

Serving officers



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Purpose and scope

This document sets out the policy and guidance for police officers, operational managers, human resources (HR) personnel, occupational health units, health, safety and welfare advisers and others on the application of the Disability Discrimination Act 1995 (DDA) to serving officers.

For a full explanation of the DDA and its implications for police officers and for advice and guidance covering recruitment and pensions, learning and development, promotion, selection and appraisal, please see the best practice principles.

The policy

Policy statement

1. The Police Service is committed to the elimination of unlawful discriminatory practices, which could lead to less favourable treatment of individuals in the areas of recruitment, transfers, deployment, dismissal, appraisals, access to training, progression and promotion, and to retaining, wherever practically possible, any police officer identified as having a 'disability', including reference to the definition under the terms of the DDA, irrespective of rank or role.



Principles of equal treatment

2. The principles of equal treatment should take account of the following:

- Officers who are disabled under the terms of the DDA will not be treated less favourably on the grounds of their disability than officers who are not disabled and whose abilities and circumstances are comparable with those of the disabled officer(s).
- Officers who are disabled under the terms of the DDA will not be treated less favourably for a reason related to their disability than officers who are not disabled, unless the treatment can be justified.
- A force can justify less favourable treatment for a reason related to an officer's disability, if the reasons for the treatment are substantial and material to the particular circumstances, and the force has complied with the duty to make reasonable adjustments.
- The force must consider making one or more reasonable adjustments if it applies a provision, criterion or practice, or there is any physical feature of the force's premises, which places a disabled officer at a substantial disadvantage compared with officers who are not disabled. It must take such steps as are reasonable in all the circumstances to prevent that disadvantage.
- It is recognised that disability does not necessarily mean that an officer cannot undertake full operational duties.
- The Police Service will accommodate individual needs wherever possible. However, this must be compatible with operational requirements and delivery of an appropriate policing service to the public.
- The decision as to whether or not an officer's condition falls under the DDA will be based on information from the officer, healthcare professionals (both within and outside the force) and other appropriate sources. Line managers, using this information, will be responsible for making decisions about reasonable adjustments and deployment.

- Ordinarily, the question of whether an officer definitely falls within the scope of the DDA should not be the overriding starting point in the process of deciding whether to make reasonable adjustments. Clarity on this point may only be determined by reference to a court or tribunal, and the time taken following this trail may antagonise the situation. If a manager believes an officer may be covered by the DDA, then it is good management practice to treat them as such. Only where the adjustments considered necessary to enable the officer to continue in their current role are substantial and it is not clear whether the organisation can support such adjustments, will it be necessary to seek a definitive decision on the individual's considered status under the DDA.
 - Each case will be dealt with on an individual basis with emphasis placed on what the officer can do rather than what the officer cannot do.
 - If an officer is identified as having a disability, a risk assessment needs to be carried out and reasonable adjustments made, where necessary, to retain the officer in post and in their existing role wherever possible. Redeployment should only be considered as an option when no further reasonable adjustments to policies, practices, procedures or physical features can be made in the officer's existing role or unit.
 - Police forces should maintain a consistent approach to the principles of application of the DDA.
3. Time is of the essence when considering an officer's position under the DDA and deciding on reasonable adjustments. It is imperative that unreasonable delays in making decisions are to be avoided, both for the sake of the officer and for the force. The Court of Appeal has confirmed that an employer can be liable under the DDA in relation to an employee who is waiting for the employer to make reasonable adjustments to the workplace.

Health and safety issues/risk assessments

4. Considerations of health, safety and welfare may constitute a material and substantial reason for redeploying an officer. A person can act in a way that would otherwise be unlawful under the DDA, if that act is required under other statutory provisions (such as those relating to health and safety). However, forces should not use health and safety as a reason not to retain a disabled officer in their current or other role without thorough consideration of all the circumstances of the case.
5. A suitable and sufficient risk assessment can be used to establish how the working environment or arrangements could be adjusted to meet individual needs and whether a reasonable adjustment could present a significant risk to any person (including the person with a disability). A competent person should conduct this assessment with advice from health and safety advisers and/or the force safety representative.
6. The assessment should cover the officer's capability and working environment. Subsequent assessments may be needed if the role or officer's condition changes or if the officer moves to another role.
7. It is important to ensure that:
 - the member of staff to whom the DDA applies has a safe and healthy working environment;
 - other members of staff are not placed at an increased level of risk because of any reasonable adjustments that have been carried out (for example alterations to the working environment); and
 - the need for a colleague to undertake additional tasks within their job role as a consequence of the reasonable adjustment does not place them at increased risk.

Restricted duties

8. Restricted duties are duties that may not require full operational fitness or may impose limits to the activities carried out in a police operational or non-operational role. Restricted duties are distinct from 'recuperative' duties. As a general rule, restricted duties tend to be longer term and may be permanent.
9. The objective of restricted duties is to retain an officer's expertise and knowledge and prevent the inappropriate early ill-health retirement of experienced police officers. Some officers on 'restricted' duties are not disabled and will not be classed as 'disabled' under the terms of the DDA. It should also be recognised that some 'disabled' officers, under the terms of the DDA, will be able to perform full operational duties, without adjustments. The principle of reasonable adjustments should also be considered for those officers on restricted duties who are seeking extensions to their police service. Approval of any extensions to police service is decided in force on the basis of operational requirements.
10. Being placed on restricted duties is not, therefore, acceptance that an individual's condition falls within the meaning of disability under the DDA. Forces use restricted duties where an officer has a long-term restriction, which prevents them from undertaking the full range of operational duties. In most cases, moving an officer to restricted duties follows a period of recuperative duties, and the decision to reclassify the officer is taken at a point where rehabilitation has reached a plateau or an officer is waiting for treatment or an operation. There is a presumption that restricted duties are full time or based on the officer's normal working hours.
11. For practical purposes, the principles applied in terms of reasonable adjustments should therefore be applied to all officers, including those currently on restricted duties.

Deployment considerations

12. Where an officer becomes disabled as a result of an injury or medical condition, the police force should:
 - seek to determine the officer's capabilities within their existing role and not assume automatically that the officer needs to be moved from an operational role into an administration role;
 - look at possible adjustments to premises, altering hours of work, provision of training, allowing absence for rehabilitation, assessment or treatment, or providing training for colleagues, or otherwise raise their awareness to help deal with the officer's impairment. This is not an exhaustive list;
 - make reasonable adjustments to facilitate retention in their existing post. This should be done in a timely fashion and with the agreement of the disabled officer. Delays in decision making and putting reasonable adjustments in place may lead to unnecessary distress, cost to both parties and legal challenges;
 - consider redeployment to another existing role/post only if impairment warrants such a move; and
 - look at each case regarding consideration of deployment on an individual basis. For example, if a disabled officer were performing their duties without difficulty and could demonstrate that they were being moved to a new role for a reason related to disability, the decision could be challenged as being discriminatory.
13. In requiring an officer to take up a new role, the officer's disability should be of relevance only to the extent to which it impacts upon the officer's ability to perform relevant activities in their current role and the new role.
14. Disabled officers should not be subject to transfers outside the force policy, which should be flexible enough to facilitate the officer's transfer within its procedures and therefore allow for 'reasonable adjustments' to be made. It should be noted that reasonable adjustments are designed solely to remove a substantial disadvantage to a disabled officer.

15. It would benefit all forces to have a clear and open written procedure so that everyone is aware of what may or may not happen if they become disabled or restricted.
16. Officers should be made aware that the first consideration will be to retain them in their current role and that redeployment will be used only if the case warrants a move to another job, or if the disability deteriorates and further adjustments are required which cannot be accommodated within the existing role. It should be stressed that redeployment as a 'reasonable adjustment' strategy needs to be justifiable with reference to identifiable factors connected to the officer's disability.

Note: Many disabled officers will be able to manage their disabilities through personal adjustments, which may include medication.



Deployment procedure

17. Whatever the circumstances (i.e. an officer becomes disabled or a disability worsens or the nature of the role changes), the procedure should be consistent:
- Do not automatically remove the officer from operational duties.
 - Determine what the officer can do in consultation with the individual and occupational health unit. The force medical adviser (FMA) should indicate what type of restrictions may be applied, what the capabilities of the officer are and the types of duty they may be fit to perform, with reference to the Integrated Competency Framework. It is important that all discussions involve the officer and any comments are fully documented and available to the officer.
 - Determine with the individual officer, managers, occupational health unit, human resources (HR) officer, health, safety and welfare adviser and other appropriately qualified people, as appropriate, whether the current role can be performed with reasonable adjustments.
 - Make reasonable adjustments to the current role as soon as possible.
 - If reasonable adjustments to the current role are not possible, seek to redeploy into a suitable, available, existing **police** post within the officer's current Operational Command Unit/Department, which is within their capabilities (or provide training). This should also be taken forward with the advice of the appropriately qualified people listed above and may need the input of the force's Sickness Management Group and Health Review Panel. (Note that reasonable adjustments may also need to be made for the new post.)
 - If that is not possible, seek to redeploy into a suitable, existing **police** post elsewhere in the force, following the procedure above.
 - See also section below on redeployment to police staff roles.
 - The FMA must agree that the officer is fit for the proposed role. However, the final decision in all cases is one for managers.

Redeployment of police officers into police staff roles

18. Where a disabled serving police officer, by reference to the terms of the DDA, faces a substantial disadvantage at work in comparison with a serving police officer without a disability, forces must make reasonable adjustments to remove that substantial disadvantage. When determining what reasonable adjustments to make, forces should consider all possible adjustments as outlined above. Where it is not possible to retain the officer in a police post, another option may need to be considered, which that person is capable of doing, with or without reasonable adjustments. It should not matter whether that post is in an equivalent, lower or higher role than previously occupied.
19. Forces should only consider redeploying a police officer into a police staff job where it would be reasonable to do so.
20. This option may be a reasonable adjustment, for instance, where the officer agrees to be re-engaged on police staff pay and terms and conditions of service. The option of keeping officers in police staff roles whilst retaining their police pay and conditions may not be a reasonable adjustment.
21. The employment status of police officers and police staff is different. Police officers hold office under the Crown and have police powers. Police staff do not. The two jobs are not interchangeable, i.e. while a police officer may undertake other duties, including those of police staff, police staff may not undertake all the duties of a police officer.
22. The terms and conditions of police officers differ greatly from those of police staff. Police officers who are redeployed to work alongside and carry out the same job as police staff may be paid a higher salary than police staff members. This has financial and resource implications for the force and impacts on public service delivery:
 - The police staff post is lost.
 - The police staff post may have to be filled at a higher cost than necessary and may not be cost-effective.

