

## III Health Retirement – Police Officers

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## Policy Statement

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### Summary

The aim of this policy is to ensure that fair, effective and consistent decisions are taken on ill health matters that may lead to the retirement of police officers for medical reasons (Ill Health Retirement – IHR).

To achieve this, the organisation will:

- Have a process to determine if a referral is to be made to a selected medical practitioner (SMP) for consideration of permanent medical unfitness.
- Have a process to consider the outcome of the referral and whether the officer is to be medically retired when it is determined by the SMP that they are permanently medically unfit from undertaking the ordinary duties of a police officer.
- In accordance with the Police Pension Scheme Regulations, operate an appeal process if the officer disagrees with the SMP's opinion about whether they are permanently medically unfit. (The officer cannot appeal SMP's assessment of their capability.)

This policy is developed in accordance with Police Pension Regulations and published pension scheme guidance from the Home Office.

This policy details how WYP will endeavour to comply with the Police Pension Regulations. From the 1<sup>st</sup> April 2022 all ill health retirement cases are considered and actioned under the provisions of the 2015 Police Pension Scheme Regulations even though an officer's pension benefits may be predominantly based on the provisions of an earlier scheme.

A glossary of terms is included in the supporting information.

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### Scope

This policy applies to all police officers.

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## Principles

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### General

- West Yorkshire Police has the discretion to retire a police officer on medical grounds when this is determined to be appropriate.
- All matters relating to ill health will be dealt with confidentially.
- Information will only be shared in line with medical confidentiality guidance and legislation.

- The Mayor for West Yorkshire has delegated decisions about whether officers are to be medically retired to the Chief Constable (unless the officer's case is that of the Chief Constable, in which case the Mayor for West Yorkshire will consider the possible medical retirement).
  - The Chief Constable, who is the Police Pensions Authority, may further delegate medical retirement decisions to the Deputy Chief Constable, Assistant Chief Constable People or another member of the Chief Officer Team.
  - In accordance with Police Pension Scheme Regulations, the Chief Constable's decision (or that of their delegate) will be made following a referral to the Selected Medical Practitioner (SMP), who will be asked whether the officer is medically unfit and if, in their opinion, the medical unfitness is permanent. The SMP will also be asked to complete a report detailing the officer's capability which will be considered by the Chief Constable (or their delegate) prior to making the medical retirement decision.
  - The IHR process also determines the level of pension benefits to which an officer who is medically retired is entitled. The pension benefits differ depending on whether:
    - The officer is determined to be permanently medically unable to complete any regular work prior to their retirement age; or
    - The officer is only permanently medically unable to complete the ordinary duties of a police officer.
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#### **Pensions**

- Police officers who are active pension scheme members with at least two years' qualifying service who are retired on medical grounds will be entitled to an ill health pension.
  - Police officers with less than two years' qualifying service who are retired on grounds of permanent medical unfitness will only be entitled to an ill health pension where the medical unfitness is due to an injury suffered, without their default, in the execution of their duty. Otherwise officers with less than two years' qualifying service will receive a refund of the pension contributions they have paid. The refund amount will not be less than the total pension contributions paid by the officer and is taxable.
  - Officers who are not current members of a police pension scheme can still be retired on medical grounds, but they would not receive an ill health retirement pension.
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#### **Terminal diagnosis**

- West Yorkshire Police has signed the TUC's recognised Dying To Work Charter.
- This acknowledges that individuals who receive a terminal diagnosis require support and understanding.
- Further information and guidance is available on the intranet.

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## Consideration and Determination

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### Consideration of Referral to the SMP

