STAFFORDSHIRE POLICE

Early Ill Health Retirement (EIHR) for Police Officers

January 2024

1.0 INTRODUCTION

1.1 This policy is in accordance with the Policy Pensions Regulations 2015 (as amended), hereinafter referred to as "the Regulations" as well as the Police Pensions Regulations 1987 and 2006 (for some deferred members). It applies to all serving and deferred Staffordshire Police officers, below Chief Constable Rank, including those on secondment to other forces, whether or not they are active members of the Police Pension Scheme 2015.

1.2 Day-to-day management of ill-health is governed by the Supporting Attendance Procedure. The aim of this document is to set out the arrangements to be followed where questions of permanent medical unfitness may arise. There will be a presumption of retention of officers unless there are clear indications that they are permanently medically unfit to undertake the regular duties of a member of the police force.

2.0 DELEGATION ARRANGEMENTS

2.1 The Chair of the Occupational Health Panel has delegated authority from the Police Pension Authority (PPA), who is the Chief Constable, to decide whether questions under the Regulations shall be put to a Selected Medical Practitioner (SMP).

2.2 When the officer has been decided by the SMP (or Police Medical Appeal Board) to be permanently medically unfit, the PPA shall determine whether to retire that officer or require them to continue to serve. In the absence of the Chief Constable, the Deputy Chief Constable is delegated to act as PPA in making this determination.

2.3 People Partners, People Officers and the HR Support Team are responsible for the administration of EIHR cases as outlined in this guidance. The Injury Benefit and Pensions Team are responsible for the administration of deferred member cases.

2.4 The Occupational Health Department will act as link between the Force and the appointed Selected Medical Practitioner (SMP). The Occupational Health Physician (OHP) has an important role to play in EIHR cases and may act as

SMP in urgent cases which need to be fast-tracked if the appointed SMP is unable to do so.

2.5 The SMP will be the decision maker on reports of permanent medical unfitness and will complete the necessary reports.

2.6 Line managers are responsible for day-to-day attendance management.

2.7 Heads of Department will liaise closely with People Partners and People Officers on local attendance issues and will complete management reports as necessary.

3.0 DEFINITIONS

3.1 For the purpose of clarity, in Regulation 76 of the Regulations, *permanent medical unfitness* is defined as being when the member is unable to perform the ordinary duties of a member of the police force, occasioned by infirmity of mind or body and is likely to continue until the day on which either the member reaches normal pension age (60); or if the SMP considers the member is likely to die before reaching normal pension age. This is the standard required for payment of a Lower Tier ill-health pension.

3.2 The SMP will also consider if the member is permanently medically unfit to engage in any regular employment (meaning for an annual average of at least 30 hours per week). This is the standard required for payment of an Enhanced Upper Tier ill-health pension.

4.0 DEFERRED MEMBERS

4.1 An early pension is payable to a former officer on grounds of permanent medical unfitness or permanent disablement, depending on the scheme of which the former officer is a deferred member. The deferred member needs to apply for this and any such request is then dealt with by the Injury Benefits and Pensions Section (IBP) in People and OD. The deferred member will have to be assessed by the SMP (in accordance with the Scheme of which the deferred member was last an active member of) and the date that payment will be effective from will have to be approved by the PPA.

4.2 For the deferred members of the 2015 Scheme to qualify for early payment of pension on grounds of permanent medical unfitness, the SMP must decide that the person is permanently medically unfit for any regular employment. However, the deferred member will only be entitled to a deferred standard earned pension, not an enhanced upper-tier pension.

4.3 Unless appealing successfully, a deferred member who does not meet the required standard for payment of an early ill-health pension will otherwise receive their deferred pension in accordance with their Scheme's regulations.

5.0 INITIAL PROCESS

5.1 In line with the Force's Supporting Attendance Procedure, sickness absences will be reviewed by line managers in consultation with their People Partners and People Officers. Long term absences will be referred to the Occupational Health Case Conference.

5.2 In most cases where EIHR is being considered, the Occupational Health Physician (OHP) will have already seen the officer and liaised with local management over the officer's condition. Case review meetings will have been held involving line management, the People Officer and the individual and their representative to consider the medical advice and prognosis and to ensure that the officer is receiving appropriate support. Line management will be expected to make any reasonable adjustments for the officer as recommended by the OHP. Wherever possible, the Force will strive to facilitate and/or help sustain a return to duty in a policing role that the officer is capable of undertaking.

