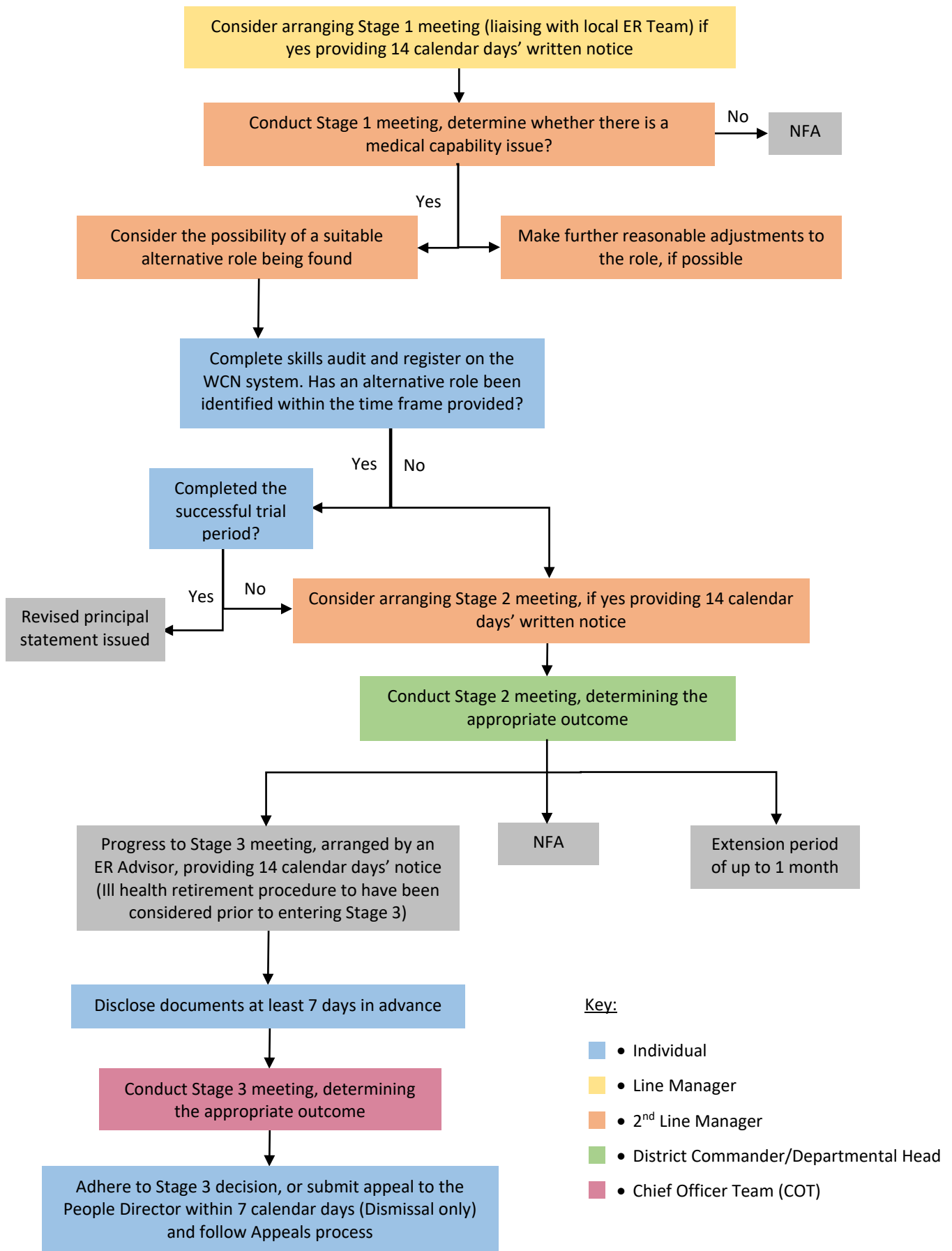


Medical Capability – Police Staff

Contents

Flowchart.....	2
Policy Statement	3
Principles	3
Responsibilities.....	4
Initial Action	5
Formal Action – Stage 1.....	5
Formal Action – Stage 2.....	6
Formal Action – Stage 3.....	7
Appeals.....	8
Additional Information	10

Flowchart



Policy Statement

Summary

This West Yorkshire Police (WYP) Medical Capability policy establishes a fair, reasonable and proportionate means of supporting police staff who, due to a medical condition, are no longer capable of doing the work for which they are employed, or are absent from work due to ill health. This policy may also be utilised where an individual, due to a medical condition:

- Is unable to undertake their role at a specific location; or
- Has exceeded 12 weeks on reduced hours/alternative shift pattern; or
- Has failed to meet an extended plan for reduced hours/alternative shift pattern set by Occupational Health (OH); or
- Has exceeded 12 months' temporary restrictions/limited duties.

This policy provides a framework for the organisation that explains the different stages of the medical capability process, ensuring that the organisation meets its obligations under the Equality Act 2010.

Scope

This policy applies to all police staff only.

