury which codifies the circumstances in which an injury would not be eligible for an award.
- Comments are invited on whether the police authority should have the discretion to decline a claim for an injury award where it considers that the claim would be more appropriately decided by the courts.
- It is proposed that a new protection be introduced to cover officers injured off duty when there is an act intended to cause harm or fear of harm aimed at the police, such as a terrorist attack, or where the police authority is of the opinion that this is the case.
- It is proposed to discontinue the provision under which an officer qualifies for an award for an injury sustained to/from the normal place of work.

### **Calculation of Police Injury Awards (Proposals 12 – 23)**

- It is proposed that injury awards should continue to consist of an initial gratuity plus regular income in the form of periodical payments, and be related to loss of earning capability based on the officer’s pensionable police salary at the point he/she last served.
- It is proposed to create a new banding (alongside the existing banding structure) of 10% loss of earning capacity or less, which will consist of a gratuity of 12.5% average pensionable pay, but no pension, to recognise that whilst the injury has caused permanent disablement for the duties of a police officer, there has been little or no loss of earning capacity.
- It is proposed that the disablement gratuity should be set at five times average pensionable pay in all cases, and the level of the lump sum will continue to be linked to the officer’s loss of earning capacity.
- It is proposed that the term “injury pension” be replaced by “injury income supplement” to distinguish the award from benefits under one of the police pension schemes, membership of which is not relevant for the purposes of the injury benefit scheme.
- It is proposed that the term “degree of disablement” be replaced by “loss of earning capacity” to better reflect the purpose of the injury award.

### **Conditions applying to Police Injury Awards (Proposals 24 – 32)**

- It is proposed to lower the threshold at which the police authority may consider an officer ineligible for an injury award due to having received it through his or her own default, except in high pressure or split-second decisions.
- The proposals include an endorsement of the use of apportionment, and suggest integrating the separate question of disablement due to default, which is for the medical practitioner to decide, into the process of apportionment.
- It is proposed that compensation or damages to the officer in respect of the injury should be taken into account when paying the award, and that the officer should be mandated to apply to DWP and confirm entitlement to State Incapacity Benefits before any injury award payment is made.
- It is proposed that “compensation” should not include payments which themselves have already been reduced by the amount of injury gratuity payable, to avoid the risk of double deduction.

- It is proposed that time limits for new claims after retirement be set at either 5 years post retirement, or at the age of 65 if earlier.
- It is proposed that there should be a set of medical conditions which are progressive or have a long incubation period which exclude the officer from the 5 year post retirement limit.

### **Conditions applying to continuing an Injury Award (Proposals 33 – 38)**

- It is proposed to retain the current obligation on police authorities to review injury awards, with decisions as to the frequency and necessity of these reviews left to their discretion.
- It is proposed that since selected medical practitioners now assess loss of earning capacity in terms of percentage points it is no longer appropriate to restrict the revision of an injury pension to cases where the loss of earnings has been “substantially” altered.
- It is proposed that if a former officer’s loss of earning capacity is assessed as 10% or less on review, that the income supplement be stopped.
- It is proposed that review of an injury pension can revise the extent to which the loss of earning capacity is apportioned to reflect changed circumstances.
- It is proposed that the current recommended practice should be maintained in reviewing an injury pension at the point a former officer would have left the police service on age grounds so that the loss of earning capacity can be assessed against the national average earnings rather than his or her former police salary.
- It is proposed to halve the minimum income guarantee to create a new minimum guarantee, so that those without a reasonable pension scheme pension would still receive an injury pension, and to cease any further reviews after that stage.
- It is proposed to retain the use of national average earnings for reviews between 60 and 65 against which to consider loss of earning capacity, however it is proposed to revert back to using the officer’s last police pay when the minimum retirement income guarantee is calculated.

### **A New Approach to considering Injury Awards (Proposals 39 – 41)**

- It is proposed that the determining of legal and factual aspects of the case should be handled by the police authority and not the SMP. It is for the police authority to take a preliminary view of the circumstances which should then be put to the SMP for advice where a factual decision depends in part on a medical opinion.
- A revised procedure for reviews is proposed whereby the police authority is encouraged to carry out full reviews only after a paper sift of cases for review in consultation with the Occupational Health Unit. The police authority is advised to only refer the case to the SMP if the officer explicitly requests an examination, where there is a lack of necessary information, or where there is an indication that the officer’s loss of earning capacity may have changed.

## **Survivor and Dependant Benefits (Proposals 42 – 49)**

- It is proposed that pensions for adult survivors of officers killed in the line of duty should be life-long, in line with life-long pensions introduced under the 2006 New Police Pension Scheme (NPPS). These benefits should be extended to nominated unmarried partners and unregistered same-sex partners.
- It is proposed that the present system of lump-sum benefits and gratuities for death due to injury in the execution of duty should be simplified and replaced by a system of three types of death gratuity paid to the spouse or partner; a child; or an adult dependent relative in that order of precedence, and at a rate of either five times, four times or three times the officer's average pensionable pay.
- It is proposed that payment of a death gratuity should not be extended beyond adult dependent relatives to include the officer's estate. The death gratuity is intended to recompense dependents for the abrupt cessation of financial support previously given by the officer. This principle would not be upheld if the gratuity were passed onto the estate.
- It is proposed that survivor benefits should be based on the same criteria as injury awards for determining whether the injury was received without default in the execution of duty, and on the same qualifying circumstances for and award – for instance, an award would no longer be payable for death as a result of an injury sustained on a journey to or from work.
- It is proposed that the same procedure for considering a death should be used as that for considering an injury award, with the same division of responsibilities between the police authority and the SMP.

## **Administration and Data Management (Proposals 50<sup>1</sup> – 51)**

- It is proposed that the returns that police authorities must submit to the Home Office each year with details of their pension scheme expenditure should be amended so that police authorities enter a limited amount of information onto the form about the number, and cost, of injury awards granted that year.

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<sup>1</sup> Due to an administrative error appear in the text as 52 & 53 respectively.

## Section Two: Analysis and Summary of Responses

### RESPONSES

Responses were received from:

- Association of Local Authority Medical Advisors (ALAMA)
- Association of Police Authorities (APA)
- Cambridgeshire Constabulary
- Cheshire Police Force
- Dorset Police
- Gloucestershire Police
- Greater Manchester Police and Police Authority
- Gwent Police
- Hampshire Police
- Humberside Police
- Lancashire Constabulary
- Lancashire County Council
- Leicestershire Police
- Lincolnshire Police
- Metropolitan Police Service
- National Association of Retired Police Officers (NARPO) Leicestershire Branch
- NARPO Staffordshire Branch
- Norfolk Constabulary
- Northamptonshire Police
- Northern Ireland Policing Board (NIPB)
- Northumbria Police
- North Yorkshire Police Force
- Nottinghamshire Police
- Police Negotiating Board (PNB) Staff Side
- Police Service of Northern Ireland (PSNI)
- Scottish Forces (Joint Response)
- Serious Organised Crime Agency (SOCA)
- South Wales Police
- Staffordshire Police
- Stonewall
- Suffolk Police
- Suffolk Police Federation
- Surrey Police Authority
- Warwickshire Police
- West Midlands Police
- West Yorkshire Police
- Wiltshire Police

A small number of individuals also responded.

1. All the proposals canvassed by the consultation document would, if implemented, apply only to officers serving at the time any changes were made and to future entrants of the police service.

2. The majority of respondents commented that they fully supported the aim to achieve a properly targeted and more effectively administered system of police injury benefits that corresponds with the needs of modern policing.

3. The overwhelming majority of concerns that were raised related to the implementation and practical application of the proposals, rather than disagreement with the substance of the proposals.

4. There was broad support or acceptance of the proposed action on a majority of the issues. 32 of the 51 proposals received unanimous agreement (The proposals in question are 1, 2, 4, 8, 9, 10, 12, 13, 15, 16, 17, 18, 19, 20, 21, 22, 28, 29, 32, 33, 34, 35, 36, 37, 38, 40, 41, 42, 43, 44, 50 & 51).

5. The request at proposal 3 for comments regarding the introduction of a 'top up' arrangement to compensate officers who are able to be retained in their force, on a part time basis for a reduction in hours worked as a result of a permanently disabling injury, drew general support. However, concerns were raised that this would have wider reaching implications and would require substantial further consideration.

6. Proposal 7 (on whether the police authority should have the discretion to decline a claim for an injury award where it considers that the claim would more appropriately be decided by the courts) received some support but overall was strongly opposed.

7. Proposal 23 was accepted by all respondents. However, it was suggested that the proposed "injury earnings supplement" be replaced with "injury *related* earnings supplement" for clarity.

8. Whilst proposal 31 received strong support, it was felt that if any change were made, further medical advice would be required in order to ensure clarity in relation to the conditions listed.

9. While there was no disagreement in principle on three of the proposals (14, 27 & 45), concerns raised by respondents to the consultation identified that further consideration was required to ensure that the proposals would be consistent and sustainable.

- Proposal 14 will be further considered in relation to suggestions by some respondents that making no change to the current scale of benefits, which are increased for longer serving officers, would be vulnerable to challenge on the basis of indirect age discrimination. As the issue has wider reaching implications for other public sector schemes, we intend to consider the proposal further in consultation with legal advisers.
- Proposal 27 will be further considered in order to ensure consistency of approach by forces and to eliminate the possibility of double deductions where the court has already taken the injury award into account in making an award in a civil claim.
- Proposal 45, which proposes that the present system of lump-sum benefits and gratuities for death due to injury in the line of duty should be replaced, will be further considered in the light of concern on the part of the PNB Staff Side over the proposal leading to a reduction in the current level of entitlement.



10. Further discussion is also required on 7 proposals (6, 25, 26, 30, 39, 46 & 49), on questions of implementation or practical effect. However it is expected that in most cases discussions could take place in the context of consulting on draft amendments to guidance or regulations if agreement were reached on a package of changes.

11. The Police Staff Associations and individuals from the policing community had particular concerns on 5 of the proposals (5, 11, 24, 47 & 48). These related to:

- proposals concerning the determination of the link between an injury at work and an individual's disablement or death, changing the current formulation where an injury must have "caused or substantially contributed to" the disablement or death, to the result of having been "wholly or mainly" caused by the injury at work [proposals 5 & 48];
- proposals to discontinue the provision under which an officer qualifies for an award where the injury was sustained whilst travelling to and from work, where there is no other causal link between the injury and the status or duties of an officer [proposal 11];
- proposals to amend the definition of "default", by removing the requirement where an award may not be payable if the injury is considered to have been caused by the officer's own negligence or misconduct [24 & 47].

The Government proposes to continue consultation with the Police Negotiating Board on these three issues and to seek to agree on them as part of a package of changes, the implementation of which would not undermine the reassurance that officers are entitled to expect when they are exposed to danger in the course of confrontational and other operational duties. In the light of particular concerns raised during the consultation exercise, consideration will also be given to practical ways to improve the safety of officers while on journeys to and from their place of work.

12. The following Table summarises the response to each of the proposals in the consultation document.

PROPOSAL	COMMENTS
<p>1. It is proposed that any changes introduced to the provision of injury awards and awards for death attributable to police duty should apply to serving officers (including those who have already sustained an injury but have not retired prior to the changes taking effect) as well as new entrants and to the dependants of such officers. However, it is proposed that these changes should not apply retrospectively, i.e. to former officers (or their dependants) who have retired or will retire before the changes are introduced. These officers should continue to be treated within the system as it stood at the time they retired. <b>(Paragraph 1.14, P8)</b></p>	<p>The overwhelming majority of respondents supported the proposal.</p> <p>Some concerns were raised regarding potential difficulties in the practical application of the proposal and how transitional arrangements may work.</p>
<p>2. It is proposed that injury awards remain payable only where the recipient is permanently disabled for the ordinary duties of a member of the force. <b>(Paragraph 2.3, P9)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>Some concerns were raised by the PNB Staff Side regarding gaps in protection, including an officer who might be disabled for a long time, but not permanently, and who might face reductions in pay or action for poor attendance.</p>
<p>3. Comments would be welcome as to whether the concept of a “top-up” arrangement to compensate officers who are able to be retained in their force only on a part time basis for a reduction in hours worked as a result of a permanently disabling injury would be practicable. <b>(Paragraph 2.4, P9)</b></p>	<p>The proposal received strong support, with many of the Police Forces in particular welcoming the change.</p>
<p>4. It is proposed that injuries qualifying for an award should continue to include mental injuries provided the safeguards of restricting permanent disablement to medical causes are retained. <b>(Paragraph 2.8, P10)</b></p>	<p>All respondents supported the proposal.</p>
<p>5. It is proposed that disablement should be deemed to be the result of an injury if it was wholly or mainly caused by the injury. <b>(Paragraph 2.11, P10)</b></p>	<p>Whilst this proposal received a good level of agreement, there was a broad sense that further clarification of the term “wholly or mainly” would be required.</p> <p>The proposal received strong opposition from the PNB Staff Side who suggested that the term “wholly or mainly” was ambiguous and could lead to irrational interpretation when considering an award.</p>

PROPOSAL	COMMENTS
<p>6. It is proposed that the definition of in the execution of duty should cover all instances while on duty except where specifically excluded in the regulations. It is proposed that injuries received in the following circumstances should be excluded:</p> <ul style="list-style-type: none"> <li>• Injuries while taking part in sport;</li> <li>• Injuries before or after work or training;</li> <li>• Injuries while taking a break from work or training;</li> <li>• Injuries as a result of any proceedings or investigation undertaken by the force in respect of the officer under police regulations, such as disciplinary or medical retirement proceedings;</li> <li>• Injuries as a result of any other proceedings or investigation in respect of the officer such as under Health and Safety legislation or in the context of criminal or possible criminal proceedings;</li> <li>• Injuries as a result of a dispute with, or grievance against, other officers or management;</li> <li>• Injuries as a result of an injury to, or proceedings, investigation or dispute involving, a fellow officer in any of the above circumstances;</li> <li>• Injuries as a result of incidents in which the officer was not directly involved through duty. <b>(Paragraph 2.17, P12)</b></li> </ul>	<p>The majority of respondents supported the proposal, but the PNB Staff Side was sceptical about the necessity of the proposed changes.</p>
<p>7. Comments are invited on whether the police authority should have the discretion to decline a claim for an injury award where it considers that the claim would more appropriately be decided by the courts. <b>(Paragraph 2.18, P12/13)</b></p>	<p>There was support in principle from the Police Forces, but the proposal faced strong opposition from the PNB Staff Side on the grounds that in its view this would tend to undermine the present valuable ethos of reassurance and entitlement when considering an injury award claim.</p>
<p>8. It is proposed to retain the current provision in Regulation 6(2) which provide safeguards for an officer whilst off duty. <b>(Paragraph 2.20, P13)</b></p>	<p>All respondents supported the proposal.</p>
<p>9. It is proposed that an injury should be regarded as received in the execution of duty where the police authority is of the opinion that the injury is the result of an act intended to cause harm or fear or harm and the act was aimed either at the police force in general, at members of the police force in general, or at specific officers. <b>(Paragraph 2.21, P13)</b></p>	<p>All respondents supported the proposal.</p>

PROPOSAL	COMMENTS
<p>10. As an additional safeguard it is proposed the police authority exercise discretion and treat an injury which is the result of an act which may have been intended to cause harm or fear of harm, and may have been aimed either at the police force in general, at members of the police force in general or specific officers where they consider that the relevant conditions may be satisfied. <b>(Paragraph 2.22, P13)</b></p>	<p>All respondents supported the proposal.</p>
<p>11. It is proposed to discontinue the provision under which an officer qualifies for an award by virtue of being injured while travelling to and from work where there is no causal connection between the injury and the status or duties of a constable. <b>(Paragraph 2.25, P14)</b></p>	<p>The proposal received strong support from the Police Forces, but strong opposition from the PNB Staff Side and the majority of the individual respondents.</p>
<p>12. It is proposed that a police injury award should continue to consist of an initial gratuity plus a regular income in the form of continuing periodical payments. <b>(Paragraph 3.3, P15)</b></p>	<p>All respondents supported the proposal.</p>
<p>13. It is proposed that the injury pension should continue to be related to loss of earning capacity, a decision which should rest with the Selected Medical Practitioner (SMP). <b>(Paragraph 3.9, P16)</b></p>	<p>All respondents supported the proposal.</p>
<p>14. It is proposed that the scale of injury pensions should remain based on an officer's length of service, although comments would be welcome on the issue of whether this is discriminatory against younger officers with less service or whether this difference in treatment can be objectively justified. <b>(Paragraph 3.10, P16)</b></p>	<p>The majority of respondents supported the proposal, but concerns were raised about the risk of non compliance with age discrimination legislation in relation to this proposal.</p>
<p>15. It is proposed to retain the use of the claimant's pensionable police salary at the point at which he or she last served as the benchmark for pre-injury earning capacity. It is not considered necessary to amend the regulations to this effect but to keep this as a matter of guidance. <b>(Paragraph 3.16, P17)</b></p>	<p>All respondents supported the proposal.</p>
<p>16. It is proposed to use the full-time pensionable police salary as the benchmark for pre-injury earning capacity unless the claimant was serving immediately before retirement as a part-time officer because of a pre-existing disability. <b>(Paragraph 3.19, P17)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>Concern was raised by the PNB Staff Side that an officer working part-time other than because of a pre-existing injury should not be disadvantaged.</p>

PROPOSAL	COMMENTS
17. It is proposed to retain the present bands of assessment – slight, minor, major and very severe. <b>(Paragraph 3.20, P17/18)</b>	All respondents supported the proposal.
18. It is proposed that an injury pension should be paid only for a reduction in earning capacity of more than 10%. <b>(Paragraph 3.21, P18)</b>	All respondents supported the proposal, however the PNB Staff Side raised concerns regarding the proper implementation of this proposal. It was suggested that there might be the potential that this could be applied inappropriately, and that guidance on this subject should be revisited.
19. It is proposed to make gratuities payable [even where the loss of earning capacity is not more than 10%] to acknowledge the fact that an injury has occurred, but within the present system of bandings. <b>(Paragraph 3.22, P18)</b>	All respondents supported the proposal.
20. It is proposed to make the disablement gratuity five times average pensionable pay in all cases. <b>(Paragraph 3.24, P18)</b>	All respondents supported the proposal.
21. It is proposed to continue linking the level of the lump sum to the officer’s loss of earning capacity as an indicator of the severity of the injury and the immediate financial needs of the individual officer. <b>(Paragraph 3.26, P19)</b>	All respondents supported the proposal.
22. It is proposed to change the term “degree of disablement” to “loss of earning capacity.” <b>(Paragraph 3.28, P19)</b>	All respondents supported the proposal.
23. For the sake of clarity is it proposed that an injury pension should in future be called an “injury earnings supplement” to reflect the distinction from pension scheme benefits. <b>(Paragraph 3.30, P19)</b>	All respondents supported the proposal. It was suggested that the term “injury earnings supplement” be replaced with “injury related earnings supplement” for clarity.

PROPOSAL	COMMENTS
<p>24. It is proposed to amend the definition of default to mean misconduct or negligence for all circumstances. However, it is also proposed that, to recognise the added complications of high-pressure situations or split-second decisions, and to ensure officers do not hesitate due to uncertainty about the extent to which they are covered, officers are eligible for an award when:</p> <ul style="list-style-type: none"> <li>• Trying to save life or protect oneself or another from physical attack;</li> <li>• Responding to an emergency;</li> <li>• Trying to make an arrest of otherwise apprehend a person resisting or evading arrest or being apprehended;</li> </ul> <p>except if there was evidence of serious and culpable negligence or misconduct. Comments are invited on this issue. <b>(Paragraph 4.6, P20)</b></p>	<p>The majority of respondents from the Police Forces supported the proposal, but suggested the need for greater clarity on the likely effects of the proposed changes.</p> <p>The PNB Staff Side strongly opposed the proposed change, since they supported retention of terms “serious and culpable”. A ground for their concern was that there would not necessarily be a link between the seriousness of the default and the seriousness of the injury, it could not be right in its view that awards should be denied for behaviour which was not serious or for which the officer was not culpable.</p>
<p>25. Subject to default being a factor which can be taken into account on apportionment it is proposed that there should no longer be a provision for the SMP to advise specifically on default. <b>(Paragraph 4.8, P21)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>The PNB Staff Side agreed with the proposal to remove the provision for the SMP to advise on default, but raised concerns that it would be inappropriate to consider lifestyle factors as part of the apportionment process.</p>
<p>26. It is proposed that the system of apportionment developed by the courts should be maintained, and that the SMP should have the final decision in determining the loss of earning capacity on the basis of the apportionment. Comments would, however, be welcome as to whether to make the issue of default as a reason for reducing the size of the award no longer a separate question for the SMP, but part of the process of apportionment. <b>(Paragraph 4.12, P22)</b></p>	<p>The majority of respondents supported the proposal. Concerns related to apportionment expressed under proposal 25 by the PNB Staff Side were also extended to this proposal.</p>

PROPOSAL	COMMENTS
<p>27. It is proposed that any compensation or damages payable to the officer in respect of the injury should be taken into account when paying the award. However, as with the disablement gratuity and the death gratuity, "compensation" should not be deemed to include compensation awards which have themselves already been reduced by the amount of any injury gratuity paid or payable, so as to avoid the risk of a possible double reduction. <b>(Paragraph 4.15, P22)</b></p>	<p>Respondents from the Police Forces strongly supported the proposal. PNB Staff Side also agreed in principle, although there were concerns from a number of respondents over the practical implementation of this proposal, specifically the possibility of double reductions.</p> <p>Concern was also raised by some Police Forces about the use of the term "taken into account", and whether it could be interpreted as implying that reduction would not be mandatory.</p>
<p>28. It is proposed to retain the current requirement, as provided in the Police (Injury Benefit) Regulations 2006, Schedule 3 that other benefits need to be taken into account when the level of an injury award is being set. <b>(Paragraph 4.18, P23)</b></p>	<p>All respondents supported the proposal.</p>
<p>29. It is proposed to require officers to apply to DWP and confirm entitlement to State Incapacity Benefits (or the Employment and Support Allowance from October 2008) before any payment of the injury award is made. It is also proposed that this is an issue to be covered by detailed guidance to police authorities, rather than by amendments to the regulations, although comments are also invited on this issue. <b>(Paragraph 4.19, P23)</b></p>	<p>All respondents supported the proposal.</p>
<p>30. It is proposed that no claim for an injury award can normally be made more than five years after the officer has ceased to serve as such, but that an exception should be made for a medical condition which:</p> <ul style="list-style-type: none"> <li>• Is of a progressive nature; or</li> <li>• Has a long incubation period.</li> </ul> <p><b>(Paragraph 4.24, P24)</b></p>	<p>The proposal was supported by the majority of respondents and welcomed by the Police Forces.</p> <p>However, the PNB Staff Side opposed the introduction of a time limit, suggesting that it would be artificial and unnecessary.</p>

PROPOSAL	COMMENTS
<p>31. It is proposed that the regulations list the below set of conditions as excluded from the five year post retirement limit on new claims.</p> <ul style="list-style-type: none"> <li>• AIDS</li> <li>• Other blood-borne viruses e.g. Hepatitis C</li> <li>• Cancer</li> <li>• Post Traumatic Stress Disorder, and</li> <li>• Brain Injuries</li> </ul> <p><b>(Paragraph 4.25, P24)</b></p>	<p>The majority of respondents supported the proposal, although many requested further clarification of the terms listed.</p> <p>The PNB Staff Side reiterated their concerns, similar to those under proposal 30, that imposing a list of exclusions could be artificial and unnecessary.</p>
<p>32. It is proposed to have an overall age limit of 65 on all claims for injury awards, after which age officers are not able to submit a new claim. The age would be renewed in line with the State Pension Age once there is a common age for both men and women. <b>(Paragraph 4.36, P25)</b></p>	<p>All respondents supported the proposal.</p>
<p>33. It is proposed to maintain the current obligation on police authorities to review injury awards but to leave decisions as to the frequency, and necessity, of such reviews to their discretion. <b>(Paragraph 5.4, P26)</b></p>	<p>All respondents supported the proposal.</p>
<p>34. It is proposed that payments of an injury income supplement will be stopped where on review the former officer's loss of earning capacity is assessed as 10% or less. <b>(Paragraph 5.5, P26)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>The PNB Staff Side agreed with the proposal provided that proposal 18 (that an injury pension should only be paid for a reduction of earning capacity of more than 10%) was also introduced.</p>
<p>35. It is proposed that any changes in loss of earning capacity should be reflected in an officer's injury award banding, not solely those that are "substantial", although the police authority must first consider the necessity of the review itself. In addition, SMPs must be reminded of the need for objectivity and clarity at all times. <b>(Paragraph 5.8, P26)</b></p>	<p>The majority of respondents supported the proposal, although some suggested that the changes were unnecessary.</p>
<p>36. It is proposed that the original apportionment may be amended as a result of the review if there has been an alteration in the loss of earning capacity. <b>(Paragraph 5.9, P27)</b></p>	<p>All respondents supported the proposal.</p>



PROPOSAL	COMMENTS
<p>37. It is proposed that from age 65 there should be no further reviews and that instead the minimum income guarantee should be replaced by a minimum retirement income guarantee of half its current value and that any payments to top-up the pension, after abatement, should be termed an “injury pension supplement.” Comments are invited on this proposal. <b>(Paragraph 5.17, P29)</b></p>	<p>All respondents supported the proposal.</p>
<p>38. It is proposed to use ASHE – Annual Survey of Hours and Earnings figures for former officers in the federated ranks between the ages of 60 and 65, but at the point of replacing the MIG with the new MRIG at age 65, recalculate the MIG using the former officer’s police salary as the pre-injury benchmark so that the new minimum pension guarantee is calculated in the same way for former officers of all ranks. <b>(Paragraph 5.21, P30)</b></p>	<p>Some respondents supported the proposal and although the majority of respondents did not disagree with the proposal, there were concerns about how it would be implemented and the related administrative problems.</p> <p>A number of respondents from the Police Forces suggested the use of ASHE from age 60 onwards, without recalculation at age 65.</p>
<p>39. It is proposed to introduce the following procedure for considering a claim for an injury award:</p> <p>The police authority should initiate action as follows:</p> <ul style="list-style-type: none"> <li>• it should consider the factual issues of whether and when the injury took place;</li> <li>• it should form a view, to the extent possible, of whether the injury was received in the execution of duty;</li> <li>• it should consider whether the injury was received with the officer’s default;</li> <li>• it should decide whether or not to refer the claim to the SMP (if the injury is a disease or mental condition the case must be referred);</li> <li>• if there is a referral, it should put specific questions to an SMP who is suitably qualified to consider the medical issues involved.</li> </ul> <p>The SMP should report to the police authority on:</p> <ul style="list-style-type: none"> <li>• whether the physical or mental condition of the officer supports the claim of an injury and is compatible with the circumstances of that injury as claimed; and, if so,</li> <li>• whether the officer’s permanent disablement is wholly or mainly caused by the injury; and if applicable</li> <li>• the degree of loss of earning capacity as a result of the permanent disablement; and where there are other causes of the permanent disablement</li> <li>• the degree of loss of earning capacity as a result of the injury after apportionment; and if applicable</li> </ul>	<p>The majority of respondents supported the proposal.</p> <p>Concern was raised by the PNB Staff Side that the proposed change would blur the role of the SMP. It was also suggested that this would be likely to result in more Crown Court appeals and expense.</p>

PROPOSAL	COMMENTS
<ul style="list-style-type: none"> <li>whether the officer brought about or substantially contributed to his or her disablement by his or her own default (If retained separate from the consideration of apportionment).</li> </ul> <p>The SMP is therefore responsible for taking the final decision on the level of the injury award. <b>(Paragraph 6.4, P31)</b></p>	
<p>40. It is proposed that a claimant who refuses a police authority or SMP’s request for relevant information should be given formal notice that he or she can expect to have an adverse inference drawn from such refusal, and may have his or her claim rejected altogether. <b>(Paragraph 6.7, P32)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>The PNB Staff Side raised concerns regarding the practicality of the proposal, and the ambiguity of “relevant information”.</p>
<p>41. It is proposed that all cases should be sifted but that reviews involving a medical examination should be targeted at cases where there is a request for this, lack of information or where the available information indicates that the officer’s loss of earning capacity may have changed. It is proposed to incorporate this into any new guidance that arises from this review. <b>(Paragraph 6.13, P33)</b></p>	<p>The overwhelming majority of respondents supported the proposal.</p> <p>The PNB Staff Side accepted the proposal on the basis that medical review would be available on request.</p>
<p>42. It is proposed to review the decision to retain the pension scheme provision of the dependent relative’s gratuity as a benefit payable in the event of an injury in the light of other proposals. <b>(Paragraph 7.3, P34)</b></p>	<p>The majority of respondents supported the proposal.</p>

PROPOSAL	COMMENTS
<p>43. It is proposed that the survivor benefits currently available to spouses and civil partners should also be payable to nominated unmarried and to unregistered same-sex partners under the new police injury benefits scheme, that these benefits should be payable for life, and that the survivor benefits available to children should also be payable to any child who was dependent on the police officer. <b>(Paragraph 7.8, P35)</b></p>	<p>The overwhelming majority of respondents supported (and welcomed) the change.</p> <p>The PNB Staff Side raised concern regarding the potential for misinterpretation of the cover provided. It was suggested that members might misunderstand the limited extent of the cover (that it only related to death benefits payable where an officer's death was the result of an injury received in the execution of duty). It was further suggested that some members of the Police Pension Scheme 1987 (PPS) might misinterpret this to mean that their partner would receive a survivor pension and/or that all survivor pensions would be life long.</p>
<p>44. It is proposed to retain the practice of reduction, whereby if, in any week, a special or augmented pension is payable to the spouse or civil partner under the Social Security Contributions and Benefits Act 1992 in consequence of the officer's death and the amount of that pension exceeds that of a spouse's pension under that Act at the time of the officer's death, then the amount of her special pension in respect of that week is to be reduced by that excess, in order to encourage consistency across the public sector. <b>(Paragraph 7.12, P36)</b></p>	<p>All respondents supported the proposal.</p>
<p>45. It is proposed that the present system of lump-sum benefits and gratuities for death due to injury in the execution of duty should be replaced by a system of three types of death gratuity paid to the adult survivor; a child; or an adult dependent relative in that order of precedence and at a rate of either five times, four times or three times the officer's average pensionable pay, subject to a minimum level for more junior officers. <b>(Paragraph 7.23, P38)</b></p>	<p>The overwhelming majority of respondents supported the proposal.</p> <p>The PNB Staff Side took the view that there should be no reduction in entitlement compared to the current position as a result of implementing the proposal.</p>

PROPOSAL	COMMENTS
<p>46. It is proposed that the death gratuity payment will not be extended beyond adult dependent relatives to include the officer's estate. <b>(Paragraph 7.24, P38)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>The PNB Staff Side raised opposition to the proposal suggesting that a parent(s) might not be considered dependent, but could nevertheless be worse off financially and yet excluded from a payment.</p>
<p>47. It is proposed that survivor benefits should be based on the same criteria as injury awards for determining whether the injury was received without default in the execution of duty. <b>(Paragraph 7.27, P38)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>Concerns related to proposals 7 and 24 were reiterated by the PNB Staff Side as also applicable here.</p>
<p>48. It is proposed that death should be deemed by the police authority to be the result of an injury received in the execution of duty if the person's death was wholly or mainly caused by that injury. <b>(Paragraph 7.29, P39)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>PNB Staff Side concerns that the term "wholly or mainly" could be ambiguous in relation to proposal 5 were reiterated.</p>
<p>49. It is proposed to confirm the following procedure for considering a death:</p> <p>The police authority should initiate action as follows:</p> <ul style="list-style-type: none"> <li>• It should form a view as to whether the officer's death was wholly or mainly due to an injury sustained in the execution of duty; and</li> <li>• It should consider whether death occurred due to the officer's default.</li> </ul> <p>The SMP should:</p> <ul style="list-style-type: none"> <li>• Decide whether the officer's death was wholly or mainly due to the injury sustained; and</li> <li>• Advise whether the officer brought about or substantially contributed to his or her death by his or her own default.</li> </ul> <p><b>(Paragraph 7.31, P39)</b></p>	<p>The majority of respondents supported the proposal.</p> <p>The PNB Staff Side had concerns that this would blur the role of the SMP – concerns which also applied to proposal 39.</p>

PROPOSAL	COMMENTS
<p>50. It is proposed that forces are mandated to keep all relevant information regarding the injury benefits distributed, including details of the injury type, the loss of earning capacity and records of the police authority and SMP's final decision, as well as information about any appeals or review processes undertaken, alongside existing diversity data to ensure any equality issues arising from their operation of the injury benefits system are brought to light and addressed. <b>(Paragraph 8.2, P40)</b></p>	<p>All respondents supported the proposal.</p> <p>Some concerns were raised in relation to ensuring that police authorities comply with the Data Protection Act to ensure the protection of personal information.</p>
<p>51. In order to create a framework for good practice in which forces regularly collect data on injury awards which they can pass onto the Home Office it is also proposed that forces are required to enter a limited amount of information about injury awards onto the top-up return used for the police pensions financing arrangements. In order to ensure that no undue burdens are being placed on pensions administrators this requirement will be reviewed after three years. <b>(Paragraph 8.6, P40)</b></p>	<p>All respondents supported the proposal.</p>

## **Section Three: Consultation Criteria and Conduct of the Consultation Exercise**

This chapter explains how the consultation exercise on the Review of Police Injury Benefits has been conducted in accordance with the six criteria set out in the Cabinet Office Code of Practice on consultation exercises.