5.3 Where the officer remains certified medically unfit, a return to duty cannot be achieved within a reasonable period, and medical advice from the OHP indicates that the officer may be permanently medically unfit, the officer's line manager (at the rank of Chief Inspector, police staff equivalent, or above) in conjunction with the People Officer will prepare a case report to Occupational Health Case Conference. This will include an overview of the officer's case and medical condition, and a summary of management actions including any actions taken to facilitate a return to work. The case report must be endorsed and submitted by the People Partner to the Occupational Health Case Conference for consideration, with a copy

provided to the individual. The individual or their representative acting on their behalf may also submit a report.

5.4 The Chair of the Occupational Health Case Conference will decide whether to refer the officer to the SMP via Occupational Health to examine and decide whether the officer is permanently medically unfit under Regulation 81. The People Officer will inform the officer of the Chair's decision. This will include notification of the officer's right to appeal to the Crown Court under Regulation 207. If a referral to the SMP is made, Occupational Health will request the officer's consent to obtain GP medical records and forward them to the SMP.

5.5 Where an officer is being referred to the SMP for assessment, the People Officer will liaise with Occupational Health and regularly provide the officer (or the officer's representative) with information of the progress of the case.

5.6 Officers may self-refer themselves to Occupational Health's Wellbeing Team for welfare support. Officers may also be referred to Occupational Health by their line manager completing an Occupational Health Assessment Referral Form (OHARF). However, an officer may not directly refer themselves to Occupational Health for an appointment with the SMP. At any stage an officer may discuss with their line management or People Officer for a referral to the Occupational Health Case Conference. If the Chair of the Occupational Health Case Conference refuses to refer a case to an SMP then the officer will be notified in writing by the People Officer, explaining the reason and pointing out the right of appeal to the Crown Court against the decision under Regulation 207.

6.0 SELECTED MEDICAL PRACTITIONER REFERRAL AND REPORTING PROCESS

6.1 Where the Chair of the Occupational Health Case Conference has decided to refer the officer to the SMP to assess the officer's medical unfitness under Regulation 76, the Occupational Health department will prepare a 'package' for submission to the SMP as soon as possible. This will be in two parts.

i. The medical background: relevant medical details, records and case history; GP and hospital specialist assessments; reports, X-rays or scans

(where possible). The officer must give written consent a) for Occupational Health to obtain these records from the officer's GP practice; and b) for the release this information to the SMP. If the officer refuses to provide these consents, or refuses to be medically examined or attend any interviews that the SMP considers necessary in order to make a decision, the officer may be dealt with via the Force's Supporting Attendance Procedure.

ii. All reports from Occupational Health, including healthcare workers and the OHP, on the officer's health and capability. A copy of the case report submitted by the People Partner or People Officer to the Occupational Health Case Conference will also be included.

6.2 The SMP will review the documentation and must examine or interview the officer as the SMP thinks appropriate before completing a detailed report and summary report. The SMP will forward a copy of both reports to the officer and the PPA as soon as possible.

6.3 The HR Support Team will write to the officer within 7 days of the report's issue, advising of the officer's right of appeal within 28 days of receipt of the report as outlined in the appeals section of this document. This letter will also be copied to the People Officer, together with a copy of the report summarising the SMP's conclusions.

6.4 The People Officer will arrange to meet the officer to discuss the report and to ensure that the officer understands it. The officer is entitled and encouraged to have a friend or representative present. The People Officer will also remind the officer of the right to appeal within 28 days of receipt of the report – as outlined in the appeals section of this document. The officer may not appeal against the SMP's report if accepting its conclusions.

6.5 If the SMP's report states that the officer is not permanently medically unfit, the People Officer will arrange an Absence Support Meeting with the officer and the line manager to discuss the report and so as to support the officer's possible return to work / recuperative duties / reasonable adjustments, in line with the Force's Supporting Attendance Procedure. This meeting will be arranged unless the officer is dissatisfied with the SMP's report and appeals to the Police Medical Appeal Board (PMAB). However, if the officer requests a reconsideration by the SMP (and this request is agreed to by the Chair of the Occupational Health Panel on behalf of the PPA), or appeals to the PMAB, then the case will be deferred until the SMP completes a

reconsideration or the PMAB reaches its decision. If the officer fails to provide grounds of appeal, the appeal will not be referred by the PPA to the PMAB. The officer may still seek to return to work pending the outcome of any appeal. See section 9 below.