- The process to consider IHR can be initiated by either the officer, Police Federation or Superintendents' Association on behalf of the officer, or by the officer's line management.
- In line management instigated cases, the Force Medical Advisor (FMA) will provide advice as to whether there is a need to consider permanent medical unfitness. The FMA may also be asked for their opinion if there is concern or issue about a case.
- The FMA will consider whether there is sufficient evidence to suggest permanency. They will provide a report detailing their opinion. This is likely to be provided in the response to an Occupational Health referral made using the online Management Referral Portal, but it could also be provided without a specific referral if the FMA determines that this is appropriate. With the consent of the officer, the FMA report will be sent to their line manager and Employee Relations.
- If the FMA's opinion is that there is sufficient evidence to suggest permanency, an Employee Relations Advisor will contact the officer to explain the SMP process and answer any questions or queries that the officer may have. The Employee Relations Advisor will then complete Part 1 of the SMP1 form detailing the officer's medical circumstances and the FMA's opinion and they will contact the Force Pensions Manager to obtain the ill health retirement pension figures for the officer.
- The Employee Relations Advisor will explain the SMP process to the officer and then submit it to the People Director, or Deputy People Director when delegated, who will complete Part 2 of the SMP1 form. They will determine if the officer should be referred to the SMP for consideration of permanent medical unfitness.
- The SMP1 form with Part 1 and Part 2 completed is sent to the officer by Employee Relations so that they are aware of the decision.
- Employee Relations will email the SMP1 form to the Medical Records mailbox. The FMA will complete Part 3 of the SMP1 form and the form will be sent to the officer for them to consent to the SMP referral. Only if consent is given by the officer can a referral be made to the SMP.
- For sick pay purposes the SMP process formally commences at the point that it is decided by the People Director, or Deputy People Director, to make a referral to the SMP.
- If the FMA's opinion is that there is not sufficient evidence to suggest permanency, the officer's medical issues and deployment limitations will continue to be managed locally by their line management and further occupational health referrals will be carried out as and when required.

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Reasonable adjustments will be put in place and these will continually be reviewed. Additional adjustments will be considered.

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### **Officer initiated referral to the SMP**

- It should not normally be necessary for the officer to request referral to the SMP, however if they consider this is required, they can request referral to the SMP. They must provide evidence of their permanent medical unfitness from their GP, or other medical practitioner that they have been referred to, within their request.
  - The officer's request, with supporting evidence, must be sent to Occupational Health, if possible, via an email to the Medical Records mailbox.
  - Arrangements will be made for the FMA to assess the officer's medical evidence and to say whether they are satisfied that there is a medical issue to consider. Where necessary, the FMA will first see the officer before giving their opinion.
  - The Occupational Health Medical Records Officer will notify Employee Relations that the officer has requested referral to the SMP.
  - The FMA's assessment will be forwarded to Employee Relations who will contact the officer to explain the SMP process and complete Part 1 of the SMP1 form, which they will forward to the People Director (or Deputy), for them to complete Part 2 of the form.
  - The People Director (or their Deputy) must agree to forward the officer's request to the SMP unless there is reason to believe that their request is:
    - Vexatious (brought without sufficient grounds to cause annoyance); or
    - Frivolous (does not have any serious purpose or value).
  - Where referral to the SMP is refused, a written statement must be given to the officer explaining the reason and pointing out their avenue of appeal against the decision. The officer may appeal to a Crown Court for the decision to be overturned.
  - If an officer's request for referral to the SMP is approved, either by the People Director (or Deputy) or, following an appeal, by the Crown Court, the FMA must complete Part 3 of the SMP1 form and then the form will be forwarded to the SMP in the same way as for a management instigated submission.
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### **SMP assessment and report**

- Occupational Health will ask the officer for their consent to the SMP referral, and if consent is given, they will liaise with the appointed SMP administrators or directly with an SMP to arrange an assessment.
- The SMP will usually examine the officer concerned, but there may be exceptional cases where management, the officer and the FMA confirm that there is no specific need for the officer to be examined by the SMP. Further information, specialist reports or GP records will be provided if requested.