### **Criterion 1 – Consult widely throughout the process, allowing a minimum of 12 weeks for written consultation exercises at least once during the development of the policy.**

The consultation document was launched in August 2008 and ran until 18 November, although responses received shortly after that date were also accepted and included in the analysis.

The consultation paper was published by the Home Office. A copy of the consultation was made available in other formats e.g. Braille, Large Font and Audio.

### **Criterion 2 – Be clear about what your proposals are, who may be affected, what questions are being asked and the timescale for responses.**

The proposals were set out in an executive summary. The proposals and the recommendations were set out in more detail in the relevant chapter of the consultation paper.

The consultation document was published on the Home Office website, and circulated to a wide range of relevant organisations and interest groups.

The dates of the consultation period and the closing date for responses were published within the consultation document, and was clearly advertised in all correspondence.

### **Criterion 3 – Ensure that your consultation is clear, concise and widely accessible.**

The consultation paper included an executive summary of the background to the exercise and a summary of the proposals. A further summary of proposals listing all the issues was also provided.

### **Criterion 4 – Give feedback regarding the responses received and how the consultation process influenced the policy.**

The consultation paper received 41 responses including 30 force, police authority or Staff Side responses, and 11 responses from other organisations or individuals. All the responses were individually recorded and analysed. A summary of all responses is available as Section 2 of this document, and all responses received are recorded in Annex A.

In the light of the responses to the consultation document the Home Office has entered into further consultation on various more or less contentious issues with a view to PNB agreement. It is anticipated that despite the decision to consult further a package of changes to the injury benefits system will be implemented in 2009.

**Criterion 5 – Monitor your department’s effectiveness at consultation including through the use of a designated consultation co-ordinator.**

Details of a designated consultation co-ordinator were included in the consultation document. No complaints were received throughout the consultation exercise.

**Criterion 6 – Ensure your consultation follows better regulation best practice, including carrying out an Impact Assessment if appropriate.**

The Home Office conducted an Impact Assessment in a separate parallel document, which is available at:

<http://www.homeoffice.gov.uk/documents/impact-assessment-injury-benefit>

# 1. Introduction 1.1-1.14 and Issue 1

Name and Organisation	Date and Method of Response	Comments
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p><b>Issue 1:</b> By all means stipulate to whom these proposed changes should apply. However, it is not helpful to state that the proposed changes should not apply retrospectively. Medical Appeal Boards and Courts will often examine 'guidance available at the time'. This could greatly assist in defending old cases.</p>
<p><b>Joscelin Lawson (Head of Human Resources, NORTHUMBRIA Police)</b>  <a href="mailto:Joscelin.Lawson@northumbria.pnn.police.uk">Joscelin.Lawson@northumbria.pnn.police.uk</a></p>	<p>03 October 2008, hard copy</p>	<p><b>Issue 1:</b> It is agreed that the criteria within the Regulations for awards should remain untouched with respect to existing awards. However, the regulations are currently weak on the case management side and it is believed that these should be amended to deal with the SMP's case management powers and to give the determination of non-medical fact and law to the Police Authority. This will not affect the substantive Regulations it will just strengthen the case management part.</p>
<p><b>S. G. Hall (Director of Resources, WEST MIDLANDS Police)</b>  <a href="mailto:s.g.hall@west-midlands.police.uk">s.g.hall@west-midlands.police.uk</a></p>	<p>28 October 2008, hard copy</p>	<p><b>Issue 1:</b> Agreed. The proposed changes should only apply to officers still serving when they become effective, and not to those who have already retired. Those who have already retired would therefore be covered by the old arrangements whether or not they had actually brought forward a claim for Injury when the new arrangements become effective.</p>



<p><b>Joanna Barry (Corporate HR Consultant, NORTH YORKSHIRE Police)</b>  <a href="mailto:joanna.barry@northyorkshire.pnn.police.uk">joanna.barry@northyorkshire.pnn.police.uk</a></p>	<p>10 November 2008, consultation inbox</p>	<p><b>Issue 1:</b> The Police Injury Benefit Regulations 2006 allow police authorities to review ex officers, who may have been retired for some years, and have received an injury award under the old regulations. Officers perceived this payment as being for life and non-reviewable, however, this has now been made clear with numerous communications and correspondence being sent to all ex-officers. This has allowed us to review all awards under the new PIBR 2006, and therefore it would have been more beneficial to have the ability to continue to review cases but where they fall into the lowest band, i.e. 0-10% either retrospective or new cases the same criteria and outcomes be applied.</p>
<p><b>Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)</b>  <a href="mailto:Nigel.Brook@westyorkshire.pnn.police.uk">Nigel.Brook@westyorkshire.pnn.police.uk</a></p>	<p>13 November 2008, hard copy</p>	<p><b>Issue 1:</b> Agreed. It is appropriate that the proposed changes should only apply to currently serving officers at the time the changes become effective, including new entrants. Officers who have retired, or retire prior to the new legislation should continue to be treated within the existing arrangements.</p>
<p><b>Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)</b>  <a href="mailto:gerryrobinson@narpo-staffs.co.uk">gerryrobinson@narpo-staffs.co.uk</a></p>	<p>16 November 2008, hard copy</p>	<p><b>Issue 1:</b> We concur with these proposals.</p>
<p><b>Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)</b>  <a href="mailto:Kathie.Walker@nio.x.gsi.gov.uk">Kathie.Walker@nio.x.gsi.gov.uk</a></p>	<p>17 November 2008, hard copy</p>	<p><b>Issue 1:</b> Administratively it would be easier if all claims after the new introduction of the changes are dealt with under the same regulations whether from officers who retired prior to the changes or those who retired following their introduction.</p>

**Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)**  
[andy.champness@glos-pa.gov.uk](mailto:andy.champness@glos-pa.gov.uk)

18 November 2008, hard copy

**Issue 1:** Agree.

**Fiona Edger (Attendance Manager, LANCASHIRE Constabulary)**  
[Fiona.Edger@lancashire.pnn.police.uk](mailto:Fiona.Edger@lancashire.pnn.police.uk)

18 November 2008, hard copy

**Issue 1:** The proposed application of any changes would seem reasonable.

**KENT Police Authority**

18 November 2008, hard copy

**Issue 1.** It is proposed that any changes introduced to the provision of injury awards and awards for death attributable to police duty should apply to serving officers (including those who have already sustained an injury but have not retired prior to the changes taking effect) as well as new entrants and to the dependants of such officers. However, it is proposed that these changes should not apply retrospectively i.e. to former officers (or their dependants) who have retired or will retire before the changes are introduced. These officers should continue to be treated within the system as it stood at the time they retired. (Paragraph 1.14)

Agree, even though this creates a two-tier system, as per the change in the police pension scheme, change in housing allowance etc

<p><b>Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)</b>  <a href="mailto:Comsec1@psni.pnn.police.uk">Comsec1@psni.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 1:</b> The PSNI view is that the proposed changes, if implemented, should be applicable to anyone applying for an Injury on Duty award on or after the date of implementation. This would include retrospective applications.</p>
<p><b>Linda Manley (individual respondent &amp; Force Risk Manager, SUSSEX Police)</b>  <a href="mailto:Linda.Manley@sussex.pnn.police.uk">Linda.Manley@sussex.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 1:</b> Whilst I appreciate that the economics of retrospective awards may be onerous, I do not agree with the proposal that former officers, or their dependents should continue to be treated within the system as it stood at the time they retired. If we recognise that what has prevailed previously as being flawed, we should be prepared to retrospectively apply these proposals, at the very least to the dependents of any officer whose death was attributable to police duty.</p>
<p><b>Sue Martin ( Chief Executive, SURREY Police Authority)</b>  <a href="mailto:Martin10986@surrey.pnn.police.uk">Martin10986@surrey.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 1:</b> We agree.</p>
<p><b>METROPOLITAN Police</b></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 1:</b> The proposal suggest that officers serving at the time of implementation will be affected, whether or not they have already sustained an injury. The changes will not therefore impact officers who have already retired at the point the changes are implemented. This suggests that we will need to be very clear with our record keeping, and determining on what basis any injury award was made.</p>

		There needs to be absolute clarity about how this will be implemented in respect of serving officers and those retired, injuries incurred in the past and those currently and the impact of a change in injury status on an existing beneficiary.
<b>John Sturzaker (Russell Jones &amp; Walker on the behalf of the Police Negotiating Board Staff Side)</b> <a href="mailto:J.N.Sturzaker@rjw.co.uk">J.N.Sturzaker@rjw.co.uk</a>	18 November 2008, consultation inbox and hard copy	<b>Issue 1:</b> If material changes are made Staff Side has some concern as to how the transitional arrangement will operate. For example, if the position in relation to injuries received on journeys to and from work is changed, then any officers who have been injured on such a journey but are still serving might leave or consider leaving service in order to preserve their entitlement. The issues of whether such officers should be given guidance and the terms of such guidance are difficult ones.
<b>Scottish Force Response</b>	18 November 2008, hard copy	<b>Issue 1:</b> Supported.

## 2. Eligibility for Police Injury Awards 2.1 – 2.25 and Issues 2-11

Name and Organisation	Date and Method of Response	Comments
<p><b>Bill Rogers (individual respondent)</b>  <a href="mailto:Bill.Rogers@met.pnn.police.uk">Bill.Rogers@met.pnn.police.uk</a></p>	<p>27 August 2008, consultation inbox</p>	<p><b>Issue 11:</b> I am very concerned that if we are injured travelling to or from work, we would no longer be covered. As a motorcyclist, I am all too aware of the dangers of commuting. The benefits of the new proposals do not outweigh this loss in my opinion.</p>
<p><b>Peter Westall (individual respondent)</b>  <a href="mailto:Peter.Westall@met.pnn.police.uk">Peter.Westall@met.pnn.police.uk</a></p>	<p>28 August 2008, consultation inbox</p>	<p><b>Issue 11:</b> The one part of the new proposals that I have a problem with is the removal of the payment for injuries sustained while on route to or from work.</p> <p>I object to the removal of this payment because:</p> <p>If the officer was not on route to or from work then they would not have sustained the injury.</p> <p>Our regulations state that we can be deployed anywhere in the Met, this can mean that our journey can be longer that it would normally be so the risk of us having an accident are increased.</p> <p>If we are off duty late then we will be travelling at a time when our reactions are likely to be impaired due to long hours on duty. Removing this protection will leave officers vulnerable.</p>

Yet again we are being classed as the same as other public sector workers, I find it hard to believe that other public sector workers are forced to work a 16+ hour shift, or on occasions work a 20+ hours shift, both of these length of shifts have just taken place due to Notting Hill carnival.

And this is not a 1 off, this kind of shift pattern happens often for serving officers, and officers do not have a say in the length of the shift.

Also unlike the rest of the public sector Police officers are never officially off duty, they are expected to deal with crime any time day or night; surely this is another example of forgetting what a Police officers job really is.

**Amanda Parker (HR Manager, SUFFOLK Constabulary)**

[Amanda.Parker@suffolk.pnn.police.uk](mailto:Amanda.Parker@suffolk.pnn.police.uk)

08 September 2008, hard copy

**Issue 3:** “Top-up” arrangements which allow the disabled to have an option to return to work on a part time basis is welcomed although it is acknowledged that it is difficult to achieve a fair financial balance as an award could lead to them receiving a higher hourly rate in total remuneration than a colleague.

**Issue 5:** The wording of “wholly” or “mainly restricted” rather than “substantially” may need to have further guidance to ensure consistency in application across forcers.

**Issue 6:** Specific Exclusions – Training is excluded from duty. Personal Safety Training has previously resulted in officers suffering an injury and there may be resistance to removing this from the category of duty. As Personal Safety Training is mandatory, consideration should be given to not excluding this type of training.

**Issue 7:** Giving discretion to decline a claim where it is considered that the claim would be more appropriately be decided by the courts would be to the constabulary's advantage but this may require those implementing the injury award system to have a greater understanding of the legal system and therefore guidance on claims the court would hear would be desirable.

**Issue 8:** The balanced approach to cover when off duty appears to be fair and reasonable.

**Issue 11:** The removal of injury on duty whilst travelling to/from the normal place of work is welcomed. This clearly is now out of date for the reasons outlined in the paper.

**Karen Foster (Payroll Services Manager,  
SOUTH WALES Police)**  
[Karen.Foster@southwales.pnn.police.uk](mailto:Karen.Foster@southwales.pnn.police.uk)

18 September 2008,  
consultation inbox

**Issue 2:** Suggests that permanently 'disabled' be changed to 'permanent incapacity'. This is due to detailed difference between different definitions of disability under the Police Pensions Regulations and the Disability Discriminations Act.

**Issue 3:** States that it is unclear as to how this could be managed, as payment of IOD is a consideration at the time or after a pension is released. Questions whether there would be a release of part of the officer's pension. Also queries if it would then be cancelled in the event of improvement and whether this would have an impact on an officer having outside business interests. Suggests that they would consider 'reasonable adjustments' in terms of conditions – reduction in hours- to be a suitable means if dealing with a case such as this.

**Issue 4:** Overall states that this does not pose a problem. States that the present problem is the ease with which individuals can obtain the classification of ICD 10 purely on presentation. States that medical appeal boards appear to accept specialist reports on a persons mental condition, but have disregard for evidence adduced to show that the presentation is at odds with their daily life.

**Issue 5:** Straightforward recommendation that should remove confusion.

**Issue 6:** Requests it be made clear that an IOD can only be accepted as such if the injury was sustained as a 'direct result of duties unique to the office of constable' not that it occurred whilst in work, i.e. slips, trips, falls.

**Issue 7:** Believes that on the positive side could lead to a determination that could assist Authorities. On the negative, believes that medical issues would be decided outside the medical arena, and they would then be duty bound by the decisions.

**Issues 8, 9, 10 and 11:** Fully supports these proposals and especially the change in relation to Issue 11 believing this to be an area where retrospective use of these guidelines would be beneficial.

**KENT Police Authority**

18 November 2008, hard  
copy

**Issue 2:** Agree



**Issue 3:** A 'top-up' arrangement would need to be very clearly defined in terms of its workability and great care would be needed to distinguish between an officer who was permanently disabled but not ill health retired because they could do a specific role and an officer who was permanently disabled with an injury award doing a part time role. There is scope for a great deal of confusion here in terms of how each of these elements are defined and in terms of fairness (who gets which status?). From a pay point of view, an injury award is granted on the basis of loss of earning capacity, which is not based on an hourly rate. This idea needs to have a lot more work done before it could be a viable proposal.

It might be worthwhile to consider a process where the Authority could look at making reasonable adjustments for an officer's disability under DDA Regulations and one of these elements may be to reduce the officer to part time working without recourse to permanent disability or the injury disability process. This also incorporates the wider issue of reducing the ability to civilianise posts if they are 'held' for officers with a disabling injury.

**Issue 4:** Mental injuries should be included but as stated, only for clinically definable illnesses as classified under ICD 10 or DSM IV.

**Issue 5:** Agree – see also 7.29 Issue 48

**Issue 6:** Agree with the principle and the headings but what level of proof will be needed for these elements, what right of appeal will officers have against them? The provision to discontinue qualification for injury for travelling to and from work should also be included under this heading. (Para 2.25 Issue 11)

**Issue 7 -9:** Agree

**Issue 10:** Surely this issue is redundant given the provisions under Issue 9, the Police Authority are allowed to use discretion in their dealings with officers and there should be no real need to enshrine the principle in statute. In time, if there are specific cases, then case law will create the conditions where this matter will be clarified through the courts or appeal system.

**Issue 11:** Agree, this provision should be included in the section covering specific exclusions (Para 2.17)

**Phil Mason (Head of HR Operations,  
LEICESTERSHIRE Constabulary)**  
[Phil.Mason@leicestershire.pnn.police.uk](mailto:Phil.Mason@leicestershire.pnn.police.uk)

23 September 2008, hard  
copy

**Issue 2:** Supported.

**Issue 3:** Whilst this does facilitate the retention of particular skills within the organisation, it is likely that if someone is permanently disabled with some residual ability then we would seek to retain them in a police staff position anyway. What the 'top-up' arrangement does do is give the employer the flexibility to financially evaluate each case to determine the best option; however consistency of application would be a big risk. Further evaluation of the risks around Equal Pay claims should be undertaken before any 'top-up' arrangement is introduced.

**Issue 4:** Supported.

**Issue 5:** The new definition of disablement is clearer and less open to misinterpretation.

**Issue 6:** The new definition of execution of duty is supported. This brings the policy in line with similar policies in other sectors.

**Issue 7:** It is reasonable that the Police Authority should have the discretion to decide where it is more appropriate for a claim to be dealt with by the courts.

**Issue 8-10:** Supported.

**Issue 11:** Support the discontinuation of injury whilst travelling to and from work. Again this is in with other sectors.

**Robert Parker (Head of Human Resources,  
GWENT Police)**

[Robert.Parker@gwent.pnn.police.uk](mailto:Robert.Parker@gwent.pnn.police.uk)

01 October 2008, hard copy

**Issue 3:** We see it as feasible that an officer could receive their lump sum and subsequently work as a part time officer with a 'top-up' payment to their normal level of pay. If an officer who already worked part time needed to reduce their hours further due to their permanent disablement, there is an argument that their 'top-up' payment should not exceed their previous part-time pay.

Officers who are on the 30+retention scheme are able to receive their lump sum and partial abatement to ensure that they do not receive a drop in pay once they are re-engaged and we wonder whether issue 3 in these proposals are able to mirror the 30+ retention scheme payment situation.

**Issue 6:** Further clarity would be welcomed around the following:

- Injuries while taking part in sport – further explanation would be welcomed to the Note – we currently assume it excludes cases where officers are injured while undertaking a sport or fitness activity which they carry out to maintain or increase their fitness.
- Injuries while taking a break from work or training – the Note implies that an officer who injures themselves whilst making a drink or visiting the washroom would be deemed to have received an injury in the execution of his/her duty.

We note the wording included in 2.12 and would wish to see it clearly stated in the Regulations that an injury on duty is received only in the execution of police duties. We disagree that making refreshments or visiting the washroom and other similar activities are examples of executing police duties.

**Issue 7:** We understand that public liability insurance states that the insured shall take all reasonable precautions to prevent or diminish losses or liability arising in connection with the insured risks. This therefore indicates that we should not invite claims so we strongly recommend that this issue is not pursued.

**Issues 9 & 10:** We are unclear as to whether this is limited to terrorist attacks or whether it applies to other cases, e.g. where an officer is off duty but an officer in their force has been injured in a random attack by a member of the public.

We are not convinced that the off duty officer should receive an injury pension if they have to be retired on the grounds of permanent disablement due to their reaction to this incident.

**Elizabeth Grayson (Force Occupational Health, Safety and Welfare Officer, NORTHAMPTONSHIRE Police)**  
[Elizabeth.Grayson@northants.pnn.police.uk](mailto:Elizabeth.Grayson@northants.pnn.police.uk)

02 October 2008, hard copy

**Issue 3:** If an officer determined as permanently disabled through a substantial causation from a police injury can only work reduced hours in the role of a police officer it is being considered to allow them to do so, subject to PA approval, with a top-up payment to take into account their injury. They would therefore receive a higher hourly rate. We have concerns that if implemented there could be officers who persuade the Authority to adopt this process and once in place in their particular case could resign, receive their deferred pension paid early and receive an automatic injury award. The take up of this top-up arrangement by Authorities would be so minimal in view of the financial risks that it may be considered that inclusion of this facility would be a pointless exercise. There may only be a handful of cases throughout the country where this arrangement may benefit the Forces concerned who may wish to retain the particular skills of a Police Officer albeit on a part-time basis. A better arrangement may be to simply retain the services in a civilian capacity and this would ensure fairness to fully operational officers who would be undertaking work on a lower hourly rate compared to officers retained on top-up.

**Issue 5:** The meaning of substantial causation has always been a contentious issue. Simplistically it can be anything from minimal contribution as long as the incident resulted in a condition becoming disabling (aggravation). To expand that to wholly or mainly is sensible and brings the meaning into line with other public sector schemes, and hopefully would make determinations by SMP's easier.

At PMAB hearings applicants sometimes try to infer that substantial could just be a very low percentage albeit that they perhaps had an underlying condition anyway prior to the injury at work. Many injuries occur at work when on balance the injury would have occurred in the passage of time anyway, and the fact that it occurred at work is irrelevant to causation through the execution of duties. There have been cases with awards being made through officers simply stretching over a desk or picking something up, which would clearly have occurred outside the work environment anyway. We agree that a change to wholly or mainly is overdue but there will still be contention unless the meaning is explained.

**Issue 6:** Obviously injuries excluded through Court determinations in relation to status must be excluded. Regarding sport – it is agreed that sports instructors should be an exception, but we feel there is a need to be more specific in relation to all sport participation unless part of a training course at a training centre when instructed to participate. There is a belief from some officers that representing the Force at sporting events on duty is part of the execution of duty is part of the execution of duties, but we would ask that even that voluntary participation is excluded. Consideration should also be given to specifying injuries claimed to be through staff appraisal disputes unless perverse, as recently reinforced through case law. It is agreed that officers not directly involved as part of duty at a traumatic incident should not be regarded as executing duty – this is an important exclusion.

**Issue 7:** The degree of culpability away from what would be regarded as a normal person as front-line policing will always be hard to assess.

For example, what culpability is there on a Force for an officer who slips on spilled water in the station when a sign states 'caution wet floor' compared to the same scenario without a sign – there must be higher culpability in the first instance and the courts are probably the better place to make a determination in a claim.

**Issue 8:** It is not unusual for officers off duty to be involved in disputes with neighbours or friends who know them to be police officers and it is always easy for officers to claim they were acting as police officers if they succumb to an assault for example – unless off duty officers physically place themselves on duty by stating such and if there is no urgency producing their warrant card to emphasise their status then on the balance of probabilities they should not be regarded as executing police duties. There obviously has to be the exceptional case when the officer has no opportunity to formalise his status to the other party (parties).

**Issue 11:** This exclusion is long overdue. It would be better for clarity to state that duty commences at the point of parading for duty and terminates at the point of ceasing duty – under normal circumstances this would be within the police station itself (i.e. when clocking on and clocking off duty).

**Joscelin Lawson (Head of Human Resources,  
NORTHUMBRIA Police)**  
[Joscelin.Lawson@northumbria.pnn.police.uk](mailto:Joscelin.Lawson@northumbria.pnn.police.uk)

03 October 2008, hard copy

**Issue 2:** Agreed.

**Issue 3:** This may be problematic with respect to subjective elements of any permanent disabling medical condition e/g/ symptoms of mental ill-health, pain etc. There will be genuine cases but there will also be case where the subjective systems are inflated.

Retaining officers, probably in a sought after non-operational role, may also affect the morale of other officers and these officers are likely to place a disproportionately heavy burden on management and OHU resources.

**Issue 4-11:** Agreed.

**Deborah Bentley (Acting Strategy and Planning Manager, LINCOLNSHIRE Police)**  
[Deborah.bentley@lincs.pnn.police.uk](mailto:Deborah.bentley@lincs.pnn.police.uk)

07 October 2008, hard copy.

**Issue 5:** Awards to be restricted in the future to cases where a disability is **wholly** or **mainly** caused by an injury rather than **substantially**. However this will be open to interpretation as how will those assessing define “mainly”. Is it a certain percentage, if not specified same difficulties as currently with different interpretations of “substantially.”

**Issue 8:** Off duty claims will be retained so long as there is a causal connection with the individual being a police officer. Welcome this, but again this is open to interpretation by individual forces.

**Issue 11:** Welcome removal of claims for journeys to and from work.

**P Barker (HR Partnership Manager, HUMBERSIDE Police)**  
[enquiries@humberside.pmm.police.uk](mailto:enquiries@humberside.pmm.police.uk)

17 October 2008,  
consultation inbox and hard copy

**Issue 2:** Agrees. Awards should only be payable to persons who are permanently disabled and cease to or have ceased to be a member of a Force.

**Issue 3:** The concept of top up payments made to officers who could work part time after an injury could be a worrying development the Forces could do without. Some officers could find this an appealing option that may be used as a vehicle to put forward reasons as to why they could only work part time.



When both Medical and HR Practitioners are dealing with subjective issues such as degree of pain or effect of stress on ability to work x hours per day, it is very difficult to provide evidence to counter this. This is already an issue that we experience when increasing the hours of some officers on reduced hours recuperative duty. Propose the solution that it could be for the officer to apply for a part time post or be slotted into a police staff post and apply for an IOD award.

**Issue 4:** Mental injuries should continue to be included in the scheme.

**Issue 5:** The term 'wholly or mainly' is preferred to the current wording, but '**MAINLY**' must be qualified to mean **no less than 50%**. This is because a claimant may have e.g. 3 factors (or causes) in relation to their condition. The first two contributing 30 % each and the 'on duty' third factor contributing 40 %. The first two non duty factors must be added together so as not to leave the 40% as the single 'main' factor. If this is not specific in the new Regulations argument and Court cases, costly to the public purse will undoubtedly arise.

**Issue 6:** Exclusions agreed with the addition of unsatisfactory performance procedures being mentioned along side disciplinary procedures.

**Issue 7:** The Police Authority **MUST** have the discretion to decline an award which it considers the matter would be more appropriately decided by the Courts. Some cases are very complicated and historically this Force has referred two cases to the Court which have resulted in the Court refusing an award. This has transpired after presentation of proper legal argument by both parties to the claim.

The current interpretation of the Regulations which prevents this from happening would mean that this could only be achieved by referring the matter to Medics, who often comment that they are not qualified nor best placed to engage in legal argument, and seeking a judicial review of their decision. This is a costly and time consuming process and a poor use of public funds.

**Issue 8 & 9:** Agreed.

**Issue 10:** Agreed – so long as the Police Authority has this discretion to accept or refuse as outlined under issue 7 above.

**Issue 11:** Agreed. Travel to and from work must be excluded.

**S.G. Hall (Director of Resources, WEST  
MIDLANDS Police)**  
[s.g.hall@west-midlands.police.uk](mailto:s.g.hall@west-midlands.police.uk)

28 October 2008, hard copy

**Issue 2:** Agrees. Injury Awards should remain payable only to officers who are permanently disabled for the performance of the ordinary duties of a member of the force.

**Issue 3:** They are interested in the concept of a 'top up' arrangement. They would welcome more detailed information on how this could operate with clarity and transparency, and also more detailed consideration of some specific cases where medical conditions are linked to injuries. This could become an important consideration and benefit to workforce planning.

**Issue 4:** Believe that mental injuries should continue to be included in the Injury Scheme.

**Issue 5:** Agrees. However, clear guidance on how the new term 'wholly or mainly' is to be interpreted should be provided to SMP's by the Home Office. They would expect this to be at least 80/85% of causation.

**Issue 6:** In general agreement with the proposed exclusion. However regulations must be very clear on a number of issues;

- Officers instructed to participate in sport as part of physical training who receive an injury.
- Whether or not an officer is on duty if he is instructed to go to a place rather than his normal place of duty and is injured in an RTA
- Where the exigencies of the service have affected the officers response whilst travelling.

**Issue 7:** Agrees. The Police Authorities should have the discretion to decline an award where it considers the matter would be more appropriately decided by the Courts.