6.6 If the SMP's report states that the officer is permanently medically unfit and the officer is appealing to the PMAB because of not being found to be permanently medically unfit for any regular employment, the Force will still proceed to the next stage without waiting for the outcome of the appeal.

6.7 Within 28 days of receipt of the SMP's report(s), the People Officer in conjunction with line management will prepare a report to be considered by the Head of People Services using a pro forma. Where the report recommends that the PPA should determine that the officer is required to continue to serve, the report will detail the consideration given by line management and the People Partner/Officer with regard to deployment of the officer, including undertaking a risk assessment in respect of identified posts. The key considerations are that the officer's further deployment should not:

- aggravate the officers existing health condition
- expose the officer to a higher risk of injury than they would have had if not disabled
- expose the public or other officers to an increased risk of injury
- expose the officer to a risk of being criticised or disciplined for not acting in a way which would normally be expected of an officer, but which would be inappropriate in view of the officer's health condition.

The draft report will be verified by Injury Benefit & Pensions to ensure compliance with pensions legislation. The report should detail the options and steps taken to retain the officer, address the SMP's views on capability, provide an assessment of the officer's suitability and aptitude for retention, an assessment of the posts available and scope for retaining the officer, and a recommendation as to whether the officer should be retained. The individual officer's views as discussed at the case review meeting should also be summarised and the officer may also submit a report, making representations or comments. The People Officer will submit the report to their People Partner for endorsement. If satisfied, the People Partner will

submit the report with supporting documentation to the Head of People and OD.

6.8 The Head of People and OD will assess the report and seek further information or clarification if necessary and then present the report to the Police Pension Authority (PPA). The PPA, after considering all the relevant circumstances and all the advice and information available, may determine as follows:

- To require the officer to continue to serve. If making such a determination, the PPA will give his reasons in writing for doing so; or
- To require the officer to retire on a date that the PPA considers the member ought to retire, on the grounds that the officer is permanently medically unfit for performing the ordinary duties of a member of the police force.

6.9 The HR Support Team will inform the officer in writing of the outcome. The People Officer will then be tasked with taking the matter forward if the officer is required to continue to serve.

6.10 There is no right of appeal against the PPA's determination other than to the Crown Court or High Court, as appropriate.

7.0 ACTIONS FOLLOWING DECISION TO RETAIN AN OFFICER

7.1 Where an officer who is permanently medically unfit is required by the PPA to continue to serve, any restrictions upon the duties the officer can be required to do or is expected to perform are clear to the officer, the officer's colleagues and the officer's line manager.

7.2 An officer required to continue to serve will not be reconsidered again by an SMP unless there is a significant change in their health or there is an operational requirement to do so, or the officer requests a reconsideration. However, an officer on restricted duties will be regularly reviewed by Occupational Health, line management and the People Partner/Officer in line with the Force's Supporting Attendance Procedure.

7.3 If an officer required to continue to serve remains absent from work, or returns to work but is unable to maintain regular attendance, reference should be made to the Force's Supporting Attendance Procedure.

7.4 At any time in the PPA's discretion that he determines, the PPA may consider whether the officer's medical unfitness has ceased, significantly worsened or significantly improved. In so doing, the PPA must refer for the SMP to decide whether the officer continues to be medically unfit for performing the ordinary duties of a member of the police force; and if so, whether the member is also permanently medically unfit for engaging in any regular employment – see Reg. 83 for full details of this process.

7.5 Upon receiving the SMP's report, the PPA must require the member to retire if, after considering all the relevant circumstances and all the advice and information available to the PPA, the PPA determines that the member ought to retire.

8.0 SPECIAL PROCEDURES IN CASES OF URGENCY

8.1 Where there is a critical case, i.e. the short-term medical prognosis of the officer is terminal, the People Partner/Officer will advise the Chair of the Occupational Health Panel that the matter should be fast-tracked. In such urgent circumstances, the SMP (or FMA acting as SMP) may be asked to decide the Regulation 76 assessments as a matter of urgency.