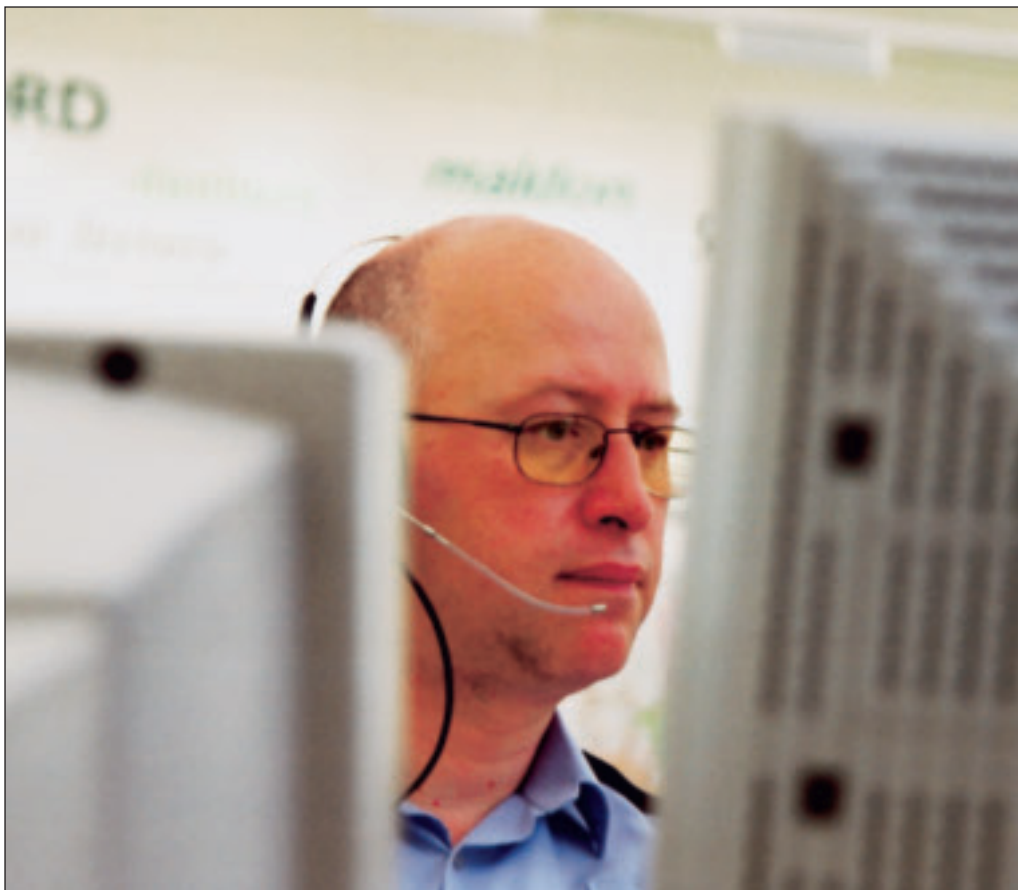
- Consider medical retirement only if there is permanent disablement (in terms of the Police Pensions Regulations 2006) and the permanent medical retirement criteria are met. If the possibility of permanent disablement arises the case should be considered by reference to the Selected Medical Practitioners (SMP) and consideration of the officer's capability as set out in the PNB guidance.



- There may be reduced opportunities for progression and development for existing police staff.
 - An operational front-line police post is lost but the force budgeted police officer total remains the same.
23. Forces should take these matters into consideration when determining whether redeployment to a police staff role may be a reasonable adjustment or, given the circumstances, may be unreasonable in light of the public service delivery requirement and the extent of financial and other resources available. Forces are also advised to consult staff trade unions in cases where a police staff job may be lost.
24. Managers should also bear in mind that courts have ruled that it may be reasonable in certain circumstances to waive the need for a competitive interview for a post to which a disabled employee is being re-engaged, even where that re-engagement involves a move to a higher paid job. Further, courts have approved (a) the automatic short listing of disabled candidates for posts that involve promotion, and (b) the placing of disabled employees in posts that do not involve promotion, when there are other candidates who are better qualified for the post. A former officer who is re-engaged in this way will be subject to the separate pay and conditions of police staff.
25. Separate procedures apply to police officers who are permanently disabled in terms of the Police Pensions Regulations – see section below on permanent disablement.

Managing the inability to work full-time hours

26. Where disabled officers are unable to undertake duties on a full-time basis, the force may offer reduced or part-time working.
27. Whether it is reasonable in a particular case for an officer to remain on full pay while working reduced hours will depend on the circumstances of each case.
28. During any period that an officer cannot work full time because they are waiting for a reasonable adjustment to be made by the force, an officer should not be on reduced pay. However, if an officer reduces their hours as a reasonable adjustment, there is no requirement to continue pay at the full-time rate.



Probationers and transferees

29. The DDA applies equally to probationers as to other officers. Forces are therefore under a duty to make reasonable adjustments where a disabled probationer is at a substantial disadvantage compared with a non-disabled probationer. Reasonable adjustments should be taken into account when considering the possible discharge of a probationer under Regulation 13 of the Police Regulations 2003.
30. Transferees are serving officers moving from one force to another without a break in service. They are not subject to re-evaluation of their access to ill-health benefits under the Police Pension Scheme when they transfer from one force to another. Transferees who have an entitlement to ill-health benefits will continue to have such an entitlement even though they may come within the scope of the DDA at the time of transfer. Similarly, it will not be possible for an officer to use the transferee system to have their entitlement to ill-health benefits reassessed.
31. Applications from transferees must be considered on their merits and in the light of reasonable adjustments. If an officer is performing satisfactorily in one force, they are likely to be suitable for another force provided that, where a reasonable adjustment has been made, the receiving force is also able to offer the same or another reasonable adjustment.



Consulting with the disabled officer

32. It is important that the disabled officer is consulted with, and aware of, each stage of the process regarding their working conditions and the actions that are being taken. The officer needs to agree to perform the work that is being offered and be satisfied that reasonable adjustments are in place, where necessary.
33. Should the officer disagree with any of the proposed action, then as a first step the line manager should seek information from the officer regarding what action the officer believes should be taken to facilitate their continued employment as such. This should be done in an open and clear manner and the discussion documented and provided to the officer, who may wish to take advice from a staff representative or other adviser.
34. If this fails to resolve the issue, a case conference should be held to include the officer so that the situation can be discussed openly with others involved in the decision such as a senior HR officer and members of the occupational health unit and staff associations. It will be in the officer's interest to co-operate with this but it must be made clear to the officer what type of detail will be made available at the case conference. The informed consent of the officer should be obtained before confidential medical details are released.
35. Where an officer disagrees with the description of the impairment or its impact on work or risk assessment, it may be necessary to arrange for an independent functional assessment to be carried out. This can be arranged via the occupational health unit.
36. In cases where a dispute arises, it is also open to the officer to raise the matter through their force grievance or fairness at work procedure. A copy of Home Office Circular 28/2004, *Police fairness at work procedure*, is available to all forces. It may be downloaded at: www.circulars.homeoffice.gov.uk. Chapter 13 of the Disability Rights Commission (DRC) Code of Practice also gives advice in this area, although it should be noted that the statutory provisions it refers to (the dispute resolution procedures) do not currently apply to police officers.

However, this fact should in no way detract from police forces' resolve to address disputes through internal processes rather than allowing disputes to needlessly reach employment tribunals.

37. In circumstances where disputes remain unresolved and an officer fails to perform the duties of their role when all reasonable adjustments have been made, the Police Efficiency Regulations (as amended 1999) may have to be followed.
38. It is important to stress that all decisions and options considered, however briefly, in arriving at the final decision should be recorded in order to demonstrate the fullest consideration of the circumstances and options available. In the absence of such documentation, it is likely that views taken subsequently by third parties will be that the process lacked the breadth of consideration. Best practice advice recommends that all key decisions should be known and signed off by both the employee and employer, and that evidence of this should be kept on file.



Operational resilience

39. The DDA does not allow limits to be put on the number of disabled people employed within a workplace. Within a policing context, the emphasis must be on ensuring that officers are able to undertake an operational role with reasonable adjustments, wherever possible. Decisions on individual officers' cases cannot be based on organisational operational resilience, though operational resilience may have a bearing on deployment decisions at a local level, following consideration of reasonable adjustments.
40. Each force will need to consider how it will meet its strategic requirements. The chief officer will need to include in that an assessment of the number of officers required for full operational duties at any one time, including the need to respond to public order events and large-scale investigations on a round the clock, seven days a week basis.
41. It should be remembered that officers on restricted or recuperative duties are not synonymous with those officers who are 'disabled' under the terms of the DDA, and likewise 'disabled' officers are not necessarily unavailable for full operational duties.
42. Operational resilience will require a full understanding by chief officers and senior managers of the operational demand profile of their Basic Command Units (BCUs) and force, and through more sophisticated resource management and variable shift arrangements, for example better match supply/demand and officer welfare, which will include the management of officers not available for full operational duties for whatever reason.

Rehabilitation and recuperative duties

43. The purpose of recuperative duties is to facilitate an early return to work following sickness absence using reduced hours or limited tasks to reintroduce the individual back to the workplace as early as possible.
44. Any police officer (whether disabled or not) who has up to 28 days' continuous sickness absence should be referred by managers to the occupational health unit. However, there will be occasions where the 28 day rule would be inappropriate; for example, an individual with a broken leg could be absent for longer than 28 days, but a referral is unnecessary as once the leg has healed the matter would be at a close unless permanent disablement occurred from the original break.
45. The FMA and/or occupational health adviser will assess the case and advise on a suitable phased return to the workplace. This will involve consultation with managers and may also involve external specialist assessment or reports, and liaison with the officer's GP.
46. Following assessment, recommendations about a suitable return to work will be made to managers and to HR. These should include:
 - suggested date of return to work;
 - recommendations on restrictions required in terms of hours to be worked or duties to be performed;
 - likely duration of the restrictions;
 - date of review; and
 - a planned approach to a return to work.
47. Wherever possible, recuperative duties should be performed as part of the officer's normal role as placing the officer in an unfamiliar work situation could be counterproductive. The duties should match the officer's abilities and the work should be meaningful. Liaison with line managers and HR officers is essential.

48. Progress should be monitored and reviews carried out on a monthly basis or more frequently by managers, supported as necessary by occupational health. The reviews may involve case conferences. Medical confidentiality should be respected at all times.
49. As improvement is achieved, restrictions should be reassessed and adjusted as appropriate by occupational health in consultation with managers. Physical and psychological rehabilitation such as exercise programmes or physiotherapy should be facilitated, wherever possible.
50. Once a return to full duties (or duties with a reasonable adjustment) has been achieved, managers should monitor progress and refer the case back to occupational health if there are concerns.
51. Recuperative duties are, by their nature, short term. These should not usually last for more than six months. If a return to full duties (or return to duties with a reasonable adjustment) has not been achieved and there is little or no improvement within this timescale, managers should consider the need for moving the officer to 'restricted duties'. Restricted duties should, however, only be considered where full duties are not being worked but the officer is working full hours, or full contracted hours.
52. If there has been no improvement in the officer's health, it may be that they are eligible for retirement from the Service on the grounds of ill-health or may have to face the use of the Police Efficiency Regulations.

Regular reviews

- 53. Disabled officers should be referred to the occupational health unit only when necessary. Review dates may be extended beyond 12 months on the advice of the FMA although cases may be referred at any time based on individual circumstances.
- 54. Where there is an annual assessment, this should be linked to the PDR process. In respect of any changes to the role, effect on performance or changes to the working environment and/or conditions, occurring at any time in the year, an interim assessment will need to be carried out to reflect those changes. This will ensure that the PDR is fair and reflective of the duties and will also confirm that any reasonable adjustments previously made remain relevant and that the officer is able to carry out the role competently and safely. Managers in consultation with the officer and other competent advisers should agree any changes.
- 55. This process should be carried out with sensitivity, in particular when it is clear that the disabled officer continues to work effectively. The system should enable a line manager to say that there is 'no change' and that the officer does not want or need to see the occupational health unit for a review. Disabled officers should not feel they are required to go to the occupational health unit automatically.



The role of the occupational health unit

56. The force occupational health unit will be one of the sources of support for managers and officers when dealing with DDA-related issues.
57. FMAs and occupational health nurses have experience of assessment and advising managers and individuals on disability because they have been dealing with police staff since the relevant provisions of the DDA came into force in December 1995.
58. They will establish:
- diagnosis of a person's condition and, if appropriate, the date when diagnosed (this may be appropriate when giving a prognosis);
 - prognosis – likelihood of recovery and future work capability; and
 - how the impairment affects activities
- and will also advise on:
- capability/incapacity and functionality, i.e. what a person can and cannot do in broad terms;
 - assessment against the Integrated Competency Framework role profile;
 - workplace adjustments that may be required (managers will decide whether the recommended adjustments are reasonable); and
 - rehabilitation, back-to-work and other sources of support.
59. They will liaise as appropriate with the officer's GP and any specialists involved and will regularly monitor any treatment or changes in the condition. They should also be involved in any case conferences or discussions that take place about the suitability of reasonable adjustments.