Principles

General

- Individuals will be treated with fairness, integrity and respect in line with the College of Policing's Code of Ethics and the Force's purposes and values.
- All matters relating to ill health and absence will be dealt with confidentially and information will only be shared in line with medical confidentiality guidance and legislation. The individual will be notified of decisions and copies will be retained in the individual's personal file.
- Managers are expected to seek advice from their Employee Relations (ER) teams and Occupational Health (OH).
- The Force can only manage cases based on the information it has available to it.
- Managers will ensure that they and the Force comply with their obligations under the Equality Act 2010, considering fully any reasonable adjustments.
- Individuals are expected to fully participate in the procedure.
- A Trade Union representative or work colleagues may attend all meetings with their members.
- If a decision is made to proceed with a meeting in an individual's absence, the individual must be notified in writing and be offered the opportunity to have a representative present.
- Individuals have the right to appeal against dismissal.
- At any stage in the procedure, clarification of a medical opinion may be sought from the Force Medical Officer (FMO), who may seek a specialist

medical opinion or medical details from the individuals own general practitioner.

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.

Responsibilities

Line managers

Line managers are responsible for:

- Liaising with the ER team in determining whether the use of this policy is appropriate based on the individual circumstances of the case and, if so, considering these circumstances and being able to justify the decisions made before progressing the case;
- Gaining the consent of the individual and making an OH referral if needed;
- Reaching decisions that are reasonable and proportionate in all the circumstances and documenting these; and
- Providing at least 14 calendar days' written notice of Stage 1 and Stage 2 meetings and disclosing any written documents to be relied on at the hearings to the same timescale.

Individuals

Individuals are responsible for:

- Disclosing any written documents to be relied on in advance of Stage 1 and Stage 2 meetings, and at least seven calendar days in advance of Stage 3 meetings; and
- Providing details of any Trade Union representative or work colleague who will be accompanying them at any stage.

People Directorate

The People Directorate are responsible for:

- Supporting managers and individuals throughout this procedure, and intervening when management action may result in the Force failing to meet its statutory and legal obligations;
- Disclosing the relevant documents at least 14 calendar days in advance to the individual for a Stage 3 hearing, making the arrangements for the hearing and quality checking the information provided; and
- Co-ordinating and managing the ill health retirement procedure when appropriate. The ill health retirement process will run concurrently with the medical capability process and in any event must be considered prior to entering Stage 3. See Retirements and Pensions – Police Staff policy.

Initial Action

- Considerations** If it is considered that an individual cannot fully perform their role due a medical condition, line managers, in consultation with the ER team, must:
- Determine the organisational impact of the role not being fully or partially performed, ensuring that all informal options for resolving the issue have been fully explored;
 - Review all medical information available, seeking further medical clarification if required;
 - Give full consideration to whether any reasonable adjustments can be made in accordance with the Disability policy; and
 - Determine and document all informal measures and actions that have already taken place, to support the individual in undertaking their role.
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Formal Action – Stage 1

- Stage 1 meeting**
- Once it has been decided that the formal medical capability process will commence, a Stage 1 meeting must be arranged by the first line manager.
 - Individuals must be provided with at least 14 calendar days' notice and any documents to be relied upon must be disclosed within this timeframe.
 - This will involve:
 - The second line manager, who will chair the meeting;
 - The first line manager, who will provide specific information in relation to the individual's inability to perform their role, and the impact that this has on the Force's ability to provide the quality of service that is necessary;
 - The individual and, if they wish, their Trade Union representative or work colleague to present their case; and
 - An ER Advisor to advise on procedure and employment law.
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- Purpose**
- The meeting is intended to establish the medical issues affecting an individual's ability to attend work or to perform the tasks associated with their role.
 - The following information must be presented:
 - All medical evidence available including confirmation of restrictions;
 - Any relevant sickness absence records;
 - The organisational impact or effect of the role not being performed, fully or partially along with confirmation of the need for the work to be done; and
 - The actions already taken to manage the situation including any reasonable adjustments made/considered.
 - The individual will have the opportunity to respond to any facts presented and contribute to the meeting.

Outcome

- The second line manager will confirm whether there is a medical capability issue and, if appropriate, will:
 - Make further reasonable adjustments to the role, if possible, where the illness is considered to amount to a disability under the Equality Act 2010;
 - Consider further reasonable adjustments to the role, where the illness is not considered to amount to a disability under the Equality Act 2010, if appropriate. Reasonable adjustments may include an offer of alternative working hours on either a temporary or permanent basis with corresponding alteration to pay, enhancements and allowances; and/or
 - Consider the possibility of a suitable alternative role being found; and
 - Consider the ill health retirement process being progressed concurrently alongside the above options.
- The outcome and action to be taken must be communicated to the individual verbally and formally in writing within 14 calendar days of the meeting unless a longer period is agreed.