**Issue 8:** Agrees. These current provisions should be retained.

**Issue 9:** Agrees. They consider that it is essential that these additional provisions are included.

**Issue 10:** Agrees. They believe that this discretion is a useful extension to the provision in issue 9.

**Issue 11:** Agrees. However they ask that reference be made to issue 6.

Stephen F. Lee (Principal HR Officer,  
GREATER MANCHESTER Police)  
[StephenF.Lee@gmp.police.uk](mailto:StephenF.Lee@gmp.police.uk)

11 November 2008,  
consultation inbox

## Issue 2: Agreed

### Issue 3: Not agreed - with comments

Firstly this proposal explains that by definition an injury award should only be paid where an officer is permanently disabled for the ordinary duties of a police officer. Therefore, as with all permanently disabled officers (as defined by a Selected Medical Practitioner) the question of retention or ill health retirement would be a delegated Police Authority decision under A20 of the Police Regulations 1987. In all cases the A20 decision to retire or retain would be based on the officers capabilities permanently affected and unaffected, the officers level of service and therefore career prospects and the availability of a meaningful police role to match the officers permanent disabilities.

It is therefore likely, that after the A20 decision making process, there would be very few officers to whom this proposal would apply, or where an officer could be retained part time with a "*top up*" arrangement.

Further on practical application, this would appear to be a very difficult process to manage because: -

- This "*top up*" arrangement would require a formula for measuring degree of loss of earnings against number of part hours worked in a similar format to the current table proposed at paragraph 3.28. This would appear to be a very complicated process to manage and would be further complicated by officers relatively young in service who could claim that this would seriously hamper their promotion, career prospects and therefore lead to further top up claims for loss of earnings further down the line.

- Managing poor performance for retained officers, who had been found permanently disabled for the purpose of the police pension schemes would be problematic.
- Managing any poor attendance for ill health retired officers who had been found permanently disabled and in receipt of an Injury Award would be problematic.

It is therefore proposed that the A20 decision process and guidance on retention or ill health retirement are sufficiently resilient and should not be further complicated with part time hours and “*top up*” payments for officers with Injury Awards.

**Issue 4:** Agreed with comments

As with all other medical conditions if clinically and medically accepted by an SMP

**Issue 5:** Agreed with the understanding in paragraph 2.11 of “*wholly or mainly*” which is an improvement on the wording of substantial.

**Issue 6:** Agreed – with comments

Having specific exclusions is welcomed and does make for a better understanding of what comprises “*execution of duty*” and the exclusions suggested have often been problematic cases previously, particularly in trying to obtain evidence for sport claims which have often happened many years previously, especially in the cases of officers retired many years prior to the claim.

For injuries whilst training, the understanding of the proposals is that those injuries would be treated and dealt with as an accident at work.

However for bullying cases, which are proved and affect mental health, there could be a conflict as issue 4, we would further require clarification on this issue.

**Issue 7:** Agreed with comments: -

If Police Authorities did not have the power to decline an award the regulations would have to cover every eventuality and degree of negligence etc which is clearly impracticable. Therefore challenges to decisions are inevitable, although as with these proposed regulations, challenges and outcomes at court will always be part of an evolving understanding and decision making process.

**Issue 8-10:** Agreed

**Issue 11:** Agreed with comments: -

Unless called out from home in an emergency situation and therefore placed on duty immediately prior to the journey.

**Joanna Barry (Corporate HR Consultant,  
NORTH YORKSHIRE Police)**  
[Joanna.barry@northyorkshire.pnn.police.uk](mailto:Joanna.barry@northyorkshire.pnn.police.uk)

10 November 2008,  
consultation inbox

**Issue 2:** Agreed. An injury award should only be payable to persons who are permanently disabled and cease or have ceased to be a member of a Force.

**Issue 3:** There are serious concerns over the feasibility of managing the 'Top Up' arrangement as this would be particularly difficult to administrate.

The introduction of the DDA for police officers 2005, has ensured that there is a diverse workforce and the 'Top Up' arrangement is yet another consideration that would be need to be taken into account, potentially further reducing the number of fully operational officers within a force.

If this arrangement is to be considered would it be better placed being part of the A20 decision, 'Retain or Retire', and relate to an ill health pension top up and not an injury award?

**Issue 4:** Agreed. Qualifying injuries should continue to include mental injuries, with the current criteria of medical causes being retained.

**Issue 5:** Agreed. Apportionment must continue to be a crucial part of any assessment.

**Issue 6:** Agreed. A clearer definition on what constitutes an injury on duty would be welcomed. This approach would ensure a causal link can be identified to the role of constable e.g. arresting and restraining an offender as an officer of the law, rather than an individual being on duty and receiving an IOD award for something not related to the office of constable e.g. slipping and hurting their back whilst at work.

**Issue 7:** The police authority having the discretion to decline an award which is deemed to be more appropriately dealt with by the Courts is welcomed.

**Issue 8 & 9:** Agreed.

**Issue 10:** Agreed – so long as the Police Authority has this discretion to accept or refuse as outlined under issue 7 above.

**Issue 11:** Agreed. Travel to and from work must be excluded.

**David Bulpitt (Police Representative, ALAMA)**  
[dbulpitt@cix.co.uk](mailto:dbulpitt@cix.co.uk)

12 November 2008,  
consultation inbox

**Issue 3:** Concern was raised at the concept of dealing with an officer differently if his employer was the police force rather than a different organisation. Is there an advantage to this approach?

**Issue 7:** Do not feel it is appropriate for police authorities to decline a claim for an injury award if they felt it was better handled in the courts. Particularly in the case of mental illness the officer is likely to be incapable of taking it through the courts.

**Ian Coombs (Policy Strategy and Audit Officer, DORSET Police)**  
[ian.coombs@dorset.pnn.police.uk](mailto:ian.coombs@dorset.pnn.police.uk)

12 November 2008, hard  
copy

**Issue 3:** There are obviously many recognised benefits to retaining disabled officers however any new 'top-up' advice needs to achieve a balance between legislative requirements, including fairness, and Force's need to maintain appropriate resilience levels and effective workforce planning arrangements.

**Issue 5:** To avoid doubt and maintain consistency across all Forces the definition of MAINLY must be qualified in percentage terms. In calculating this figure consideration should be given to factoring in on and non duty factors (or causes).

**Issue 7:** Police Authority's must have the discretion to decline an award where it considers the case would be more appropriately decided by the Courts, but with due regard to satisfying any medical related issues.

**Issue 11:** Dorset Police supports this proposal if the Home Office are satisfied policing is not unique, particular amongst other emergency services, and should otherwise be aligned with other public sector schemes.



**Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)**

[nigel.brook@westyorkshire.pnn.police.uk](mailto:nigel.brook@westyorkshire.pnn.police.uk)

13 November 2008, hard copy

**Issue 2:** Agreed.

**Issue 3:** Before being able to comment on this concept, further information is required. However, please note that this concept is not to be ruled out. Any measure to retain knowledge and experience and enables an officer to continue to work, must be considered.

**Issue 4:** Agreed.

**Issue 5:** Agreed. However, there must be available clear guidance for interpretation of the term “wholly or mainly” for Selected Medical Practitioners to work with.

**Issue 6:** Agreed. However, in the case of injuries while taking part in sport, the exception should be extended to include officers who are required to do sport as part of physical training and not just fitness instructors who undertake sporting activities as part of the execution of their duties.

**Issue 7:** Our thoughts are that a Police Authority should have the discretion to decline an injury award where it considers that a claim would be more appropriately be decided by the courts. Consideration should be given as to how this sits with other public sector schemes.

**Issue 8-10:** Agreed.

**Issue 11:** Agreed. However consideration ought to be given to those cases whereby the exigencies of the service have affect the officer’s response whilst driving.

Gerry Robinson (Chairman, NARPO  
STAFFORDSHIRE branch)  
[gerryrobinson@narpo-staffs.co.uk](mailto:gerryrobinson@narpo-staffs.co.uk)

16 November 2008, hard  
copy

**Issue 2:** We concur.

**Issue 3:** We feel that this proposal has some merit. Retaining the services of an injured officer who may have considerable expertise valuable to the service should have the opportunity of this choice.

**Issue 4-5:** We concur.

**Issue 6:** The term 'in the execution of duty' should mean what it says! **We do not agree with the exceptions you propose.**

Police Officers swear an oath of allegiance which empowers them to uphold the law of the land and make lawful arrests of persons who offend the law. Even when an officer (in the strictest terms) is 'off duty' and not in uniform, he may come across or be directed by a member of the public who knows he is a Police Officer, to carry out his duty as a constable.

This also applies when an officer is travelling to and from his place of service.

The term '**ON DUTY**' **must be clearly defined** so that there can be **no doubt** when he/she is '**ON DUTY**' or '**OFF DUTY**' to avoid an award being invalidated. **This is an extremely serious matter and the morale of the whole service could be placed in jeopardy if this term is NOT clearly defined.**

When an officer is 'training' he is also gaining valuable and essential experience to carry out his duties i.e. public order training and self defence training of appointed officers as well as the academic and physical training of recruits.

To rule this category of officers as not being on duty will open up a whole new raft of legal challenges which would be costly to the Police Force and the Police representative organisations. It cannot, in our view, be classed as 'an accident at work' covered by other legislation.

In the Armed Services, over recent years, we have seen successful legal challenges to the lack of provision of inadequate equipment and poor training methods, resulting in high compensation payouts to injured service personnel. Do you want to see this happening in the Police Service? We hope not.

**There will be instance** where a police officer suffers an injury **at work** which cannot be considered to be connected with his duty i.e. slipping on a wet or greasy floor or in those cases outlined in Issue 6. We agree that these or similar instances could be properly dealt with by civil action against the Police Authority under Health & Safety legislation.

**Issue 7:** We think this sets a dangerous precedent. The only considerations the Police Authority should have to make are (a) Was the officer on duty? (b) Was he/she acting in the execution of his/her duty? (c) Was there any default of his/her part? If these requirements are met they should get an injury award. IT should then be up to the SMP to decide the percentage of disablement. What avenue of appeal would the officer have? i.e. to the Police Authority or the Civil Courts? This needs to be determined.

**Issue 8-9:** We fully concur with this provision to safeguard the officer so situated.

**Issue 10:** We concur.

**Issue 11:** As at Issue 6 above, the scenario to the cause of the injury is the crux of the matter in these situations. If the 'cause' is a result of the officer putting himself 'on duty' then he should be covered, for example driving to or from work and witnessing or believing an arrestable offence to be committed and effecting an arrest or pursuit. A 'normal' Road Traffic Collision would obviously NOT fall within the terms of this, **unless** it could be proven that the officer was **suffering from stress or fatigue** etc as a result of being on prolonged 'hours of duty' through no fault of his own. **These provisions need very careful exploration before inclusion in these proposals.**

**Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)**

[Kathie.Walker@nio.x.gsi.gov.uk](mailto:Kathie.Walker@nio.x.gsi.gov.uk)

17 November 2008, hard copy

**Issue 2:** Agreed – we are currently amending our definition of “permanently disabled” to reflect the definition in England and Wales.

**Issue 3:** Injury awards should only be payable to officers who are required to leave the police service as a result of sustaining an injury on duty which has left them permanently disabled.

To introduce a “top-up” arrangement would not be practicable.

**Issue 4:** Agreed – in Northern Ireland we have a large volume of claims from officers suffering from post traumatic stress disorder. Therefore it is vital that mental injuries are not excluded from the scope of injury awards.

**Issue 5:** Agreed – should ensure only the most appropriate claims are considered.

**Issue 6:** Agreed – a list of exclusion is important to clarify to everyone what will not be considered as an injury received in the execution of duty.

**Issue 7:** Agreed, although it is important to allow the officer a right of appeal for claims that have been declined. This proposal would also require buy in from the police authority.

**Issue 8:** Agreed, with a continued dissident threat to police officers in Northern Ireland it is important that the safeguards for an officer whilst off duty are retained.

**Issue 9-10:** Agreed – as for 8.

**Issue 11:** Agreed.

**Christine Barton (Director of Human Resources, CHESHIRE Constabulary)**  
[Christine.Barton@cheshire.pnn.police.uk](mailto:Christine.Barton@cheshire.pnn.police.uk)

18 November 2008, hard copy

**Issue 2:** If a recipient is deemed permanently disabled from the employing force but considered to be, at some point, fit enough to take up a similar role with another force – can this be taken into consideration when deciding the award?

**Issue 3:** Seems complex and therefore more detail is required on how this could operate with clarity and transparency.

**Issue 5:** Clear guidance for Forces and SMP's is required on how the new term 'wholly or mainly' should be interpreted.

**Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)**  
[Andy.Champness@glos-pa.gov.uk](mailto:Andy.Champness@glos-pa.gov.uk)

18 November 2008, hard copy

**Issue 2:** Agree

**Issue 3:** In line with DDA and Home Office guidance on disability in the Police Service, the Force can offer reduced or part-time hours. Deployment is a consideration with possible adjustment to working hours. The opportunity to do a meaningful job with the right adjustments and remove a barrier to employment is best practice.

There may be a problem with timings, as the decision as to whether to retain an officer or not is made once the SMP confirms disablement. It may not be known at this point whether the officer is entitled to an injury award. Therefore, the 'top-up' arrangement could only properly be considered if all 4 questions are put to the SMP at the same time i.e. H1 questions on permanent disablement as well as injury on duty. In accordance with HOC 21/03, an officer is not normally permitted to apply for an injury award until they have left the Force. All 4 questions should only be asked where urgent consideration is required, such as with serious cases where retention is unlikely or death is imminent. In such cases, it is unlikely that the officer would be retained; therefore the top-up arrangement would not apply.

If the top-up arrangement is introduced, HOC 21/03 will need to be updated to allow earlier consideration of an injury award.

**Issue 4:** Agree

**Issue 5:** Agree. However, clear guidance on how the new term 'wholly or mainly' is to be interpreted should be provided to SMP's by the Home Office. I suggest 80/85%.

**Issue 6:** Agree. Although consideration needs to be given to 'execution of duty' in the context of injury awards and regulation 28 of Police Regulations and PNB circular 05/01 otherwise there may be two different 'tests' which could leave to confusion.

**Issue 7:** If the case is a one of employer liability e.g. the officer injures their back falling from a faulty chair, then this should be progressed via a civil claim in the first instance. Any compensation received should then be deducted from any Injury Gratuity. However, it may be appropriate for payment of an injury pension (or 'injury income supplement' under the new proposals).

**Issue 8 – 11:** Agree.

**Fiona Edger (Attendance Manager,  
LANCASHIRE Constabulary)**  
[Fiona.Edger@lancashire.pnn.police.uk](mailto:Fiona.Edger@lancashire.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 6:** The suggested exclusions appear logical and reasonable.

**Issue 7:** The suggestion of a Police Authority having discretion to decline a claim for injury award where it considers that the claim would be more appropriately decided by the courts is laudable but I feel could become contentious in practice and to maintain consistency throughout forces has the potential to be difficult.

**Issue 11:** The suggested exclusion would appear sensible as its current status reflects only a historical position.

**Clint Elliott ( Deputy CEO, NATIONAL ASSOCIATION OF RETIRED POLICE OFFICERS)**

[depceo@narpo.org](mailto:depceo@narpo.org)

18 November 2008,  
consultation inbox

In general terms NARPO agree that an injury award should remain payable where the recipient is permanently disabled for the ordinary duties of a member of the force, should include mental as well as physical injuries and where the disablement is deemed to be wholly or mainly caused by an injury. We also support the provisions for cover whilst off duty and welcome the inclusion of the further protection which allows the local Police Authorities to exercise discretion to make an award in the circumstances outlined in the document. We would hope that all Police Authorities would take a fair but sympathetic attitude to the use of any discretion included in the final legislation.

Other proposal in this section, we see causing problems. We have some sympathy with the proposal for a top up arrangements for officers retained on a part time basis but would not want to see the use of retention on a part time basis forced on officers who will clearly be disadvantaged in terms of overall income and possibly job satisfaction by Police Authorities, which are simply trying to reduce the numbers of officers subject to medical retirement. There is however some logic to the proposal as it appears to recognise 'the earnings loss' that would be associated with reduction to part time and all injury award benefits are based on 'earning loss'.

In respect of defining exclusions to injuries received in the execution of duty, the consultation paper itself raises very valid exceptions to those exclusions. This clearly illustrates the difficulties in taking the route proposed by the consultation paper.



The inclusion of the term 'taking a break from work or training' also seems to fail to recognise that many front line officers, although taking a 'break' are also available for and frequently commit to duty during those break periods. The additional exceptions revolve around areas of investigation into officer's behaviour or management practices affecting individual officers. There is we believe a very fine line on occasions between proper management of police officers at all levels and bullying. Some will see these proposals as a bully's charter and reduce the ability of officers at all levels of the organisation to be compensated if such action by individual managers or colleagues leads to ill health.

We do not believe that Police Authorities should be allowed to simply leave matters such as a police officer's injury award to the Courts and see the provision of a fair internal system essential in a profession with the inherent risks associated with policing. Court can take time and be a costly process. There is a very great danger of introducing a two tier system, more costly to administer, if this proposal is accepted.

**Trevor Forbes**  
**(Pensions Consultant, NOTTINGHAMSHIRE**  
**Police)**  
[Trever.Forbes@nottinghamshire.pnn.police.uk](mailto:Trever.Forbes@nottinghamshire.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 3:** If an officer determined as permanently disabled through a substantial causation from a police injury can only work reduced hours in the role of a police officer it is being considered to allow the to do so, subject to PA approval, with a top-up payment to take into account their injury. They would therefore receive a higher hourly rate. I have concerns that if implemented there could be officers who persuade the Authority to adopt this process and once in place in their particular case they could resign, receive their deferred pension paid early and receive an automatic injury award.

The take up of this top-up arrangement by Authorities would be so minimal in view of the financial risks that it may be considered that inclusion of this facility would be a pointless exercise. There may only be a handful of cases throughout the country where this arrangement may benefit the Forces concerned who may wish to retain the particular skills of a Police Officer albeit on a part-time basis. A better arrangement may be to simply retain the services in a civilian capacity and this would ensure fairness to fully operational officers who would be undertaking work on a lower hourly rate compared to officers retained on top-up.

**Issue 5:** The meaning of substantial causation has always been a contentious issue. Currently it can be anything from minimum contribution as long as the index incident resulted in a condition becoming disabling (aggravation). To expand that to wholly or mainly is sensible and brings the meaning into line with other public sector schemes, and hopefully would make determinations by SMP's easier. At appeal hearing applicants sometimes try to infer that substantial could just be a very low percentage albeit perhaps that they had an underlying condition anyway prior to the injury at work. Many injuries occur at work when on balance the injury would have occurred in the passage of time anyway and the fact that it occurred at work is irrelevant to causation through the execution of duties. Injury awards would currently be given when officers undertake simple everyday activities like picking something up, which would clearly have occurred outside the work environment anyway. I agree that a change to "wholly or mainly" is sensible but there will still be contention unless the meaning is explained in more detail.

**Issue 6:** The time spent on a recognised break is to be considered as away from duty but I feel this could be expanded. The criteria within the draft guidance remains extremely beneficial to claimants, albeit a substantial improvement from the present considerations. Under the proposals for example if an officer goes to make himself a cup of tea and burns his hand badly there would potentially be an injury award claim – this could never be regarded as fair to the public purse as to a normal person this has nothing whatsoever to do with the actual execution of duties. I feel this area needs to be tightened up further and should not simply cover official breaks and travelling to and from work. I would view going to the toilet, making tea etc as unofficial breaks, which are permitted and are not part of the execution of duties.

Injuries excluded through the Courts in relation to simply being a police officer must be excluded. Sport is currently a difficult area and I agree that sport instructors undertaking official training should be an exception but also I feel there is a need to be more specific in relation to all sport participation unless part of a training course at a training centre when instructed to participate. Officers believe that representing the Force at sporting events on duty is part of the execution of duties but I believe that even that voluntary participation should be excluded. It should be agreed that officers not directly involved as part of duty at a traumatic incident should not be regarded as executing duty – this is an important exclusion.

**Issue 7:** The degree of culpability away from what would be regarded by a normal person as front-line policing will always be hard to assess.

For example what culpability is there on a Force for an officer who slips in the station when a sign states 'caution wet floor' compared to the same scenario without a sign – There must be a higher culpability on the Force in any claims and the courts are probably the better place to make a determination in a claim where there is a dispute.

**Issue 9 -10:** It is not unusual for officers of duty to be involved in disputes with neighbours or friends who know them to be police officers and it is always easy for officers to claim that were acting as police officers if the succumb to an assault for example – unless off duty police officers place themselves on duty by stating such and if there is no urgency producing their warrant card to emphasise their status then on the balance of probabilities they should not be regarded as executing police duties, There obviously has to be the exceptional case when the police officer has no opportunity to formalise his status to the other party (parties)

**Issue 11:** Injury in the execution of duty has been open to some ridiculous claims, which to a normal person would not be regarded as related to the actual execution of police duties. This area does need tightening up, and it is beneficial to have travelling to and from work excluded from claims for I believe it was initially included because Officers used to generally travel in uniform.

This exclusion is long overdue. IT would be better for clarity to state that duty commences at the point of parading for duty and terminates at the point of ceasing duty – under normal circumstances this would be within the police station itself (i.e. clocking on and clocking off duty).

**Andrea Grabbitas (Policy Manager, WEST  
MIDLANDS Police Authority)**

[Andrea.Grabbitas@west-  
midlands.pnn.police.uk](mailto:Andrea.Grabbitas@west-midlands.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 2:** We are happy that the criteria remains the same i.e. injury awards remain payable only where the recipient is permanently disabled for the ordinary duties of a member of the force.

**Issue 3:** With regard to a top-up arrangement, we really need to see more information before we could reach a fully informed view on this. However, the officer may continue to suffer pain and discomfort, and any extra monies would go some way to compensate for this without resorting to the civil courts for such compensation.

**Issue 4:** It is quite right that mental injuries are retained.

**Issue 6:** We generally agree with the proposed exclusion. However, if an officer is **instructed** to go to a place, or take part in an activity, then the exclusion should not apply.

**Issue 7:** Yes, maintain the discretion of Police Authorities, but remove the Specific Exclusions element.

**Issue 8:** We support the retaining of current provisions.

**Issue 9:** We support the extension to the current provision.

**Issue 10:** We support the discretion give to Police Authorities as an additional safeguard.

**Michele Larmour ( Chief Inspector for Chief  
Constable, POLICE SERVICE OF NORTHERN  
IRELAND)**

[Comsec1@psni.pnn.police.uk](mailto:Comsec1@psni.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 2:** Agreed.

**Issue 3:** The idea of 'top-up' for officers who are retained on a reduced hours basis is generally acceptable, however there are concerns that this would be difficult to administer.

Any benefits payable as a result of the condition should be deducted from the difference between full-time and part-time hours to ensure that there is no financial advantage in this approach.

**Issue 4:** Agreed.

**Issue 5:** Agreed. There will need to be clear and specific guidance on the interpretation of 'wholly and mainly'.

**Issue 6:** The PSNI is of the view that only injuries that are received whilst undertaking duties that require the powers of a Constable should be eligible for consideration for an injury in the execution of duty award. That said the PSNI has the following comments in relation to the specific exclusions listed:

- There would need to be clarity regarding what constitutes an instruction to take part in sport. For example duty credit approval is not an instruction to participate.
- Agreed.
- It needs to be clear that this includes meal break where an officer is on police premises.
- Agreed.
- Agreed.
- There needs to be clarity that injury alleged as arising from the exercise of reasonable management action is not an injury.
- Agreed.
- Agreed.

**Issue 7:** The PSNI would strongly agree that matters that may be dealt with by the courts such as slips/trips and falls or injuries sustained due to equipment deficiencies etc should not be covered by the injury benefits scheme. The current situation is that officers can be and often are compensated twice for the same incident/injury both at the expense of the public purse.

**Issue 8-10:** Agreed.

**Issue 11:** Strongly agreed.

**M.A. Ludlam (Honorary Branch Secretary,  
NARPO, Leicestershire branch)**  
[m.a.ludlam@virgin.net](mailto:m.a.ludlam@virgin.net)

18 November 2008,  
consultation inbox

**Issue 3:** It would seem to be fair that an officer who is forced to retire with an injury award and then offered part time work with the constabulary should have his/her injury award amended as they are still in employment which officers the chance of enhancing their pension. The injury award is after all given to officers who are injured on duty and to compensate them for being unable to work and enhance their pension.

**Issue 7:** We felt that the Police Authority should be the decision making body in the first instance and that the court be the body to hear any appeal against a decision.

**Issue 8:** It is pleasing to note that the safeguard for off duty officers is to be maintained.

**Issue 11:** In this day and age it is hard to argue with the travelling to and from work not being excluded from the equation.

However there must be the safeguard clearly noted that in cases where an officer is travelling to and from work and puts himself on duty (e.g. by making an arrest or similar). In these cases it must be clearly understood that the officer would be classed as being on duty.

**Linda Manley (individual respondent & Force Risk Manager, SUSSEX Police)**  
[Linda.Manley@sussex.pnn.police.uk](mailto:Linda.Manley@sussex.pnn.police.uk)

18 November 2008, hard copy

**Issue 2:** Agree that this should remain as permanently disabled.

**Issue 3:** There are many conflicting considerations for this proposal that are likely to have equal validity. I would defer to those who may have greater knowledge on the matter than myself.

**Issue 4 & 5:** I agree.

**Issue 6:** Careful consideration needs to be made of the use of the word "training" in these proposals as an exclusion, if it becomes approved. If the emphasis is to be placed on injuries incurred whilst dealing with the public, or in training for such duties as is mentioned in the HMIC thematic inspection, I think we are moving in the right direction. I am of the opinion, that an injury attributable to duty should be an injury attributable to active operational policing and closely follow what I take as the impetus within these proposals, to recognise that police officers do dangerous work and that they and their dependents should be protected through carrying out such high-risk activities. This is not therefore a clear-cut response to the proposal, but an endorsement of seeking as close a connection with the nature of active operations as is practicable.



**Issue7:** In my opinion, this is a really difficult consideration. To give police authorities the power to decline to consider a claim for an injury award will force the officer to take up the position of a claimant under the employer's liability insurance provision. This places the officer in contention with their force as a plaintiff. Aside from the emotional and practical effects of this, it is arguable that the outcome may be more expensive both financially and by reputation. Employer's liability insurance for the police service is invariably providing only catastrophic cover for large claims, or accumulations of claims, with police authorities very often liable to pay the first £250,000 of every claim. If the process for recompense is via an employer's liability claim this will incur legal costs, court costs, administrative costs and the hidden cost of the insurer's involvement reflected in the insurance premium, plus insurance premium tax which is not recoverable. This has the effect of increasing the financial burden on the police authority. It is debatable whether the police service should be seeking insurance for their employer's liability risks as it is currently and authorities would be well advised to ask the questions:-

1. What has this authority paid in insurance premiums and insurance premium tax for employer's liability insurance over the last decade?
2. What has the insurer paid of any employer's liability claims costs in the last decade?

With this information an authority will be best placed to establish whether the employer's liability insurance premiums paid provides the best use of resources for the authority.

Most forces do not seek insurance for employment tribunal costs, so where is the justification that employer's liability insurance represents good value?

Considering risks to reputation, an employer's liability claim progressed through the courts will be very much in the public domain and open for reporting through the media if it reaches court.

**Issue 8 -11:** I agree.

**Sue Martin (Chief Executive, SURREY Police Authority)**  
[Martin10986@surrey.pnn.police.uk](mailto:Martin10986@surrey.pnn.police.uk)

18 November 2008, hard copy

**Issue 3:** We believe that it would be unfair that someone who is able to work should receive the same compensation as someone who cannot work because of their injury. Some top-up arrangement would be appropriate but would need to be carefully regulated to avoid discrimination.

**Issue 4:** We recognise the significance of mental injuries but it can be difficult to establish a causal link and permanent disablement. Some clarification would be helpful.

**Issue 6:** We agree with all the proposed exclusions. Some of the areas which currently cause us difficulty are back injuries where it is sometime difficult to establish a causal link between the injury and the disability.

**Issue 7:** We support the right of the police authority to refuse a claim at least until such time as it has been through the courts. There is potential with this proposal, however, for adding complexity to an already complex system, and some guidance on this would also be welcome.

**Issue 8-10:** Supported.

**Issue 11:** Supported – This would bring officers into line with police staff.

**METROPOLITAN Police**

18 November 2008, hard copy

**Issue 2:** Agreed.

**Issue 3:** There is concern expressed in the paper that this proposal would have an adverse effect on full time officers working full hours with the same pay. The idea is to encourage disabled officers to be able to return on a part time basis. Given the current issues with recuperative duties and the more pressing issue of restricted duties, this is a proposal the MPS would NOT support.

**Issue 4:** Agreed.

**Issue 5:** Agreed. MPS welcomes this clarification.

**Issue 6:** The MPS would welcome a more tightly drawn definition of 'execution of duty' – aligned with that adopted under Regulation 28 so as to exclude accidental slips, spills, trips and minor falls on duty in police premises, since officers are for the most part not executing their duty in such circumstances. Officers should be allowed to seek redress in such cases through courts, where applicable. However, minor incidents occurring e.g. during restraint or escort must be included.

**Issue 7 – 11:** Agreed.

**National Attendance Management Forum  
(Gloucestershire – Amanda Katsighiras)**  
[c.j.rowson@west-midlands.police.uk](mailto:c.j.rowson@west-midlands.police.uk)

18 November 2008, hard  
copy

**Issue 3:** In line with DDA and Home Office guidance on Disability in the Police Service, the Force can offer reduced or part time hours. Deployment is a consideration with possible adjustment to working hours. The opportunity to do a meaningful job with the right adjustments and remove a barrier to employment is best practice.

There may be a problem with timings, as the decision as to whether to retain an officer or not is made once the SMP confirms disablement. It may not be known at this point whether the officer is entitled to an injury award. Therefore the 'top-up' arrangement could only properly be considered if all 4 questions are put to the SMP at the same time i.e. H1 questions on permanent disablement as well as injury on duty. In accordance with HOC 21/03, an officer is not normally permitted to apply for an injury award until they have left the Force. All 4 questions should only be asked where urgent consideration is required, such as with serious cases where retention is unlikely or death is imminent. In such cases, it is unlikely that the officer would be retained, therefore the top-up arrangement would not apply.

If the top-up arrangement is introduced, HOC 21/03 will need to be updated to allow earlier consideration of an injury award.

**Issue 5:** Agreed. However, clear guidance on how the new term "wholly or mainly" is to be interpreted should be provided to SMP's by the Home Office. I suggest 80/85% causation.

**Issue 6:** Agreed, although consideration needs to be given to 'execution of duty' in the context of injury awards and regulation 28 of Police Regulations and PNB circular 05/01, otherwise there may be two different 'tests' which could lead to confusion.