9.0 RECONSIDERATIONS & APPEALS OF THE SMP'S or PMAB's DECISION

9.1 An officer may have a reconsideration of the SMP's or PMAB's report under paragraph 3 of Schedule 1 of the Regulations. This is when the SMP has given a medical decision and the time for giving notice of appeal has expired without an appeal being made; OR the PPA has not yet notified the Police Medical Appeal Board (PMAB) administrators of the appeal; OR an appeal has been made to PMAB and it has given a decision.

9.2 The Chair of the Occupational Health Panel (on behalf of the PPA) and the officer may, ***by agreement***, refer the final decision to the medical authority for reconsideration. (The "medical authority" being either the SMP or the PMAB, as appropriate). This agreement is not automatic and must be by both parties. The medical authority must reconsider the final decision and, if necessary, issue a fresh report. This fresh report will be given to the officer and the Chair of the Occupational Health Panel, who will notify the People Partner of the outcome. The fresh report is final, subject to any further reconsideration of the final decision or an appeal under paragraph 2 of Schedule 1 of the Regulations (see paragraph 9.3 below).

9.3 If the officer agrees to a reconsideration, the SMP will reconsider the case together with any fresh medical report provided by the officer. If the SMP changes his decision, he will issue a fresh report to the Occupational Health Department who will in turn forward a copy to the officer and to the HR Support Team. If there is a reconsideration and the SMP decides that the officer is permanently medically unfit, the case will follow the procedure in paragraphs 6.7 to 6.9 above.

9.4 If a reconsideration is undertaken and the SMP decides that the officer is not permanently medically unfit, paragraphs 6.5 and 6.7 above will apply.

9.5 Within 28 days of receiving the SMP's report, or the SMP's reconsideration report, the officer may give notice to the People Officer/Partner of the intention of appealing against the SMP's decision. The officer must give a statement of the grounds of appeal within a further 28 days. The PPA may allow a period longer than 28 days. If the officer does not give a statement of the grounds of appeal, the case will not be referred to the PMAB administrators.

9.6 If the officer appeals and provides a statement of the grounds of appeal, the People Officer/Partner will forward the case to Injury Benefit and Pensions who will liaise as necessary with the PMAB administrators and Joint Legal Services. Injury Benefit and Pensions will inform the People Officer/Partner of the PMAB's decision as soon as possible.

10.0 ACTIONS FOLLOWING A POLICE MEDICAL APPEAL BOARD (PMAB) DECISION

10.1 Where PMAB decides that the officer is not permanently medically unfit, the People Partner/Officer will work with line managers to identify a suitable role as per section 7 above.

10.3 Where PMAB decides that the officer is permanently medically unfit, then the case will be processed as per paragraph 6.7 – 6.9 above.

11.0 POST-RETIREMENT REVIEWS

11.1 The Scheme Manager (the Chief Constable) may periodically review a person receiving lower-tier ill-health pension to review whether the person's medical unfitness has ceased or significantly worsened. This may be done at any time the Scheme Manager determines.

11.2 The Scheme Manager must carry out a periodic review as in 11.1 above if notified that the person's medical unfitness has worsened. This can only apply, however, within 5 years of the date of ill-health retirement. This 5-year time limit does not apply if the permanent medical unfitness is attributable to progressive medical condition which of its nature could have been expected at the time of the officer's retirement to affect the person with increasing severity. A progressive medical condition is one of the following: AIDS, Alzheimer's disease, cancer, Creutzfeld-Jacob disease, Huntington's chorea, Motor neurone disease, Multiple sclerosis, Nieman Pick disease, Non-variant Creutzfeld-Jacob disease, Parkinson's disease, and Variant Creutzfeld-Jacob disease, and any other medical condition specified by the Secretary of State for the purpose of this review.

11.3 If as a result of a review under 11.1 the SMP reports that the person has ceased to be permanently medically unfit for performing the ordinary duties of a member of the police force, the Scheme Manager may give the person notice to rejoin the Force within 3 months at a rank not lower than the person held immediately before being ill-health retired. The lower-tier ill-health pension will cease to be payable at the end of the 3-month period, or the date on which the person rejoins the Force, whichever is the sooner.