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- The SMP will provide a report in which they must decide whether the officer is medically unfit to perform the ordinary duties of a member of the police force and whether their unfitness is permanent (for this purpose permanent is regarded as the officer being medically unfit up to the age of 60).
- The ordinary duties of a member of the police force are (taken from PNB Circular 03/19):
  - Managing processes and resources and using IT;
  - Patrol/supervising public order;
  - Incident management such as traffic and traffic accident management;
  - Dealing with crime, such as scenes of crime work;
  - Interviewing, searching, and investigating offences;
  - Arrest and restraint;
  - Dealing with procedures such as prosecution procedures, managing case papers and giving evidence at court.
- Inability, due to infirmity of mind or body, in respect of **any** of the following key capabilities makes an officer medically unfit for ordinary duties:
  - The ability to run, walk reasonable distances, and stand for reasonable periods;
  - The ability to exercise reasonable physical force in restraint and retention in custody;
  - The ability to sit for reasonable periods, to write, read, use the telephone and to use (or learn to use) IT;
  - The ability to understand, retain and explain facts and procedures;
  - The ability to evaluate information and to record details; or
  - The ability to make decisions and report situations to others.
- If the SMP decides that the officer is permanently medically unfit from performing the ordinary duties of a police officer they will then also decide if the officer is medically unfit for engaging in any regular employment (for this purpose, regular employment means employment for an annual average of at least 30 hours per week) and whether this is permanent (until the state retirement age).
- In all cases the SMP must also undertake a capability assessment. This will involve assessing:
  - The officer's capability for further police service; and
  - The officer's capability for work in other employment.
- The level of detail in which the assessment is made and reported by the SMP will depend on the circumstances.
- Where an officer has more than one medical condition, the SMP will identify which condition, if any, is a permanent medical unfitness in their report.
- The SMP report will provide a written narrative assessment of the officer's medical issues which will answer the permanent medical unfitness questions asked in the referral. The SMP report will also usually be

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accompanied by a document assessing the officer's work capability and a completed SMP Overall Assessment and Decision Form.

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**Officer  
comments on  
SMP report**

- Following receipt of the SMP report, Occupational Health will forward it to Employee Relations, who will email or post it to the officer with details of their right to appeal the report.
  - The officer must be given 28 calendar days to comment on the report. Any comments must be submitted to Employee Relations.
  - If the officer disagrees with the comments of the SMP regarding their permanent medical unfitness, they must lodge an appeal within the 28 days' consideration period. An officer cannot appeal against the comments of the SMP about their capability.
  - If the officer has more than one medical condition, they can appeal specifically about the SMP decision in respect of a medical condition.
  - The 28 day time limit may be extended by the Senior Employee Relations Advisor. This may be appropriate, for example if there are reasonable grounds for believing that the officer was unable to act soon enough because of their condition.
  - If a solicitor submits an appeal on behalf of an officer, the representative must provide proof that they are acting with the officer's authorisation.
  - Where an officer has lodged an appeal, Employee Relations must acknowledge receipt of this in writing, via email or letter, and at the same time notify the officer of the requirement to provide a written statement of the basis of the appeal within 28 days following the date of lodging the appeal.
  - The officer's statement must confirm which of the answers to the permanent medical unfitness questions, as detailed in the relevant Police Pension Scheme Regulations, the officer is dissatisfied with and the immediate reasons why.
  - This 28 day limit may be extended at the discretion of the Senior Employee Relations Advisor if they consider there are good reasons why a statement could not be made earlier and if a reasonable extension of time will enable a statement to be produced.
  - If the officer refers in the grounds of appeal to medical evidence that is not known to the SMP, they must provide this evidence to Employee Relations. A further referral will be made to the SMP to review the decision if both the officer and People Director (or Deputy) agree. A referral may be made to the FMA for their comments on the further evidence before a review is requested by the SMP, if there is any uncertainty over whether a review should be carried out.
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## Internal Review and/or Appeal

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### Internal Review

- Following receipt of the officer's appeal, the People Director (or Deputy) can agree to refer a decision back to the SMP for reconsideration. There may be cases where this process can resolve the issue without the time and effort of an appeal, for example when significant new medical information is presented. If the offer is made and the officer agrees, the matter must be referred to the SMP accordingly.
  - The SMP will issue a further report. This report will only replace the original report if it resolves the issue under dispute. There is no right of appeal under the regulations against a fresh report issued after an internal review.
  - If the further report does not resolve the issue to the satisfaction of the appellant, the appeal (against the original decision) must be allowed to proceed.
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### Appeal

- Any appeal received will be dealt with in accordance with the Police Pension Scheme Regulations.
  - The officer has a right of appeal to the Police and Fire Medical Appeal Board (PFMAB) if they are dissatisfied with any part of the permanent medical unfitness decisions of the SMP as set out in the report.
  - The referral to the PFMAB will be made, progressed and determined in accordance with the provisions in the relevant Pension Regulations and the established appeal board operating arrangements.
  - Where the Medical Appeal Board overturns an SMP's decision that an officer is not permanently medically unfit for the ordinary duties of a member of the force, the Employee Relations Advisor must arrange, in consultation with Occupational Health and the FMA, for another SMP to be given a copy of the Board's decision and for the new SMP to provide a report on the officer's capability in light of the appeal outcome.
  - Approval must be obtained from the People Director (or Deputy) for the new SMP referral.
  - Such a referral will not be necessary where the Board has found the officer to be permanently medically unfit for regular employment unless the officer wishes to remain, or is willing to consider remaining, as a police officer on reduced hours despite that medical unfitness.
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## Additional Circumstances