Confidentiality

60. Medical practitioners are required by law to ensure the confidentiality of individuals' medical data. This includes medical diagnosis, symptoms, treatment and prognosis. This does not mean that they cannot have meaningful discussions with managers about the consequences of these issues and the effect these may have on individuals in the workplace.
61. The information that line managers need to seek guidance from medical practitioners on may be very specific and detailed. More generally, line managers should ask the following:
- Is the officer fully fit for work in the particular role or are they subject to temporary or permanent limitations?
 - Are any restrictions to the work needed?
 - Are there any adjustments required and, if so, what is the nature of any adjustments that can be recommended to enable the officer to carry out their role?
 - Is time needed to undertake treatment/rehabilitation?
 - Does the impairment affect day-to-day activity?
 - Does the officer's condition fall within the scope of the DDA?
62. All of these questions can be asked by a line manager and answered without contravening the confidentiality requirement. Managers do not need to know the diagnosis or even the nature of the disability if it is not obvious but they do need to know the effect of the disability so that they can carry out an appropriate risk assessment.
63. All records that relate to an individual are classified as 'sensitive personal data' under the Data Protection Act and should be available to the officer. The individual's explicit and informed consent must be obtained prior to release of records.

Attendance management and absence

- 64. The majority of disabled people do not require any more time away from work than other employees. Although an impairment may impact on a person's day-to-day activities, it does not necessarily impact on their general health.
- 65. Nevertheless, under the DDA, there is a need to recognise that officers with disabilities may need time away from work – either to receive treatment for their disability or be absent from work as a result of their disability.
- 66. In either of these cases, managers should take advice from occupational health as to what leave should be considered as related to a disability and they should make an accurate record of the type of leave taken. Arrangements should be made to record all absences accurately and to ensure that disability-related absence can be clearly identified as distinct from other absences. It is important to establish whether absence is disability related or not at an early stage. This is of particular importance where absence is used as a criterion for pay, sick pay, Competency-Related Threshold payments, Special Priority Payments, promotion, selection etc.
- 67. There are two types of absence to consider. One is **disability-related leave** and the other is **disability-related absence**.

Disability-related leave

- 68. Disability-related leave is where an officer, as part of their treatment for a disability, is allowed time off during working hours for therapy, hospital appointments, rehabilitation, assessment, treatment or such like. It is reasonable that an officer be allowed this type of leave as it is part of managing their disability and plays an important part in keeping them fit for their role. Disability-related leave might be considered a 'reasonable adjustment'.
- 69. Generally, disability-related leave is for a fixed period or periods of time, which are usually known about in advance. Where possible,

officers should arrange with their line managers for such time to be taken, before taking the leave.

70. Disability-related leave is not the same as sickness absence (which is when a person is unable to work due to illness) and it should be recorded separately from sickness absence. It must not be used to cover periods of sickness absence whether or not the sickness absence is directly related to the person's disability.

Disability-related sickness absence and non-disability-related sickness absence

71. There will be occasions when an officer with a disability needs to take sickness absence. Although there is no specific legal requirement to count disability-related sickness absence separately from non-disability-related sickness absence, it is good practice to do so.
72. Both disability and non-disability-related absence could be counted for inefficiency action and sick pay. Recording disability-related sickness absence separately from other absences will assist chief officers and others – for example, those conducting inefficiency hearings – to consider the weight to be given to such absence. In individual cases, the force may decide to disregard such absences when considering performance, attendance, promotion etc, and regard the absence as a reasonable adjustment. If a decision is made, for example, not to promote an officer because of their sickness record and those absences are because of a disability, it could be argued that the officer has been treated less favourably for a reason related to the disability. Such treatment can be justified but it will be more difficult to do so if it cannot be shown that the reasonable adjustment of discounting the absences has not been considered.
73. Each period of sickness will have an element of uniqueness, which will need to be taken into consideration in coming to a decision as to what is 'reasonable' to record in the circumstances as 'disability-related sickness absence'. Clarity as to what exactly should and should not be recorded as such will, therefore, be difficult to define in a standard approach though, as mentioned above, occupational health units will

be able to assist in the decision-making process. Forces will do well to ensure that there are such identifiable points of reference to provide informed guidance to managers, based on medical knowledge, awareness of practices across the force and of persuasive decisions from the courts and employment tribunals. This will ensure that a consistent and informed decision-making process is adopted. Generalising about the impact of illnesses or injuries on impairments will not be helpful and it will only be through a thorough and considerate exploration of the circumstances of the individual absence and the prevailing circumstances by line managers that sound decisions will be made on how sickness absence is recorded.

- 74.** Disability-related sickness absence can be short or long term and of known or unknown length, or it may be periodic, unpredictable absence.
- 75.** Examples of disability-related sickness absence:
- An officer with arthritis might be absent from time to time. It is not possible to predict when and for how long the officer will be absent so this is recorded as disability-related sickness absence.
 - An officer has multiple sclerosis. Absences are unpredictable and cannot be planned for and so are again recorded as disability-related sickness absence.
 - A common cold may have greater impact on an officer with a particular impairment and so could be regarded as disability related.
- 76.** The following factors should be considered when deciding whether to record absence as disability-related sickness absence:
- The absence must be directly related to the recognised disability, e.g. epileptic fit or hypoglycaemic episode.
 - Many managers will have previous awareness of the disability, though this is not always the case.
 - Does the reason for absence constitute an intensification/exacerbation of any previously controlled symptoms (as identified by an appropriate healthcare professional)?

- Does the reason for absence constitute newly developed symptoms associated with the disability (as identified by an appropriate healthcare professional)?
 - Was the reason for absence planned treatment/surgery associated with the disability?
- 77.** Advice should be sought from an occupational health practitioner in all cases to promote consistent practice.
- 78.** With respect to discretion in decisions by chief officers to place officers on half pay as a result of sickness absence, the Police Negotiating Board (PNB) has set out guidance in Circular 05/1. This circular draws attention to the following points:
- the chief officer is satisfied that the officer's incapacity is directly attributable to an injury or illness that was sustained or contracted in the execution of their duty;
 - the officer is suffering from an illness which may prove to be terminal;
 - the case is being considered in accordance with the PNB Joint Guidance on Improving the Management of Ill-Health and the police authority has referred the issue of whether the officer is permanently disabled to a selected medical practitioner; and
 - the FMA advises that the absence is related to a disability, as defined by the DDA, and the chief officer considers that it would be a reasonable adjustment to extend sick pay, generally speaking, to allow (further) reasonable adjustments to be made to enable the officer to return to work.
- 79.** It is important to remember that the occupational health unit can advise on what may or may not count as disability-related sickness absence and on the type and duration of treatment associated with a particular disability, but the decision is one for managers.
- 80.** If an officer takes intermittent days off which add up to more than the average absence level or has a long period of sickness absence, it is advisable to establish whether the individual has an undisclosed or unrecognised disability. Information from a medical adviser (with the

officer's consent) may be needed. If an employer could reasonably have known the officer was disabled, the employee is protected by the DDA. It should be noted that officers are not required to declare that they have a disability; therefore a sensitive approach should be taken in establishing whether absence is disability related and particular care should be taken with reference to confidentiality.

Recording absence

81. If the officer is found to have a disability, past absences may need to be reviewed to ensure that all disability-related sickness absences are recorded correctly. Some absences may have been for appointments and should be re-recorded as disability-related leave.
82. Forces should therefore:
 - take advice from the occupational health unit on illnesses and absences that may be disability related, including what treatment a person might expect to undergo or other reasons connected with a person's disability which would cause them to be absent from work. This is best done at the outset when considering reasonable adjustments but it can also be done retrospectively, if necessary;
 - keep a separate record of absences – disability-related leave, disability-related sickness absence and non-disability-related sickness absence; and
 - take advice from the occupational health unit if there is any doubt as to whether a period of absence is disability related or not and is reasonable.
83. The recording mechanisms for the type of absence should be clear, e.g. contained within the return to work form, so that the absence is categorised correctly early on. These mechanisms should also be flexible enough to allow for the reclassification of absence at a later date, e.g. for cases where the disability may be difficult to diagnose until later on.

Sick pay and reasonable adjustments

- 84. Accurate recording of absence will be important when assessing applications for Competence-Related Threshold Payments and Special Priority Payments. It will also be necessary when considering sick pay.
- 85. When deciding whether less favourable treatment for a disability-related reason is justified, tribunals will consider whether making reasonable adjustments would have avoided the problem in the first place. For instance, if reasonable adjustments had been made, the officer would not have been absent in the first place.

Monitoring

- 86. Each police force and authority should monitor and evaluate centrally the number of disabled officers for whom reasonable adjustments have been made, the location of the posts, the nature of the adjustments and how the decision was reached. This should apply also to non-disabled staff on restricted duties and should be recorded separately. This will provide an overview across the force and add to the pool of knowledge. It will allow the force to ensure decision making is consistent; to learn from experience; and incorporate the information into operational planning. The Annual Data Requirement (ADR) from 2005/06 will require the recording of disability data.
- 87. Forces should also monitor application of the Competence-Related Threshold Payment scheme and Special Priority Payments in terms of disability. Promotion and selection decisions should also be monitored in terms of disability. These measures will help determine whether anti-discrimination measures are effective and ensure forces are promoting equality, as required under the DDA 2005 general duty to promote disability equality.

Permanent disablement under the Police Pensions Regulations

88. See separate guidance section on pensions.

Efficiency issues

89. Where managers identify issues of poor performance or attendance, they should refer to the specific directions in the Police Efficiency Regulations 1999 as amended by the Police Efficiency (Amendment) Regulations 2003.



Learning and development



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Scope of this guidance

1. This guidance is limited to police officer-related employment issues emanating from the Disability Discrimination Act (DDA) legislation, including access to learning and assessment.
2. Guidance on reasonable adjustments is contained in the companion *Best practice principles* document.
3. Note: This is not intended to cover the wider service delivery training issues, which were captured within the National Learning Requirement for 2004/05. The Police Race and Diversity Learning and Development Programme was launched in October 2005 and includes information on disability.



Terminology

4. As this guidance covers both awareness-raising and learning and development activities, it is essential that a distinction is made between the terms 'learning and development' and 'information'. Learning and development is any activity that changes behaviour.
5. Learning is measured by what an individual can do differently after a particular behaviour has been changed through a training intervention. It is marked by assessment of the change and evaluation of the outcome.
6. Learning and development includes formal didactic learning (classroom-based activities), 'distance learning' (workbooks or computer-based programmes) and development activities such as online searches (e.g. using the Disability Rights Commission (DRC) website to identify ways to increase the participation of disabled people in community consultation forums on policing issues).
7. In terms of outcomes, information is a broader, less precise activity. It may be cheaper to implement (e.g. giving advice via a newsletter), but it may be less effective as it is limited to the text provided. It could be used when the specific learning needs have not been identified. Information is generally accepted as a way to provide a snapshot or overview of a particular subject, rather than in-depth knowledge. Information may be delivered through face-to-face or remote briefing media (e.g. briefing papers, videos and intranet articles, etc), with the aim of quickly achieving a higher level of awareness of the subject. Information, although disseminated, is unlikely to be assessed or evaluated. Information giving is a relatively low-cost, unsophisticated strategy, which may be the precursor to specific training.

Who is affected?