11.4 If as a result of a review under 11.2 the SMP issues a report that the person is permanently medically unfit for engaging in any regular employment, the person will be entitled to an enhanced upper-tier ill-health pension from the claim date.

11.5 The Scheme Manager may periodically review a person receiving an enhanced upper-tier ill-health pension to review whether the person's medical unfitness has ceased or significantly improved. This can only be done at intervals of no less than 5 years as the Scheme Manager determines, and cannot be done once the person has reached State pension age.

11.6 If as a result of a review under 11.5 the SMP reports that the person has ceased to be permanently medically unfit for engaging in any regular employment, the person ceases to be entitled to payment of the enhanced upper-tier ill-health pension. The enhanced upper-tier ill-health pension will cease to be payable at the end of 3 months from the date of the SMP's report, or if earlier, the day on which the person returns to eligible service. The person remains entitled to payment for life of the lower-tier ill-health pension unless the SMP reports that the person has ceased to be permanently medically unfit for performing the ordinary duties of a member of the police force.

11.7 If as a result of a review the SMP gives the person written notice stating that the permanent medical unfitness would be expected to have ceased if the person had received normal appropriate medical treatment; and the person is not receiving, or has not received appropriate medical treatment; and the Scheme Manager gives the person notice in writing that this is attributable to the person's willfulness or negligence, then the Scheme Manager may decide to cease payment of the ill-health pension.

11.8 A decision of the Scheme Manager is void if the member appeals and PMAB decides to uphold the member's appeal.

11.9 Post-retirement reviews will be administered by the Injury Benefit and Pensions Section.

12.0 MONITORING AND REPORTING ARRANGEMENTS

12.1 On a quarterly basis figures relating to the numbers of officers considered under this process, including the number of those retained and retired, will be reported via a quarterly report to the Executive and to the Police Pensions Board.

13.0 CODE OF ETHICS

13.1 The College of Policing's Code of Ethics sets out the principles and standards of professional behaviour expected from police professionals. It applies to every individual who works in policing, whether a warranted officer, member of police staff, volunteer or someone contracted to work in a police force.

13.2 When referring to any of the Forces policies and procedures there is an expectation that actions taken or processes followed are underpinned by the Code of Ethics, where employees will 'do the right thing in the right way; basing decisions and actions on the policing principles within the Code.

13.3 The Force recognises the contribution of its employees and is committed to creating a fully inclusive working environment. This will be achieved by valuing the difference that a diverse workforce can bring.

14.0 RETENTION, REVIEW AND DISPOSAL

14.1 The business owner of this policy maintains ownership and all associated documents. This policy is a 'living document' subject to regular review, reflecting; Force; Home Office; Police Staff Council; best practice and legislative changes, locally and nationally.

14.2 This policy will also be subject to Annual Review.

14.3 The Force processes personal data collected during the policy and guidance in accordance with its GDPR policy. In particular, data collected as part of this policy is held securely, accessed by, and disclosed to, individuals only for the purpose of responding to and conducting the Family Leave procedure. Inappropriate access of disclosure of employee's data constitutes a data breach and should be reporting to Professional Standards immediately. It may also constitute a disciplinary offence which will be dealt with under the Force Misconduct Policy.

15.0 CONSULTATION

15.1 Recognised Trade Unions and Staff Associations will be involved in any changes to this policy in line with Force consultation and negotiation arrangements.

15.2 Any amendments will be set out within the version control section of the document.

16.0 EQUALITY IMPACT ASSESSMENT

16.1 An Equality Impact Assessment is conducted for all policies and procedures created, to ensure they will not have a negative impact on our people on the basis of age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion/belief, sex and sexual orientation. Copies can be obtained from the Employee Relations Team.

Summary of Changes

Version	Date	Author	Description of change
1.0	27.03.23	IBP	First draft of policy
2.0	09.05.23	IBP	Second draft
3.0	09.06.23	People & OD Team	Format document and put into our policy template
4.0	19.6.23	People & OD	Minor amendment for clarity to section 3.1 and to avoid any confusion
5.0	Jan 24	People & OD	Review and change force crest

Approvals, Reviews and Distribution

Name	Department	Role	Date
	Federation	Reviewer	July 2023

Associated Documents

Document Name	Document Reference
Supporting Attendance	