



BCH01/020

III Health Retirement – Police Officers

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1. POLICY AIM

The aim of the policy is to ensure that fair, effective and consistent decisions are taken on ill health matters that may lead to retirement on grounds of ill health to ensure that, where possible, police officers are rehabilitated for duty thereby retaining key skills and experience.

2. APPLICABILITY

2.1 Inclusions

This policy applies to all current police officers with 2 or more years service where it is considered that they may be permanently disabled from undertaking the ordinary duties of a member of the force as determined under the Police Pension Regulations.

Police officers with less than two years service are also covered however they will only be entitled to an ill health pension where the disablement is due to an injury without their default in the execution of their duty.

Ill health retirement applications will be managed in accordance with Police Pension Regulations, published guidance of the Home Office, and agreed guidance issued by the Police Negotiating Board.

2.2 Exclusions

This policy does not apply to police staff, Special Constabulary or volunteers.

3. THE POLICY

3.1 Roles & Responsibilities

Chief Officers

The Police and Crime Commissioner delegates the power under the Police Pension Regulations on matters relating to the consideration of the possible medical retirement of an officer to a Chief Officer (unless the officer's case is that of an ACPO rank).

The Chief Officer has a strategic view and the authority to make the decision on behalf of the Police and Crime Commissioner, and should not have been closely involved in the day-to-day management of the case up to the point of the ill health retirement decision. A Chief Officer, or delegated authority, will have the lead role in making decisions

throughout the ill health retirement process with the Chief Constable making the final decision whether to retire an officer or not.

Commanders / Senior Managers / Heads of Departments

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

Line Managers

Line managers will manage and support the officer through the relevant procedures leading up to and including the process for ill health retirement.

Officer

The officer has primary responsibility for their health and wellbeing. They also have responsibilities towards the Force and must co-operate with the Force procedures.

Human Resources

HR will provide advice and guidance to both the line manager and the officer on the application and process of the Force policies and procedures for management of ill health and oversee the process related to ill health retirement.

Health and Wellbeing Unit

The Health and Wellbeing unit will provide health advice, guidance and support to both officers and line managers and will ensure that ill health retirement referrals are considered by appropriately qualified professionals - Force Medical Advisor (FMA) & Selected Medical Practitioner (SMP) and processed in line with the procedure, in a timely manner.

3.2 The Procedure

A flow chart ([Appendix A](#)) sets out the key steps in the process. If a case were to pass through all the stages the entire process can be lengthy and therefore it is important the process is managed as expeditiously as practical by all involved. Where possible the Force Medical Advisor (FMA), should try to advise local management and the Police and Crime Commissioner of those cases that have the potential for going through the process more quickly, and those cases that require careful management, to ensure they do not become unduly protracted.

3.3 Referral for consideration of Ill Health Retirement

A request for the consideration of ill health retirement may come from the officer, senior management or from the FMA, as part of their recommendation within the case management of the officer.

Where a request has been received from an officer, they will be required to produce appropriate evidence from their GP or other medical practitioner of the permanent disablement. This request and representation from the officer about their case along with an appropriate management report and a report from the FMA that gives their view on the matter will be considered by the appropriate authority regarding SMP referrals. The case should be referred unless there is reason to believe the officer's request is vexatious, frivolous, or is seeking to re open a case already decided upon the request will be referred to the SMP (a refusal to refer to the SMP is subject to appeal to the Crown Court) .

3.3.1 FMA Opinion

Following a referral, the FMA will offer an opinion as to whether they consider the officer may be permanently disabled, not just where they consider the officer is permanently disabled. With the consent of the officer, this will be sent to the officer, the line manager and HR, who will facilitate presentation of the FMA opinion to the appropriate authority along with representations from the officer about their case and whether they wish to remain in the force, in order that a decision can be made regarding referral to the SMP.

3.3.2 Referral to the SMP

Following instruction from the appropriate authority, the referral to the SMP will be completed by the FMA (within 28 days). The FMA will provide advice on the case and where possible a view on whether the officer may be permanently disabled.

The FMA referral to the SMP will consist of two parts.

Part One - Medical background, including all relevant medical details and history of the case, and also any relevant assessments of the officers GP, consultant or specialist as appropriate and relevant reports, X-rays or scans submitted (written consent from the officer will be sought for the referral to be sent to the SMP).

Part Two - FMA Opinion, advice to the SMP on the issue of permanent disablement for the ordinary duties of a member of the force and an opinion on the case referred. In complex cases the FMA is not obliged to come to an opinion on permanent disablement.

The SMP will be asked whether the officer is disabled and if, in their opinion, the disablement is permanent. The SMP will also be asked to complete a report dealing with the officer's capability.

The FMA referral will be sent direct to the SMP. A copy of the FMA opinion and any advice on capability should also be sent to the Officer and the relevant HR lead who will check that they are set out in clear terms. The FMA should also give the officer the opportunity to request a copy of the medical background section.

3.3.3 Determining Disablement – SMP

It will normally be expected that the SMP will examine the officer concerned, but there may be exceptional cases where the Force indicates that management, the officer and the FMA, confirm that there is no specific need for the officer to be examined.

The SMP will provide a report as the follows:

Part 1: Dealing with permanent disablement for the ordinary duties of a member of the force; and, where the SMP considers the officer is permanently disabled for ordinary police duties,

Part 2: Dealing with permanent disablement for regular employment and capability for retention in the force.

(This will involve assessing – in the 1987 scheme – the officer's capability for further police service, and – in the 2006 scheme – the officer's capability for regular employment otherwise than as a regular police officer; and if they are disabled from such work if they are permanently so.