8. These guidelines detail the key responsibilities under the Act. It is important that police authorities and managers in the Service are familiar with the Home Office guidance and the DRC's Code of Practice on Employment which was published in August 2004 and updated in 2006.
9. Staff awareness and knowledge is required to be able to implement national guidelines and fulfil the requirements of the DDA. This needs to be established and carried out at local level, in compliance with each force's strategic framework. Every member of staff needs to be aware of what the legislation requires so that the Service is prepared for the implementation of the DDA's requirements.
10. There is a particular need for line managers to be aware of their responsibility to ensure that disabled staff in their line management are not discriminated against. Managers must understand the DDA, be confident enough to make reasonable adjustments and know where to go to for additional information.
11. Roles that will be particularly affected include:
 - practitioners (in particular those who appraise and manage staff), who must fully understand their responsibilities; and
 - police authorities, chief officers, Basic Command Unit (BCU) commanders, training managers and human resources (HR) directors, who must ensure that the strategic framework is established and supported within police forces.

Recommendations

- 12.** It is recommended that responsibility in the force or authority is taken as follows.

Chief officers will:

- identify how best practice under the DDA is to be achieved in their force;
- promote their force's commitment to best practice;
- ensure that all managers are aware of their obligations under the DDA and of the possible consequences of non-compliance;
- ensure that the Disability Equality Scheme is published within agreed timescales and is relevant to the local community; and
- prepare an action plan to ensure continued awareness of the DDA and that learning needs continue to be met.

Police authorities will:

- take a strategic oversight and monitoring role in respect of force implementation of the DDA; and
- satisfy themselves that these measures are robust, appropriate, monitored for impact and sustainable.

BCU commanders will ensure that:

- employment issues relating to the DDA are taken into account in the performance and development review (PDR) process;
- learning needs are identified and links made to individual PDR development plans;
- work-based learning and development and assessment take place as necessary and with regard for reasonable adjustment;
- there is monitoring and evaluation of learning and development in the workplace; and
- learning and development needs are linked to the force training plan.

Training managers and HR directors will ensure that:

- personnel are made aware of the DDA's provisions, as necessary;
- relevant and appropriate DDA content is mainstreamed into local learning and development programmes and materials; and
- learning and development programmes and materials are accessible to disabled staff, and any assessment activity is adjusted to provide fair, valid and reliable assessment of a candidate's ability. This last point is particularly important as part of work-based assessment.



Prioritisation

13. Full implementation of the DDA presents a number of challenges for the Service in terms of raising awareness among all staff. In view of the significant number of roles with different needs across the Service, a mandatory 'one size fits all' programme would not be feasible or appropriate. Instead, a blended learning approach should be adopted, using the full menu of options: formal classroom training, interactive e-learning packages, workbooks, checklists and other aids to learning, briefings, mentoring, coaching, group learning, seminars, etc.
14. The Service should take a flexible and incremental approach, targeting those most in need of learning. It is recommended that staff be prioritised within a proportionate training strategy.

High priority roles will be handled by:

- chief officers and senior organisational managers (who should be aware of the strategic issues);
 - police officer managers and supervisors;
 - police staff with responsibility for police officers (including HR and occupational health staff);
 - training personnel (both central and divisional, and including tutor constables);
 - assessors involved in recruitment or promotion assessment centres and workplace assessment for accreditation purposes; and
 - officers employed as competent persons who undertake risk assessments.
15. All of these individuals should, as a minimum, know and understand the content of this document and any other detailed guidance.
 16. Ongoing learning and development needs should be identified and provision made to satisfy them where appropriate.

Learning and development needs of disabled staff

17. Priority should be given to the learning needs of people in training roles, because their role is critical for facilitating and addressing organisational learning and development.
18. Trainers need to have enough knowledge and skill to adapt existing training programmes and materials to incorporate the requirements of the DDA. The content of all learning and development activities or events (including those provided by external trainers) must be accessible to disabled participants. The 'Access to learning and assessment' section in Centrex's *Models for Learning* is helpful in this respect (www.ncalt.com/documents/modelsforlearning).
19. Priority should be given to the learning needs of line managers who will be particularly affected by the changes in the employment provisions. Many managers will already understand their responsibilities under the DDA because it has applied to police staff for a number of years. Consideration of its implications for and application to disabled police officers should be an extension of that process, although it is inevitable that this may present some challenges as new and unfamiliar circumstances will arise.
20. The main thrust of the legislation involves making 'reasonable adjustments'. Adjustments must be considered in the physical environment (employer's premises) for a provision, criterion or practice that is applied by or on behalf of the employer to ensure that it does not place a disabled person at a substantial disadvantage in comparison with people who are not disabled. Every set of circumstances should be considered on its own merits, which means managers will need to think laterally and creatively, taking the best advice available.
21. Line managers should identify their own learning and development needs in the light of local circumstances and discuss these needs with their own managers as part of the PDR process. Some training

suppliers provide specialist training, which should be considered for complex training needs.

22. At every level of the organisation, it is the responsibility of everyone with a supervisory role to ensure that learning needs, especially of those being supervised, are identified and addressed and that performance is monitored and reported through the PDR process.
23. Forces must engender a positive attitude to disability among all officers, which may require disability training. Disability learning can be developed through individual and/or team 'action plans', to ensure transference into the workplace with the aim of a positive impact on organisational practice.
24. Formal training is not the only solution. Staff can learn from disabled colleagues, members of the public, disability community groups, disabled staff associations and/or independent advisory groups.
25. Most forces have developed a first contact support scheme for disabled staff and their managers. Some forces are members of the National Police Disability Association or Police Disability Network (Employers' Forum on Disability (EFD)), or have local disabled staff associations, all of which provide forces with opportunities for consultation.
26. Other sources of advice include disability representative bodies, including the Royal National Institute for the Blind (www.rnib.org.uk), and the DRC website (www.drc-gb.org).
27. Delivery of localised training on very specific issues may be considered (e.g. if a work team has a member with a hearing impairment). The whole team could benefit from receiving awareness training on hearing impairments and/or practical skills training for use of basic British Sign Language. This can alleviate barriers experienced by both disabled and non-disabled people in the work team. Every case for training must be assessed on its own merit and the views of disabled staff sought before a decision is made.

Other issues

28. The statutory right not to be discriminated against on grounds of disability in employment applies to training, and covers all learning and development opportunities. Disabled people have the right to reasonable and appropriate access to learning programmes and career development opportunities. Reasonable adjustments include additional training, mentoring, extra reading time, preparing handouts in large print or on audio tape/disk and finding an alternative venue for didactic training.
29. The EFD supports employers and their disabled members of staff and provides guidance on issues relating to venues, resources, materials, visual aids, mode of delivery, etc. The EFD supports a dedicated police network. The EFD website is at: www.employers-forum.co.uk.
30. The content of courses and associated materials for management and staff training should be as set out in the guidance provided by the Home Office. Because the DDA is complex, care has been taken to ensure that the content is factually and legally correct.
31. The EFD has suggested that “for disability training, disabled trainers tend to be more persuasive communicators than their non-disabled counterparts” (EFD, *Promoting Change*, 2002). Training managers may wish to consider this when allocating trainers to training programmes.
32. A report published by the Disability Rights Commission (DRC) in March 2004 concluded that the biggest barrier to change in services is attitudes, perceptions and assumptions. When devising learning programmes, elements looking at cultural change in the organisation and the actual practicalities of implementing the DDA are recommended.
33. The DRC report goes on to state that: ‘Service training strategies must ensure that every level and area of staff is trained. It should not just be seen as an HR issue.’ (See www.drc-gb.org)

34. The report further recommends that the following points are included, understood and recognised:
- the social model of disability (i.e. concentrating on any impairment rather than the legal definition of whether someone is 'disabled');
 - that people are seen for what they can do as opposed to what they cannot do;
 - that disabled people often face barriers because of how individuals and institutions respond to them or fail to respond to their needs;
 - that disabled people make a positive contribution to society, and the positive contribution that disabled serving officers make should be recognised;
 - that disabled officers can often 'do the job' with reasonable adjustments and that they are not a burden to the Service or the team;
 - what being disabled means and that being identified as disabled is not a negative stereotype; and
 - 'disability etiquette', i.e. how to interact with disabled people.

Monitoring and evaluation

35. Identifying the initial development needs and subsequently evaluating the effectiveness of the learning solution for improved performance in the workplace are the responsibility of the organisation (i.e. the Police Service).
36. Training should be evaluated using the National Evaluation Strategy (NES), and evaluation processes should be incorporated into the training from the outset. The NES is supported by the *Models for Learning* guidelines, which are published by Centrex and are available at: www.ncalt.com/documents/modelsforlearning.
37. Disabled staff should be used as a resource in all aspects of the learning cycle, including design and evaluation of the impact of the training.

Resources

Training activity

38. An informal survey of forces conducted by the Association of Chief Police Officers (ACPO) found that:
- training activities which aim to further knowledge and skills in managing and supporting disability were patchy;
 - some disability equality training had been delivered as part of wider diversity packages, but with only a limited focus on employment;
 - some training had been delivered before and had been largely forgotten;
 - any specific training on the DDA appeared to have been limited to HR staff and senior managers; and
 - some localised awareness training on particular disabilities (e.g. dyslexia and hearing impairments) and their impact on service delivery had been provided.
39. ACPO acknowledged and gave credit to forces for ensuring that much of the training provided had been designed and delivered entirely by, or in collaboration with, external disability specialists.
40. ACPO considered that insufficient guidance and training was in place to meet the emerging needs of the Service and that further work, including a national learning and development strategy, is required to enhance the understanding of these needs and to meet them throughout all levels of the Service.

Learning and development package

41. Training is one option to meet the identified needs, although it cannot be through a 'one size fits all' product. An audit and an update of all learning and development activities are needed to ensure that all disability issues are appropriately covered, with a particular focus on training at 'entry' level, (e.g. probationer constable), managerial level (e.g. sergeant, inspector and police staff manager) and strategic level (e.g. BCU command team).

42. The Police Race and Diversity Learning and Development Programme was developed by Centrex. This links the National Occupational Standards with the PDR process and is available through the National Centre for Applied Learning Technologies (NCALT) Managed Learning Environment (MLE).
43. This e-learning programme has supporting workbooks, which provide forces with material that can be contextualised to meet local needs. The training package should contain the following elements:
- guidance on workshop support, trainer notes and delivery options;
 - quality assurance that leads to a 'fit for purpose' end;
 - compatibility with the broader framework for the delivery of diversity training;
 - the means and a strategy for regular review and update of content; and
 - involvement of disabled people in all aspects of the design process.



Appraisal and the PDR

44. Disabled staff will be assessed with due regard to their disability. Guidance on appraisal is set out in HOC 14/2003, *Performance and Development Reviews*, February 2003 and 37/2003, *Addendum to 14/2003*, July 2003.
45. Performance assessment is an ongoing process. For any employee it is important that the manager ensures that working practices and the workplace environment are as conducive to effective performance as possible. For a disabled officer, a reasonable adjustment may be necessary to remove any substantial disadvantage.
46. A PDR includes a development plan as an integral component. Disabled officers must have reasonable and appropriate access to training programmes and career development opportunities. Assessment must be made against activities and behaviours set out in the role profile in order to ensure that officers are assessed against their actual role. This will allow the identification of any gaps in performance, leading to a more focused development plan. For disabled officers, their role profile or job description should reflect any restrictions they may have, and any PDR assessment should be set against that specific role profile. Furthermore, when selecting those activities to include for assessment (see para. 27, HOC 14/2003), the selection must not place any disabled officer at a disadvantage.
47. If performance is deemed unsatisfactory, a suitable mechanism should be in place to help officers and managers identify whether the underperformance is due to a disability. If so, a reasonable adjustment may need to be considered.

A force's annual appraisal system provides a specific opportunity for officers to notify their line manager in confidence if they are disabled and are put at a substantial disadvantage by the force's working arrangements or premises. This gives the line manager the opportunity to find out if the officer requires reasonable adjustments, although it does not mean that the force should not consider reasonable adjustments for an officer at other times of the year.