**Issue 7:** If the case is a one of employer liability e.g. the officer injures their back falling from a faulty chair, then this should be progressed in the civil courts in the first instance. Any compensation received should then be deducted from any Injury Gratuity. However, it may be appropriate for payment of an injury pension (or 'injury income supplement' under the new proposals.)

**Issue 10:** Agreed – although guidance would be helpful

**John Sturzaker (Russell Jones and Walker Solicitors on the behalf of the Police Negotiating Board Staff Side)**  
[J.N.Sturzaker@rjw.co.uk](mailto:J.N.Sturzaker@rjw.co.uk)

18 November 2008,  
consultation inbox and hard  
copy

**Issue 2:** Staff Side considers that officers who are injured in the line of duty should be properly provided for and are concerned that at present there are gaps in such protection as follows:

(i) the requirement of permanent disablement means that an officer who is likely to be disabled for a long time but not permanently can face reduction in pay (or even action for poor attendance); and

(2) the approach adopted by Police Medical Appeal Boards and SMPs following the Jennings case which found that acceleration does not amount to causation of permanent disablement.

While the fire-fighters' case of Callaghan emphasises that Jennings does not lay down a firm principle that medical authorities must find that an injury which accelerates the onset of symptoms to an already degenerate part of the body cannot substantially contribute to a disablement, our experience is that approach is generally adopted.

Staff Side is concerned that this problem will become worse still if the proposed change to the causation test is adopted.

We consider that awards are appropriate in "acceleration" cases. An appropriate limiting mechanism is provided by apportionment. Taking the facts in Jennings, where a duty injury accelerates permanent disablement by between 18-24 months, the officer should receive an award and be reviewed at the 18-24 month stage. If at that point the injury is no longer causing a reduction in earning capacity, degree of disablement can be reduced.

**Issue 3:** Staff Side considers that it would be appropriate to do this and that there is no insurmountable practical obstacle.

**Issue 4:** Staff Side strongly supports this approach. We consider that if a proper and systematic approach is adopted to the current provisions i.e.

- Is there a recognised medical infirmity?
- Is it disabling?
- Is it likely to be permanent, assuming normal and appropriate treatment?

Then there should be no scope for abuse.

In any event to treat medical illness differently would be both inappropriate and potentially susceptible to legal challenge.

**Issue 5:** Staff Side has very real concerns about this proposed change and strongly opposes it.

The rationale suggested is that practitioners do not know what “substantially” means. It is however very well established in personal injury claims that “substantial” means having some material causative effective as opposed to a non-causative or trivial effect. If there is any uncertainty this can be address by guidance and training.

A change to “wholly or mainly” will create and uncertainty and scope for inconsistency which does not currently exist. For example, consider a case in which an officer sustains a physical injury as the result of a blow to the head. Medical investigation shows that the officer had a particular weakness and that for 99% of police officers a similar blow would not have had any serious effect. In such a case it can be said with certainty that the injury had “substantially contributed” to the disablement but can it be said that it had “wholly or mainly” caused it? We are concerned that two different doctors could reach the same medical view on such a case, but reach different conclusions because of different interpretations of the meaning of “wholly or mainly”.

We note that the “wholly or mainly” test has appeared in other injury benefit schemes. We consider however that the nature of police service is materially different to say the civil service or the NHS. The potential need to use force and the risk of physical confrontation are integral parts of a police officer’s role. It is imperative that officers who are injured when performing their duties are protected and do not lose

out because other factors may be regarded as contributing to their disablement.

Staff Side accepts that the purpose of the injury benefit scheme is to compensate for the damage done by the duty injury (rather than the other factors), but the increased consideration and application of apportionment means that this is already provided for.

**Issue 6:** Staff Side's response to the specific changes proposed follows below. However, as a general point, we are sceptical as to the value of most of the proposed changes.

We consider it is particularly important to consider the context in which this review is taking place. In particular:

(i) The work done by both Sides in 2002-3 in relation to ill health retirement has significantly improved the understanding of all concerned of the core concepts. This and the general emphasis on proper policies and retention where possible have led to a significant reduction in the number of medical retirements. It has also led to a greater scrutiny of applications for injury awards, which are now dealt with more consistently and professionally.

(ii) The creation of NPPS of which an increasingly large proportion of officers will be members. The ill health retirement provisions are for most cases less advantageous than those of PPS.

(iii) The significant reduction in the legal challenges arising out of the meaning of "execution of duty".

In short, we consider that there is generally a relatively settled understanding of the relevant legal provisions, with



most of the grey areas having been litigated.

Against this background, we are against any unnecessary changes, not least because any new change is likely to create uncertainties at the margins, which cause both Sides difficulty and which are likely to lead to costly litigation.

**Issue 7:** We strongly oppose this.

Injury awards are intended to provide reassurance and to be an entitlement where eligibility criteria are met, rather than payable in cases that the police authority regarded as deserving.

Insofar as there are legitimate concerns about culpability or double recover (i.e. an injury award and a civil claim) which is in itself a separate issue, these can be dealt with separately.

**Issue 8:** We agree.

**Issue 9:** We welcome this extension.

**Issue 10:** We welcome this extension which follows naturally from the current approach and the extension proposed in the previous issue.

**Issue 11:** This proposal is of significant concern to Staff Side and it is strongly opposed.

Police officers accept the risks and responsibilities that their unique role involves, but are entitled to expect in return a guarantee that if they are injured or killed in connection with their role that they or their families will be adequately protected.

The nature of policing is such that the dividing line between work and home life is more blurred than would usually be the case in other occupations. In particular:

1. Police officers can be required to perform anywhere in the force area. There is no guarantee that an officer will remain in a particular place of duty, so officers' decisions as to where to live cannot be founded on such a guarantee. As a result, journeys to work may be longer than would otherwise be the case.

2. Some officers may have to live away from the areas in which the police, because of the risk of hostility to them off duty, or may have to vary their journeys to work as an anti-terrorist precaution. Again this may increase the length of the journey to work.

3. Many police officers regularly work shifts; many shift patterns involve night work. There is a substantial risk of officers travelling to or from work when tired, which is likely to increase the likelihood of accidents.

4. Policing duties can often be physically and mentally very demanding. An officer may perform a shift involving significant physical activity and/or face danger and/or be involved in accidents which are likely to prey on the mind. All these factors are likely to increase the risk of accident while travelling home after work.

5. Officers can be required to work at any time and can be recalled to duty between shifts on rest days, public holiday or while on annual leave.

There are then further problems that arise in some cases:

1. There is an increased use of secondment and similar arrangements within the police service, which can often result in longer journeys or unfamiliar journeys.
2. Different forces adopt different approaches to travel to places other than the normal place of duty. Some journeys will be “on duty” and therefore would still be covered, others would not. This means that various uncertainties or anomalies could arise. It could even be the case that the position of two officers travelling in the same vehicle, one might be regarded as on duty and the other might not.
3. Some officers, particularly in supervisory ranks make “hands free” telephone calls on journeys to and from work as part of their duties.

**Scottish Force Response**

18 November, hard copy

**Issue 2:** Supported

**Issue 3:** General agreement.

**Issue 4:** General agreement.

**Issue 5:** Supported.

**Issue 6:** General agreement with the tightening up of the definition of in the execution of duty.

**Issue 7-9:** Supported.

**Issue 10:** General agreement with further clarification required.

**Issue 11:** General agreement, support the view that injuries sustained whilst travelling to and from work should not be considered injury on duty.

**Angela Mercer (Joint Branch Board Secretary,  
SUFFOLK Police)**  
[angela.mercer@suffolk.pnn.police.uk](mailto:angela.mercer@suffolk.pnn.police.uk)

19 November 2008, hard  
copy

**Issue 3:** It would seem to be fair that an officer who is forced to retire with an injury award and then they are offered part time work with the constabulary should have his/her injury award amended as they are still in employment which offers the chance of enhancing their pension. The injury award is after all given to officers who are injured on duty and to compensate them for being unable to work and enhance their pensions.

**Issue 7:** We feel that the Police Authority should be the decision making body in the first instance and the court be the body to hear any appeal against a decision.

**Issue 8:** It is pleasing to note that the safeguard for off duty officers is to maintained.

**Issue 11:** In this day and age it is hard to argue with the travelling to and from work not to be excluded from the equation. However there must be the safeguard clearly noted that in cases where an officer is travelling to and from work and puts himself on duty (e.g. by making an arrest or similar). In these cases it must be clearly understood that they officer would be classed as being on duty.

William F Hughes QPM (Director General,  
SOCA)  
[FOIAEnquiries@SOCA.x.gsi.gov.uk](mailto:FOIAEnquiries@SOCA.x.gsi.gov.uk)

20 November 2008, hard  
copy

**Issue 2:** We are concerned that the term “ordinary duties” may cause some difficulties. It is unclear whether SOCA would be required to interpret ordinary duties as ordinary police-type duties or SOCA duties. SOCA would also be obliged to consider reasonable adjustments. If this meant placing a specified employee in a non-operational role, would this mean that the specified employee is still eligible for a police injury award?

**Issue 3:** The concept of a “top-up” would certainly support the retention of skills and the principles behind DDA legislation. However, it would need to be clear whether the top-up would be reviewable against future changes in the individuals working hours.

**Issue 6:** The exclusion in the fourth bullet point reads “*injuries as a result of any proceedings or investigation undertaken by the force in respect of the officer under police regulations, such as disciplinary or medical retirement proceedings*”. It is unclear how specified employees would be affected by proposals that make reference to police regulations. This should be clarified, as specified employees are not disciplined by SOCA under police regulations.

The exclusion itself may be problematic if the discipline investigation was later found by a court or tribunal to be malicious, discriminatory or otherwise unlawful. Further problems may arise if the allegation against the officer under investigation were found to be misguided or even malicious.

The proposal in the sixth bullet to exclude “*injuries as a result of a dispute with, or grievance against, other officers or management*” will require stress caused by handling of the grievance to be carefully defined.

**Issue 11:** The proposal to exclude travel to and from work from the scope of injury on duty is supported, as this will bring specified employees in line with the remainder of SOCA employees.

### 3. Calculation of Police Injury Awards 3.1-3.30 and Issues 12-23

Name and Organisation	Date and Method of Response	Comments
<p><b>Amanda Parker (HR Manager, SUFFOLK Constabulary)</b>  <a href="mailto:Amanda.Parker@suffolk.pnn.police.uk">Amanda.Parker@suffolk.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p><b>Issue 22 &amp; 23:</b> “Loss of earnings” capacity rather than “degree of disablement” is a more appropriate terminology as is “injury earnings supplement”.</p>
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p><b>Issue 12, 13, 15, 16, 18, 19:</b> Full agreement</p> <p><b>Issue 14:</b> Believes this can be objectively justified as younger officers would not have contributed as much to the pension fund, so their entitlement should be proportionately less.</p> <p><b>Issue 17:</b> Believes the use of these bandings has not caused any particular problems.</p> <p><b>Issue 20:</b> Agrees that this has removed the unnecessary complexity.</p> <p><b>Issue 21:</b> Agrees in order to avoid issues of subjective measurements.</p> <p><b>Issue 22:</b> States that the Certificate of Permanent Disablement they issue already uses the term ‘effect of the injury on the officer’s earnings capability’.</p> <p><b>Issue 23:</b> Agrees with the distinction for clarification purpose</p>

Phil Mason (Head of HR Operations,  
LEICESTERSHIRE Police)  
[Phil.Mason@leicestershire.pnn.police.uk](mailto:Phil.Mason@leicestershire.pnn.police.uk)

23 September 2008, hard  
copy

**Issue 12:** Support the continuation of awards comprising **initial gratuity and regular payments.**

**Issue 13:** Question whether the SMP is the best person to determine **loss of earning capacity.** Should this not be determined by a 'panel' consisting of a senior officer, a senior HR officer and the SMP?

**Issue 14:** It is believed that basing the scale of **injury pension on length of service** over and above say, a 5 year qualifying period, is likely to be discriminatory on the grounds of age. The Home Office should be encouraged to take legal advice on this point.

**Issue 15 & 16:** Agree with using **full-time salary as a benchmark.**

**Issue 18 & 19:** Support the **introduction of a 10% band and the ability to pay gratuity.** More than likely that anyone with such a low level of restriction would be accommodated in an alternative role or reasonable adjustments to the permanent role could be made.

**Issue 20:** Would need to undertake a financial evaluation of making the **disablement gratuity 5 times average pay** before commenting.

**Issue 21:** It is reasonable to continue **linking the level of lump sum to the officer's loss of earnings.**

**Issue 22 & 23:** The proposed new descriptions of '**loss of earning capacity**' and '**injury earnings supplement**' are endorsed.



**Robert Parker (Head of Human Resources,  
GWENT Police)**  
[Robert.Parker@gwent.pnn.police.uk](mailto:Robert.Parker@gwent.pnn.police.uk)

01 October 2008, hard  
copy

**Issue 14:** We feel that this issue should be considered by legal experts in terms of whether age discrimination might be involved.

**Elizabeth Grayson (Force Occupational Health,  
Safety and Welfare Officer,  
NORTHAMPTONSHIRE Police)**  
[Elizabeth.Grayson@northants.pnn.police.uk](mailto:Elizabeth.Grayson@northants.pnn.police.uk)

02 October 2008, hard  
copy

**Issue 12-23:** We agree that the term 'degree of disablement' should be amended to 'loss of earnings capacity.' This change will remove the confusion often felt by recipients of awards when comparing to DSS disabilities. Likewise to amend the word pension to supplement is also sensible to avoid confusion.

The addition of a very slight banding is an excellent proposal, albeit that we would have preferred an additional 0% or below banding where no gratuity whatsoever if paid if the ex-officer can potentially earn a higher salary than the updated police salary for example.

We feel that in all cases Forces should have the discretion to review all current awards and if place into the very slight banding then no payment should be made. There should not be a requirement for only new awards to be considered for the very slight banding.

**Joscelin Lawson (Head of Human Resources,  
NORTHUMBRIA Police)**  
[Joscelin.Lawson@northumbria.pnn.police.uk](mailto:Joscelin.Lawson@northumbria.pnn.police.uk)

03 October 2008, hard  
copy

**Issue 14:** Legal advice provided in this area suggests that whether this amounts to age discrimination is a question of fact and degree. It is certainly not discriminatory to have benefits linked with length of service. This only becomes unlawful age discrimination if the intervals are too long i.e. it takes a more junior employee too long to progress to the next level. It is also felt that the intervals of 10 years as proposed are too long. If this is the case, more intervals should be created.

		<p><b>Issue 15:</b> Agreed.</p> <p><b>Issue 17:</b> It may be better to refer to the bandings as simply level 1 2 3 and 4.</p> <p><b>Issue 18-21:</b> Agreed.</p> <p><b>Issue 22:</b> Agreed. Northumbria Police already use this term.</p> <p><b>Issue 23:</b> Agreed.</p>
<p><b>Deborah Bentley (Acting Strategy and Planning Manager, LINCOLNSHIRE Police)</b>  <a href="mailto:Deborah.Bentley@lincs.pnn.police.uk">Deborah.Bentley@lincs.pnn.police.uk</a></p>	<p>07 October 2008, hard copy</p>	<p><b>Issue 18 &amp; 19:</b> Welcome the introduction of additional banding of 10% or less loss of earnings capacity to be administered as a one-off lump sum.</p> <p><b>Issue 22:</b> Welcome the term 'degree of disablement' replaced by 'loss of earnings capacity'</p> <p><b>Issue 23:</b> Welcome change of terminology from injury pension to injury income supplement to reflect injury awards are not a fixed amount of benefit. This should help recipients to accept that the amount can change after the initial assessment.</p>
<p><b>P Barker (HR Partnership Manager, HUMBERSIDE Police)</b>  <a href="mailto:enquiries@humberside.pnn.police.uk">enquiries@humberside.pnn.police.uk</a></p>	<p>17 October 2008, consultation inbox and hard copy</p>	<p><b>Issue 12 &amp;13:</b> Agreed.</p> <p><b>Issue 14:</b> We are not aware of the original reason for basing awards on length of service. Legal opinion should be sought on this in respect of 'age' implications as there could well be conflict.</p> <p><b>Issue 15:</b> Agreed. Current system works well.</p>

**Issue 16:** Agreed. Like for like comparison is a necessity for part time staff.

**Issue 17, 18 &19:** Agreed.

**Issue 20:** Agreed – for death in service cases, not in all cases as written in the consultation document.

**Issue 21:** Agreed.

**Issue 22:** Agreed. New term will make the reason for award clear to all concerned.

**Issue 23:** Agreed. (Same comment as 22, above)

**S. G. Hall (Director of Resources WEST  
MIDLANDS Police)**

[s.g.hall@west-midlands.police.uk](mailto:s.g.hall@west-midlands.police.uk)

28 October 2008, hard  
copy

**Issue 12:** Agrees. However they note that under the new proposals an Injury Pension would not be payable if the reduction in earnings capacity is 10% or less.

**Issue 13:** Agrees. The Injury Pension should continue to be based on loss of earnings capacity, as decided by the SMP.

**Issue 14:** Agrees. They consider that the scale of injury pensions should remain based on an officer's length of service, but would like to see a more even scaling of percentage benefits to remove the "cliff edge" situation that currently exists in the lower loss of earnings bands (e.g. between officers with 14 and 15 years service). We also feel that legal opinion on any possible discriminatory nature of this should be obtained by the Home Office in conjunction with Treasury Counsel.

Another aspect that should be borne in mind here is that the injury pension payable is reduced in each case by  $\frac{3}{4}$  of the ill-Health pension that (in the majority of cases) is also in payment. As the Ill-Health Pension is calculated by reference to length of service, if the Injury Pension was not also based on service, then a longer serving officer could actually pick up a smaller injury pension than his shorter serving colleague. This is exacerbated in net income terms by the fact that the Ill Health Pension is taxable whereas the Injury Pension is not.

**Issue 15:** Agrees. Although it would be argues that an officer not already on the maximum point of his/her rank could not have expected to reach that point by normal “time served” incremental progression, which does not appear to have been considered in the consultation document.

**Issue 16-19:** Agrees.

**Issue 20:** Agrees. This is a needed simplification.

**Issue 21:** Agrees.

**Issue 22-23:** Agrees. The current terminology causes confusion.

Joanna Barry (Corporate HR Consultant,  
NORTH YORKSHIRE Police)  
[joanna.barry@northyorkshire.pnn.police.uk](mailto:joanna.barry@northyorkshire.pnn.police.uk)

10 November 2008,  
consultation inbox

**Issue 12:** Agreed.

**Issue 13:** Agreed. Clearer guidance needs to given to ex officers in receipt of an injury award, detailing that the award is based on the loss of earning capacity, not the degree of disablement.

This is currently causing problems for police authorities when reviewing awards.

**Issue 14:** Disagree. If an officer is injured on duty then the length of service should be considered as irrelevant. The loss of earnings should be the determining factor in what level of award is applicable in each case. This could be deemed to be discriminatory.

**Issue 15 –21:** Agreed.

**Issue 22:** Agreed. This will ensure individuals are clear that the award is for their loss of earnings.

**Issue 23:** Agreed. (As above)

**Stephen F. Lee (Principal HR Officer, GREATER MANCHESTER Police)**  
[StephenF.Lee@gmp.police.uk](mailto:StephenF.Lee@gmp.police.uk)

11 November 2008,  
consultation inbox

**Issue 12& 13:** Agreed

**Issue 14:** Agreed with comments - This is obviously a more complicated issue than the normal ill health pension enhancements because it would need to take into account length of service and degree of disablement, The current minimum income guarantee percentages (Loss of earnings) already makes provision for short service officers with the highest disability. Although ill Health pensions and injury awards are now separated, officers retired due to ill health are compensated by additional top up to their pension.

**Issue 15:** Agreed with comments: -The current system of using the officer's last salary point ensures there are no additional conflicts such as possible spurious promotional claims from their current rank at following injury and ill health retirement.

**Issue 16 & 17:** Agreed

**Issue 18:** Agreed with comments -

This is a good proposal for slight injury awards and as understood from the statistics and rationale in paragraph 3.21, splitting the current lowest band may produce less spurious appeals, where an officer currently has nothing to lose by appealing within the current Band 1.

**Issue 19 - 21:** Agreed.

**Issue 22:** Agreed with comments -This will give immediate clarity of the reason for the injury award at the outset and will stop misunderstanding later along the line at review. It also clarifies the reasons for reducing or increasing awards at medical reviews when actual employment earnings are often better understood. It also gives clarity at state pension age. However for clarity the term should be "*loss or potential loss of earnings*" at point of retirement to ensure there is no ambiguity between what an officer can do or may not want to do in the employment market at the point of the Injury Award and reviews of the Injury Award. This is an important change because officers who chose not to actively seek employment often feel that they have a 100% loss of earnings or a greater loss of earnings capacity than could be reasonably expected. This difference between actual loss of earnings rather than potential loss of earnings often comes out as a major misunderstanding during Injury award reviews.

**Issue 23:** Agreed - comment as Issue 22 above.

**David Bulpitt (Police Representative, ALAMA)**  
[dbulpitt@cix.co.uk](mailto:dbulpitt@cix.co.uk)

12 November 2008,  
consultation inbox

**Issue 18:** David Bulpitt personally concerned about the 10% award. If someone is so little disabled they surely should not need to retire? A review that places an officer in that category but does not invite them to rejoin will be fraught....

**Ian Coombs (Policy Strategy and Audit Officer, DORSET Police)**  
[Ian.Coombs@dorset.pnn.police.uk](mailto:Ian.Coombs@dorset.pnn.police.uk)

12 November 2008, hard  
copy

**Issue 14:** The Force is unaware of the original reasons why length of service was chosen as the benchmark; however any change would need to recognise not only the impact upon younger officers, but also those with longer service. Therefore, to avoid unnecessary discrimination claims the Home Office are urged to seek legal opinion in this key area.

**Issue 18:** Dorset Police would welcome more detailed information in this area. For example, what happens to an officer whose award is increased upon review to banding 2 or more. Will he or she then receive a pension? In contrast, would an officer lose his/her pension should they fall under the 10% threshold?

**Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)**  
[Nigel.brook@westyorkshire.pnn.police.uk](mailto:Nigel.brook@westyorkshire.pnn.police.uk)

13 November 2008, hard  
copy

**Issue 12:** Agreed. However the consultation document propose, which we support, that an injury pension will not be payable if the reduction in earning capacity is 10% or less.

**Issue 13:** Agreed. The injury pension should be related to the loss of earnings capacity and that this decision should rest with the Selected Medical Practitioner.

**Issue 14:** Agreed. Largest difference occurs when in lowest band d as such would not cause a problem.

An argument in favour of not basing the calculation on lengths of service is that if the same injury occurs to two officers on the same salary but with different lengths of service then surely they have exactly the same 'loss of earnings capacity' and should therefore receive the same 'injury income supplement'.

**Issue 15:** Agreed. Calculations should be based on the actual pensionable earnings of the claimant as it seems reasonable and fair. It doesn't seem appropriate or fair to include temporary allowances such as overtime.

**Issue 16:** Agreed.

**Issue 17:** Agreed. However this is with added band of 10% or less disablement.

**Issue 18:** Agreed. An injury pension should only be paid for a reduction in earnings capacity of more than 10%.

**Issue 19:** Agreed. It is important to make gratuities payable to acknowledge that an injury has occurred.

**Issue 20:** Agreed. This greatly simplifies the current system. It makes it easier to administer and explain to officers. This is a very welcome change.

**Issue 21:** Agreed. The level of lump sum should be linked to the officer's loss of earnings capacity and not to levels of pain and suffering. This would be subjective and difficult to access and may lead to Police Authorities assessing levels of pain and suffering in very different ways.



**Issue 22-23:** Agreed. The current terminology does cause confusion.

Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)  
[gerryrobinson@narpo-staffs.co.uk](mailto:gerryrobinson@narpo-staffs.co.uk)

16 November 2008, hard copy

**Issue 12 &13:** We concur.

**Issue 14:** We concur in full. We do not consider there is any discrimination against the younger officer affected.

**Issue 15-17:** We concur.

**Issue 18:** We do not agree or accept this proposal. We consider the present four bands of up to 25%. 50%, 75% and 100% are exactly right. They should not be altered. These bandings are straightforward to implement and well understood and fair. The proposal of a new 10% band is **mean spirited and divisive** and an attempt to devalue Police Regulations. It would lead to many disputes and legal challenges, which would be costly to all parties concerned.  
**We strongly reject this proposal.**

**Issue 19-21:** We concur.

**Issue 22:** We agree with the term 'loss of earning capacity.'

**Issue 23:** We concur with the term 'injury earnings supplement.'

Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)  
[Kathie.Walker@nio.x.gsi.gov.uk](mailto:Kathie.Walker@nio.x.gsi.gov.uk)

17 November 2008, hard copy

**Issue 12:** Agreed.

**Issue 13:** Agreed, although clear guidance and training for SMP's will be required to try and ensure consistency and accuracy in determining loss of earning capacity.

**Issue 14:** Agreed, although this could be judged to be discriminating on the grounds of age.

**Issue 15 & 16:** Agreed.

**Issue 17:** Agree to keep the 4 broad bands of assessment. However, do not feel the naming is appropriate as the current names do not relate clearly to the loss of earning capacity.

**Issue 18:** Agreed. It is important that a gratuity should continue to be paid to those officers whose loss of earning capacity is less than 10%.

**Issue 19:** Agreed. It is important for officers to know that the police service will acknowledge their injury.

**Issue 20 & 21:** Agreed.

**Issue 22:** Agreed. This will remove any ambiguity over the purpose of the injury award.

**Issue 23:** Agreed. This will clarify that this is not a pension from a contributory pension scheme.

**Christine Barton (Director of Human Resources,  
CHESHIRE Constabulary)**  
[Christine.Barton@cheshire.pnn.police.uk](mailto:Christine.Barton@cheshire.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 14 & 15:** We feel these items could potentially be discriminatory and breach equal pay and would suggest further research.

**Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)**  
[Andy.Champness@glos-pa.gov.uk](mailto:Andy.Champness@glos-pa.gov.uk)

18 November 2008, hard copy

**Issue 12:** Agree. Note that under the proposals an Injury Pension would not be payable if the reduction in earnings capacity is 10% or less.

**Issue 13:** Agree.

**Issue 14:** Essentially, under the current system, officers who have longer service receive a greater injury pension (or 'Minimum Income Guarantee') i.e more money than an officer with less service, *even though their loss of earnings capacity is the same*. On the face of it, this could be held to be discriminatory against younger officers. However, as stated in the Consultation Document, it could be argued that there is less chance for an older officer to build up an alternative salary or pension. In addition, the officer with greater service is *likely to receive their injury pension for a shorter period of time*, given that they will be compared to the NAE once they reach their normal retirement age and that there is a proposal to half their pension once they reach 65.

**Issue 15- 23:** Agree.

**Fiona Edger (Attendance Manager, LANCASHIRE Constabulary)**  
[Fiona.Edger@lancashire.pnn.police.uk](mailto:Fiona.Edger@lancashire.pnn.police.uk)

18 November 2008, hard copy

**Issue 18:** This would seem to be a sensible idea – to compensate an officer for loss of earnings when in reality there is actually no loss at all does seem bizarre and the introduction of a threshold as described would seem logical.

**Issue 22:** Although only a change of wording, this would assist administrators and pensioners in their understanding of the calculation.

**Clint Elliott (Deputy CEO NATIONAL ASSOCIATION OF RETIRED POLICE OFFICERS)**  
[depceo@narpo.org](mailto:depceo@narpo.org)

18 November 2008,  
consultation inbox

NARPO agree that the injury award should continue to consist of an initial gratuity plus a regular income in the form of continuing regular payments and be based as at present on loss of earning capacity. We also agree that the loss of earning capacity be based on the claimant's pensionable pay as at present. We accept the proposal on injury gratuity and welcome the simplification of calculation of gratuities proposed. We think that the level of gratuity should continue to be based on the officer's loss of earnings as at present.

We strongly support the move to change the term 'degree of disablement' to 'loss of earning capacity' as a clear indication of the basis of the award and would agree to rename the benefit as proposed

Whilst we agree to retain current banding, we do however not agree the proposal to include a further sub banding of 10% for which no 'injury pension' would be payable. The loss of a police career through injury deserves some recognition. We also feel that it is naïve for the Home Office to believe that the introduction of the further 'band' will reduce appeals for those in the lowest band as it is likely to have the opposite effect. In any case the whole philosophy around the banding system was the difficulty in determining 'exactly' the loss of earnings capacity. Banding provided both a convenient and simple solution to that problem.

**Trevor Forbes (Pensions Consultant, NOTTINGHAMSHIRE Police)**  
[Trevor.Forbes@nottinghamshire.pnn.police.uk](mailto:Trevor.Forbes@nottinghamshire.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 22:** I agree that the term 'degree of disablement' should be amended to 'loss of earnings capacity'. This change will remove the confusion often felt by recipients of awards when comparing to DSS disabilities. Likewise to amend the word pension to supplement is also sensible to avoid confusion.

**Andrea Gabbitas (Policy Manager WEST  
MIDLANDS Police Authority)**  
[Andrea.Gabbitas@west-midlands.police.uk](mailto:Andrea.Gabbitas@west-midlands.police.uk)

18 November 2008, hard  
copy

**Issue 18:** In principle we agree with this proposal, but consideration needs to be given to the time it would take for an officer commencing their new employment e.g. Bank Clerk, to reach a position within a bank that see his/her new wage close to that of a Police Officer. When determining an Injury Award percentage it should be based in starting salary, with a sliding scale allowing for training/promotion.

We support the other proposals in this chapter.

**KENT Police Authority**

18 November 2008, hard  
copy

**Issue 12:** Agree

**Issue 13:** Agree - see answer under 6.4 for further comment.

**Issue 14:** We are not sure on this issue as maintaining that injury pensions are based on length of service inherently implies that the process is age based however basing it on length of service does compensate more favourably those that have dedicated more of their lives to the service.

**Issue 15:** Agree

**Issue 16:** Agree, if this is a pre existing disability arising out of an injury on duty. Otherwise something that is a genetic disposition could fall within this definition, which would have the authority paying in circumstances where it should not.

**Issue 17:** Agree

**Issue 18:** Agree – this will potentially reduce revenue costs for Police Authorities for those who are adjudged to fall below 10% capacity. It could however, increase the number of officers who go to appeal (more than 50% in the 0-25% banding appeal), as officers strive to get out of the 10% banding and look for an ongoing pension. This would add one off revenue costs for appeals. (Currently standing at £6200 per appeal).