Suitable alternative role

- Finding an alternative role may be considered by the second line manager as the most suitable option constituting a reasonable adjustment for the individual.
- A time scale must be set in which a role can be applied for as an at-risk candidate on the People Directorate recruitment system (Oleeo), a review date of a maximum of three months by the second line manager and monitoring during this period when finding a role from the People Resourcing team.
- If an alternative role is deemed appropriate a suitability meeting must take place with the recruiting line manager. The ER Advisor must advise on this meeting and ensure that the individual is capable to do the role in line with any limited duties.
- All alternative roles will be subject to a 28-calendar day trial period and, if successful, the individual will be issued with a revised principal statement.
- If the trial period is unsuccessful, the medical capability process will resume from the point it had reached before the trial period, and there will be no three-month restart. Any disagreements regarding whether the trial period has been successful must be referred to a member of the People Directorate SLT for a decision.
- The Organisational Change policy must be referred to when considering an alternative role, regarding potentially qualifying for earnings protection.

Formal Action – Stage 2**Stage 2 Meeting**

- If the actions taken in Stage 1 have not been successful, a Stage 2 review meeting will be arranged unless the second line manager in consultation

with the ER Advisor determines that there are justifiable reasons not to progress.

- Individuals must be provided with at least 14 days' notice of the meeting, disclosing information which will be relied upon.
 - This will involve:
 - The District Commander/Departmental Head, who will chair the meeting;
 - The first line manager, who will present the facts;
 - The individual and, if they wish, their Trade Union representative or work colleague to present their case; and
 - An ER Advisor to advise on procedure and employment law.
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Purpose

- The meeting is intended to appraise individuals of the actions that have been taken so far and determine what further action must be taken. Consideration must be given to whether all reasonable steps have been taken where it has not been possible to find a suitable alternative role due to:
 - Individuals failing to meet the requirements for available roles;
 - Individuals refusing to accept a suitable alternative offer or to apply for suitable roles;
 - An individual being unable to fulfil the role due to health issues; or
 - No suitable alternative role arising.
 - The individual will have the opportunity to respond to any facts presented and contribute to the meeting.
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Outcome

- The possible outcomes from a Stage 2 meeting are:
 - If it is apparent that a suitable role is likely to arise imminently, a further period of up to one month may be provided;
 - Progress to a Stage 3 meeting; or
 - Determine that no further action will be taken.
 - The outcome and likely consequence in respect of further employment must be communicated to the individual verbally and formally in writing within 14 calendar days of the meeting, unless a longer period is agreed.
 - Prior to moving to a Stage 3 meeting, it is crucial that there is up to date medical information.
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Formal Action – Stage 3

Stage 3 Meeting

- At this point, it is expected that, in any event, the ill health retirement process must have been concluded.
- If the actions taken in Stage 1 and Stage 2 have not been successful, a Stage 3 meeting will be arranged by the ER Advisor, who must provide at least 14 calendar days' notice, disclosing all information to be relied upon.
- This will involve:

- A member of the Chief Officer Team (COT) who will chair the meeting;
- The first line manager, who will present the facts;
- The individual and, if they wish, their Trade Union representative or work colleague to present their case; and
- A Senior ER Advisor to advise on policy and employment law.

Purpose

- The meeting is to consider all relevant facts from both parties including any measures taken to support continued employment, to determine the appropriate outcome.

Outcome

- The possible outcomes from a Stage 3 meeting are:
 - Dismissal, on the grounds of medical capability and the rationale must be confirmed verbally at the meeting, followed in writing via recorded delivery within 14 calendar days of the meeting;
 - Set a further time period to find an alternative role;
 - Set a further action plan to an appropriate timescale if the facts do not indicate that all reasonable steps have been taken; or
 - Determine that no further action will be taken.
- If dismissed, the individual will receive payment in lieu of notice from the date of the decision, which will be their last day in employment for WYP.

Appeals

Principles

- Individuals have the right to appeal against dismissal based on:
 - The facts the decision was based on;
 - The severity of the decision; or
 - A procedural irregularity.
- Appeals must be submitted in writing to the People Director within seven days of the date of the written notification letter and must include a detailed explanation of their grounds and reasons for appeal.
- An appeal hearing will be arranged to take place within two months and will consider submissions made by the individual or their representative and the ER Advisor/line manager to determine whether the decision to dismiss should be reconsidered in light of the specific appeal criteria.
- Individuals will receive at least five working days' notice of the appeal hearing and can be accompanied by a work colleague or recognised Trade Union representative.

Appeals panel

- Appeals panels for dismissal will be comprised as follows:
 - The Deputy Chief Constable; and
 - A member of the People SLT to advise on procedure and employment law.

Decision

- Appellants will be notified verbally and in writing of the outcome and reasons for the decision within 14 calendar days of the date of the hearing.
 - Any decision at appeal is final.
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Additional Information

Compliance

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

- Equality Act 2010
 - Data Protection Act 2018
 - College of Policing - Code of Ethics
 - Disability policy
 - Attendance Management policy
 - Organisational Change policy
 - Recruitment and Selection policy
 - Retirement and Pensions – Police Staff policy
 - Unsatisfactory Attendance Procedure policy
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Supporting Information

The supporting information for this policy can be accessed online.