48. Forces need a robust and fair process to ensure that they do not penalise officers for conduct that is a result of their disability, especially where adjustments to assist the officer have not been made.
49. Forces should ensure that suitable support mechanisms are in place for officers to be able to discuss issues regarding their disability and reasonable adjustments with their line manager, occupational health staff, associations and support groups.
50. Any absence from work due to a disability requires extra care to ensure that any action does not lead to unlawful discrimination. Once it has been accepted that the absence is due to a disability, forces should consider whether to make a reasonable adjustment by discounting the absences. The guidance on serving officers gives further advice on discounting disability-related absence.
51. In accordance with HOC 14/2003 (para. 27), the PDR must use a three-score rating – exceptional, competent, or not yet competent – as follows:
 - **Exceptional** – A staff member who consistently exceeds the standards described within a specific activity or the indicators described for behaviour. For example, the person would consistently take a lead on the activity, or act as a role model.
 - **Competent** – An appraisee who consistently performs to the standards described within a specific activity or the indicators described for a behaviour.

- **Not yet competent** – A member of staff who is not yet consistently performing to the standards described within a specific activity or the indicators described for behaviour. Development may be required if the person is new to their role or has undertaken additional activities. In some circumstances, this rating may apply to someone who is not performing despite development opportunities.
52. Where an officer is not performing to the required standard, the reasons for this underperformance must be examined. The line manager should discuss the matter with the officer and highlight any relevant areas for development. These will specifically relate to the role the officer is currently performing, and development actions should be clearly outlined on the PDR form, with timescales wherever possible.
 53. If the underperformance is due to a disability, a reasonable adjustment should be considered to the work and/or the workplace environment. Additional training may be required for the officer and/or their colleagues, and adjustments may need to be made to the role or the role may not be suitable. Each case must be treated on its merits, and advice should be sought from the force's HR department and other competent persons on workplace assessments, training availability and/or other available assistance. Any adjustments made should be achieved through a joint approach between the individual (and their representative, if applicable), the line manager and force HR departments.
 54. Once any reasonable adjustments have been made, it is reasonable to expect performance to be to the required standard.

Meeting the wider needs of the Service

- 55. A comprehensive Disability Learning Requirement covering all aspects of managing disability, including service delivery issues, was submitted to Centrex and has been implemented in full as part of the Police Race and Diversity Learning and Development Programme. 'Disability' is included in all stages of the training, including probationer training.
- 56. The DDA has been incorporated into the diversity and professional practice module of the Core Leadership Development Programme.
- 57. The content of that programme was strengthened for the DDA and includes disability awareness for sergeants and inspectors. The module is role-based and is founded on the National Occupational Standards and the Integrated Competency Framework. This is also available as an e-learning product on the NCALT MLE.

Promotion, selection and appraisal



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Introduction

This document provides guidance to the Police Service on the implications for promotion, selection and appraisal of police officers who may be disabled under the terms of the Disability Discrimination Act (DDA) (as amended).

This document should be used in conjunction with related guidance on:

- Best practice principles
- Recruitment
- Pensions
- Serving officers
- Training.



Job advertisements

1. The DDA states that a person is acting unlawfully if they offer a job or publish (or cause to be published) an advertisement which indicates, or might reasonably be understood to indicate:
 - that the success of a person's application for the job may depend to any extent on their not having any disability, or any particular disability; or
 - that the person determining the application is reluctant to make reasonable adjustments.
2. This applies to every form of advertisement or notice, whether advertised publicly or not, and includes any opportunity for employment, promotion or transfer. However, an advertisement may still be lawful even if it does indicate that having a particular disability will adversely affect an applicant's prospects of success. This would apply where, for example, the nature of the job in question was such that the employer was entitled to take the effects of the disability into account when assessing the suitability of applicants.

It would be lawful for a road policing department to advertise for motorbike riders and specify that officers who apply must be able to ride a motorbike.

3. The DDA does not give individual job applicants the right to take legal action in respect of discriminatory advertisements. Only the Disability Rights Commission can take action, but it should be noted that the content of an advertisement could be taken into account by an employment tribunal in determining a claim brought by a disabled person under the DDA.
4. The inclusion of any unnecessary requirements that are irrelevant to the job may discriminate against an applicant with a disability. Forces need to be sure that any advertising material and/or any requirements are essential to the job, as the inclusion of any unnecessary requirements could prevent or dissuade a disabled person from applying.

5. A common example used within the Police Service is a requirement asking for 'recent operational experience'. Many officers with a disability may be in a role that is not operational but may be able to demonstrate that they have acquired the required skills and abilities other than through recent operational experience.
6. The inclusion of unnecessary or marginal requirements in a job description or person specification can lead to discrimination, and while it would be reasonable to expect that most police officers will be able to perform all the duties of the role, it should always be borne in mind that some disabled people may not be able to do this, and that adjustments, where reasonable, should be made. For example, if the functions not able to be performed by the officers are marginal non-core duties, a reasonable adjustment may be to allocate those tasks to another person.
7. Blanket exclusions (i.e. exclusions of particular conditions which do not take account of individual circumstances) are likely to amount to direct discrimination, which cannot be justified. Forces must take care to ensure that websites and other materials that advertise vacancies do not make any statements that could be construed as a blanket ban. Forces should produce their own guidance documents that clearly demonstrate their understanding of their duties under the DDA. Forces should set out their willingness to make adjustments and think creatively in order to meet the requirements of the Disability Equality Duty.
8. The DDA does not prevent a job advertisement from stating that the employer would welcome applications from disabled people. This demonstrates a positive and public statement of the employer's policy, and could be one of the actions considered as meeting the Disability Equality Duty.

Restrictive and recuperative duties and the implications of the DDA

9. Historically, while there has been a perception that officers who are on restricted or recuperative duties cannot be promoted, a consistent approach has not been taken to the position of such officers. The policy set out below is designed to support consistent compliance with the principles of the DDA in respect of these officers and to assist in its application at a practical level.
10. While there is Home Office guidance on restricted and recuperative duties (see related guidance on serving officers), it may be helpful to summarise the meaning:
 - ‘Restricted’ duties means that an officer has been advised, usually by a medical practitioner or occupational health professional, that they cannot carry out the full duties of a police officer, and which their ‘line’ manager is required to assess and implement.
 - The purpose of ‘recuperative’ duties is to rehabilitate an officer back to full duties following sickness absence. Recuperative duties carry an expectation that the officer will recover within a reasonable time, such as six months, and will be able to perform full duties.
11. It should be noted that not all officers on restricted/recuperative duties are disabled. However, it may not be clear at the outset what an officer on recuperative duties will be physically capable of doing once they have recovered. Forces should clearly define what is required for effective performance in any potential role. If the officer will be unable to perform a role even with reasonable adjustments, the decision may have to be deferred and regularly reviewed. As with all selection processes, a formal appeals procedure should be available, to allow officers an opportunity to raise any concerns.
12. If the nature of their disability causes the officer to be restricted to the duties that can be performed in their particular role, the restriction becomes a relevant factor and will form part of their ongoing review. Each case must be treated on its own merits.

13. Management decisions should be based on the rank or role profile as detailed in the Police Integrated Competency Framework (PICF); that is:
- **promotion** should be to the generic rank profile; and
 - **selection** should be against the more precise role profile.

Note: Where a role profile from the PICF is unavailable, a contemporary job description and person specification must be used in any decision making.

14. The activities or tasks outline the relevant behaviours or competencies required for adequate performance in the role, whether or not the officer has a disability.
15. The officer and line manager need to satisfy the following:
- Does disability affect the officer's ability to carry out the role?
 - What reasonable adjustments can be made to remove any substantial disadvantage facing the officer?
 - What else might be needed to assist the officer in carrying out the role?

A male officer is disabled by a severe stammer, but only under stress. He applies for transfer to a neighbourhood policing team, to a job that would involve making oral presentations to community groups. The force sets candidates a short oral test. It is likely to be a reasonable adjustment to allow him more time to complete the test. Alternatively, it may be a reasonable adjustment to give the test in written form instead – though not if excellent oral communication skills are necessary for the job and assessing those skills was the purpose of the test.

16. Although the final decision is made by the line manager, additional medical advice or professional evaluation may be necessary, to identify the potential impact of any restriction or limitation and to be relevant to the rank or role profile. The officer should be involved in the process.
17. Forces will support disabled people and comply with the DDA.

Promotion and examinations

Promotion

18. The promotion process involves an evaluation by the line manager with the officer to determine whether any impairment will impact on the officer's ability to carry out the activities of the role to the appropriate standards for the rank profile and/or to establish what reasonable adjustments are needed to remove any substantial disadvantage that would enable the officer to perform adequately in the role. The same principles apply to officers who are seeking promotion while carrying out recuperative duties.
19. It is not practical to list a definitive number of activities that an officer must be able to perform in order to carry out the role. However, if the majority of the activities can be carried out while one or a few minor activities cannot, this will help inform the decision as to whether an adjustment is reasonable or not.

A male officer has dyslexia. He applies for transfer to a role which involves writing letters. The force gives all applicants an in-box tray test, which requires candidates to write letters. The man can generally write letters very well but finds it difficult to do so in stressful situations and within short deadlines. He is given longer to take the test: this adjustment is likely to be a reasonable one.

20. Following the introduction of the duty to promote equality for disabled people on 5 December 2005, forces need to monitor the progression of disabled staff in the promotion process, and consider additional positive measures to enable more disabled officers to progress in the Police Service.

Examinations

21. The examining body should provide candidates with information about the promotion process on receipt of an application, enabling the candidate and examining body time to implement any reasonable adjustments that are necessary.

- 22. Any reasonable adjustments put in place for the candidate in the workplace should be followed through to the examination process. However, the candidate needs to ensure that the examining body understands and implements any reasonable adjustment required.
- 23. A statement from the officer outlining the need for an adjustment may be sufficient, but there could be instances where a medical statement verifying a disability is required by the examining body before a reasonable adjustment is put in place.
- 24. Any additional costs arising from the process, for example the cost of a medical certificate. The provision of this report is currently at the expense of the candidate or their force. It is hoped that forces will agree to meet this expense.

The selection process

Selection for specialist roles and medical/occupational health issues

- 25. Disabled officers should have access to opportunities for moves to specialist roles. Officers on recuperative and restricted duties, whether due to a disability or not, should not be prevented from applying for specialist roles, provided that the necessary activities can be performed.

Fair assessment

- 26. To ensure fair assessment of disabled officers and avoid discrimination, assessment centres must be physically accessible to disabled people. Assessment centres may be used by a range of people, some of whom may have sensory or mobility impairments, and forces must consider the accessibility of both the assessment centre processes and the physical environment.
- 27. It is also important to consider whether reasonable adjustments can be made to reduce or remove any substantial disadvantage facing the

officer in the assessment centre and whether further adjustments can be made to assist the officer in carrying out a new role.

28. Although this is a managerial decision, medical advice or professional evaluation may be necessary, to identify the potential impact of any impairment. This should always involve the officer and should be carried out in relation to the relevant role profile. Additionally, the line manager should also examine, with the officer's involvement, whether there are any reasonable adjustments that can be made.

Taking account of performance issues that are related to disability

29. The DDA does not prohibit a force from appointing the best person for the job. Whenever a person is not selected for a job, whether they are disabled or not, proper justification must be fully noted on the file. Ensuring that standard tests and assessment meetings are accessible and consideration of the way the assessment is conducted are essential factors in eliminating potential discrimination.