Police Authorities generally pick up the cost of appeals. The only circumstances where this is not the case is if the appeal is frivolous or vexatious, both elements requiring quite high levels of proof. There is no disincentive to an appellant proceeding with a claim no matter how trivial the grounds are as long as they do not meet the criteria for vexatious or frivolous. It may be time to look at this element and consider what criteria might apply to allow the Authority to recharge costs against appellants and alongside this to warn the appellant that if their case is unlikely to be successful; continuing with their appeal might result in costs being awarded against them.

**Issue 19-21:** Agree

**Issue 22:** Agree – this would make the reason for the award clearer.

**Issue 23:** Agree – reluctantly, the phrase is cumbersome but serves some purpose.

**Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)**  
[Comsec1@psni.pnn.police.uk](mailto:Comsec1@psni.pnn.police.uk)

18 November 2008, hard copy

**Issue 12 & 13:** Agreed.

**Issue 14:** Agreed. We consider that there is a requirement for a mechanism to facilitate more even scaling of percentage benefits.

**Issue 15 & 16:** Agreed.

**Issue 17:** With the bands on earning capacity the use of descriptions of the band does not give proper recognition to the actual injury itself. Suggested that descriptive words like slight disablement and just keep it as Band 1,2 etc.

**Issue 18:** The use of the 10% limit is questioned, is this the standard with other schemes?

**Issue 19-23:** Agreed.

**M.A. Ludlam (Honorary Branch Secretary, NARPO, LEICESTERSHIRE branch)**  
[m.a.ludlam@virgin.net](mailto:m.a.ludlam@virgin.net)

18 November 2008, consultation inbox

**Issue 18:** Whilst this may make it easier for administration purposes and also create a one off payment for officers whose capacity to earn are only slightly impaired we do not agree with this course of action. An injury award is for an injury on duty per se. Those officers who are therefore only slightly affected should retain their current rights under the Regs, an injury award can always be altered if the injury improves or deteriorates, and if under the proposals an officer is paid a one off lump sum there does not appear to be any recourse for him should his injury get worse.

**Linda Manley (individual respondent & Force Risk Manager, SUSSEX Police)**  
[Linda.Manley@sussex.pnn.police.uk](mailto:Linda.Manley@sussex.pnn.police.uk)

18 November 2008, hard copy

**Issue 12 & 13:** I agree.

**Issue 14:** If basing the injury award on length of service prejudices an officer young in their service, I feel we need to resolve this in the officer's favour by some alternative consideration.

**Issue 15 – 22:** I agree.

**Issue 23:** I totally agree. Long overdue in my opinion.

**Sue Martin (Chief Executive, SURREY Police Authority)**  
[Martin10986@surrey.pnn.police.uk](mailto:Martin10986@surrey.pnn.police.uk)

18 November 2008, hard copy

**Issue 14:** This is a contentious area. Our experience is that a significant number of officers wait until they have completed 25 years service before taking ill health retirement and claiming an injury award, even though the injury occurred some years before. Therefore, they can get the maximum benefit. An officer young in service who sustains a injury serious enough to retire them has no choice but to go, but will never be able to gain maximum benefits. This can lead to a clear discrepancy in living standards for a officer sustaining serious injury early in their career and those injured later in their career. This does seem to us to be discriminatory and we would welcome some consideration of improving the compensation for loss of earnings to younger officers who will not have had the opportunity to achieve high rank and relevant pension rights. A graduated weighting system could be considered for these officers whose injuries terminate their careers and where their job prospects are limited or non existent.

**Issue 22 & 23:** We support the proposals for changed in terminology. The use of the term "pension" can be confusing. Greater clarity would be provided by changing "degree of disablement" to "loss of earning capacity".



**METROPOLITAN Police**

18 November 2008, hard copy

**Issue 12:** Agreed.

**Issue 13:** Injury pensions should continue to be related to loss of earnings capacity and not be changed to compensate for pain and suffering. This would be almost impossible for a medical professional to determine and would all be based on opinion rather than objective evidence. This would increase the number of appeals submitted challenging the decision of the SMP.

**Issue 14:** It is agreed that the scale of injury pensions should remain based on an officer's length of service. Although an officer who is young in service may not get as much as an officer with longer service, this is only the case in the lower bandings, where it is acknowledged that the officer is perfectly capable of finding further employment for the remainder of their working life. Where an officer who is young in service has a serious disablement, the minimum income guarantee as a percentage of their APP is the same as officers with longer service, reflecting the likelihood of them finding alternative employment.

**Issue 15:** Agreed – but there is a need to consider also potential earnings growth within the rank e.g. for junior constables who can get up to 10 years progression.

**Issue 16:** Agreed, subject to comments on Issue 15 above.

**Issue 17:** Agreed that we retain the current banding levels. However, the MPS has often argued that to place a definition on each of the bandings is misleading to officers and pensioners alike.

Very often an individual will concentrate on the definition of the band, and submit an appeal based on the fact that they do not agree that their disablement is 'slight' forgetting that the banding does not reflect the condition but the affect that the condition has on the earnings potential.

**Issue 18:** This is supported. We receive a number of requests from officers who are planning to retire at 30 years service, have other well paid jobs lined up, perhaps at a salary more than that of a police officer and still request an injury pension. When we explain that an injury pension is to compensate for loss of earnings they acknowledge this but say that they are aware that they would get a 0% injury pension and that this would still attract an additional pension in the first banding.

**Issue 19:** Agreed. In cases where the loss of earning capacity is 10% or less the former officer will receive a lump sum payment in recognition of the injury. This is presumably tax exempt, but the tax status of lump sums payable under these agreements needs to be clarified.

**Issue 20:** Agreed.

**Issue 21:** Agreed for reasons set out at Issue 13 above. The proposal suggests that lump sum awards will be based on average pensionable pay to take account of a member's working hours averaged over their career. The suggestion is that this will be more equitable for member who have worked part time or reduced their hours. In practical terms this is likely to reduce the benefits payable for anyone who has worked part time earlier than three years previously.

**Issue 22:** This is very definitely supported. This is an issue at nearly every medical appeal board we attend in respect of a review case. It is very difficult for an appellant to understand that a degree of disablement does not relate to the medical condition but the affect that the medical condition has on the individuals earning potential. This basically means that an individuals 'degree of disablement' may have reduced when their medical condition has not. A change in wording to 'loss of earning capacity' would be a great help in addressing this difficult issue.

**Issue 23:** This is also supported. Experience has shown that retired officers often assume that an injury pension is a constant income, when in fact they are reminded on granting of the pension that the pension can alter. However, many individuals are given loans and mortgages based on their pension and injury pension. When an injury pension is reviewed and possibly reduced this can cause real problems with mortgages and homes being under threat.

**National Attendance Management Forum  
(Gloucestershire – Amanda Katsighiras)**  
[c.i.rowson@west-midlands.police.uk](mailto:c.i.rowson@west-midlands.police.uk)

18 November 2008, hard  
copy

**Issue 12:** Agreed. Note that under the proposals an Injury Pension would not be payable if the reduction in earnings capacity is 10% or less.

**Issue 14:** Essentially, under the current system, officers who have longer service receive a greater injury pension (or 'Minimum Income Guarantee') i.e. more money than an officer with less service, *even though their loss of earnings capacity is the same*. On the face of it, this would be held to be discriminatory against younger officers. However, as stated in the Consultation Document, it could be argued that there is less chance for an older officer to build up an alternative salary or pension.

In addition, the officer with greater service is *likely to receive their injury pension for a shorter period of time*, given that they will be compared to the NAE once they reach their normal retirement age and that there is a proposal to half their pension once they reach 65.

**National Attendance Management Forum  
(Sussex – Alan King)**  
[c.j.rowson@west-midlands.police.uk](mailto:c.j.rowson@west-midlands.police.uk)

18 November 2008, hard copy

**Issue 17:** Further recommend that additional gradations of banding would help smooth out the potential for a dramatic jump in uplift or reduction to an injury pension in those cases where only a small change in loss of earning capacity results in moving from one band to another.

**John Sturzaker (Russell Jones & Walker  
Solicitors on the behalf of the Police  
Negotiating Board staff Side)**  
[J.N.Sturzaker@rjw.co.uk](mailto:J.N.Sturzaker@rjw.co.uk)

18 November 2008,  
consultation inbox and  
hard copy

**Issue 12 & 13:** We agree.

**Issue 14:** Both Sides need to be confident that the PIBR comply with the age discrimination provisions.

We consider that further consideration of the service based approach to the minimum income guarantee is necessary to ascertain (a) whether it is disadvantageous to younger officers (this is not entirely clear given the minimum income guarantee approach – which means that officers with more service will have higher pension to offset); and (b) the extent of any disadvantage. If there is a material disadvantage it will be necessary to consider the purpose of this element at the scheme design. Only then can the issue of objective justification be properly assessed.

**Issue 15:** We agree.

**Issue 16:** While it is not a requirement of the PIBR, we agree that the use of full time pensionable police salary is a useful starting assumption in practice in setting a benchmark for pre-injury earning capacity. We consider however that an officer who has a cogent argument for an alternative benchmark should be able to make that argument.

In relation to part timers, we consider there to be the following possibilities:

- (a) the officer has chosen to work part time, with no medical reason;
- (b) the officer, having already been found to be permanently disabled and unable to work full time as a police officer, has agreed to work part time as an alternative to being medically retired;
- (c) the officer is working restricted hours while on full pay, as part of an attempt to return to full hours (or while the prognosis is unclear);
- (d) the officer has agreed to work part time for a medical reason short of permanent disablement.

We consider that only in category (b) would it be potentially appropriate to make an adjustment. Even then as earning capacity may be higher than actual earnings, the officer ought to be free to argue for a higher benchmark (if for example before the injury although having to work part time as a police officer s/he could have worked full time outside the service).

**Issue 17:** We agree.

**Issue 18:** We do not oppose this. We are however concerned that any apportionment must be properly applied and must not be used over zealously. It may be appropriate to revisit the guidance on this subject.

**Issue 19:** We understand the proposal to maintain the current position in relation to gratuities and on this basis, we agree.

**Issue 20:** There is a reference in paragraph 3.24 to the death gratuity, but we understand that this issue relates only to disablement gratuity.

**Issue 21:** We agree.

**Issue 22:** If this is considered helpful we do not oppose it.

**Issue 23:** If this is considered helpful we do not oppose it, although we consider that “injury related earnings supplement” would be more accurate.

**Scottish Force Response**

18 November 2008, hard copy

**Issue 12:** Supported.

**Issue 13:** Not supported

**Issue 14-15:** General agreement.

**Issue 16:** Not supported.

**Issue 17:** Supported.

**Issue 18:** General agreement.

**Issue 19:** Not supported.

**Issue 20:** Supported.

**Issue 21:** Not supported.

**Issue 22-23:** Supported.

**Julie Wisdom (Casework Supervisor,  
LANCASHIRE COUNTY COUNCIL)**  
[Julie.Wisdom@pens.lancscc.gov.uk](mailto:Julie.Wisdom@pens.lancscc.gov.uk)

18 November 2008, hard  
copy

**Issue 14:** The scale of injury pensions should be based on the whole of officer's length of service rather than the current stepped approach. This should help reduce the number of appeals on bandings as the 'cliff edges' will have been removed. This will also mean that any reassessments of reduction in earning capacity will have less of an impact on the benefits paid.

**Issue 18:** The introduction of the 10% threshold is a good idea as whilst the officer has incurred an injury on duty it is not severe enough to affect their earning potential.

**Issue 22:** Changing the term 'degree of disablement' to 'loss of earning capacity' will make it easier for officers to understand, especially as the DWP use 'level of disability'. Officers often think their injury pension banding should change as both the Police and DWP use disability %.

**Angela Mercer (Joint Branch Board Secretary,  
SUFFOLK Police)**  
[angela.mercer@suffolk.pnn.police.uk](mailto:angela.mercer@suffolk.pnn.police.uk)

19 November 2008, hard  
copy

**Issue 18:** Whilst this may make it easier for administration purposes and also create a one off payment for officers whose capacity to earn are only slightly impaired we do not agree with this course of action. An injury award is for an injury on duty per se.

Those officers who are therefore only slightly affected should retain their current rights under the Regs. An injury award can always be altered if the injury improves or deteriorates, and if under the proposals an officer is paid a one off lump sum there does not appear to be any recourse to him should his injury get worse.

**William F Hughes QPM (Director General,  
SOCA)**

[FOIAEnquiries@SOCA.x.gsi.gov.uk](mailto:FOIAEnquiries@SOCA.x.gsi.gov.uk)

20 November 2008, hard  
copy

**Issue 14:** The scheme has been developed to provide compensation for loss of earnings arising from permanent disablement. It could be argued that younger officers, who have retired on ill health arising from an injury, suffer greater loss of potential earnings than longer serving officers. Basing the scheme on length of service is to the detriment of younger officers and is not objective.

**Issue 18 (and Issue 35):** For the same reasons as those stated for Issue 11 the proposal to pay an award only if the reduction in earning capacity is more than 10%, is supported.



## 4. Conditions Applying to Injury Awards 4.1-4.27 and Issues 24-32

Name and Organisation	Date and Method of Response	Comments
<p><b>Amanda Parker (HR Manager, SUFFOLK Constabulary)</b>  <a href="mailto:Amanda.Parker@suffolk.pnn.police.uk">Amanda.Parker@suffolk.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p><b>Issue 24:</b> I would suggest that examples or guidance is given on injury received without default where high pressure and split second decision need to be made to ensure a consistent approach by all forces.</p> <p><b>Issue 25:</b> The issue of default as part of apportionment would appear to be a simpler way to address the issue.</p> <p><b>Issue 31:</b> A time limit with exclusions would seem reasonable.</p>
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p><b>Issue 24:</b> State that they do not find officers hesitant or uncertain with regard to making claims, however they see no problem in the definition defined.</p> <p><b>Issue 25:</b> No issue.</p> <p><b>Issue 26:</b> No comment.</p> <p><b>Issue 27:</b> States that this information will be available if the claim is against the Force. If there is a claim against a third party the Force would have knowledge of this if the officer chooses not to share this information.</p> <p><b>Issue 28:</b> Agrees.</p>

**Issue 29:** Feels would be useful as many former officers fail to make application and could face prosecution from DWP in the event of a fraudulent claim.

**Issue 30:** Not a problem.

**Issue 31:** No comment.

**Issue 32:** Agrees

Phil Mason (Head of HR Operations,  
LEICESTERSHIRE Police)  
[Phil.Mason@leicestershire.pnn.police.uk](mailto:Phil.Mason@leicestershire.pnn.police.uk)

23 September 2008, hard  
copy

**Issue 24:** The new definitions around **without default** are much clearer than the current words and are supported.

It is believed that the process of **apportionment** should be incorporated within the standard process and asked of every claim, ensuring that it was considered effectively and consistently.

**Issue 29:** Asking an individual to **confirm their entitlement to the Employment Support Allowance** has the potential for providing evidence in support of the officer's claim; however this would reduce any entitlements or payments made. This change should be covered by Police Regulations to ensure consistency of application.

**Issue 30:** The **five year time limit for making a claim** is reasonable. The exclusion clauses to the time limit around progressive conditions are a little open as conditions relating to backs and knees could be argued to be progressive when this clause is clearly not intended for such injuries.

**Issue 31: Exclusions** – clarification is needed on how cancer can be linked to duty.

**Issue 32:** Agree with **age limit of 65 years** for all claims.

**Robert Parker (Head of Human Resources,  
GWENT Police)**  
[Robert.Parker@gwent.pnn.police.uk](mailto:Robert.Parker@gwent.pnn.police.uk)

01 October 2008, hard  
copy

**Issue 25:** We believe that the SMP should be able to advise on whether default is involved in both ill health pension as well as injury on duty pensions. For example, in cases where an officer participates in sports outside of his/her work where there could be a high risk of injury e.g. motorcycle racing, or is neglectful of their health e.g. seriously overweight or excessive drinking, default could be involved. We believe that there should be a part for the SMP in deciding default where appropriate. There will be other cases where the police force can decide that default is involved e.g. following misconduct.

**Issue 26:** We wonder if it would be helpful to retain the question of default as a reason for reducing the size of the injury award so, where applicable, it is clear to the officer that default is the reason for the SMP making the apportionment.

**Elizabeth Grayson (Force Occupational Health,  
Safety and Welfare Officer,  
NORTHAMPTONSHIRE Police)**  
[Elizabeth.Grayson@northants.pnn.police.uk](mailto:Elizabeth.Grayson@northants.pnn.police.uk)

02 October 2008, hard  
copy

**Issue 24-32:** Default issues – it is agreed that these determinations are not medical and as SMP findings can be taken to an appeal board it is unfair under the current arrangements for boards to consider non-medical matters. The phrase ‘evidence of serious and culpable negligence or misconduct’ we feel is too high a threshold – consideration should be given to removing culpable from the section.

The role of a police officer is mentally demanding and dangerous and it is naïve of recruits to believe otherwise.

If at recruitment the expectation from an applicant of a reasonable level of robustness is not recognised by the

OHU it is unfair for the Police Authority to pay an injury award when that lack of robustness when set against a generic police officer cause a mental condition simply because the individual was on duty. We would support this inclusion in the guidance.

We agree that it is necessary to set a time limit on injury award claims and five years following the ceasing of service appears reasonable. The proposals refer to an exception for progressive conditions but as many musco-skeletal conditions have an element of degeneration this inclusion does seem to favour applicant as they advance in years. Perhaps such cases should be an exception but should allow for an extension for a further five years – to have open-ended allowance would make cases harder to defend when ten years has elapsed following leaving the Force.

We agree to an upper age limit of 65 years for new claims.

**Joscelin Lawson (Head of Human Resources,  
NORTHUMBRIA Police)**  
[Joscelin.Lawson@northumbria.pnn.police.uk](mailto:Joscelin.Lawson@northumbria.pnn.police.uk)

03 October 2008, hard  
copy

**Issue 24:** It is agreed that the proposal to change the meaning of default to mean misconduct or negligence but to retain the serious and culpable test with respect to extreme operational situations.

**Issue 26:** It is agreed that the issue of default becoming a question for the SMP to determine on apportionment, particularly where a medical condition is caused by default.

**Issue 27-28:** Agreed.

**Issue 29:** It is agreed that officer should apply for relevant benefits they are entitled to as a pre-condition for receiving an award. What this means in practice will, however, need to be subject of clear guidance. Guidance will need to be given in relation to the timescales involved in applying for these benefits. These timescales should possibly be placed within the Regulations to put the matter beyond doubt.

**Issue 30-32:** Agreed.

**Deborah Bentley (Acting Strategy and Planning Manager, LINCOLNSHIRE Police)**  
[Deborah.Bentley@lincs.pnn.police.uk](mailto:Deborah.Bentley@lincs.pnn.police.uk)

07 October 2008, hard copy

**Issue 30:** Welcome time limits for new claims of 5 years after retirement or age 65 (with exceptions listed for progressive type conditions) This should prevent forces having to track back over a number of years for evidence of the original injury.

**P Barker (HR Partnership Manager, HUMBERSIDE Police)**  
[enquiries@humberside.pnn.police.uk](mailto:enquiries@humberside.pnn.police.uk)

17 October 2008, consultation inbox and hard copy

**Issue 24:** Agreed. A difficult issue to legislate on but the proposed words seem appropriate.

**Issue 25:** The matter of default should be a matter for the Police Authority with advice from various quarters including the SMP.

**Issue 26:** Apportionment because of medical issues is for the SMP to decide upon.

**Issue 27:** Agreed and long overdue. Where compensation is paid for loss of future earnings then this should be offset against the injury award value. Should 'taken into account' in your issue 27 paragraph, read reduced?

**PLEASE NOTE** that this issue also needs to be raised with those who draft/redraft Police Regulations. Forces often receive communications from insurance companies in respect of staff who have been involved in road traffic collisions, asking whether the force will be seeking repayment of sick pay due to absences arising out of the collision. EG our consequential losses. Police Staff conditions have long provided for the deduction from salaries of amounts equivalent to that paid by the insurance company. This provision needs also to be provided for in the Police Regulations, thereby allowing forces to save unnecessary costs.

**Issue 28-30:** Agreed.

**Issue 31:** What is the definition of 'Brain Injuries'? Physical injuries to the brain, psychological, stress? Lack of clarity in this area will lead us to legal argument and inevitably the Courts.

**Issue 32:** Agreed.

**S. G. Hall (Director of Resources WEST  
MIDLANDS Police)**  
[s.g.hall@west-midlands.police.uk](mailto:s.g.hall@west-midlands.police.uk)

28 October 2008, hard  
copy

**Issue 24:** Agrees. However Regulations will have to be carefully phrased (with possible guidance) to ensure that desired end is met.

**Issue 25:** Agrees. This issue of default should be decided by the Police Authority with advice from whoever they think appropriate.

**Issue 26:** They consider that the SMP should decide the degree of disability caused by the injury, and that the Police Authority should then determine by how much this should be reduced on account of the officer's default. However, in certain instances the Police Authority may need to request further advice from the SMP (e.g. in an RTA case involving excessive speed).

**Issue 27:** Agrees. However, paragraph 4.15 of the consultation document refers to the possibility of also taking into account any compensation received for pain and suffering. We do not believe that this should be taken into account in determining a benefit which is related solely to loss of income.

Also, if it intended that the gratuity or pension (as appropriate) should be reduced in all cases then the regulations should say so definitively. We have previously had legal advice that the term "taken into account" can be interpreted as merely "borne in mind," meaning that a reduction is NOT mandatory.

**Issue 28:** Agrees. Refer to comment at Issue 27.

**Issue 29:** Agree in principle. However, if this is to be a requirement then it must be in the regulations. **It should also be noted that, DWP will not/are not permitted to provide information to police authorities on any individual case.**

**Issue 30-32:** Agrees.

**Joanna Barry (Corporate HR Consultant,  
NORTH YORKSHIRE Police)**  
[joanna.barry@northyorkshire.pnn.police.uk](mailto:joanna.barry@northyorkshire.pnn.police.uk)

10 November 2008,  
consultation inbox

**Issue 24:** Agreed. Proposal acceptable.

**Issue 25:** The matter of default should be a matter for the Police Authority.

**Issue 26:** This matter should be considered as part of the process of apportionment.

**Issue 27 & 28:** Agreed.

**Issue 29:** Agreed. Currently only officers who have physical injuries need to apply to the DWP. This should be included for all injuries and it should be made clear that the onus is on the individual to ensure the force is updated if there is any change to those benefits, ongoing.

**Issue 30:** Agreed.

**Issue 31:** Agreed although, further clarification on the definition of 'brain injuries' is required to avoid legal challenges.

**Issue 32:** Agreed.

**Stephen F. Lee (Principal HR Officer, GREATER  
MANCHESTER Police)**  
[StephenF.Lee@gmp.police.uk](mailto:StephenF.Lee@gmp.police.uk)

11 November 2008,  
consultation inbox

**Issue 24: Agreed** with comments

Misconduct or negligence gives an improved and simpler understanding rather than "*default*", and with the safeguards built will allow each case to be decided on its merits and the situation at the time of the incident / injury.

**Issue 25: Agreed**

See comments at issue 26



**Issue 26: Agreed**

This is a difficult question because on the one hand default could be 100% and in that case it could be considered that no injury benefit should be payable and this would be a Police Authority decision. However, in the majority of cases default is likely to be a percentage consideration along with any other considerations and therefore be part of the apportionment process, rather than a separate question. In these cases default is likely to have the same percentage range of effect on "Earnings Capability" as any other pre-existing cause. Further since in most cases default may not be a simple or stand alone calculation, it will require an SMP to decide what effect any default would have on "Earnings Capacity" within the whole question and range of percentage disability. Following the apportionment guidance in paragraph 4.9 and paragraph 4.10 it would seem to be good practice to include any default as a mandatory question within apportionment as part of stage 3 as shown in section C, "*The Process of Apportionment*"

**Issue 27: Agreed** with comments: -

However, it may be that any compensation awarded by a court could be much later than the settlement of the Injury Award and therefore, this proposal would have to have some safeguards built in if it was known that a compensation claim was ongoing at the time of an Injury Benefit claim. Also there would have to be some in-built reduction formulae agreed for this to work and be understood on a national basis.

**Issue 28: Agreed**

**Issue 29: Agreed** with comments:

If as proposed that officers are required to apply to the DWP to confirm any entitlement to DWP benefits before payment of an injury award it would be better to make this a requirement of the regulations. This rule or guidance test should also apply to Injury reviews where there is a major reduction in employment earnings and increase in an Injury banding and payment.

**Issue 30: Agreed** with comments: -

This is a positive step forward because obtaining detailed information for incidents / injuries which occurred many years previously has proved difficult and the safeguards suggested should be sufficient for rare occurrences.

**Issue 31: Agreed** with comments:

This would need to be a medical SMP decision based on the incident / Injury and individual facts of each case and comments as issue 30 above.

**Issue 32: Agreed**

David Bulpitt (Police Representative, ALAMA) 12 November 2008,  
[dbulpitt@cix.co.uk](mailto:dbulpitt@cix.co.uk) consultation inbox

**Issue 31:** It is suggested that it is more appropriate these days not to use the term AIDS. Perhaps "end stage HIV infection" may be more appropriate?

A head injury is so unlikely to manifest itself after 5 years that it could come off the list.

**Ian Coombs (Policy Strategy and Audit Officer, DORSET Police)**

[Ian.Coombs@dorset.pnn.police.uk](mailto:Ian.Coombs@dorset.pnn.police.uk)

12 November 2008, hard copy

**Issue 24:** The issue of “default” should be decided by Police Authorities in conjunction with SMP’s as well as any other relevant specialists.

**Issue 29:** For clarify if this becomes a requirement then it must be stipulated in Police Regulations, rather than any supplementary guidance.

**Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)**

[Nigel.brook@westyorkshire.pnn.police.uk](mailto:Nigel.brook@westyorkshire.pnn.police.uk)

13 November 2008, hard copy

**Issue 24:** Agreed. However, there should be clear guidance to assist Police Authorities in its interpretation.

**Issue 25:** Agreed. A Police Authority, in determining default, should be allowed to obtain advice and guidance from anyone they consider appropriate.

**Issue 26:** 1<sup>st</sup> part – Agree that the system of apportionment should be maintained and that the SMP should have the final decision.

2<sup>nd</sup> part – Agreed. Our SMP does not currently look at default and we are not sure whether or not consideration of default would be undertaken by the SMP. Default should be investigated/discussed at the reporting stage and the level of default. If 100% officers fault it should be recorded as an injury but NOT IOD.

**Issue 27:** Agreed. No element of compensation, regardless of where it is paid from should be ignored or counted twice.

**Issue 28:** Agreed. All relevant benefits should continue to be taken into account.

**Issue 29:** WYPF currently request that officers confirm what they are currently in receipt of. However, it is agreed that this should be a separate process to any Regulations.

**Issue 30:** Agreed.

**Issue 31:** Agreed. However, some guidance/further detail is considered necessary to aid interpretation of, for example, other blood borne virus and brain injuries.

**Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)**  
[gerryrobinson@narpo-staffs.co.uk](mailto:gerryrobinson@narpo-staffs.co.uk)

16 November 2008, hard copy

**Issue 24:** We fully concur.

**Issue 25-28:** We concur.

**Issue 29:** The proposal requires clarification. Currently Incapacity Benefit is taxable whereas an injury on duty pension. Most forces currently take the Incapacity Benefit away from the Injury on duty pension thus reducing the Injury on Duty Award by that amount. It may be that these new proposals will eliminate this anomaly in which case we concur.

**Issue 30 & 31:** We concur.

**Issue 32:** We have reservations on this proposal at the age of 65 years. We suggest that the 'Civil Law' standard may be a better way of dealing with this issue, i.e. 3 years after the date of the incident or after the problem evidenced itself.

**Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)**

[Kathie.Walker@nio.x.gsi.gov.uk](mailto:Kathie.Walker@nio.x.gsi.gov.uk)

17 November 2008, hard copy

**Issue 24:** Agreed – important to include the exceptions to protect officers in “confrontational” situations.

**Issue 25:** Agreed.

**Issue 26:** Agreed – the issue of default should be part of the process of apportionment by the SMP. However, this will require detailed guidance for the SMP.

**Issue 27-30:** Agreed.

**Issue 31:** Agreed – however this list should be included in a determination to the regulations rather than the regulations themselves, so that it can be amended if necessary.

**Issue 32:** Agreed – however is there any proviso for an officer who retires at 65? Although they may not have any loss of earnings they may still be entitled to a gratuity for an injury sustained in the execution of their duties.

**Christine Barton (Director of Human Resources, CHESHIRE Constabulary)**

[Christine.Barton@cheshire.pnn.police.uk](mailto:Christine.Barton@cheshire.pnn.police.uk)

18 November 2008, hard copy

**Issue 27:** If it is intended that the gratuity or pension (as appropriate) should be reduced in all cases, then the regulations should specifically state this.

**Andy Champness ( Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)**

[Andy.Champness@glos-pa.gov.uk](mailto:Andy.Champness@glos-pa.gov.uk)

18 November 2008, hard copy

**Issue 24:** Agree. However the Regulations will have to be carefully phrased to ensure that the desired end is met.

**Issue 25:** Agree.

**Issue 26:** No comment.

**Issue 27:** Agree. However, it should be borne in mind that other forms of compensation could be sought *after* the injury award has been granted, thereby negating the effect of his proposed regulation.

**Issue 28:** Agree.

**Issue 29:** Agree with the principle, however it should be specifically set out in the Regulations that officers are required to apply to DWP before any payment of an injury award is made.

**Issue 30-32:** Agree.

**Fiona Edger (Attendance Manager,  
LANCASHIRE Constabulary)**  
[Fiona.Edger@lancashire.pnn.police.uk](mailto:Fiona.Edger@lancashire.pnn.police.uk)

18 November 2008, hard  
copy

**Issue 24:** It is considered important to retain these clauses and the amendment to the definition would assist with clarity.

**Issue 27:** The proposal would appear to be logical but in practice I wonder how it could be applied. For example, time taken to settle civil claims (sometimes running into years) communication and disclosure issues etc.

**Issue 29:** I would assume there may be disclosure difficulties in applying this proposal. Also, to issue guidance to Authorities would be useful but without the backing of statute, guidance remains open to interpretation and application (As with previous issued guidance documents) and the end result may be a 'toothless tiger'.