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### FMA acting as SMP

- If the FMA considers that the death of the officer is imminent or that the officer is totally incapacitated due to a physical condition, they will notify

Employee Relations and the People Director (or Deputy). In these circumstances to advance the process quickly the FMA can be appointed by the People Director (or Deputy), acting on behalf of the Police Pensions Authority, to act as the SMP.

- If approval is given for the FMA to act as the SMP, they will complete Part 1 of the SMP's report, covering permanent medical unfitness questions, as quickly as practicable. Instead of providing detailed advice on capability, the FMA must set out the medical circumstances and draw attention to any points of action for WYP.
- The FMA must also give an indication, where appropriate, of the officer's life expectancy in order that the Chief Constable can, if necessary, arrange for medical retirement to be expedited if that is the preferred option of the officer or their representatives.
- In some cases, death in service will lead to the better provision for the officer's family. It is the responsibility of the officer or their representatives to determine the preferred option. This decision will be made with the assistance of the Force Pension Manager, who will provide the officer, or their representatives, with all the available options.

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**Cases requiring urgency**

- Medical retirement may need to be progressed quickly in other circumstances. This will typically apply in circumstances where an officer does not want to stay on in the force and the FMA considers that the officer is suffering from a condition, the severity of which makes detailed advice on capability (with a view to retention in the force) unnecessary.
- In such a case, the FMA will ask the SMP not to make a capability assessment. However, the SMP will review the case and they can still complete the capability assessment if they consider this is appropriate. If the SMP agrees not to set out detailed advice on capability in Part 2, they can instead recommend that early consideration is given to medical retirement. Such a recommendation must not be made routinely in every case where an officer is assessed as permanently medically unfit, since the SMP will normally be expected to support that assessment with detailed evidence.
- On receipt of the SMP's Part 2 report recommending expedited consideration of ill health retirement, the Chief Constable can make an immediate decision to medically retire the officer if they are satisfied that the severity of the officer's condition, or compelling compassionate features in the case, make it inappropriate to delay.
- An expedited decision by the Chief Constable will not prejudice the officer's appeal rights.
- If, having considered the case, the Chief Constable does not consider justified in proceeding immediately to retirement, the SMP will be asked to give detailed advice on capability in Part 2.

**Failure to give consent or participate in the SMP process**

- If the officer does not consent to the SMP referral, or if the officer wilfully or negligently fails to submit to any medical examination or to attend any interview that the SMP considers necessary in order to make their decision, the Chief Constable may make a determination regarding medical retirement without the SMP report.
- If, despite the officer failing to submit to any medical examination or to attend any interview, the SMP nevertheless provides a report this will be considered in the same way as if the officer had participated in the process.
- If no SMP report is provided, consideration will progress using other available medical information following discussion with Occupational Health. The officer will be given the same opportunity to appeal and participate in the process as if they had not wilfully or negligently failed to participate in the SMP process.

**Further officer request for consideration of permanent medical unfitness**

- A referral which has already been considered, either by the SMP or following appeal, will not be re-opened unless the FMA believes there is fresh evidence which could lead to a substantive revision of the previous decision.

## Preparation for Consideration

**SMP2 form**

- Where the officer has been assessed by the SMP (or through an appeal) as permanently medically unfit, an Employee Relations Advisor will complete Part 1 and Part 2 of the SMP2 form. This form is then sent to the Chief Constable or delegate.
- The completed Parts of the form will:
  - Provide a summary of the officer's case;
  - Detail any workplace adjustments or restrictions;
  - Detail the SMP's comments regarding the officer's permanent medical unfitness and capability; and
  - Include comments from Employee Relations including whether there are any suitable roles for the officer.
- Prior to submission of the SMP2 form to the Chief Constable or delegate, the SMP2 form will be discussed by the Employee Relations Advisor with the officer and they will be provided with a copy of Part 1 and 2 of SMP2 form. Any comments made by the officer are recorded in the officer comments section of the form.