Pensions



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Purpose of guidance

1. Since 6 April 2006 there has been a new Police Pension Scheme in place for new entrants, the provisions of which are set out in the Police Pensions Regulations 2006. New entrants and those who opted out and now wish to opt back in can only be members of the new scheme. Therefore, this guidance applies only to the new Police Pension Scheme 2006, which for brevity shall be referred to as the Police Pension Scheme in the rest of this document. The intention of this guidance is to inform and advise recruiters, force managers, pensions administrators, police authorities, occupational health staff and safety and welfare staff, including force medical advisers (FMAs) and selected medical practitioners (SMPs), in their dealings with disabled recruits to the Police Service. It should be read in conjunction with the guidance on recruitment.

Outline of provisions in the Police Pension Scheme

2. Individuals whose pensions costs are likely to be disproportionately high due to their risk of early retirement on the grounds of ill-health are excluded from all ill-health benefits under the Police Pension Scheme, whether related to a disability under the Disability Discrimination Act (DDA) or not. However, the pension contributions of this excluded group are also reduced.
3. The Government Actuary's Department (GAD) has produced reference tables for use in the health screening of new entrants to the scheme. These tables are used by the police authority in conjunction with a report issued by a medical practitioner selected by the authority. This enables the police authority to identify those individuals for whom the cost of providing scheme benefits as a whole, including those for ill-health, is expected to be more than 50 per cent greater than for the comparable officer in the same age group who has no identified risk of early retirement on the grounds of ill-health. It is these individuals who are excluded from the ill-health benefits. Exclusion means that an ill-health

retirement award cannot be paid; neither can a deferred police pension be approved for early payment on ill-health grounds. This policy mirrors the approach taken by the Principal Civil Service Pension Scheme.

How the decision is made

4. It is important to note the division of roles between chief officers and the police authority. Chief officers (or those delegated by them) are responsible for recruitment, and the police authority (or its delegates) is responsible for decisions on eligibility for ill-health pension benefits. Each force assesses candidates' suitability for the duties of an operational police constable before conducting health checks and medical assessments. Assessing all candidates and deciding who is most suitable before conducting health checks will help to minimise allegations of disability discrimination against forces on the grounds that the job was not offered due to prejudicial health reasons. For the purposes of this guidance, candidates are defined as applicants wishing to join a police force, including former officers seeking to rejoin a force. It does not include transferees from one Home Office force to another.
5. Candidates who are successful at the SEARCH assessment centre are sent a health declaration form, which they should complete and take to their GP for confirmation/comment. It is made clear on this form that the medical information being given here and at subsequent examinations will lead, among other things, to an opinion being formed of the risk of early retirement of the applicant through ill-health. This form will be returned on completion to the occupational health unit. All candidates are examined by the occupational health unit/FMA to establish fitness for work. This procedure is discussed in the guidance on recruitment. However, there is also a medical opinion as to the risk of becoming permanently disabled before reaching normal retirement age (age 55). This will inform the decision on eligibility and access to the ill-health benefits of the Police Pension Scheme.
6. As well as medically examining the applicant, the occupational health unit/FMA examines the health declaration and any other relevant information relating to the applicant's health and proposed police

service. The FMA identifies whether there are any health problems or risks of disablement which might be expected to prevent service to normal retirement age. This may involve the FMA in obtaining specialist reports from the applicant's treating physician. These decisions are recorded on Form A, along with a judgement about fitness for work. This form can be completed by the FMA without referral to the SMP where they consider that there is no significantly increased risk of the applicant becoming permanently disabled for police duties.

7. Where the FMA considers that there is a significantly increased risk of permanent disablement, or where they are in doubt about the issue, the case must be referred to a suitably qualified SMP. This may mean finding an SMP with qualifications relating to the particular condition under examination or taking specialist advice. Referral should be made by sending Form A to the SMP. The FMA normally also makes a recommendation as to how soon permanent disablement is likely to occur, but needs not do so in finely balanced cases. The SMP needs to see every applicant who has been recommended by the FMA. The SMP makes a final decision based on a balance of probabilities. Subject to appeal, the SMP's decision is final.
8. The SMP reports their decision to the police authority on Form B. A copy must also be sent to the applicant. The police authority then uses the report issued by the SMP in conjunction with reference tables produced by the GAD – see Form C. The tables determine the application of the health standard identified by the SMP. The police authority will use the tables to cross-reference age last birthday at entry and duration to assumed retirement due to ill-health. For each category in the tables, an 'include' or 'exclude' will determine whether the applicant, if successful, would be entitled to the full benefits of the Police Pension Scheme or would be excluded from the ill-health benefits of the scheme. Although the FMA and SMP do not need to refer to the actuarial tables used by the police authority to make the medical decision, they should have access to and a basic knowledge of them. In the case of recruits, the costs of this entire procedure are borne by the police authority and not the applicant. However, where the applicant is an officer who has opted

out of the Police Pension Scheme and is seeking to resume pension contributions, the costs are borne by the applicant.

9. It is for force managers decide whether to appoint a candidate. This may involve a risk assessment and/or further discussion with the candidate, the SMP, the occupational health unit, the health and safety adviser and other experts to determine the most appropriate and effective adjustment.

Informing applicants

10. Applicants are informed as to whether they would be eligible for the ill-health benefits of the scheme. The implications of the ill-health benefits exclusion is explained to those who are affected at this time, so they can make an informed choice about whether they wish to continue with their application through the final stages. This explanation is in the form of a standard note (Form D). The recruitment unit attaches to Form D a copy of both the police authority's decision (Part I of Form C) and the SMP's report (Form B), so that the applicant can make an informed decision about whether to appeal.
11. Applicants need to be fully informed about the consequences of this decision. They should be told exactly what their entitlements would be and made aware of the possibility of having to leave the force without an ill-health pension or an injury award under certain circumstances (see section below on injury awards). They should also be encouraged to seek independent financial advice on where to invest the reduction in their contributions. Such applicants should also sign a declaration that they fully understand the implications of their exclusion from the ill-health benefits (see Form E).
12. Once an applicant is admitted to the Police Pension Scheme with a restriction on access to ill-health benefits, the decision is final subject to appeal against the medical assessment within the time limits allowed. The decision cannot be revisited once an officer is recruited. If an applicant falls to be excluded from ill-health benefits, they should be made aware of this fact by the managers who are handling the recruitment process. Such applicants may not apply to another force to try to attract a more favourable pensions outcome. A decision made by one force will apply to other forces. Applicants who reapply are required to declare the fact to the next force. Forces should therefore check the outcome of previous applications with the respective force. In order to avoid reapplications being used as a means of reviewing appeal decisions, an applicant who does not qualify for ill-health benefits and decides not to accept an offer of appointment will not be able to apply for a new assessment of eligibility for ill-health benefits for

Appeals procedure

13. There is a formal appeals procedure for applicants who disagree with the decision that they should be excluded from ill-health benefits. The recruitment unit also sends the applicant an appeal form (Form F) with Form D. An applicant who is dissatisfied with the SMP's report must lodge an appeal within 28 days. For the appeal to proceed, appellants must provide evidence in the form of a report that a medical practitioner has examined the applicant and disagrees with the SMP's opinion. (It is not necessary for that medical examination to have been conducted since the SMP's report.) The evidence must be provided within two months of receipt of the authority's decision, with the SMP's report attached. Where the appellant is unable to provide such evidence within two months, they may request more time, but this should be granted only in exceptional circumstances.
14. If the SMP agrees with the medical evidence adduced by the applicant in support of their case and the revised SMP's report results in the police authority allowing the applicant access to ill-health benefits, the revised report shall be final and no further appeal action is necessary. In any other case the police authority shall arrange for a third registered medical practitioner to examine the applicant and to report in writing to the authority and the applicant. The third registered practitioner shall be acceptable to both the SMP and the medical representative of the applicant, except that in the event of a failure to agree, the police authority may appoint such third medical practitioner as it considers appropriate. The third practitioner should, where necessary, be a specialist.
15. Where the third medical practitioner disagrees with any part of the SMP's report, they will issue a revised report, which shall be final. In the event of a revised report, the police authority will determine by reference to the GAD tables whether or not the applicant is to be given access to ill-health benefits. Applicants who want to appeal against the decision should be advised that their application will be deferred until the appeal has been determined. In these circumstances, applicants are told that their vacancy will be safeguarded and honoured for a month after the outcome of the appeal.

Consistency across forces

16. It is important to ensure the greatest possible consistency in pensions policy under the DDA across forces. Forces must adhere to this guidance and use suitably qualified SMPs. The use of standardised forms and certificates and of simple reference tables in conjunction with guidance will remove a large element of uncertainty about the process. FMAs who are in doubt about the assessment of the risk of early retirement through ill-health will refer the cases to an SMP, as is current practice with ill-health retirement cases. This should strengthen the accuracy of the medical opinion on which the pensions policy rests. There is also an appeals process for any cases in which applicants feel they have not been assessed fairly (see the flow diagram on page 35).

Reduction in contributions

17. The reduction in officer pension contributions will be equivalent to 3.5 per cent of pensionable pay. This reduction reflects an actuarial calculation of the average cost borne by the police authority and the officer of providing ill-health early retirement benefits across the Police Pension Scheme as a whole. It is important to note that the 3.5 per cent reduction reflects the average cost of providing the benefits to the current membership, excluding those with an identified risk of retirement through ill-health, and not the cost of providing such benefits to the excluded group.



Injury awards

18. The recruitment process will have screened out applicants whose physical or mental health would be at particular risk from operational police duty. For instance, some applicants with a cardiovascular or musculoskeletal condition may be liable to have the deterioration of their condition either aggravated or accelerated by the wear and tear of operational police duties. Other applicants may have a condition that renders them particularly vulnerable in an assault or fall. In both types of case the force will need to weigh up whether the risk of harm is too great to recruit the applicant, given its duty of care and the need for recruits to carry out operational duties.
19. Even with such measures to reduce the risk of harm to members of the force, no officer is totally secure from injury, and it is important that applicants understand the key points of the circumstances in which an injury award is payable. An injury award is payable where an officer has been made permanently disabled as a result of an injury received in the execution of duty. In the context of injury awards, permanent disablement means being permanently disabled for the ordinary duties of a member of the force.
20. A decision to exclude an officer from the ill-health benefits of the Police Pension Scheme does not affect their eligibility for an injury award. Unlike an officer who opts out of the Police Pension Scheme under Regulation 9, an officer who is excluded from ill-health benefits under Regulation 8 of the Police Pensions Regulations will not have their injury pension reduced by reference to a notional ill-health pension and will therefore receive the full injury pension. This can provide valuable protection against injuries that are unrelated to a pre-existing condition. However, officers with a pre-existing condition could be left without either an ill-health pension or an injury award if an injury in the execution of duty has accelerated disablement and forced their retirement from the police force.
21. The courts have held that an injury which does not cause but accelerates the onset of permanent disablement does not qualify for an

injury award under the Police Injury Benefit Regulations. However, given the critical importance of whether an injury award is paid, police authorities and their SMPs should bear the following considerations in mind when dealing with such cases:

- Where an injury has accelerated the permanent disablement, the SMP should be able to give an estimate of the year in which that disablement would have arisen in any case.
- The further away the estimated year of the onset of permanent disablement had there been no injury, the greater the element of doubt over a decision that the injury accelerated and did not cause that disablement.

22. Care should therefore be taken to ensure that officers who are excluded from ill-health benefits understand that there is a risk of being left without either an ill-health retirement award or an injury award if an injury in the execution of duty leads to permanent disablement and early retirement. It is to be noted, of course, that permanent disablement does not necessarily mean that the individual is disabled for non-police work.

23. Although all recruits will be expected to carry out the full duties of a patrol constable in their first few years, particular care should be taken in relation to those excluded from ill-health benefits to keep their state of health under review and also to assess the need for adjustments to ensure that they are not placed on duties which expose them to unnecessary risk of injury or accelerated deterioration of their medical condition.

Alternative financial provision to an ill-health pension

24. Excluded officers should be encouraged to seek independent financial advice as to the best way to invest the 3.5 per cent reduction in the contribution rate in respect of ill-health benefits, to offset the risk described above.