**Clint Elliott (Deputy CEO, NATIONAL ASSOCIATION OF RETIRED POLICE OFFICERS)**  
[depceo@narpo.org](mailto:depceo@narpo.org)

18 November 2008,  
consultation inbox

In broad terms NARPO agree the proposals in respect of default and apportionment.

We are against the imposition of arbitrary time and age limits on application for an injury award.

Whilst we understand the proposal in respect of claiming DWP benefit, we believe that there should be much more clarity around the issue of the relationship between

Minimum Income Guarantee and specific state benefits offset against it, in advice to claimants and others in simple, accessible written form. We are also concerned at any delay this may cause in the payment of injury award benefits in circumstances where it is clear that some 'injury pension' will be payable.

**Trevor Forbes (Pensions Consultant, NOTTINGHAMSHIRE Police)**  
[Trevor.Forbes@hottinghamshire.pnn.police.uk](mailto:Trevor.Forbes@hottinghamshire.pnn.police.uk)

18 November 2008, hard  
copy

**Issues 24-32:** Default issues – I agree that these determinations are not medical and as SMP findings can be taken to an appeal board it is unfair under the current arrangements for boards to consider non-medical matters. As a threshold that phrase 'evidence of serious and culpable negligence or misconduct' is too high. I agree that consideration should be given to removing the phrase from this section. The role of a police officer is mentally demanding and dangerous and it is naïve of recruits to believe otherwise. If at recruitment that expectation from an applicant of a reasonable level of mental robustness is not recognised by the OHU it is unfair for the Police Authority to pay an injury award when that lack of robustness when set against a generic police officer causes a mental condition simply because an individual was on duty.

I would support this inclusion in the guidance.

I agree that Forces should be able to review the compensation received or due to be received from other sources for an injury to ensure that the Officer only receives the actual compensation for his loss of earnings and that he does not receive 'double-counting'. This has always appeared unfair – it cannot be right that an officer can sue the Forces for loss of income and receive compensation and then receive a full injury award without that benefit being taken into account.

I agree that it is necessary to set a time limit on injury award claims and five years following the ceasing of service appears to be reasonable. The proposals refer to an exception for progressive conditions but as many musculo skeletal conditions have an element of degeneration this inclusion does not seem to favour applicants as they advance in years. Perhaps such cases should be an exception but should allow for an extension of a further five years – to have an open-ended allowance would make cases harder to defend when ten years has elapsed following leaving the Force.

I agree to an upper limit of 65 years for new claims.

**Andrea Gabbitas (Policy Manager, WEST  
MIDLANDS Police Authority)**  
[Andrea.Gabbitas@west-midlands.police.uk](mailto:Andrea.Gabbitas@west-midlands.police.uk)

18 November 2008, hard  
copy

In general we support the proposals in this chapter. However, there are a number of cases where the terminology in the regulations needs to be carefully phrased and guidance may be required to avoid misinterpretation. For example, what is meant by 'brain injury'?



**KENT Police Authority**

18 November 2008, hard copy

**Issue 24:** Agree

**Issue 25:** Agree – but with the proviso that clear definitions are given to give the SMP the best possible chance to decide appropriately on apportionment.

**Issue 26 - 28:** Agree

**Issue 29:** Agree – I believe that this process is already in place in regard to our present arrangements.

**Issue 30:** The five-year rule is sensible given the wide time variation sometimes evident in claims. It should be made clear that the exceptions should only apply to conditions that are wholly or mainly caused by an injury on duty not from a later arising condition that may have tenuous causal links and are alleged to have been caused during service. The example here could be a claim that a later occurring cancer was caused by conditions that prevailed during an officer's service with no substantial causal link established between a specific event and an injury.

**Issue 31:** Disagree – Issue 30 covers this area, there is no need for a set of conditions.

**Issue 32:** Agree

**Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)**  
[comsec1@psni.pnn.police.uk](mailto:comsec1@psni.pnn.police.uk)

18 November 2008, hard copy

**Issue 24:** Agreed.

**Issue 25:** Agreed, the Police Authority should be able to seek views of other relevant parties regarding 'default'.

		<p><b>Issue 26-28:</b> Agreed.</p> <p><b>Issue 29:</b> This is not considered to be practicable, it delays the process and the DWP are not permitted to share information with the authority.</p> <p><b>Issue 30:</b> Agreement on the time limit for <i>application</i> and provision for special circumstances, however the time limit for respective <i>payment</i> of awards should be 3 months from the date of application.</p> <p><b>Issue 31:</b> May be impracticable. Suggested that the officer should demonstrate why the application could not have been made earlier.</p> <p><b>Issue 32:</b> Agreed.</p>
<p><b>M.A. Ludlam (Honorary Branch Secretary, NARPO, LEICESTERSHIRE branch)</b>  <a href="mailto:m.a.ludlam@virgin.net">m.a.ludlam@virgin.net</a></p>	<p>18 November 2008, consultation inbox</p>	<p><b>Issue 29:</b> Whilst agreeing with the concept it should be borne in mind that the DWP can be rather long winded in their dealings and we feel that it would be far better to pay the injury award and then adjust it later when the full extent of any other state benefits are known.</p>
<p><b>Linda Manley (individual respondent &amp; Force Risk Manager, SUSSEX Police)</b>  <a href="mailto:Linda.Manley@sussex@pnn.police.uk">Linda.Manley@sussex@pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 24-26:</b> I agree.</p> <p><b>Issue 27:</b> This is a really difficult question as “damages” and “compensation” are not defined for this purpose and I would want them to be explicitly defined to answer this question.</p>

Points that should be considered:-

(a) How would payments from the Criminal Injuries Compensation Board be considered?

(b) How well would you be able to track payments from guilty third party drivers in police vehicle accidents, where the police force involved may be completely unaware of a police officer's pursuit of compensation against the guilty third party driver through the civil courts?

The situation already exists, where because a police officer is an appointee and does not have a contract of employment, it is not possible for the police force to progress recovery of sickness costs against any guilty third party motorist who crashes into a police vehicle and injures a police officer. In these circumstances, there is a moral hazard that currently exists, whereby, a police officer injured in such an accident could pursue a claim for compensation in the civil courts and might state they have lost earnings (falsely), which may not be the case. In these circumstances, an officer could fraudulently profit from injuries and earn more than would otherwise have been possible, but the chances are the police force would never know about it. If the thinking is to reduce the overall payment that might be incurred by the police force overall through all forms of compensation, injury award etc. etc., leaving open these other more hidden forms of "compensation" or "damages" does seem to lack balance or fairness to me.

**Issue 28:** This is no change then. Taking account of "other benefits" should be defined and provision should be made to revise awards when there is any change upward or downward with the "other benefits" taken into consideration.

**Issue 29:** Guidance must ensure consistency of application, which is not generally easily achieved through guidance. Evidencing benefit awards is weakly applied if it relies wholly on the officer to evidence same.

**Issue 30:** This seems entirely reasonable. However, interestingly at 4.24 sees “taking the police authority to court” as something to be avoided. Yet, in other parts of this document, it is suggested that an Employer’s Liability claim is an established route for an officer to claim. Thus, I think we need to be clear about what we want to achieve from these proposals.

**Issue 31 &32:** I agree.

**Sue Martin (Chief Executive, SURREY Police Authority)**  
[Martin10986@surrey.pnn.police.uk](mailto:Martin10986@surrey.pnn.police.uk)

18 November 2008, hard copy

**Issue 26:** We would prefer that the issue of default as a reason for reducing apportionment should remain as a separate question for the SMP; otherwise there is a risk of this issue losing “weight” if it is not addressed separately.

**Issue 28 & 29:** We support the proposals that other benefits should be taken into account when the level of injury award is set and that officers should apply to DWP to confirm entitlement to State Incapacity Benefits.

**Issue 30 & 31:** We support the proposals to put a limit on the length of time after which an injury award cannot be claimed and the exceptions to that limit.

**Issue 32:** We support the proposal to have a cut-off at age limit of 65. However, we are aware that many officers believe that in the current climate of anti-discrimination and encouragement from Government to continue in employment, that this age limit is seen as discriminatory.

We support the proposal that the Authority retains the right to consider whether a review is necessary and that much of the process can be done by a paper sift.

**METROPOLITAN Police**

18 November 2008, hard copy

**Issue 24:** The Metropolitan Police Authority would endorse this amendment. The MPA have successfully challenged a default case through the court and have been advised against proceeding with another. Legal advice was that the issue of 'serious and culpable' was almost impossible to prove.

**Issue 25:** Agreed.

**Issue 26:** This is a difficult issue for MPS to address. Legal advice to the MPA in respect of a legal challenge is that the Home Office guidance needs to be clarified. Anything that would so this would be welcomed, but the advice would need to be far more detailed to assist SMP's in respect of their respect of their remit on this issue. It must be made clear to all that the SMP is assessing contribution to loss of earning capacity, not to the injury sustained.

**Issue 27 & 28:** Agreed.

**Issue 29:** This would be welcomed, as although it has not happened for a while, we have had requests for injury awards from officers who have left the service for well over 20 years. A limit of five years would also be welcomed by the SMP' as determining causation for an injury that occurred many years before is never easy.

**Issue 30-32:** Agreed.

**National Attendance Management Forum  
(Gloucestershire – Amanda Katsighiras)**  
[c.i.rowson@west-midlands.police.uk](mailto:c.i.rowson@west-midlands.police.uk)

18 November 2008, hard copy

**Issue 24:** Agreed.

**Issue 27:** Agreed. However, it should be borne in mind that other forms of compensation could be sought *after* the injury award has been granted, thereby negating the effect of this proposed regulation.

**Issue 29:** Agree with the principle, however it should be specifically set out in the Regulations that officers are required to apply to DWP before any payment of an injury award is made.

**John Sturzaker (Russell Jones & Walker  
Solicitors on the behalf of the Police  
Negotiating Board Staff Side)**  
[J.N.Sturzaker@rjw.co.uk](mailto:J.N.Sturzaker@rjw.co.uk)

18 November, hard copy  
and consultation inbox

**Issue 24:** Staff Side strongly opposes the proposed change.

It is important to emphasise that by definition the issue will only arise if an officer is permanently disabled or has died as the result of a duty injury. Furthermore, where an injury is accompanied by negligence or misconduct, there is no necessary connection between the seriousness of the injury and the seriousness of the default, such that death or devastating injury can result from relatively minor negligence.

Given the context we consider it appropriate that the definition of default should require both “serious” and “culpable” negligence or misconduct. We do not consider that it can be right that awards should be denied (leaving affected officers (or their families) without protection) for behaviour which is not serious or for which the officer is not culpable, indeed the justifiability of the proposed change can sensibly be tested by posing the question in reverse; is it appropriate that an officer should be deprived of an award for negligence that is not serious or misconduct that is not culpable?

The requirement that any default be both serious and culpable strikes a sensible balance between, on the one hand, the reality that the nature of police duty is such that the risk of getting injured (even if the officer is not behaving in a manner that would be best practice) is significantly higher than would be the case in other occupations, and that protection should not be lost for minor slips and on the other hand, the need to avoid entitlement in cases where the officer is clearly and seriously at fault.

Without the requirement of serious and culpable, on the face of it, any negligence or any misconduct however minor will prevent an award.

The concept of specific exceptions may be initially attractive, but is likely in practice simply to create grey areas at the margin. For example, how will “responding to an emergency,” be defined? At what point is an officer no longer regarded as responding to an emergency?

**Issue 25:** We consider there to be three separate issues involved here:

(i) whether the police authority should have the power (currently found in regulation 38 PIBR) to reduce an injury award where an officer has brought about or substantially contributed to disablement;

(ii) whether if the power exists, the police authority should have to refer the question of whether the officer has brought about or substantially contributed to the disablement to an SMP; and

(iii) whether it is appropriate to consider whether “factors such as smoking or self neglect” have contributed to loss of earning capacity – as part of apportionment.

Staff Side’s views are as follows.

In relation to the first two issues our experience the power in regulation 38 is rarely exercise. We consider that it is workable, but agree to it being removed. We would oppose any proposal to maintain the power but not refer the issue to the SMP, although we do not understand that to be proposed.

We strongly oppose the third point. This requires judgements about lifestyle and maintenance of health and

fitness, that are both difficult and contentious and which are not matters to be regulated in the PIBR.

**Issue 26:** See previous response.



**Issue 27:** We do not oppose the principle of taking compensation for loss of earnings from civil action being taken into account, so long as there is no possibility of double deduction. We would strongly resist compensation which does not relate to loss of earnings (e.g. for pain and suffering and loss of amenity) being taken into account. We would also strongly oppose any deduction being made for a payment resulting from any insurance taken out by or for the officer.

We also have significant concerns about the practicalities of this proposal.

For example:

- an injury pension is an ongoing entitlement, while generally in a civil claim a lump sum payment will be made to cover future loss. How will the two be compared/calculated?
- how will any complicating features be dealt with e.g. multiple injuries, contributory negligence etc?
- in temporal terms – what if the civil claim is not resolved until after the injury award is in payment?

**Issue 28 & 29:** We agree.

**Issue 30:** Staff Side opposes this change. The nature of injury awards is such that claims may be made many years after the relevant injury. It is therefore artificial or unnecessary to impose a time limit just because an officer has left service.

Consider for example an accident on duty involving two officers, both develop the same condition and make claims 7 years later, one is still serving, the other left the service the year after the accident. One claim can proceed the other cannot.

A further issue might arise if claim were made within 5 years of leaving but refused by SMP/PMAB as the condition was not considered at that stage to be permanently disabling. Could a further application be made after 5 years if the condition does turn out to be permanent?

**Issue 31:** See previous response

**Issue 32:** We agree.

**Scottish Force Response**

18 November 2008, hard copy

**Issue 24-26:** Supported.

**Issue 27:** General agreement however updated guidance is needed to confirm the deduction of state benefits from an injury benefit, in circumstances where they have also been taken into account in the assessment of a compensation claim.

**Issue 28-32:** Supported.

**Julie Wisdom (Casework Supervisor,  
LANCASHIRE COUNTY COUNCIL)**  
[Julie.Wisdom@pens.lancscc.gov.uk](mailto:Julie.Wisdom@pens.lancscc.gov.uk)

18 November 2008, hard copy

**Issue 29:** Contacting the DWP on an annual basis to ensure information held regarding officers entitlement to benefits is fully up to date is a good idea in theory.

In order to do this you would need the officer's authority for Data Protection and this would need to be obtained each year as DWP will not accept an authority more than 6 months old. There is also the problem of what to do if the authority is not received for the officer. Amending the regulation to cover the cessation of the 'injury earnings supplement' if the authority is not received would make things easier for administrators. We are currently in the middle of reviewing the Fire Injury Pension that we administer and have had numerous problems in this area that are still ongoing.

**William F Hughes QPM (Director General, SOCA)**  
[FOIAEnquiries@SOCA.x.gsi.gov.uk](mailto:FOIAEnquiries@SOCA.x.gsi.gov.uk)

20 November 2008, hard copy

**Issue 24:** The proposed definition of default is supported on the conditions that the additional safeguards detailed at 4.6 of the paper are adopted.

**Issue 26:** The proposal to include the issue of default at the time of assessing apportionment should add clarity and consistency in decision making, and simplify the process.

**Issue 29:** We support this proposal to require officers to apply and confirm entitlements to State Incapacity. Detailed guidance to police authorities should be extended to guidance to SOCA.

**Issue 30:** This is a positive proposal which seeks to place a five-year limitation period for a claim of an injury award to be made after retirement (with some limited expectations).

## 5. Conditions Applying to Continuing an Injury Award 5.1-5.21 and Issues 33-38

Name and Organisation	Date and Method of Response	Comments
<p><b>Amanda Parker (HR Manager, SUFFOLK Constabulary)</b>  <a href="mailto:Amanda.Parker@suffolk.pnn.police.uk">Amanda.Parker@suffolk.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p><b>Issue 34:</b> I would support that the frequency of the review should be agreed locally and that when it isles than 10% there should be a cessation but with a one-off lump sum.</p> <p><b>Issue 37:</b> The 'injury retirement income supplement' would again seem fair and reasonable at state pension age.</p>
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p>Asks that consideration be given to cancel an IOD element if (upon review) information comes to light that an IOD should never have been awarded. E.g. The injury existed prior to the alleged IOD.</p> <p><b>Issue 33:</b> Happy to stay with current arrangement.</p> <p><b>Issue 34:</b> Agrees makes perfect sense when their earning capability has not been affected.</p> <p><b>Issue 35:</b> Is how they conduct at present.</p> <p><b>Issue 36:</b> System is already in place.</p> <p><b>Issue 37 and 38:</b> Asks why consideration be given to further enhance a pension at age 65.</p>

As the loss of earnings has already been taken into account and provided for during normal working age, this would suggest that at age 65 (when loss of earning capacity would cease) officers who have been awarded an IOD are better off than officers who retired with a normal pension.

**Phil Mason (Head of HR Operations,  
LEICESTERSHIRE Police)**  
[Phil.Mason@leicestershire.pnn.police.uk](mailto:Phil.Mason@leicestershire.pnn.police.uk)

23 September 2008, hard  
copy

**Issue 33:** It is supported that the Police Authority continues to decide on **frequency of reviews**.

**Issue 34 & 35:** Agree with **stopping payments when on review loss of earnings is assessed at 10% or less** and reflecting changes in **loss of earnings capacity with a change in banding**.

**Issue 36:** Do not agree with **amending the original apportionment**. This has already been evaluated and set and should only be changed in the light of new evidence.

**Issue 37:** The **introduction of an injury pension supplement** will require detailed evaluation by the Finance team.

**Robert Parker (Head of Human Resources,  
GWENT Police)**  
[Robert.Parker@gwent.pnn.police.uk](mailto:Robert.Parker@gwent.pnn.police.uk)

01 October 2008, hard  
copy

**Paragraph 5.12:** Guidance on the meaning of 'cogent reason' would be appreciated. This is an issue which has cropped up at meetings of the National Attendance Forum.

**Issue 38:** Our only comment here would be to request that the ASHE figure to be used is the figure which does not include overtime.

**Elizabeth Grayson (Force Occupational Health,  
Safety and Welfare Officer,  
NORTHAMPTONSHIRE Police)**  
[Elizabeth.Grayson@northants.pnn.police.uk](mailto:Elizabeth.Grayson@northants.pnn.police.uk)

02 October 2008, hard  
copy

We would comment that it is unreasonable to have a National Average Earnings figure under ASHE that includes overtime, bonus payments etc. The lower figure excluding additional payments should be used to ensure fairness in the process – otherwise it would be reasonable for Authorities to add such payments on to the potential earning figures. Calculations should be on a like for like basis.

The automatic halving of the MIG at 65 years is an improvement to the current system whereby the slight banding is paid for life after state retirement age. As the award is based on a reduction in earnings at a time when there is presumed to be no loss of earnings is perverse. I would prefer the injury award to be removed completely at age 65 years subject to a cogent argument to do otherwise. The proposal may be a compromise but still appears beneficial to applicants.

**Joscelin Lawson (Head of Human Resources,  
NORTHUMBRIA Police)**  
[Joscelin.Lawson@northumbria.pnn.police.uk](mailto:Joscelin.Lawson@northumbria.pnn.police.uk)

03 October 2008, hard  
copy

**Issue 33-36:** Agreed.

**Issue 37:** It is agreed that no further reviews should be carried out from age 65.

**Deborah Bentley (Acting Strategy and Planning  
Manager, LINCOLNSHIRE Police)**  
[Deborah.Bentley@lincs.pnn.police.uk](mailto:Deborah.Bentley@lincs.pnn.police.uk)

07 October 2008, hard  
copy

**Issue 37:** Age 65 reviews which currently drop an individual to the lowest banding. Accept that this practice could disproportionately affect those injured young n service as insufficient pension built up. Replacing with a minimum retirement income guarantee based on last police pay seems fairer.

**P Barker (HR Partnership Manager,  
HUMBERSIDE Police)**  
[enquiries@humberside.pnn.police.uk](mailto:enquiries@humberside.pnn.police.uk)

17 October 2008,  
consultation inbox and  
hard copy

**Issue 33 & 34:** Agreed.

**Issue 35:** Agreed. The term 'substantial' is superfluous.

**Issue 36:** Agreed. Apportionment could require updating.

**Issue 37: Proposal not agreed.** This process and the award are wholly concerned with loss of earnings. As such new applicants should be informed that the award will cease at normal retirement age – when normal earnings and loss would ordinarily cease. This would be simple, clear to all concerned and avoid reviews and continuing costs for Police Authorities.

**Issue 38: The correct ASHE figure needs to be used.** The current one is incorrect and includes bonuses and overtime, rather than flat rate salaries. As mentioned above in issue 37 the award should cease at state retirement age thereby avoiding the recalculations put forward in your suggestion. However if the new proposal that you put forward is adopted then the ASHE figure should continue in usage as this represents general earnings not police earnings. As the recipients can only be non police officers at this stage police earnings are irrelevant.

**David Fallowfield (ex-police officer, CUMBRIA)**  
[david.fallowfield@btinternet.com](mailto:david.fallowfield@btinternet.com)

28 October 2008,  
consultation inbox

**Issue 37:** Does not agree with halving of injury award upon reaching 65. In the majority of cases, had the officer not been injured and subsequently retired on health grounds with an injury award, in normal circumstance he/she would have continued in service and earned a larger pension and this may have even been enhanced due to promotion.

Therefore, the injury has robbed him/her of this opportunity and he or she deserves the continued compensation of loss of pension and not to see it diminished at a vulnerable age when inflationary forces are also reducing his/her spending power.

**S. G. Hall (Director of Resources WEST  
MIDLANDS Police)**

[s.g.hall@west-midlands.police.uk](mailto:s.g.hall@west-midlands.police.uk)

28 October 2008, hard  
copy

**Issue 33:** Agrees. It should be a regulatory requirement that cases are fully reviewed as a minimum on a 3 yearly basis by medical specialists.

**Issue 34:** Agrees. Current lack of such a provision is currently seen as an omission.

**Issue 35:** Agrees. However, the “cliff edge” created the small number of bands here should also be reconsidered. For example, a reduction of 1% could see a pension reduced from 40% to 15%.

**Issue 36:** Agrees.

**Issue 37:** Agrees. A counter argument is that, as the pension is based on loss of earning capacity, it should cease at insured pensionable age. However, that same “loss of earning capacity” can be argued to have reduced the pension provision that the officer could have made. The halving of the pension at this age is a good compromise.

**Issue 38:** Does not agree. The proposal here seems to create a mixture of treatment – i.e. a change to ASHE at age 60 but back to police salary at age 65.



We suggest that either the police salary is kept throughout, or ASHE should be used from age 60 and retained at 65. On balance we feel that ASHE should be used from age 60 and retained thereafter. From that age most recipients cannot be police officers and so police earnings are irrelevant. However, in determining the approach here the fact that ACPO ranks can serve up to age 65 must also be borne in mind.

Also we feel that the ASHE figure, which excludes overtime working, should be defined as the figure to be used here.

**Joanna Barry (Corporate HR Consultant,  
NORTH YORKSHIRE Police)**  
[joanna.barry@northyorkshire.pnn.police.uk](mailto:joanna.barry@northyorkshire.pnn.police.uk)

10 November 2008,  
consultation inbox

**Issue 33 –36:** Agreed

**Issue 37: Proposal not agreed.** Awards should cease to be paid at the state retirement age to avoid unnecessary reviews and continuing costs for the police authorities.

**Issue 38:** Agreed.

**Stephen F. Lee (Principal HR Officer, GREATER  
MANCHESTER Police)**  
[StephenF.Lee@gmp.police.uk](mailto:StephenF.Lee@gmp.police.uk)

11 November 2008,  
consultation inbox

**Issue 33:** Agreed

**Issue 34:** Agreed with comments: A very much improved proposal for slight injuries

**Issue 35:** Agreed with comments: A calculated percentage of loss of earnings capacity should be a requirement in all review cases. This ensures that all reviews can be demonstrated to be open and fair and capable of defence with the officer and at any possible appeal.

**Issue 36:** Agreed with comments: With the same rationale as issue 35 above.

**Issue 37:** Not agreed with comments: The rationale for this proposal is understood in that it protects officers who may have had more severe levels of disablement but are short in service, making their injury pensions the most substantial part of their overall total pension. Prior to state retirement age it is likely that more severely disabled officer would have been granted DWP benefits (which would have been used to off set part of the officers injury pension), which would cease at age the State Retirement Age. This would make the officer in real terms considerably worse off than an officer with minimum disablement but long service who would have access to a greater ill health pension due to length of service. In this proposal, the minimum retirement income guarantee protects and compensates officers on a sliding scale based on most protection with least service and maximum disability.

However the reason for disagreeing with this proposal is that within this review the proposal is to change the reason for an injury award from “*degree of disablement*” to “*loss of earnings capacity*” see paragraph 3.28 and issue 22. This is further re-enforced at paragraph 3.30 which states, “for the sake of clarity it is proposed that an injury pension should in future be called an “*Injury Income supplement*”. Therefore, it is implicit in these proposals that an injury award is paid as a “*loss of earnings capacity*” and should therefore cease at state pension age in line with and for the same reasons Incapacity benefits payments cease at state pension age.

In implementing Home Office circular 46/2004 the term “cogent reason” is seen as divisive and difficult for pensioners to understand, this proposal would have the same divisive effect. It would be hard to defend in individual cases why it stopped for one officer but did not for another officer. It is also possible that officers would start to ask for injury reviews once they approached the State Retirement Age in an attempt to move up an injury banding and to ensure that they managed to keep a minimum retirement income guarantee. Officers would have nothing to lose in asking for a review and then appealing the decision.

***GMPs recommendation is that all Injury Benefits paid for a loss of earnings capacity should cease at the state retirement age and that this review is the ideal time to introduce this non retrospective change.***

**Issue 38: Agree-** we need to use ASHE figures (not inflated by overtime and bonuses) for Federated ranks between the ages of 60 and 65

**Not agreed** – with using any salary figures after the age of 65 for the reasons outlined above in issue 37.

**Ian Coombs (Policy Strategy and Audit Officer,  
DORSET Police)**  
[Ian.Coombs@dorset.pnn.police.uk](mailto:Ian.Coombs@dorset.pnn.police.uk)

12 November 2008, hard  
copy

**Issue 37:** The injury review process sets out to consider officers loss of earnings, therefore, rather than being supplemented, this should cease at normal retirement age. If this approach was adopted it would in turn reduce costs and also the need for further reviews.

**Issue 38:** It is clear that some Forces now apply a different figure where un-guaranteed overtime and bonuses are removed.

Therefore, it would seem appropriate for the Home Office to review this area to ensure consistency across all Forces.

**Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)**  
[Nigel.brook@westyorkshire.pnn.police.uk](mailto:Nigel.brook@westyorkshire.pnn.police.uk)

13 November 2008, hard copy

**Issue 33:** Agreed. However, Regulations should set a minimum and maximum period before a review takes place to ensure that they are carried out at appropriate intervals.

**Issue 34:** Agreed. Any income supplement should be stopped following a review where a former officer's loss of earnings capacity is assessed at 10% or less.

**Issue 35:** Agreed. But some consideration should perhaps be given to increase the number of Loss of Earning Capacity bandings. A reduction of 1% can cause a decrease in income of anything between 20 and 25 percent.

**Issue 36:** Agreed.

**Issue 37:** Agreed. Reviews beyond the age of 65 have caused concern amongst retired officers and are time consuming from an administrative point of view. This will streamline the process and make it very clear for all concerned.

**Issue 38:** Agreed. Forces would require additional guidance on calculating the new Minimum Retirement Income Guarantee (MRIG)

**Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)**  
[gerryrobinson@narpo-staffs.co.uk](mailto:gerryrobinson@narpo-staffs.co.uk)

16 November 2008, hard copy

**Issue 33:** We concur.

**Issue 34:** We consider the current banding levels to be the only appropriate ones.

		<p><b>Issue 35 &amp; 36:</b> We concur.</p> <p><b>Issue 37:</b> We fully concur.</p> <p><b>Issue 38:</b> We concur.</p>
<p><b>Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)</b>  <a href="mailto:Kathie.Walker@nio.x.gsi.gov.uk">Kathie.Walker@nio.x.gsi.gov.uk</a></p>	<p>17 November 2008, hard copy</p>	<p><b>Issue 33-38:</b> Agreed.</p>
<p><b>Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)</b>  <a href="mailto:Andy.Champness@glos-pa.gov.uk">Andy.Champness@glos-pa.gov.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 33 – 34:</b> Agree.</p> <p><b>Issue 35:</b> Agree. Note that a 1% reduction could have significant impact on pension, for example could reduce from 40% to 15%.</p> <p><b>Issue 36-37:</b> Agree.</p> <p><b>Issue 38:</b> Whilst I understand the rationale, I think it is confusing. ASHE should be used at 60, and continue through to age 65.</p>
<p><b>Clint Elliott (Deputy CEO, NATIONAL ASSOCIATION OF RETIRED POLICE OFFICERS)</b>  <a href="mailto:depceo@narpo.org">depceo@narpo.org</a></p>	<p>18 November 2008, consultation inbox</p>	<p>The question of reviews of injury awards is an area of particular concern. Whilst NARPO support that it should be a matter for the Police Authority to review those on an injury award, it is also clear that different authorities take different views about the regularity of those reviews. This we believe has had a detrimental effect on some in receipt of this award. Others have been lead to believe that the level of the award was guaranteed for life.</p>

Police Authorities should be clearer and much more open about their policies in this area.

The simple fact of reviews makes it extremely difficult for anyone in receipt of this award to plan with any certainty their finances. This should be remembered by those responsible for the review process. We consider that presently although the term substantial is used in the regulations many Police Authorities seek to review those whose banding is likely to be affected and act accordingly if the review does deliver that result. We are however concerned that practically, forces appear to be seeking every reason to reduce the degree of disablement of those in receipt of injury awards by whatever means. We are concerned that the proposals on apportionment in this section will tend to worsen that situation for many.

NARPO have also been against the proposals contained in Home Office Circular 46/2004 since its introduction. Some proposals in this paper largely mirror the advice in that circular and we cannot support those. We do however believe that in the interest of fairness and acknowledging that Federated rank officers can now continue to age 65years, under certain conditions, it would be appropriate to use police salary as the benchmark for all until that age.

We are also concerned about the affect of a reduction to below 10% on review, leaving affected former officers with no additional benefit for the injury suffered. We have already indicated that we oppose the introduction of the 10% banding.