- The Employee Relations Advisor will also ask the officer who they wish to notify them of the Chief Constable or delegate's decision. They may be notified of the outcome by:
    - Their line manager;
    - The Employee Relations Advisor; or
    - Their Police Federation representative.
  - PSD are contacted by the Employee Relations Advisor to see if the officer has any outstanding or impending misconduct proceedings and details recorded on the form. The Employee Relations Advisor then adds additional comments including details of any suitable roles and the views from the officer's SLT.
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## Decision

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### Principles

- Where the officer has been assessed as permanently medically unfit for the ordinary duties of a police officer by the SMP, the Chief Constable or delegate will consider all the evidence, including consideration of the SMP2 form, before reaching a decision on medical retirement.
- Prior to submission to the Chief Constable or delegate, the People Director (or Deputy) will make recommendation on the SMP 2 form.
- The Chief Constable or delegate will then review the case considering:
  - The SMP 2 form including the People Director (or Deputy) recommendation;
  - The SMP's report and comments; and
  - The officer's comments.
- Considerations will include:
  - The length of service still to serve by the officer;
  - The officer's rank etc.;
  - Whether there are suitable roles that the officer can undertake based on their capabilities; and
  - Whether the officer wishes to remain in the force.
- The objective is to retain an officer in the force, wherever practicable.
- The aim is to reach a decision on whether to ill health retire the officer or retain their skills and ability in line with the Limited Duties policy, within 28 days of receipt of the last items of information received, unless there is reasonable justification otherwise, when the officer and their line manager will be updated.
- An assessment of an officer as being permanently medically unfit for the ordinary duties of a member of the force does not automatically lead to their retirement. Such an officer may be retained by the Chief Constable, or delegate, if a suitable post is available. The SMP's capability assessment

will be of help in deciding whether there is scope for retaining such an officer.

- As soon as possible after the decision has been made (usually within one working day), the officer will be informed of the outcome. Where reasonably practicable, the officer will be notified by their preferred contact. If the officer had not expressed a preference, or their preferred contact is unavailable (e.g. on leave), then either the People Director or Deputy will take responsibility for the communication.
- The officer is provided with a copy of the fully completed SMP2 document including the Chief Constable or delegate decision.
- Employee Relations Advisor will notify the district or department SLT of the decision and the officer's line manager.
- Where the officer is not ill health retired, it is expected the officer's case will be progressed in accordance with the provisions in the Limited Duties - Police Officer policy.
- If an officer is to be retired on the grounds of ill health because retention is not practical, they will be retired on the day that the decision is made and will be given 28 days payment in lieu of their notice period. They will be provided with details of any pension benefits they are to receive, including whether they are to receive a lower-tier or upper-tier ill health pension, if appropriate. The Employee Relations Advisor will liaise with People Services, Pay Section and Pensions to arrange the administration of the officer's retirement from the force.

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### III Health Retirement Review

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#### Principles

- Where a former officer has an ill-health pension the Chief Constable is under no obligation to reconsider their disablement or medical unfitness. An ill-health pension may be removed only where a former officer is no longer disabled and has refused the offer of being taken back into the force. Normally reconsiderations of ill-health awards will be confined to former officers whom the force might want to provide an opportunity of re-joining the force and who have conditions which were flagged up by the SMP at the time of the officer's retirement as suitable for reconsideration, e.g. because the case was borderline.
- If a review of the officer's medical unfitness is carried out and there is a significant improvement or reduction in the officer's capability from that assessed at the time of their retirement, this can impact on their ill-health retirement benefits. The former officer could be reappointed as a police officer if their disabling medical condition is deemed to be no longer evident or that it is significantly diminished and that they can complete the ordinary duties of a police officer.