Rejoiners and transferees

- 25.** Former officers applying to rejoin a police force will be assessed for eligibility for ill-health benefits in the same way as other recruits. Officers transferring from one Home Office force to another without a break in service will not be re-assessed in terms of pension entitlement. Also excluded from reassessment are officers who have been on a career break, those who have successfully appealed against dismissal or requirement to resign and former officers who are rejoining having been ill-health retired and now recovered.

Officers seeking to resume payment of pension contributions

- 26.** A regular serving officer who seeks to cancel their election not to pay pension contributions will be required to submit to a medical examination. If it is finally determined following examination that the likely cost of providing them with ill-health benefits is disproportionately high, they will be entitled to join or rejoin the scheme only on the basis that they will not be eligible for ill-health benefits if they retire on the grounds of permanent disablement.
- 27.** In these cases, the SMP should complete Form B and the police authority Form C. These should be available to the officer on request. If the officer has been excluded from ill-health benefits, Form C, Form F and the question and answer (Q&A) sheet should be sent to the officer. The appeals procedure is as set out for applicants to a police force.

Police Service recruitment – Police Pension Scheme 2006 health standard

Form A: Report by the force medical adviser

This form is for recording the decision of the force medical adviser (FMA) on whether an applicant to the force is fit for police service and can be expected to remain able to carry out the ordinary duties of a member of the force until normal retirement age (age 55).

Medical opinion

Applicant's full name: _____

Date of birth: _____

Gender: _____

Ethnicity (16 + 1 categories): _____

Proposed role: _____

Having examined the health declaration and other relevant information relating to the health and proposed appointment of the above-named applicant to the force, and having examined the applicant, it is my opinion on a balance of probabilities that:

1. There are/are no* identified health problems which might prevent the applicant from carrying out the duties of an operational police constable now or for a reasonable time.**

* delete if not applicable

** the Disability Discrimination Act guidance on recruitment explains that 'while "reasonable time" will itself vary according to all the circumstances of the case, including the quality of the service that the applicant can offer, a period of approximately five years of police service will be the norm and will be the longest period of time that will be considered'. For the purpose of this medical assessment the FMA should take 'reasonable time' to mean five years, since issues such as quality of service are not a medical matter. It will be for the recruitment unit to take such considerations into account according to the individual circumstances of a case.

2. There are/are no* identified health problems which are liable to be aggravated by carrying out the duties of an operational police constable now or for a reasonable time.**
3. There are/are no* identified health problems, the onset of which is liable to be accelerated by carrying out the duties of an operational police constable now or for a reasonable time.**
4. There are/are no* identified health problems which render the applicant at particular risk of disablement by carrying out the duties of an operational police constable now or for a reasonable time.**
5. The following is a description of the identified health problems
(Please describe below. A diagnosis is not required but rather an assessment of how capability for police duties will be impaired):

Where the applicant is assessed as not fit for police service, the form should be referred back to the recruitment office without a long-term health assessment.

Where there are identified health problems

6. The applicant would require adjustment(s) to enable him/her to carry out the duties of an operational police constable. The nature of the adjustment(s) is attached. *(Please attach details of adjustments on a separate sheet)*

* delete if not applicable

** the Disability Discrimination Act guidance on recruitment explains that 'while "reasonable time" will itself vary according to all the circumstances of the case, including the quality of the service that the applicant can offer, a period of approximately five years of police service will be the norm and will be the longest period of time that will be considered'. For the purpose of this medical assessment the FMA should take 'reasonable time' to mean five years, since issues such as quality of service are not a medical matter. It will be for the recruitment unit to take such considerations into account according to the individual circumstances of a case.

Long-term health assessment

7. There are/are no* identified health problems which are liable to be aggravated by carrying out the ordinary duties of a member of the force before reaching normal retirement age.
8. There are/are no* identified health problems, the onset of which is liable to be accelerated by carrying out the ordinary duties of a member of the force before normal retirement age.
9. There are/are no* identified health problems which render the applicant at particular risk of injury leading to disablement by carrying out the ordinary duties of a member of the force before normal retirement age.
10. There are/are no* identified health problems which might be expected to render the applicant permanently disabled for the ordinary duties of a member of the force before normal retirement age.
11. The following is a description of the identified health problems and risks of disablement or permanent disablement (*Please describe below. A diagnosis is not required but rather an assessment of how capability for police duties will be impaired*):

Where the FMA considers there is a significantly increased risk of permanent disablement, or where they are in doubt about the issue, they must refer the case to the selected medical practitioner for a decision.

* delete if not applicable

12. In view of the applicant's medical condition and any particular risk posed to it by ordinary police duties, in my assessment the following factors give rise/may give rise* to a significantly increased risk of the applicant becoming permanently disabled for the ordinary duties of a member of the force before normal retirement age:

Complete either section 13 or section 14

13. Taking the above factors into consideration, it is likely that the onset of permanent disablement will occur in (*tick as applicable*):

- ☐ 0–5 years
☐ 6–10 years
☐ 11–20 years
☐ over 21 years

OR:

14. I do not feel able to suggest a likely timescale for the onset of permanent disablement, but I would identify the following factors as relevant to that timescale:

* delete if not applicable

Declaration

These opinions are given in good faith and are based solely on the information provided to me and on my own examination of the applicant as part of the recruitment process. I confirm that I am a registered medical practitioner acting for the police force.

Signature: _____

Name: _____

Date: _____

Notes: _____

Police Service recruitment – Police Pension Scheme 2006 health standard

Form B: Report by the medical practitioner selected by the police authority

This form is for recording the decision of the selected medical practitioner on whether an applicant to the force or a regular police officer who previously opted out of the Police Pension Scheme and now wishes to rejoin has a significantly increased risk of becoming permanently disabled for the ordinary duties of a member of the force before normal retirement age (age 55). A copy of this report must be supplied to the person who is subject to the report.

Medical opinion

Applicant's full name: _____

Date of birth: _____

Gender: _____

Ethnicity (16 + 1): _____

Proposed role: _____

Having examined the individual's health declaration, the FMA's report and other relevant information relating to the health and, if appropriate, the proposed appointment of the above-named applicant to the force, it is my opinion on a balance of probabilities that:

1. There are/are no (*delete as appropriate*) identified health problems which might be expected to render the applicant permanently disabled for the ordinary duties of a member of the force before reaching age 55.
2. The health problems are as follows:

3. There appears to be a significantly increased risk of the applicant becoming permanently disabled for the ordinary duties of a member of the force and I estimate that this is likely to occur in *(tick as applicable)*:

- ☐ 0–5 years
☐ 6–10 years
☐ 11–20 years
☐ over 21 years

Declaration

These opinions are given in good faith and are based solely on the information and reports provided to me and on my own examination of the individual. I confirm that I am a registered medical practitioner selected by the police authority under Regulation 8 of the Police Pensions Regulations 2006.

Signature: _____

Name: _____

Date: _____

Police Service recruitment – Police Pension Scheme 2006 health standard

Form C: For use by or on behalf of the police authority

This form is for recording the police authority's decision on whether an applicant to the force or a regular police officer who previously opted out of the Police Pension Scheme and now wishes to join or rejoin meets the scheme's health standard for eligibility for the ill-health benefits of the scheme.

Part I

Full name: _____

Date of birth: _____

Gender: _____

Ethnicity (16 + 1): _____

Proposed role: _____

The above individual has been assessed by Dr: _____, the SMP, as presenting a significantly increased risk of permanent disablement for the ordinary duties of a member of the force in (*tick as applicable*):

- ☐ 0–5 years
- ☐ 6–10 years
- ☐ 11–20 years
- ☐ over 21 years

The information above must be used in conjunction with the actuarial tables below. The SMP's assessment of estimated length of time to the onset of permanent disablement, as indicated above, should be compared with the age of the applicant on entry to the scheme, to determine whether the applicant is to be included or excluded from the ill-health benefits of the Police Pension Scheme 2006, given the risk of retirement through ill-health once so disabled.

	Duration to retirement through ill-health			
Age	0–5 years	6–10 years	11–20 years	Over 21 years
Under 20	Exclude	Exclude	Exclude	Include
20–24	Exclude	Exclude	Include	Include
25–29	Exclude	Exclude	Include	Include
30–34	Exclude	Exclude	Include	Include
35–39	Exclude	Include	Include	Include
Over 40	Include	Include	Include	Include

The police authority has decided to **include/exclude** (*delete as appropriate*) the applicant from the ill-health benefits of the Police Pension Scheme 2006.

Signed on behalf of the police authority: _____

Date: _____

Part II

If the applicant has been excluded from ill-health benefits, the first page (Part I) of this form should now be sent to the applicant together with:

- Forms D, E, and F and the Q&A sheet (in the case of an applicant to the police force); or
- Form F and the Q&A sheet (in the case of an officer seeking to rejoin the Police Pension Scheme).

The remainder of this form should now be completed by the police authority and retained for the duration of the service of the officer or of the applicant, should they decide to continue with their application.

1. The police authority has sent Forms D, E and F plus the Q&A sheet to the applicant. ☐
2. The applicant/officer has/has not (*delete as appropriate*) appealed against the exclusion from ill-health benefits. ☐
3. The police authority has received the signed declaration that the applicant understands the implications of their exclusion from the ill-health benefits. ☐
4. The police authority has sent Form F and the Q&A sheet to the officer. ☐

Notification of limitation on benefits under the Police Pension Scheme 2006

Form D: Information for the applicant

Although you meet the health criteria for recruitment to the Police Service, unfortunately you have not met the longer-term health standards required to enjoy the full range of benefits under the Police Pension Scheme 2006. I enclose a copy of the police authority's decision (Form C) and a copy of the report of the medical practitioner selected by the police authority (Form B), on which the police authority's decision is based. This letter explains the implications of this to you and, in particular, how your pension rights are affected. You have a right of appeal against this decision. More details are given below. I also attach a Q&A sheet, which you may find helpful.

If you continue with your application and are successful, you can join the Police Pension Scheme 2006 and build up valuable rights to a police pension payable from age 55 (normal retirement age) provided that you are still in service at that point and have not left the scheme. However, the specific risk attached to your becoming permanently disabled before you reach retirement age means that you will not be eligible for additional ill-health benefits. More details are given in the Q&A sheet, but the main benefit to which you would not be entitled is an ill-health pension if you had to be retired from the force on medical grounds.

As a potential recruit to the Police Service you have been assessed as medically fit to carry out the duties of an operational police constable for a reasonable period, but you should understand that the force would need to bear in mind its health and safety obligations when assigning you to particular posts in order to ensure that your health is not placed under undue risk.

Although the force will do whatever is reasonable to minimise the effects of any disability you have, this may with time affect the scope of the jobs you can undertake. Should you become permanently disabled, the force would seek to retain you as a police officer wherever practicable, but that may be possible in only a limited number of career options.

Where retention as a police officer is not possible, it may be necessary to terminate your service. If this were to occur you would not receive a pension or other benefit (unless you were entitled to an injury award) until age 65 (or immediately if you are 55 or over at the time of leaving).

As an officer excluded from ill-health benefits you would pay reduced contributions to the Police Pension Scheme – currently at a rate of 6 per cent instead of 9.5 per cent of your pensionable pay.

In the event of permanent disablement, an officer in your position could still receive an injury award. Such an award is not dependent on an officer paying pensions contributions, but it would be paid only where permanent disablement was attributable to an injury in the execution of duty and not to a pre-existing condition. We do not want to overstate this risk, but policing is a demanding career. Before you decide to continue with your application you should therefore bear the risk in mind that you could be retired from the Police Service early without an immediate pension.