So far as the consequences of reaching State Retirement age are concerned, we think it unlikely that officers who are retired on an ill health pension and injury award are able to afford to accrue a second pension. The consultation document makes the argument, which we would support, that not only has earning capacity been affected by the injury on duty but also the ability to 'earn' a full pension and in most cases a further pension. This fact should be reflected for all those in receipt of this award not for the few that would be caught by the proposals contained in the document. Some additional benefit from an injury award should be there for life for all those in receipt of it.

**Trevor Forbes (Pensions Consultant,  
NOTTINGHAMSHIRE Police)**  
[Trevor.Forbes@nottinghamshire.pnn.police.uk](mailto:Trevor.Forbes@nottinghamshire.pnn.police.uk)

18 November 2008, hard  
copy

I would comment that it is unreasonable to have a National Average Earnings figure under ASHE that includes overtime, bonus payments etc. The lower figure excluding additional payments should be used to ensure fairness in the process – otherwise it would be reasonable for Authorities to add such payments on to the potential earning figures. Calculations should be on a like for like basis.

The automatic halving of the MIG at 65 years is an improvement to the current system whereby the slight banding is paid for life after state retirement age. As the award is based on a reduction in earnings at a time when there is presumed to be no loss of earnings is perverse. I would prefer the injury award to be removed completely at age 65 years subject to a cogent argument to do otherwise. The proposal may be a compromise but still appears beneficial to applicants.

**KENT Police Authority**

18 November 2008, hard copy

**Issue 33:** Agree

**Issue 34:** Agree – with the proviso that this has a potential to generate further revenue expense with potential candidates appealing against lowered assessments.

**Issue 35:** Agree but feel that the last sentence here impugns the professionalism of the SMP's selected on behalf of the Authority, if this is a concern it can be incorporated into their role requirement.

**Issue 36:** Agree

**Issue 37:** Agree even though the terminology is a bit convoluted.

**Issue 38:** Agree but the process is cumbersome even though we do not have many individuals who fall into this category at present.

**Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)**  
[comsec1@psni.pnn.police.uk](mailto:comsec1@psni.pnn.police.uk)

18 November 2008, hard copy

**Issue 33:** Individual Forces should have the right to refer case to the Police Authority for review.

**Issue 34-37:** Agreed.

**Issue 38:** Only one set of figures should be used, and that this is ASHE.

**M.A. Ludlam (Honorary Branch Secretary, NARPO LEICESTERSHIRE branch)**  
[m.a.ludlam@virgin.net](mailto:m.a.ludlam@virgin.net)

18 November 2008, consultation inbox

**Issue 37:** Instead of the suggested threshold figure, thought might be given to this figure being somewhere equivalent to a thirty year pension. This would then create the level playing field we all seek.



**Linda Manley (individual respondent & Force Risk Manager, SUSSEX Police)**  
[Linda.Manley@sussex.pnn.police.uk](mailto:Linda.Manley@sussex.pnn.police.uk)

18 November 2008, hard copy

**Issue 33:** I agree, provided that there is consistency in the application of these procedures.

**Issue 34 -36:** I agree.

**Issue 37:** I am not sure that I understand fully the implications here for an officer injured early in their service. However, you invite comments and my comment here is that an officer injured through no fault of their own as part of their duty, early in their service, should never be in a worse financial position than an officer with maximum service both before and after retirement. An inability to build a pension continues to impact financially beyond retirement and we should ensure that an officer in these circumstances is not adversely affected. This is as important as consideration as is ensuring spouse/partner dependents provisions for their lifetime.

**Issue 38:** This seems a reasonable compromise position.

**METROPOLITAN Police**

18 November 2008, hard copy

**Issue 33:** Agreed.

**Issue 34:** Most definitely welcomed. At present an injury pension can only be terminated if the condition has ceased and the Police Authority are able and willing to offer the individual re-employment as a fully operational police officer. If, for instance, an individual would have served for over 25 years at the time of his review, under the regulations re-employment is not an option and despite the individual having made a full recovery, they would continue to receive a lower band injury pension for the rest of their life.

With the first banding being between 0% and 25%, everything in this banding receives the same monetary award, hence 0% is 25% not zero.

**Issue 35:** Agreed. This is already done in MPS.

**Issue 36:** Agreed and guidance would be welcomed.

**Issue 37:** This would be welcomed. The MPS would point out that, although the MPS opted out of retrospectively reviewing pensioners over the age of 65, other forces' experiences of this process are not good. SMPs are arguing that this is not a role that they should be asked to carry out as it is purely based on monetary issue and the 'cogent reason' argument is causing endless confusion as to what is accepted and what is not. Anything that would alleviate this problem would be welcomed. The MPS have decided to only review pensioner at age 65 for those who received an injury pension after the 1<sup>st</sup> April 2006.

**Issue 38:** There is a need for simplicity in calculation and transparency and fairness to recipients. Given that the CRA for Federated ranks is now age 60, most officers could legitimately argue that they could have remained in post until that age, Superintending ranks could have worked until 65. It seems overly complex to undertake a different calculation for a relatively small number of officers in a few specific ranks. The MPS preference is therefore to maintain payment on the same basis as the 'in service' award until State Pension Age, as this is administratively simpler and fairer to officers. It would have helped to have included some examples of the alternative approaches and some estimate to the relative costs of the three approaches outlines compared with the current arrangements.

		As it stands, the proposal appears a complex solution to a simple issue which is not consistent with the terms and conditions of serving officers.
<b>National Attendance Management Forum (Gloucestershire – Amanda Katsighiras)</b> <a href="mailto:c.i.rowson@west-midlands.police.uk">c.i.rowson@west-midlands.police.uk</a>	18 November 2008, hard copy	<b>Issue 35:</b> Agreed. Note that a 1% reduction could have significant impact on pension, for example could reduce from 40% to 15%.  <b>Issue 38:</b> Whilst I understand the rationale, I think it is confusing. ASHE should be used at 60, and continue through to age 65.
<b>National Attendance Management Forum (Humberside – Greg Holmes)</b> <a href="mailto:c.i.rowson@west-midlands.police.uk">c.i.rowson@west-midlands.police.uk</a>	18 November 2008, hard copy	<b>Issue 37:</b> As we see it the continuance of an award after 65 should not be based on the concept that loss of earnings capacity has caused some reduction in pension provision. An award is to cater for loss of earnings – nothing else. The pension is quite specifically not included as earnings in determination of the level of an award and so should not be considered as earnings at any later stage. Such a change could create another dimension to the award and one which may be challengeable. Many recipients may have already made alternative pension provisions for a pension with another employer which would cater for any reduction on their police pension.
<b>National Attendance Management Forum (Sussex – Alan King)</b> <a href="mailto:c.i.rowson@west-midlands.police.uk">c.i.rowson@west-midlands.police.uk</a>	18 November 2008, hard copy	<b>Issue 33:</b> Would prefer that a case be reviewed at such interval as recommended by the SMP rather than at a fixed minimum of every 3 years.

**John Sturzaker (Russell Jones & Walker Solicitors on the behalf of the Police Negotiating Board Staff Side)**  
[J.N.Sturzaker@rjw.co.uk](mailto:J.N.Sturzaker@rjw.co.uk)

18 November 2008, hard copy and consultation inbox

**Issue 33:** We agree.

**Issue 34:** We agree that this must follow if the proposal at issue 18 is introduced. We repeat our concern about apportionment.

**Issue 35:** We do not consider any change to be necessary here. It is clear from the context that “substantial” means that there is an impact, as opposed to no impact. Thus a reduction in earning capacity from 70% to 55% is not substantial, while a reduction from 26% to 24% is because of the way the banding operates.

**Issue 36:** We agree. Clearly this could lead to an increase in the relevant figure as well as a reduction.

**Issue 37-38:** We agree.

**Scottish Force Response**

18 November 2008, hard copy

**Issue 33:** Supported, highlight what steps a police authority can take in situations where an individual fails to comply with the review process.

**Issue 34 -37:** Supported.

**Issue 38:** Full agreement.

**Angela Mercer (Joint Branch Board Secretary, SUFFOLK Police)**  
[angela.mercer@suffolk.pnn.police.uk](mailto:angela.mercer@suffolk.pnn.police.uk)

19 November 2008, hard copy

**Issue 34:** Please see comments in Issue 18 and we confirm that we do not agree with this proposal.

**Issue 37:** Instead of the suggested threshold figure thought might be given to this figure being somewhere equivalent to a thirty year pension.

## 6. A New Approach to Considering Injury Awards 6.1–6.13 and Issues 39-41

Name and Organisation	Date and Method of Response	Comments
<p><b>Steve Beards (Head of Occupational Health, HAMPSHIRE Police)</b>  <a href="mailto:Steve.Beards@hampshire.pnn.police.uk">Steve.Beards@hampshire.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p><b>6.8-6.13 Appeals:</b> Generally in favour of proposed changes. Many appeals in the system are due to the fact that officers do not understand the system, so guidance for the officer needs revisiting. In particular many officers sustain an injury but return to full health then suffer ill health prior to permanent disablement but claim and injury back to the original incident. E.g. back injury 20 years ago, returned to full police duties for 18 years. Developed back problems causing permanent disablement. No SMP could draw a causal link due to the time the officer was fully fit. Could guidance be given to the officer to state that no SMP would be able to determine whether an injury is wholly or substantially caused by an injury that they later recovered fully from.</p>
<p><b>Amanda Parker (HR Manager, SUFFOLK Constabulary)</b>  <a href="mailto:Amanda.Parker@suffolk.pnn.police.uk">Amanda.Parker@suffolk.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p>The approach outlined is supported.</p>
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p><b>Issue 39:</b> Suggests inclusion in the procedure that officers should provide, at the time of application, medical evidence of permanency to support their claim. Without this the case will not be accepted and they will need to make a fresh application, this then being the date that any applicable benefits will be released from.</p>

**Issue 40:** Points out that this is already in process in the South Wales Police.

**Issue 41:** No comment.

**Phil Mason (Head of HR Operations,  
LEICESTERSHIRE Police)**  
[Philip.Mason@leicestershire.pnn.police.uk](mailto:Philip.Mason@leicestershire.pnn.police.uk)

23 September 2008, hard  
copy

**Issue 39:** The proposed **procedure for considering a claim** is supported. As a significant basis for the award is around loss of earning potential it is essential that detailed guidance in this area is provided to SMP.

**Issue 40: Refusal to provide information** – supported.

**Issue 41:** The publication of **guidance of when a medical examination review should be undertaken** is supported.

**Elizabeth Grayson (Force Occupational Health,  
Safety and Welfare Officer,  
NORTHAMPTONSHIRE Police)**  
[Elizabeth.Grayson@northants.pnn.police.uk](mailto:Elizabeth.Grayson@northants.pnn.police.uk)

02 October 2008, hard  
copy

We agree that there should be a more rigorous approach to the evidencing of index injuries before considering forwarding to the SMP. I cannot understand why in all cases of mental illness it should be referred to an SMP. For example if the mental condition was caused by disciplinary process with no other causative effects why refer when 'Stunt' applies?

We agree that there should be an expectation of an adverse inference from a refusal to allow access to medical/GP records to the SMP or Police Authority. However, I feel that simply drawing an adverse inference at the SMP stage is not always the main issue.

The main issue arises at the PMAB stage – a refusal to the access to the records to either the SMP or more importantly the Police Authority is a breach of natural justice for it denies the opportunity for the authority to fully defend a case. I feel that in all cases where there is a refusal for release information then the case should be regarded as withdrawn for the applicant is not allowing full participation in the process.

In summary the reform of the Police Injury Benefits System is overdue and even the current proposals without amendment would bring about a substantial improvement to the management of the processes. I believe that consideration should be given to tightening up what is and is not acting within the execution of duties and it seems logical for the criteria for Regulation 28 (half pay etc) and execution of duties under the Police Injury Benefit Scheme to be brought closer together.

**Joscelin Lawson (Head of Human Resources,  
NORTHUMBRIA Police)**  
[Joscelin.Lawson@northumbria.pnn.police.uk](mailto:Joscelin.Lawson@northumbria.pnn.police.uk)

03 October 2008, hard  
copy

**Issue 39-41:** Agreed.

**Deborah Bentley (Acting Strategy and Planning  
Manager, LINCOLNSHIRE Police)**  
[Deborah.Bentley@lincs.pnn.police.uk](mailto:Deborah.Bentley@lincs.pnn.police.uk)

07 October 2008, hard  
copy

**Issue 39:** Process – welcome confirmation that the legal and factual aspects of the case should be determined by the Police Authority and the SMP. Equally where a negative inference can be made where an officer refuses to provide relevant information.

**P Barker (HR Partnership Manager,  
HUMBERSIDE Police)**  
[enquiries@humberside.pnn.police.uk](mailto:enquiries@humberside.pnn.police.uk)

17 October 2008,  
consultation inbox and  
hard copy

**Issue 39:** Agreed. **However the term ‘SMP’ should continue with the caveat a Force Medical Officer may act as SMP.** Force Medical Officers will invariably have examined the officer following an injury, will have knowledge of the circumstances and obtained specialists opinions. They are therefore best placed to decide upon a claim. An appeal process exists for those who are dissatisfied with the decision.

In addition; the words in brackets in bullet point 4 *‘if the injury is a disease or mental condition the case must be referred’*, should be deleted. The Police Authority could decide that default exists in that stresses at home could be the real reason for the illness yet the officer is putting the whole blame on the force because of e.g. a minor dispute with their manager.

**Issue 40 & 41:** Agreed.

**S. G. Hall (Director of Resources WEST  
MIDLANDS Police)**  
[s.g.hall@west-midlands.police.uk](mailto:s.g.hall@west-midlands.police.uk)

28 October 2008, hard  
copy

**Issue 39:** Agrees. There should be a clear distinction between the FMO and the SMP. There is clear merit in the separation of these functions as you move through the appeals process.

**Issue 40:** Agrees.

**Issue 41:** Agrees. This concurs with current force practise.



Joanna Barry (NORTH YORKSHIRE Police)  
[joanna.barry@northyorkshire.pnn.police.uk](mailto:joanna.barry@northyorkshire.pnn.police.uk)

10 November 2008,  
consultation inbox

**Issue 39:** Agreed. However, it should also be made clear that an injury award can only payable once permanent disablement has been determined.

**Issue 40:** Agreed. Currently authorities look to suspend awards until such time as individual engages however, this is only relevant for injury on duty reviews. Consent is not normally refused where an individual is making an application for an award.

**Issue 41:** Disagree. All individuals should be given the opportunity for a review under the PIBR's or it may be seen to be a cost cutting exercise, which will be heavily criticised by Federation and NARPO.

Stephen F. Lee (Principal HR Officer, GREATER  
MANCHESTER Police)  
[StephenF.Lee@gmp.police.uk](mailto:StephenF.Lee@gmp.police.uk)

11 November 2008,  
consultation inbox

**Issue 39:** Agreed with comments - However, we are unsure as to why the reasons for the following exceptions are listed "*if the injury is a disease or mental condition injury the case must be referred*". It would seem that there will be varying levels of this type of injury and therefore the normal rules quoted in paragraph 6.4 would apply.

As with the general comments at the start of this report, the term 'SMP' should continue with the understanding that a Force Medical Officer may act as SMP under these proposals.

**Issue 40:** Agreed.

**Issue 41:** Agreed. Further to issue 40 above if an officer in receipt of an award refuses to attend a review or supply relevant information for a review, then the adverse effects would apply as issue 40 and paragraph 6.7.

**David Bulpitt (Police Representative, ALAMA)**  
[dbulpitt@cix.co.uk](mailto:dbulpitt@cix.co.uk)

12 November 2008,  
consultation inbox

**Issue 39:** David Bulpitt is personally uneasy with the SMP deciding issues of the officer's default. The SMP will need guidance.

E.g. an officer is injured in a scuffle but it turns out that he was very unfit and had been advised to go to the gym. If he had been fitter he would not have been injured. Or an officer missed his training for defensive skills which was due last week.....

This is one where the authority needs to guide/direct.  
Perhaps after an informed debate with the FMA?

**Issue 40:** This brought the most reaction. A number of FMA's think this is too soft. If the officer will not allow access to records or information the assessment should go no further in our view. We have been caught out too often. How can we make any decision, even if we take the absence of records into account when we cannot be sure whether there was any pre-existing problem or trauma?

**Ian Coombs (Policy Strategy and Audit Officer, DORSET Police)**  
[Ian.Coombs@dorset.pnn.police.uk](mailto:Ian.Coombs@dorset.pnn.police.uk)

12 November 2008, hard  
copy

**Issue 39** – Again for consistency reasons it would be extremely useful and practical if a standard template could be created for Police Authority's and SMP's to evidence their decision making process.

<p><b>Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)</b>  <a href="mailto:Nigel.brook@westyorkshire.pnn.police.uk">Nigel.brook@westyorkshire.pnn.police.uk</a></p>	<p>13 November 2008, hard copy</p>	<p><b>Issue 39:</b> Agreed.</p> <p><b>Issue 40:</b> Agreed. Inclusion of this in the Regulations will greatly assist Administrators.</p> <p><b>Issue 41:</b> Agreed.</p>
<p><b>Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)</b>  <a href="mailto:gerryrobinson@narpo-staffs.co.uk">gerryrobinson@narpo-staffs.co.uk</a></p>	<p>16 November 2008, hard copy</p>	<p><b>Issue 39:</b> We fully concur with these provisions.</p> <p><b>Issue 40:</b> We concur provided the request for information is confined to relevant medical or injury issues only. We would not support the revelation of confidential and private medical history information under the Human Rights Act provisions.</p>
<p><b>Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)</b>  <a href="mailto:Kathie.Walker@nio.x.gsi.gov.uk">Kathie.Walker@nio.x.gsi.gov.uk</a></p>	<p>17 November 2008, hard copy</p>	<p><b>Issue 39:</b> Agreed – factual and legal issues should be decided by the Police Authority and the SMP should report on the medical issues.</p> <p><b>Issue 40:</b> Agreed.</p> <p><b>Issue 41:</b> Agreed although ‘lack of information’ is very subjective.</p>
<p><b>Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)</b>  <a href="mailto:Andy.Champness@glos-pa.gov.uk">Andy.Champness@glos-pa.gov.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 39:</b> Agree. Although I consider the following words from bullet 4 should be removed (<i>if the injury is a disease or mental condition the case must be referred.</i>)</p> <p><b>Issue 40-41:</b> Agree.</p>

**Trevor Forbes (Pensions Consultant,  
NOTTINGHAMSHIRE Police)**  
[Trevor.Forbes@nottinghamshire.pnn.police.uk](mailto:Trevor.Forbes@nottinghamshire.pnn.police.uk)

18 November 2008, hard  
copy

I agree that there should be a more rigorous approach to the evidencing of index injuries before considering forwarding to the SMP. I cannot understand why in all cases of mental illness it should be referred to an SMP. For example if the mental condition was caused by disciplinary process with no other causative effects why refer when 'Stunt' applies?

I agree that there should be an expectation of an adverse inference from a refusal to allow access to medical/GP records to the SMP or Police Authority. However, I feel that simply drawing an adverse inference at the SMP stage is not always the main issue. The main issue arises at the PMAB stage – a refusal to the access to the records to either the SMP or more importantly the Police Authority is a breach of natural justice for it denies the opportunity for the Authority to fully defend a case. I feel that in all cases where there is a refusal for release information then the case should be regarded as withdrawn for the applicant is not allowing full participation in the process.

In summary the reform of the Police Injury Benefits System is overdue and even the current proposals without amendment would bring about a substantial improvement to the management of the processes. I believe that consideration should be given to tightening up what is and is not acting within the execution of duties and it seems logical for the criteria for Regulation 28 (half pay etc) and execution of duties under the Police Injury Benefit Scheme to be brought closer together.

**KENT Police Authority**

18 November 2008, hard copy

**Issue 39:** The process is set out clearly here and in great measure this is what is already happening. It should be noted that Kent Police Authority allow an officer to be ill health retired before considering an injury award (as per Home Office guidelines). Once an officer has been declared permanently disabled by the SMP then the Force Medical Officer can act as SMP in the matter of Injury Awards. This has meant that we can keep decisions about granting injury awards and levels consistent and keep costs down at the same time. If this approach is adopted, it would be feasible to look at adapting current protocols to align fully with the process.

**Issue 40:** Agree - more clarity and detail on how this may be achieved would be welcome.

**Issue 41:** Agree but how will this be operationalised? The process for review is not well described and a definition of what is a 'substantial' change in earning capacity would be welcomed. It might assist if we had a phrase like "where it is reasonably believed that the earnings capacity has altered to such an extent that it would likely fall into a different banding than previously assessed? In this way we might look at each individual on a case by case basis and have larger margins for some than others.

**Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)**  
[comsec1@psni.pnn.police.uk](mailto:comsec1@psni.pnn.police.uk)

18 November 2008, hard copy

**Issue 39-41:** Agreed.

<p><b>M.A. Ludlam (Honorary Branch Secretary, NARPO LEICESTERSHIRE branch)</b>  <a href="mailto:m.a.ludlam@virgin.net">m.a.ludlam@virgin.net</a></p>	<p>18 November 2008, consultation inbox</p>	<p><b>Issue 41:</b> Under the proposals it seems that all the onus is placed on the recipient, and whilst not disagreeing with this there should be an onus on the forces to supply a copy of all papers sent to the SMP prior to the review taking place.</p>
<p><b>Linda Manley (individual respondent &amp; Force Risk Manager, SUSSEX Police)</b>  <a href="mailto:Linda.Manley@sussex.pnn.police.uk">Linda.Manley@sussex.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 39-41:</b> I agree.</p>
<p><b>Sue Martin (Chief Executive, SURREY Police Authority)</b>  <a href="mailto:Martin10986@surrey.pnn.police.uk">Martin10986@surrey.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 39:</b> We support the approach outlined at issue 39. Gaining information before the intervention of the SMP will enable the SMP to concentrate on the medical facts of the case.</p> <p><b>Issue 40:</b> We support the proposal that inferences can be drawn where an officer fails to comply with a request to provide relevant information. We also support the proposal that medical examinations should be targeted where needed.</p>
<p><b>METROPOLITAN Police</b></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 39:</b> The MPA would welcome this approach. This is the approach that used to be taken by Police Authorities until this process was challenged through the courts and the courts determined that all legal and medical decisions should be taken by the SMP. This has placed a huge responsibility on the SMP and has highlighted the support that SMPs need from Police Authorities. It would seem sensible that Police Authorities consider legal issues and whether a case should be referred and that SMPs consider the medical issues.</p>

**Issue 40:** Agreed.

Given that an appeal against a Police Authority decision is through the courts, it is acknowledged that appeals through courts may increase if the Police Authority becomes responsible for decisions in respect of referrals. This was the case previously before the case of Clinch determined that the Police Authority must refer all cases to the SMP. Although I support the split in responsibilities the appeals process through the courts allows for judges to come up with decisions that can totally throw open the injury pensions guidelines. For instance, if an officer were to challenge the decision of a Police Authority not to refer a case to the SMP regarding a sporting injury could the judge then determine that a sporting injury should be considered as an injury on duty. The onus must therefore fall back on the Home Office to change the regulations to make these issues clear so that there is no scope for an officer to challenge the processes and have further legal precedent confuse the issues.

Having recently considered our reviews process and been pleasantly surprised by the saving we have achieved, I think the MPA should be wary about changing our current procedure. Although there are some cases that are done as a paper exercise, the MPS currently review all cases and appointments made for each of them with the SMP.

**Issue 41:** Agreed.

**John Sturzaker (Russell Jones & Walker  
Solicitors on the behalf of the Police  
Negotiating Board Staff Side)**  
[J.N.Sturzaker@rjw.co.uk](mailto:J.N.Sturzaker@rjw.co.uk)

18 November 2008, hard  
copy and consultation  
inbox

**Issue 39:** Staff Side opposes this change.

As indicated in our response to issue 6, there is a greater understanding of ill health retirement and injury award issues and in practice there are fewer litigated disputes.

The stated aim is to remove factual and legal issues which do not require medical input from the SMP's role. While this may work in some cases, particularly where the claim relates to a specific clearly identifiable individual incident (e.g. if an officer is assaulted in duty), the factual and legal aspects of such cases are not generally likely to cause controversy in many cases, whoever decided. There are other cases where the position is more complicated and the factual, legal and medical issues are less easy to separate.

At the moment a police authority can decide to refuse to refer a case if it considers the legal/factual case is not made out. The officer must then take their chances at a Crown Court appeal.

We are concerned that the revised process will have the following disadvantages:

(i) It will blur the role of the SMP. The SMOP has been recognised by the courts as performing a quasi-judicial function. This function is easier to maintain within the current framework, with specific questions being set out in the Regulations, particularly following the guidance of police authorities about the need for FMA to brief the SMP properly in such cases. Changing the position to allow the police authority to seek a "preliminary view" creates uncertainty and the appearance of unfairness.



(ii) We consider it likely that it will result in more Crown Court appeals and significant expense for both Sides. Such appeals are unlikely to result in injury wards being made, but rather the questions being referred to the SMP. It is anticipated that in some, and possibly many, disputed cases the SMP will reject the claim on medical grounds in any event. Accordingly both Sides will have expended significant sums in circumstance where a comparatively cheap reference to the SMP would have quickly resolved the issue.

**Issue 40:** As a general proposition Staff Side accepts that relevant information should be provided. In practice however the position may be more complicated than the proposal envisages. For example, there may be genuine dispute as to what is meant by “relevant information”; these may be sensitivities about disclosing medical or similar information to a non-medical practitioner and there may be cases in which an officer has a good reason for not wishing to disclose certain information. A possible example of the latter would be where an officer does not want to disclose a part of his or her medical records which relates to a matter unconnected with the application.

A possible way forward might be to follow the line adopted in paragraph 13 of section 6 of the Police Medical Appeal Board Guidance.

**Issue 41:** We do not oppose this; so long as the member can have a medical examination is s/he wants one.

**Scottish Force Response**

18 November 2008, hard  
copy

**Issue 39-41:** Supported.

**William F Hughes QPM (Director General,  
SOCA)**

[FOIAEnquiries@SOCA.x.gsi.gov.uk](mailto:FOIAEnquiries@SOCA.x.gsi.gov.uk)

20 November 2008, hard  
copy

**Issue 39:** This provides useful clarity over roles and  
responsibilities.

**Issue 40:** This places a reasonable burden on the claimant  
to co-operate.

## 7. Survivor and Dependents Benefits 7.1-7.31 and Issues 42-49.

Name and Organisation	Date and Method of Response	Comments
<p><b>Lee Regan (individual respondent, METROPOLITAN Police)</b>  <a href="mailto:Lee.Regan@met.pnn.uk">Lee.Regan@met.pnn.uk</a></p>	<p>28 August 2008, consultation inbox</p>	<p><b>Issue 43:</b> I believe that the surviving partner of an officer that passes away should be entitled to receive their pension whatever circumstances they passed away in. My father put in over 25 years service and passed away due to cancer leaving my mother as a widow in her 40's. Why is it right that should she find someone else to be happy with she loses the money my father put in so make hard work to provide for her in this event. She should be able to claim the money whatever happens and whomever she is with!</p>
<p><b>Amanda Parker (HR Manager, SUFFOLK Constabulary)</b>  <a href="mailto:Amanda.Parker@suffolk.pnn.police.uk">Amanda.Parker@suffolk.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p><b>Issue 43:</b> Whilst it is welcomed and fair that the eligibility is widened, guidance would be necessary to ensure a consistent approach, particularly on the issue of cohabiting. Consideration should be given to what information is required and when the officer should provide it, with regards to their partner.</p> <p>It would not be desirable to have to ask intrusive financial questions on the death of an officer. A process could be put in place where the officer could provide the information at the time that he/she regards his/her partner as financially dependent.</p>
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p><b>Issue 42-47:</b> Agreement</p>

		<b>Issues 48 &amp; 49:</b> As previous comments on eligibility for awards – makes perfect sense
<b>Phil Mason (Head of HR Operations, LEICESTERSHIRE Police)</b> <a href="mailto:Phil.Mason@leicestershire.pnn.police.uk">Phil.Mason@leicestershire.pnn.police.uk</a>	23 September 2008, hard copy	These areas are not in the scope of the HR team and it would be more appropriate for the Finance/Pensions Administration team to comment on these areas.
<b>Joscelin Lawson (Head of Human Resources, NORTHUMBRIA Police)</b> <a href="mailto:Joscelin.Lawson@northumbria.pnn.police.uk">Joscelin.Lawson@northumbria.pnn.police.uk</a>	03 October 2008, hard copy	<b>Issue 42-49:</b> Agreed.
<b>Deborah Bentley (Acting Strategy and Planning Manager, LINCOLNSHIRE Police)</b> <a href="mailto:Deborah.Bentley@lincs.pnn.police.uk">Deborah.Bentley@lincs.pnn.police.uk</a>	07 October 2008, hard copy	<b>Issue 43:</b> Welcome extension of lifelong pensions for survivors and dependents of those killed in duty to unmarried and same sex partners.
<b>P Barker (HR Partnership Manager, HUMBERSIDE Police)</b> <a href="mailto:enquiries@humberside.pnn.police.uk">enquiries@humberside.pnn.police.uk</a>	17 October 2008, consultation inbox and hard copy	<b>Issue 42:</b> Agreed  <b>Issue 43:</b> This proposal would need a lot of work by the Police Pensions Administrators as a declaration form would need to be completed by any officers to whom it would be relevant. Similarly to the nominated unmarried and to unregistered same –sex partners in the NPPS for the lump sum death grant.  Even though the responsibility is left to the officer to keep the Pension Administrators up to date of changes or new nomination details, reminders regarding such have to be sent out regularly. These actions would have to be reflected for the Injury survivor’s benefits.

Regarding Child benefits would the age payable up to be the same as children's pensions.

**Issue 44:** Agreed.

**Issue 45:** As Pension Administrators – no comment on what level of payment survivors should receive. No comment from our Finance Mangers.

**Issue 46 – 49:** Agreed

**S. G. Hall (Director of Resources, WEST  
MIDLANDS Police)**  
[s.g.hall@west-midlands.police.uk](mailto:s.g.hall@west-midlands.police.uk)

28 October 2008, hard  
copy

**Issue 42:** Agrees. Consideration should also be given to providing a better definition of "dependent" in either the regulation or, perhaps preferable in Home Office Guidance. It has always been understood that this term related to a financial dependence or a situation where without the officer's help (say as a carer) additional financial expense would be incurred. However, we have had cases where what amounted to "emotional dependence" was claimed.

**Issue 43-44:** Agrees.

**Issue 45:** Agrees. The basis for the new "tiered" payments are a good and more straight forward approach than the current one, and the minimum guarantee for more junior ranks is worth retaining.