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## Injury Benefit Awards

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### Principles

- Officers who have been medically retired may request an injury benefit award if they consider that their permanent disablement or medical unfitness was caused, or substantially contributed to, by an injury sustained in the execution of their duty as a police officer. Consideration and determination of any such request will be made in accordance with the Police (Injury Benefit) Regulations 2006.
  - Consideration will also be given to the degree of medical unfitness caused by an injury on duty.
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## Deferred Pensions

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### Principles

- If an officer has their pension deferred, for example because they leave the police service before their pension benefits become payable, they can apply to have their pension brought into early payment due to ill health.
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## Responsibilities

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### Chief Officers

- The Mayor for West Yorkshire delegates the power under the Police Pension Regulations relating to the consideration of the possible medical retirement of an officer to the Chief Constable (unless the officer's case is that of the Chief Constable), who is the Police Pensions Authority.
  - The Chief Officer has a strategic view and the authority to make the decision on behalf of the Mayor for West Yorkshire and must not have been closely involved in the day-to-day management of the case up to the point of the ill health retirement decision.
  - A Chief Officer, or delegated authority, will have the lead role in making decisions throughout the ill health retirement process with the Chief Constable, unless delegated, making the final decision whether to retire an officer or not.
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### Senior Leadership Teams

- Senior managers will support line managers in the day-to-day management of ill health issues ensuring that a consistent approach is taken.
- They must provide guidance to line managers on officer cases ensuring policies and procedures are applied consistently and fairly.

<b>Line Managers</b>	<ul style="list-style-type: none"> <li>• Line managers will manage and support the officer through the relevant procedures leading up to and including the process for ill health retirement.</li> </ul>
<b>Officers</b>	<ul style="list-style-type: none"> <li>• The officer has primary responsibility for their health and wellbeing.</li> <li>• They also have responsibilities towards WYP and must co-operate with organisation procedures.</li> </ul>
<b>Employee Relations</b>	<ul style="list-style-type: none"> <li>• An Employee Relations Advisor will be nominated in each case of SMP referral to monitor and help line management ensure it is dealt with expeditiously at all stages, and to provide a point of contact for the police officer whose case is under consideration.</li> <li>• Employee Relations will provide advice and guidance to both the line manager and the officer on the application and process of WYP policies and procedures for management of ill health and oversee the process related to ill health retirement.</li> <li>• The statutory medical questions asked of the SMP are different under the three pension schemes. As such, depending on which applies, Employee Relations will ensure the appropriate template form is utilised.</li> <li>• Employee Relations will follow the flowchart which sets out the key steps in the process, and complete template forms and letters which are all available in the supporting information.</li> </ul>
<b>Occupational Health</b>	<ul style="list-style-type: none"> <li>• The Occupational Health Unit will provide health advice, guidance and support to both officers and line managers and will ensure that ill health retirement referrals are considered by appropriately qualified professionals (FMA and SMP) and processed in line with the procedure, in a timely manner.</li> </ul>
<b>Medical Appeals Officer</b>	<ul style="list-style-type: none"> <li>• The Medical Appeals Officer will support and assist with the management of medical appeals and review processes ensuring a consistent and effective application of Police Pension Regulations.</li> </ul>
<b>Pensions Manager</b>	<p>The Pensions Manager will:</p> <ul style="list-style-type: none"> <li>• Provide pension information to police officers subject to the ill health retirement process including any pension benefit they are to receive.</li> <li>• Provide benefits information to assist considerations of whether it is better for an officer to be ill health retired or to die in service.</li> </ul>

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<b>People Services</b>	<p>People Services will:</p> <ul style="list-style-type: none"><li>• Provide initial advice to both the line manager and the officer on the application and process of WYP policies and procedures for the management of ill health.</li><li>• Refer a case to Employee Relations if it is likely to need progressing under the ill health retirement procedure.</li><li>• Will process outcomes of an ill health retirement and follow the checklist ensuring all relevant systems and departments are notified. The checklist and retirement letter are available in the supporting information.</li></ul>
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<b>People Director or Deputy People Director</b>	<p>The People Director or Deputy People Director will:</p> <ul style="list-style-type: none"><li>• Determine if a request for referral to the SMP is refused.</li><li>• Decide whether a referral is to be made to the SMP.</li><li>• Make a recommendation to the Chief Constable or delegate over whether the officer is to be medically retired or retained as a member of the police service.</li></ul>
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## Additional Information

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### **Compliance**

This policy complies with the following legislation, policy and guidance:

- Police Pension Scheme Regulations 1987
  - Police Pension Scheme Regulations 2006
  - Police Pension Scheme Regulations 2015
  - Data Protection Act 2018
  - PNB Circular 10/4 (for guidance of the 1987 and 2006 schemes)
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### **Supporting Information**

The supporting information for this policy can be accessed online.

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### **Further Information**

Further guidance in relation to this policy can be sought from:

- Employee Relations
  - People Services
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