Once an applicant is admitted to the Police Pension Scheme 2006 with a restriction on access to ill-health benefits, the decision is final subject to appeal against the medical assessment within the time limits allowed. I should point out that because the cost of retirement through ill-health is less as you grow older, it is possible that if you reapply when you are older you may not be excluded from early ill-health benefits. There is a minimum period of three years before you can reapply for a fresh assessment of the risk of retirement through ill-health. However, there can be no guarantee of the outcome of this issue, nor any guarantee of your acceptability in future as a police officer.

We want you to make an informed choice. We would in particular advise you to consider the option of using the savings from the reduced pension contributions to help you make provision for your future, should you become permanently disabled and leave the force. If you are at all unsure of your best options you should seek independent financial advice and also consider the possibility of insurance.

If, as we hope, you want to continue with your application, you will first need to decide whether or not to appeal against the medical decision that led to your exclusion from ill-health benefits. If you do not want to appeal, please

sign and return to this office the attached declaration – Form E. If you want to appeal, please complete and return Form F. In either case, the completed form must be returned to this office within 28 days of the date of receipt of this letter.

If you require further clarification of your position before signing the declaration at Form E, please contact me as soon as possible at:

Notification of limitation on benefits under the Police Pension Scheme 2006

Form E: Declaration of understanding Police applicants only

Please read the following and sign the declaration below.

I wish to continue with my application for the post of constable. I understand that, if my application is successful, I may join the Police Pension Scheme but that, in view of my medical condition, I will be excluded from its ill-health benefits, which include an immediate ill-health award or early payment of a deferred pension.

If my application is successful, I understand that:

- the decision to exclude me from ill-health benefits as a member of the Police Pension Scheme is final subject only to an appeal, which I may make within 28 days on the form provided (Form F);
- the force will need to take its health and safety obligations into account when assigning me to particular posts and that this may in time affect the range of jobs I can undertake;
- the force will try to retain me where practicable if I become permanently disabled for the ordinary duties of a member of the force, but that this is likely to be possible only within a limited number of posts;
- if I become permanently disabled and the force is unable to retain me, I will be liable for medical retirement without an ill-health pension;
- I may qualify for an injury award in certain circumstances, but that such an award is not payable if it is found that a pre-existing condition, rather than an injury on duty, caused my permanent disablement or if the onset of that disablement was only accelerated and not caused by the injury on duty; and
- if I join the Police Pension Scheme I will pay 6 per cent* of my pensionable pay in contributions towards my pension as a result. (This is 3.5 per cent

* 9.5 per cent is the current standard contribution rate. This is subject to review, and therefore the 6 per cent may increase over time irrespective of the cost of providing ill-health benefits.

lower than the 9.5 per cent* standard employee contribution rate.) I confirm that I have been advised to take independent financial advice as to how to make the most prudent use of the saved contributions to provide for my future should I become permanently disabled and cease to serve as a member of the force.

I do not want to appeal against my exclusion from ill-health benefits under the Police Pension Scheme. *(Delete if you have appealed but were unsuccessful and now wish to confirm your wish to continue with your application)*

Signed: _____

Name (printed): _____

Date: _____

Notification of limitation on benefits under the Police Pension Scheme 2006

Form F: Appeal against exclusion from ill-health benefits under the Police Pension Scheme 2006

Applicant's appeal against the opinion of the selected medical practitioner

You should return this form within 28 days of receiving the selected medical practitioner's report.

To the clerk, _____ police authority

1. I have received the decision of the police authority dated _____ to exclude me from ill-health benefits under the Police Pension Scheme 2006. I am dissatisfied with the opinion of the medical practitioner selected by the police authority on which its decision is based.
2. I wish to appeal against the report of the selected medical practitioner dated *(Give date of report)*

3. I will provide the medical evidence needed for an appeal within two months from the date I received the selected medical practitioner's report. The name and full address of my medical practitioner is *(Give the name and address of the medical practitioner whom you are asking to provide medical evidence in support of your appeal. Without such evidence your appeal will not be able to proceed):*

4. The following specialists have treated me for the condition in question
*(Give the names of any specialists that have treated you for your
medical condition. This is to avoid such a person being appointed to
decide the appeal):*

5. I understand that in view of my appeal I will not be required to decide
whether I want to continue with my application before the outcome
of the appeal is known. (For applicants for appointment to a police
force only.)

Signed: _____

Name (printed): _____

Date: _____

Question and answer sheet

- Q)** If I have a condition with long-term health implications, how was I able to meet the recruitment criteria?
- A)** The Police Service is committed to recruiting suitable officers who can undertake the duties of an operational constable for a reasonable period of time, in order to make use of the training invested in them. You have been assessed as fit for operational duty for such a period but there are concerns that you will not be able to remain fit for the ordinary duties of a member of the force in the longer term.
- Q)** What is a reasonable time?
- A)** The DDA guidance on recruitment explains that ‘while “reasonable time” will itself vary according to all the circumstances of the case, including the quality of the service that the applicant can offer, a period of approximately five years of police service will be the norm and will be the longest period of time that will be considered’.
- Q)** What is the Police Pension Scheme that I would be joining?
- A)** As of 6 April 2006, all new entrants and those who opted out and now wish to opt back in have to join the new Police Pension Scheme 2006. All references to the Police Pension Scheme that you are joining are to the 2006 scheme.
- Q)** How do you establish the longer-term health standards required for access to ill-health benefits under the Police Pension Scheme 2006?
- A)** As part of your application, you were asked to provide medical information and undergo a medical examination to determine the likelihood of your becoming permanently disabled for the ordinary duties of a member of the force. Your medical assessment has indicated that you are likely at some point in the future to need retirement through ill-health due to an existing medical condition. The police authority, acting for the Police Pension Scheme 2006, used this information in conjunction with actuarial tables which determined that the cost of providing scheme benefits to you is expected to be more than 50 per cent greater than for the comparable average officer in the same group.

- Q)** How does this decision affect my pension rights?
- A)** If you are offered a job as a police constable you can still join the Police Pension Scheme 2006. The Police Pensions Regulations 2006 allow an officer to retire with an immediate ordinary pension from age 55. In addition to such personal awards there are survivor benefits for spouses and dependent children. However, you would not be eligible for early payment of a deferred pension because of permanent disablement, and your membership would not extend to payment of an ill-health pension on compulsory retirement on medical grounds. To compensate for this, you would pay reduced contributions to the scheme at an actuarially assessed reduction of 3.5 per cent.
- Q)** What are the ill-health benefits under the Police Pension Scheme 2006?
- A)** Where an officer is assessed as permanently disabled for the ordinary duties of a member of the force and is retired from the force on medical grounds, they will receive either an award in the form of a repayment of contributions or an ill-health pension. Alternatively, a former officer who left the force with a deferred pension (which comes into payment at 65) may have that pension put into early payment on being assessed as permanently disabled for regular employment. Exclusion means that an ill-health retirement pension cannot be paid, neither will a deferred pension be approved for early payment on ill-health grounds.
- Q)** What happens if I become permanently disabled?
- A)** An officer who is assessed as permanently disabled for police duties may be retired from the force on medical grounds. As a matter of policy a force will seek to retain a permanently disabled officer wherever practicable. The force would try to keep you on, but the choice of jobs you could do safely could be limited. In any case, retention is not always possible and medical retirement may be necessary. As an officer excluded from ill-health benefits you would not receive an ill-health pension on compulsory retirement on medical grounds, nor would you receive early payment of a deferred pension.
- Q)** Would I be able to find a police staff job in the force if I could not stay on as a police officer?
- A)** If the force could not keep you on as a police officer it might be possible for you to become a member of police staff instead of being

medically retired, since the fitness requirements for police staff jobs are not as high as for police officers. However, this would depend, among other things, upon your condition and whether there is an existing, vacant police staff post which you are able to do. You should also note that police staff have separate pay and conditions from police officers, and an officer would have to resign or retire from the force in order to be re-engaged as a member of police staff. If you were offered a police staff job it would be at the rate of pay applicable to police staff.

Q) Will I also be excluded from an injury award?

A) All officers, whether they are members of the Police Pension Scheme or not, are eligible for injury awards. The decision to exclude you from the ill-health benefits of the Police Pension Scheme does not affect your eligibility for an injury award. Injury awards, which consist of a lump sum gratuity and a pension, provide valuable protection to former officers against loss of earnings as a result of permanent disablement through an injury which is not related to a pre-existing condition received while on duty or otherwise in the execution of their duty as a member of a force. However, the courts have held that an injury which does not cause but accelerates the onset of permanent disablement does not qualify for an injury award under the Police Injury Benefit Regulations. This means you could be left without either an ill-health pension or an injury award where an injury in the execution of duty has accelerated disablement and led to early retirement. The decision whether to grant an injury award and the level of award will depend on the circumstances.

Q) When would I receive an injury award?

A) An award would be paid where it was found that your permanent disablement was the result of an injury without your default in the execution of duty. An award will not be granted where permanent disablement was caused not by the injury but by a pre-existing condition, or where, for instance, the effect of the injury was confined to accelerating the onset of a permanent disablement which was expected to develop even without the injury.

Q) Is there any way I could get cover for retirement through ill-health?

A) You are strongly encouraged to seek independent financial advice about how to invest the savings you would make in your scheme contributions, to provide you with some cover in the event of retirement through ill-health.

Q) What if I disagree with the decision that has been made?

A) If you are dissatisfied with the medical report which has led to the decision to exclude you from ill-health benefits and you wish to appeal against it, you have 28 days from receipt of the report within which to lodge an appeal with the police authority. The necessary form (Form F) is attached. In order to avoid frivolous challenges, the Police Pensions Regulations require you to provide evidence that a medical practitioner has examined you and disagrees with the selected medical practitioner's opinion on the likelihood or likely timing (or both) of your retiring through ill-health. Otherwise your appeal cannot be pursued. (Although your medical practitioner must have examined you, they need not have examined you since the date of the report by the selected medical practitioner to the police authority.) You will need to provide medical evidence in support of your appeal within two months of receiving the medical practitioner's report. The police authority will only agree an extension that it considers reasonable in the circumstances of the case. Once you have produced your medical evidence, the police authority will show it to its selected medical practitioner.

Q) What if the selected medical practitioner agrees with my evidence?

A) If the selected medical practitioner agrees with the medical evidence you provide in support of your case and their revised report to the police authority results in the authority allowing you access to ill-health benefits, no further appeal action will be necessary.

Q) What if I stay excluded from the ill-health benefits?

A) In any other case your appeal will proceed and the police authority will arrange for a third registered medical practitioner to examine you and report in writing to the authority and yourself. The third medical practitioner must be acceptable to both the selected medical

practitioner and your medical practitioner, but in the event of a failure to agree, the police authority may appoint a third medical practitioner of its choice. The third medical practitioner will, where necessary, be a specialist. Where the third medical practitioner disagrees with any part of the selected medical practitioner's report, they will issue a revised report. In the event of a revised report, the police authority must reconsider whether or not you are to be given access to ill-health benefits and notify you of the outcome. There is no further appeal against an exclusion from ill-health benefits based on the third medical practitioner's report.

- Q) Can I reapply for ill-health benefits once I have joined the force?**
- A)** Once an applicant is admitted to the Police Pension Scheme with a restriction on access to ill-health benefits, the decision is final subject to appeal against the medical assessment within the time limits allowed. You cannot alter the decision once it has been made and/or you have been recruited.
- Q) What if I decline this offer of an appointment? Can I reapply for ill-health benefits?**
- A)** You can reapply, but in order to avoid reapplications being used as a means of reviewing appeal decisions, which are final, there is a minimum period of three years before you can reapply for a fresh assessment of the risk of retirement through ill-health. You should also bear in mind that there can be no guarantee of the outcome of a fresh application on this issue, nor any guarantee of your acceptability in future as a police officer.

Pensions guidance: flow diagram