**Issue 46:** Agrees. Compensation should continue to relate to those affected by the loss of income from the officers employment.

**Issue 47:** Agrees. This is essential for consistency.

**Issue 48:** Agrees. This is essential for consistency with provisions relating to payment of an injury pension.

**Issue 49:** Agrees. Again, this is essential for consistency.

Joanna Barry (Corporate HR Consultant,  
NORTH YORKSHIRE Police)  
[joanna.barry@northyorkshire.pnn.police.uk](mailto:joanna.barry@northyorkshire.pnn.police.uk)

10 November 2008,  
consultation inbox

**Issue 42:** Agreed.

**Issue 43:** To ensure compliance with current legislation it is essential that the survivor benefits are payable to the relevant person. This would need a lot of work on the administration side, or alternatively, could be incorporated into the 'Expressions of wish' forms, and put the onus back on the individual to ensure the survivor information is up to date. It would be difficult for authorities to monitor in situations where couples are not married.

**Issue 44-49:** Agreed.

Nigel Brook (Assistant Chief Officer, WEST  
YORKSHIRE Police)  
[Nigel.brook@westyorkshire.pnn.police.uk](mailto:Nigel.brook@westyorkshire.pnn.police.uk)

13 November 2008, hard  
copy

**Issue 42:** Agreed. However, further guidance is necessary for interpretation of the term "dependant". Is this just financial dependency?

**Issue 43:** Agreed. This brings the regulation into line with other public sector pension regulations.

**Issue 44:** Agreed.

**Issue 45:** Agreed. This is a much easier approach to administer.

		<p><b>Issue 46:</b> Agreed. The death gratuity should continue to be paid only to those who were financially dependant. Paying the gratuity to the officer's estate would move away from its original intended purpose.</p> <p><b>Issue 47:</b> Agreed.</p> <p><b>Issue 48:</b> Agreed. Making reference to any discretion as per issue 9 above.</p> <p><b>Issue 49:</b> Agreed.</p>
<p><b>Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)</b>  <a href="mailto:gerryrobinson@narpo-staffs.co.uk">gerryrobinson@narpo-staffs.co.uk</a></p>	<p>16 November 2008, hard copy</p>	<p><b>Issue 42-44:</b> We concur</p> <p><b>Issue 45:</b> We concur fully with these three new categories of death gratuities.</p> <p><b>Issue46-49:</b> We concur.</p>
<p><b>Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)</b>  <a href="mailto:Kathie.Walker@nio.x.gsi.gov.uk">Kathie.Walker@nio.x.gsi.gov.uk</a></p>	<p>17 November 2008, hard copy</p>	<p><b>Issue 42:</b> Agreed.</p> <p><b>Issue 43:</b> Agreed – important to clarify that “dependent on” means “financially dependent on”. Also it is important that it is recognised that unregistered same-sex partners should also be nominated.</p> <p><b>Issue 44-47:</b> Agreed.</p> <p><b>Issue 48:</b> Agreed – as for injury awards it would ensure that only the most appropriate claims are considered.</p> <p><b>Issue 49:</b> Agreed.</p>

<p><b>Christine Barton (Director of Human Resources, CHESHIRE Constabulary)</b>  <a href="mailto:Christine.Barton@cheshire.pnn.police.uk">Christine.Barton@cheshire.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 42:</b> ‘Dependent’ should be more clearly defined in the regulations and Home Office guidance. Is this financial dependents or does this include emotional dependents?</p>
<p><b>Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)</b>  <a href="mailto:Andy.Champness@glos-pa.police.uk">Andy.Champness@glos-pa.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 42:</b> Agree. A definition of ‘dependent’ would be helpful.</p> <p><b>Issue 43 – 49:</b> Agree.</p>
<p><b>Clint Elliott (Deputy CEO, NATIONAL ASSOCIATION OF RETIRED POLICE OFFICERS)</b>  <a href="mailto:depceo@narpo.org">depceo@narpo.org</a></p>	<p>18 November 2008, consultation inbox</p>	<p>NARPO support the simplification and improvements in survivor benefits proposed.</p> <p>We do however believe that the proposals in respect of widows and widowers do not go far enough in one particular aspect. Changes that mean a life long benefit for the widows and widowers of officers dying from an ‘attributable cause’ are to be welcomed but it still leaves many police widows and widowers with the unenviable decision, usually in later life between finance and a loving relationship. NARPO would urge Government to extend this provision to all.</p>
<p><b>Jonathon Finney (Parliamentary Consultant, STONEWALL)</b>  <a href="mailto:Jonathon.Finney@stonewall.org.uk">Jonathon.Finney@stonewall.org.uk</a></p>	<p>18 November 2008, consultation inbox</p>	<p>We welcome the proposal that the survivor benefits currently available to spouses and civil partners should also be payable to nominated unmarried and unregistered same-sex partners under the new police injury benefits scheme.</p>



It is to be welcomed that the scheme treats scheme members equally, irrespective of sexual orientation. We welcome that these benefits should be payable for life, and that the survivor benefits available to children should also be payable to any child who is dependent on the police officer.

Stonewall believes that civil partners should be treated equally to spouses in all areas and that similarly there should be parity of treatment between unmarried couples and unregistered same-sex partners in committed relationships.

**Andrea Gabbitas (Policy Manager, WEST  
MIDLANDS Police Authority)**  
[Andrea.Gabbitas@west-midlands.pnn.police.uk](mailto:Andrea.Gabbitas@west-midlands.pnn.police.uk)

18 November 2008, hard  
copy

Consideration should also be given to providing a better definition of dependent in the regulations, or perhaps in Home Office Guidance.

**KENT Police Authority**

18 November 2008, hard  
copy

**Issue 42 & 43:** Agree

**Issue 44:** Agree but as we are not pension administrators this may require specialist advice.

**Issue 45:** Agree

**Issue 46:** Agree – only those who are ‘related’ should benefit not the creditors of an estate.

**Issue 47:** Agree

**Issue 48:** Agree – cross refers to Issue 2 Para 2.11

**Issue 49:** Agree

**Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)**  
[comsec1@psni.pnn.police.uk](mailto:comsec1@psni.pnn.police.uk)

18 November 2008, hard copy

**Issue 42 & 43:** Agreed.

**Issue 44:** PSNI are of the view that Widows benefit should not be deducted from special or augmented pensions paid by police.

**Issue 45-49:** Agreed.

**Linda Manley (individual respondent & Force Risk Manager, SUSSEX Police)**  
[Linda.Manley@sussex.pnn.police.uk](mailto:Linda.Manley@sussex.pnn.police.uk)

18 November 2008, hard copy

**Issue 42:** I agree.

**Issue 43:** I agree. However, whilst I appreciate the extension for unmarried partners, it is particularly disappointing to find that spouses of officers killed previously are not included in this provision. I have to say that I do wonder whether one of the drivers for this is to encourage serving officers to be brave in the execution of their duties in the light of statements made by chief officers recently, like, "the health and safety Taliban" and other similar sentiments in the Sir Ronnie Flanagan Review and the Green Paper. In my view, it is not the health and safety regime that impedes officers from making brave decisions. It might be the metaphorical hook that some hang their reasoning on to avoid hazardous activities, or justify why they did not carry out some act, but seeing health and safety as the constraint in these circumstances, is in my view a narrow and potentially flawed conclusion. I would suggest we widen the investigation into the reasons behind the behaviours and look carefully at our recruitment processes and the characteristics of the type of officer we select currently. A review of these processes might lead to different conclusions and a revised assessment process for the recruitment of new police officers.

Where are the estimated costs for the extension of this to the survivors of officers killed in the line of duty through no fault of their own in the past? At the very least, this should be explored more fully and these costs should be revealed.

The adversarial processes that place survivors on the opposing side from the police service do real harm to them when faced with the civil court process of redress. This is at the very time when we should be making them feel very much a part of the service wider family. Denial of liability until the steps of the court leaves deep crevices of harm in the psyche of survivors. Lump sums calculated by some formulaic process may be all that can result from a civil court process but surely we can do better than this?

I can only tell you that from my personal perspective, the assurance that I could live my life how I wanted to after the death of my police officer husband would have been such a great comfort at the age of twenty-seven, with a six year old son. A survivor with a dependant child wants to recreate a sense of the family that they have lost, but historically, there have been financial impediments to that which these proposals are seeking to resolve for the future. A civil court process can never do that and I therefore very much welcome these proposals albeit it has taken more than thirty-one years, to my knowledge, for a move in that direction.

I am aware that in the Home Secretary's speech to the Police Federation Conference, Bournemouth on 21 May 2008, that the following was said:-

“In the future, the pensions of the surviving partners of officers killed in the line of duty should be payable for life, regardless of whether they go on to remarry.

That change is a key part of a package of support for surviving partners that I want the Police Negotiating Board to agree by the end of this year.

And at the same time, I want to do more for existing survivors who have already lost their partner in the line of duty.

At the moment the pension they receive is withdrawn if they remarry.

I recognise that this can cause hardship, and so to alleviate the problem I intend to give police authorities the discretionary power to make one-off lump sum payments to help existing survivors who have remarried or may remarry.

I will work with the Police Federation and other members of the Police Negotiating Board on the details of the scheme, but I envisage this lump sum payment to be sizeable in most cases.”

What progress has been made with the outstanding aspects of the proposals seen here in blue and not contained in the proposals I am currently commenting on?

**Issue 44 – 49:** I agree.

<p><b>Sue Martin (Chief Executive, SURREY Police Authority)</b>  <a href="mailto:Martin10986@surrey.pnn.police.uk">Martin10986@surrey.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 49:</b> We support the procedures for reviewing procedures following a death.</p>
<p><b>METROPOLITAN Police</b></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 42-46:</b> Agreed.</p> <p><b>Issue 47:</b> Agreed. The provision of survivor benefits to nominated, unmarried and unregistered partners suggests that all PPS members (as well as those already impacted as they are in NPPS) should be encouraged to complete a nomination form for the purpose of protecting their benefits should they die in the line of duty. This will be a large administration exercise.</p> <p><b>Issue 48 &amp; 49:</b> Agreed.</p>
<p><b>National Attendance Management Forum (Gloucestershire – Amanda Katsighiras)</b>  <a href="mailto:c.j.rowson@west-midlands.police.uk">c.j.rowson@west-midlands.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 42:</b> Agreed. A definition of ‘dependent’ would be helpful.</p>
<p><b>John Sturzaker (Russell Jones &amp; Walker Solicitors on the behalf of the Police Negotiating Board Staff Side)</b>  <a href="mailto:J.N.Sturzaker@rjw.co.uk">J.N.Sturzaker@rjw.co.uk</a></p>	<p>18 November 2008, hard copy and consultation inbox</p>	<p><b>Issue 42:</b> We understand that the intention is that this be review after any other changes in related benefits under the PIBR and we are content with that.</p> <p><b>Issue 43:</b> Staff Side welcomes there changes. We are however concerned:</p>

(i) that there is considerable scope for members to misunderstand the limited extent of the cover provided i.e. that this relates only to death benefits payable where an officer's death is the result of an injury received in the execution of duty. We fear that some members of PPS may misunderstand this change to mean that their cohabitee will receive a survivor pension and/or that all survivor pensions are life long. If this were to discourage a member from marrying or entering into a civil partnership, which they would have otherwise entered to ensure benefits, this would be very damaging.

(ii) that is there is a requirement in cohabitation cases to fill in a declaration from similar to the NPPS form there is significant risk that the form will not be completed.

Staff Side may wish to consider whether it is thought appropriate to comment on the failure to extend life long benefits to PPS adult survivors.

**Issue 44:** We agree.

**Issue 45:** We have no objection to a simplification of the current approach to lump sum benefits and gratuities. We would however be concerned if as a result of any such simplification there was a risk of a reduction in the level of entitlement and would wish to discuss further any such possibility.

**Issue 46:** We oppose this change. There could for example be an adverse impact on the parents of an officer who might not at that stage fall within the scope of "dependency", but who might nonetheless be worse off financially as the result of the officer's death.

**Issue 47:** We agree that the same approach should be adopted. This reinforces our opposition to the proposed changes at issues 7 (meaning of execution of duty) and 24 (default) above.

**Issue 48:** We repeat our comments in response to issue 5 above. The fact that the same test applies in death cases serves to underline the importance of a suitable approach being adopted.

**Issue 49:** We repeat our comments in response to issue 39 above.

**Scottish Force Response**

18 November 2008, hard copy

**Issue 42:** Supported.

**Issue 43:** General agreement.

**Issue 44:** Supported.

**Issue 45:** General agreement.

**Issue 46:** Supported.

**Issue 47-49:** Supported.

**William F Hughes QPM (Director General, SOCA)**  
[FOIAEnquiries@SOCA.x.gsi.gov.uk](mailto:FOIAEnquiries@SOCA.x.gsi.gov.uk)

20 November 2008, hard copy

**Issue 43:** It is not clear whether a spouse would be entitled to a benefit in addition to nominated partners.

## 8. Administration and Data Management 8.1-8.6 and Issues 52-53

Name and Organisation	Date and Method of Response	Comments
<p><b>Amanda Parker (HR Manager, SUFFOLK Constabulary)</b>  <a href="mailto:Amanda.Parker@suffolk.pnn.police.uk">Amanda.Parker@suffolk.pnn.police.uk</a></p>	<p>08 September 2008, hard copy</p>	<p>I would ask that a review of the administration be undertaken sooner than 3 years. In addition any data requested should be essential information that is required by the Home Office so that the process is not too bureaucratic, expensive and onerous.</p> <p>Guidance on what data is required should be provided ahead of the implementation of any changes to assist with the data gathering exercise.</p>
<p><b>Karen Foster (Pay Roll Manager, SOUTH WALES Police)</b>  <a href="mailto:Karen.Foster@southwales.pnn.police.gov.uk">Karen.Foster@southwales.pnn.police.gov.uk</a></p>	<p>18 September 2008, consultation inbox</p>	<p><b>Issue 50:</b> States that this information is already collated and would not pose a problem to South Wales Police. Declares that it would merely require marrying systems information together.</p> <p><b>Issue 52:</b> Agrees.</p>
<p><b>Phil Mason (Head of HR Operations, LEICESTERSHIRE Police)</b>  <a href="mailto:Phil.Mason@leicestershire.pnn.police.uk">Phil.Mason@leicestershire.pnn.police.uk</a></p>	<p>23 September 2008, hard copy</p>	<p>The requirements to <b>retain relevant data and documents</b> and to provide information by way of a <b>periodic return to the Home Office</b> do not seem unreasonable.</p>
<p><b>Robert Parker (Head of Human Resources, GWENT Police)</b>  <a href="mailto:Robert.Parker@gwent.pnn.police.uk">Robert.Parker@gwent.pnn.police.uk</a></p>	<p>01 October 2008, hard copy</p>	<p><b>Issue 52 &amp; 53:</b> It is requested that advance notice is given by the Home Office regarding the additional information required so arrangements can be put in place to record the information</p>



		i.e. if the information is to be provided in the annual return up to year ending 31 March 2010, forces are made aware of the exact requirements by 1 April 2009.
<b>Joscelin Lawson (Head of Human Resources, NORTHUMBRIA Police)</b> <a href="mailto:Joscelin.Lawson@northumbria.pnn.police.uk">Joscelin.Lawson@northumbria.pnn.police.uk</a>	03 October 2008, hard copy	<b>Issue 52 &amp; 53:</b> Agreed.
<b>Deborah Bentley (Acting Strategy and Planning Manager, LINCOLNSHIRE Police)</b> <a href="mailto:Deborah.Bentley@lincs.pnn.police.uk">Deborah.Bentley@lincs.pnn.police.uk</a>	07 October 2008, hard copy	<b>Issue 52:</b> Agree.
<b>P Barker (HR Partnership Manager, HUMBERSIDE Police)</b> <a href="mailto:enquiries@humberside.pnn.police.uk">enquiries@humberside.pnn.police.uk</a>	17 October 2008, consultation inbox and hard copy	<b>Issue 52:</b> Agreed. Extensive data collection already in place.  <b>Issue 53:</b> Humberside Police interpretation of the Home Office pension regulations, are that injury on duty payments per se, are not met from the pensions fund account, but paid from police revenue account.
<b>S. G. Hall (Director of Resources WEST MIDLANDS Police)</b> <a href="mailto:s.g.hall@west-midlands.police.uk">s.g.hall@west-midlands.police.uk</a>	28 October 2008, hard copy	<b>Issue 52:</b> Agrees. Largely already in place in this force.  <b>Issue 53:</b> Agrees. Builds on existing requirements.
<b>Stephen F. Lee (Principal HR Officer, GREATER MANCHESTER Police)</b> <a href="mailto:StephenF.Lee@gmp.police.uk">StephenF.Lee@gmp.police.uk</a>	11 November 2008, consultation inbox	<b>Issue 52:</b> Agreed

		<b>Issue 53:</b> Agreed – providing the information required is in reportable format and we may need time to update records we wouldn't expect a problem providing the relevant data.
<b>Nigel Brook (Assistant Chief Officer, WEST YORKSHIRE Police)</b> <a href="mailto:Nigel.brook@westyorkshire.pnn.police.uk">Nigel.brook@westyorkshire.pnn.police.uk</a>	13 November 2008, hard copy	<b>Issue 52:</b> Agreed. <b>Issue 53:</b> Agreed. This is good practice.
<b>Gerry Robinson (Chairman, NARPO STAFFORDSHIRE branch)</b> <a href="mailto:gerryrobinson@narpo-staffs.co.uk">gerryrobinson@narpo-staffs.co.uk</a>	16 November 2008, hard copy	<b>Issue 52 &amp; 53:</b> We concur.
<b>Kathie Walker (Head of Policing Human Resources Branch, NORTHERN IRELAND OFFICE)</b> <a href="mailto:Kathie.Walker@nio.x.gsi.gov.uk">Kathie.Walker@nio.x.gsi.gov.uk</a>	17 November 2008, hard copy	<b>Issue 52:</b> Agreed. <b>Issue 53:</b> Not directly applicable in Northern Ireland but a similar arrangement could be employed.
<b>Andy Champness (Chief Executive of Gloucestershire Police Authority, GLOUCESTERSHIRE Police and Authority joint response)</b> <a href="mailto:Andy.Champness@glos-pa.gov.uk">Andy.Champness@glos-pa.gov.uk</a>	18 November 2008, hard copy	<b>Issue 52:</b> Agree.
<b>Clint Elliott (Deputy CEO, NATIONAL ASSOCIATION OF POLICE OFFICERS)</b> <a href="mailto:depceo@narpo.org">depceo@narpo.org</a>	18 November 2008, consultation inbox	NARPO are not against the collation of relevant information on injury awards but we are concerned about the administrative costs involved.

		<p>We are also keen that the keeping of records does not lead to some performance league table on injury awards to the detriment of injured officers. Whilst the data may provide an overall snapshot of each force, it is clear that each individual case needs to be judged properly and on its own merits. If changes to the legislation can achieve that and a fair and open system, NARPO would applaud that aim.</p>
<p><b>KENT Police Authority</b></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 52:</b> It is hoped that forces are keeping the majority of this information already as part of their ongoing records. Clear guidance should be given on the format of what should be kept and the security / data protection related issues.</p> <p><b>Issue 53:</b> More details are needed on this element to inform our pensions people what will be required.</p>
<p><b>Michele Larmour (Chief Inspector for Chief Constable, POLICE SERVICE OF NORTHERN IRELAND)</b>  <a href="mailto:comsec1@psni.pnn.police.uk">comsec1@psni.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 52:</b> PSNI are of the view that this information is already held by the Police Authority and collection, collation and retention within the service is duplicative and non-value adding.</p> <p><b>Issue 53:</b> Agreed.</p>
<p><b>Linda Manley (individual respondent &amp; Force Risk Manager, SUSSEX Police)</b>  <a href="mailto:Linda.Manley@sussex.pnn.police.uk">Linda.Manley@sussex.pnn.police.uk</a></p>	<p>18 November 2008, hard copy</p>	<p><b>Issue 52:</b> I agree, however it is not clear how that information will be made available for anyone to satisfy themselves that equality has been maintained and decision have been taken in a consistent way. I suggest that this is incorporated within the proposals.</p> <p><b>Issue 53:</b> I agree.</p>

<b>METROPOLITAN Police</b>	18 November 2008, hard copy	<b>Issue 52 &amp; 53:</b> Agreed.
<b>John Sturzaker (Russell Jones &amp; Walker Solicitors on the behalf of the Police Negotiating Board Staff Side)</b> <a href="mailto:J.N.Sturzaker@rjw.co.uk">J.N.Sturzaker@rjw.co.uk</a>	18 November 2008, hard copy and consultation inbox	<b>Issue 52:</b> We agree so long as police forces and authorities comply with the Data Protection Act and that wherever possible the data is anonymous.  <b>Issue 53:</b> As above.
<b>Scottish Force Response</b>	18 November 2008, hard copy	<b>Issue 52:</b> Supported.  <b>Issue 53:</b> General agreement.

## 9. Overview Responses to the Consultation

Name and Organisation	Date and Method of Response	Comments
<b>Zahid Hussain (individual respondent)</b> <a href="mailto:Zahid.Hussain@met.pnn.police.uk">Zahid.Hussain@met.pnn.police.uk</a>	27 August 2008, consultation inbox	I am a member of police staff who is joining as a regular Officer later this year. In my opinion this proposal is bringing out some very important changes. I am concerned on the fairness to every individual case at an OCU level so specific clear cut guidelines are required. Over all I would be in favour of such move by the Government in this respect.
<b>Dave Evans (individual respondent)</b> <a href="mailto:dave.evans4@met.pnn.police.uk">dave.evans4@met.pnn.police.uk</a>	28 August 2008, consultation inbox	<p>Some of the proposed changes are modernisation and are clearly aimed at providing benefits in line with the changing patterns of social relationships. These are to be welcomed. However cutting benefits to those injured or killed on the way to work has no justification at all except to save money for the home office and to show to the public that savings are to be made from "modernising" those "fat cat police with their outdated employee rights".</p> <p>Police officers cannot be compared at all to any other public servants and should be treated to their needs in line with modern government policy and thinking. Injuries and deaths are often caused in road traffic accidents. Shift patterns and additional hours increase the likelihood of accidents occurring. A substantial proportion of blame can be attributed to the employer who dictates the hours worked, often at short notice.</p>

This is unique and is not something that office bound civil servants have any experience of or are likely to seek for themselves to modernise their working patterns. Officers are often required to work late in to the night and then return in the early hours of morning a few hours later at short notice. They do not choose to do this, their employer instructs them to do this. They have no choice and commit disciplinary offences if they do not obey orders. I myself have previously worked for over 24 hours to get the job done in the public interest. I have then gone home for a few hours and returned to work. I have nearly been knocked of my bicycle for example and killed to tiredness forced upon me by my employer. Studies have showed that police type shift patterns reduce the life expectancy of workers by approximately 6 years. This is bad enough. The benefits of having cover for travel to and from work are there for good reason and reflect the unique work patterns and disciplinary regulations which police officers have to abide by. This proposed change is ill thought out and is clearly a cost saving exercise with a cover of " modernisation as a selling point. It is unfair and not acceptable in the 21st century and appears to be an idea which belongs in the 19th century. If the intention is to modernise then this proposal is not fit for purpose as it is unjust and piece meal legislation. If there is an intention to modernise in a fair and just way then modernise the shift patterns so officers are not travelling to and from work suffering from employer induced tiredness and fatigue. However nature of policing is unlikely to allow such changes to work. I anticipate that when these cuts are made officers and their families will quite rightly be seeking financial compensation through the courts and are likely to attribute percentage blame to the employer.

This will then increase costs for the employers in legal fees and pay out from courts which may be in excess of those currently paid by the employer. This could also cause substantial financial loss to those bereaved families seeking compensation providing them with yet more distress and provide negative publicity for the employer and those who supported the removal of benefits.

Please can consideration be given to reconsidering these proposed benefits cuts so that officers can be treated with the respect and humanity they deserve on a modern caring way? This is not achievable by rolling back justifiable employee rights and benefits as a cost saving exercise. Please have some thought or the officers and families of those who you intend to deprive of their justifiable future benefits. Your proposals do not mention why this benefits exists merely that it is an anomaly. In these modern days of treating persons and groups to their needs please do this in this case and do not ignore a common sense policy to save a relatively small amount of money. The argument of nobody else has these rights is a non-starter. MP's and others working in Royal Places are the only persons who can smoke in the workplace for example. However I fear Mr McNulty has made his mind up and this plea for humanity and common sense will unfortunately be yet another form filled out for no useful purpose. This may be seen as a "nasty" cut and will upset many hard working dedicated officers and their families already affected by the current economic climate and below inflation wage rises. Please reconsider this proposed removal of employee benefits as they are not broken and do not need fixing.

**Steve Beards (individual respondent)**  
[Steve.beards@hampshire.pnn.police.uk](mailto:Steve.beards@hampshire.pnn.police.uk)

08 September 2008,  
consultation inbox

Whilst I am generally in favour of the proposed changes to the injury awards, Many of the appeals in the system are due to the fact the officers do not understand the system, so guidance for the officer needs revisiting. In particular many officers sustain an injury but return to full health but then suffer ill health prior to permanent disablement but claim an injury back to the original incident. (see below) Could guidance be given to the officer to state that no SMP would be able to determine an injury is wholly or substantially caused by an injury that they later recovered fully from.

E.G. Back injury 20 years ago returned to full police duties for 18 years. Developed back problems causing permanent disablement.

No SMP could draw a causal link due to the time the person was fully fit.

**Penny Sills (Director of People,  
CAMBRIDGESHIRE Constabulary)**  
[Penny.Sills@cambs.pnn.police.uk](mailto:Penny.Sills@cambs.pnn.police.uk)

03 October 2008,  
consultation inbox

These seem an eminently sensible decision, and I would support anything that simplifies the current arrangements. It is important to balance the needs of individuals to feel protected, with the responsibility to protect the public purse, and these proposals appear to go some way to doing that.

**Neville Hounsome (Assistant Chief Office,  
NORFOLK Constabulary)**  
[hounsomen@norfolk.pnn.police.uk](mailto:hounsomen@norfolk.pnn.police.uk)

07 October 2008, hard  
copy

Thank you for the opportunity to comment on the above. The document is thorough and well thought through. In the absence of an opportunity for a radical review then we would accept the proposals in full.



If we were to have a more root and branch review then we might question the complexity of our current arrangements. Referrals to SMP and the graduation into different bands of assessment lead to a tremendous amount of angst and work. A simpler process might be better for all concerned.

The exclusion listed under issue 6 are to be welcomed. It is most certainly the case that mental health injuries pose the greatest problems for assessment of injury, ideally we would wish to exclude mental health issues from injury on duty as in practice they are seldom solely as a consequence of work-related matters.

On a related matter, the current rule excluding those gaining an injury on duty award with 25 years service from review is anomalous. Anyone regaining fitness should be subject of a review which aims to get them back into productive employment.

**National Attendance Management Forum  
(representing approximately 35 forces from  
across the service including Scotland and  
Northern Ireland)**  
[c.i.rowson@west-midlands.police.uk](mailto:c.i.rowson@west-midlands.police.uk)

14 November 2008, hard  
copy

All forces in attendance at the meeting on 05 November were asked to comment on the response provided by West Midlands Police, where there are additional comments they are entered into the individual spreadsheets under the National Attendance Management Forum heading.

**Gerald M. Lang (individual respondent)**  
[gerald@gmlang.demon.co.uk](mailto:gerald@gmlang.demon.co.uk)

17 November 2008,  
consultation inbox

The vital, and very often dangerous, job that police officers perform to protect our citizens and to prevent and deter crime is one that should be recognised as such. If a police officer receives injuries while performing this job and that, then forces them into retirement on medical grounds, then any Government has a moral responsibility to ensure they do not suffer any financial hardship.

It would appear that from the outset the review document sets out to reduce and limit the amount of support to those whom when injured in the line of duty would normally expect the protection and financial support of the state.

Whilst I note that the document makes a distinction between those who are now retired nevertheless the views expressed throughout the whole paper seeks to attempt to bring the police service inline with other occupations. This is a serious simplification and needs to be rebutted.

Police officers are subject to strict rules of conduct and discipline that are not the norm in ordinary occupations. Police officers are more akin to the armed forces in their terms and conditions of service. For instance they cannot join a trade union save for the Police Federation which cannot advocate or ballot for industrial action. They for instance cannot strike, nor are they allowed to express their dissatisfaction to the media or to solicit action against their supervision. Any such action would result in discipline procedures being taken against such individuals.

Police officers are under constraints of the Police discipline code from the moment they are sworn in and receive their warrant until they retire. They are Police Officers 24 /7. Hours of work are only times when they are performing their allotted duties but even when off duty they still are expected to be Officers and upholders of the law. It would be a discipline offence if they were to simply ignore a situation of an arrestable offence being committed in their sight or presence.

This then brings into question how a Police Officer is expected to react when confronted with difficult and threatening situations. He or she cannot run away! They have to take whatever action they feel is appropriate and make split second decisions in the heat of the moment which are then dissected by others (Media, solicitors, Magistrates / Judges) at a later date and not in the heat of the moment. No matter how terrifying the situation may become it is expected that the Police Officer will react appropriately and severe criticism will be expressed if this is not the case.

Since serious injury or loss of life can and often does take

place it is only reasonable for a police officer to expect that he or she would have the support of the force in general and the government in particular.

Whilst I appreciate that more protective equipment is being introduced to give officer greater protection nevertheless the situations that are a daily routine are not for the faint hearted.

As a retired Police Officer I am dismayed that the review document trivialises what is to my colleagues a serious and often not much thought about subject. If it were brought more to the average Officers immediate attention then they might take a second thought for their own safety since it is very obvious that the government is more concerned in reducing its level of care than financial support.

I do note that it is the hope of Tony Mc Nulty in his foreword to the review paper that Officers will be reassured the government is fully supportive in their attitude to them.

It is also expressed that he expects them to feel confident in performing their duties safe in the knowledge they will be looked after if indeed they are unfortunate to be retired as a result of injury.

I feel that paragraph Item 7 in the paper asks that the term "Injury Pension" should be replaced by the word "Injury Income supplement". This Paragraph demonstrates the total disregard for those brave Officers who daily patrol our

Towns and cities. I would urge the review to look with more favour than that expressed in this paper.

The Committee conducting this review, I hope will look more favourably on the plight of Police Officers who are injured through no fault of their own and provide them with a much more generous Injury pension than that proposed.