3.4 Comments by Officer and Chief Officer

With the consent of the officer, the report from the SMP will be returned to the HR representative via the Health and Wellbeing unit. Both the line manager and the officer will be given the opportunity to comment, make representation or the officer to appeal as applicable, prior to any decision on ill health retirement. A letter covering this should be sent to the Officer within 7 days of receiving the SMP reports giving them 28 days to lodge an appeal or provide comments (see section 3.6).

Note: There is the ability under the guidance for some amendments to this procedure in cases of urgency or total incapacity.

3.4.1 Officer Comments

The officer will be provided with a copy of the SMP report, along with details of their right of appeal (in relation to grounds of disablement NOT capability, although comments can be put forward).

In relation to the SMP Report, the officer has the option to:

- Appeal – See 3.6
- Comment on any aspect of Part 2 of the report by the SMP (in all cases the officer may comment on any supplementary advice given by the SMP. Any such comment will be sent to the SMP for consideration)
- Agree content
- Choose not to comment

Where the officer disagrees with comments made by the SMP, the appropriate authority should consider the reasons given. If the officer has provided new evidence from a medical practitioner which is central to any decision on medical retirement and the SMP does not alter his or her view as a result, the Chief Officer should, within 28 days of the new evidence being received, arrange for the officer to be examined by a third medical practitioner. The third medical practitioner should report in writing to the Force and to the other two practitioners.

3.4.2 Senior Manager Comments & Report

The HR representative will send the officer's Senior Manager the SMP reports at the same time as the officer and they will be given the opportunity to comment, or make representation.

The Senior Manager can acknowledge the report and advise continuation of the process. Where the officer has been assessed by the SMP (or through an appeal) as permanently disabled the officer's Chief Officer will, within 28 days of receiving the SMP's report, prepare a report for the Chief Constable covering the following:

- Confirmation they have seen the SMP report
- An assessment of the Officers suitability and aptitude for retention
- An assessment of posts available including alternative posts and possible reasonable adjustments to these posts which would enable an officer to remain in service (ill health retirement is not a reasonable adjustment)
- Information on any current or pending misconduct proceedings
- A recommendation as to whether the Officer should be retained

The officer will be provided with a copy of the Chief Officers report and advised they can comment on it within 28 days.

Any comments made by the officer on the Chief Officers report should be taken up by the Chief Constable with a request for further comments within 14 days.

3.5 SMP Decision - Not Permanently Disabled

Should the SMP not identify a permanent disablement and there is no appeal and all comments or representation has been considered, the HR representative (with advice from the FMA) will advise on the continuation of ongoing action required by the officer and line manager on attendance and performance expectations.

3.6 Officer Appeals SMP Decision

The officer can appeal against the SMP's medical opinion on the statutory medical questions however there is no right of appeal against the content of part two of the report. There is a period of 28 days for an appeal to be lodged following the Officer receiving part 1 and 2 of the SMP report.

The appeal will be acknowledged and the officer will be written to explaining the requirement to submit a written statement on of the basis of their appeal within 28 days following the appeal being lodged.

Any written statement should include confirmation as to which of the answers to the statutory medical questions the officer is dissatisfied with and the immediate reason why.

3.6.1 Internal Review

The appropriate authority and the officer can agree to refer a decision back to the SMP for reconsideration in order to resolve an issue without the time and effort of a full appeal. Therefore once an appeal has been received consideration will be given to the value in offering the officer a referral back to the SMP for reconsideration and, if the officer agrees the matter should be referred to the SMP accordingly.

If no offer is made or the officer does not agree, the appeal will be forwarded to the Police Medical Appeals Board (PMAB).

Following agreement of an internal review, the SMP should issue a fresh report in cases only where it will resolve the issue under dispute.

If the report will not resolve the issue to the satisfaction of the appellant, the SMP must not issue a fresh report and instead the appeal against the original decision should be allowed to proceed.

3.6.2 Police Medical Appeals Board (PMAB) Process

A police officer has a right of appeal to the Police Medical Appeals Board (PMAB) if they are dissatisfied with any part of the decision of the SMP as set out in the report.

An appeal will be heard by a board of medical referees. Details of how the officer is required to give notice of an appeal will be outlined within a letter sent following the receipt of the original SMP report.

The purpose of the appeal board is to determine a medical appeal in a fair, orderly and authoritative way, with both parties given the opportunity at the hearing to put their case fully and to answer each other's points. Although the hearing will be conducted without too much formality or the need for legal representation, both parties will be required to have provided prior written submissions setting out the key points of their case in order to minimise the need for adjournments.

3.6.3 PMAB Response

Upon receipt of the boards decision the Senior Manager together with advice, if required, from the FMA and HR will progress the officers case according. This will be either towards a decision on ill health retirement or to refer the case back to local managers and HR to continue with ongoing action required by the officer and line manager on attendance and performance expectations.

3.7 SMP Decision - Permanent disablement

Where the officer has been assessed as permanently disabled for the ordinary duties of a member of the force, the Chief Constable will consider all the evidence, before reaching a decision on medical retirement.

Key factors when considering an application for ill health retirement include:

- length of service still to serve, rank etc;
- the SMP's advice on the officer's capabilities;
- the Senior managers report
- whether the officer wishes to remain in the force

3.7.1 Consideration of Ill Health Retirement

Once all the medical appeals processes have been exhausted, or there are no appeals, the Chief Constable will review the case in the light of:

- The SMP's report – parts 1 and 2;
- The SMT's report and comments; and
- The officer's comments.

The aim is to reach a decision on whether to ill health retire the officer or retain their skills and ability in line with the restricted duties policy, within 28 days of receipt of the last items of information received, unless there is reasonable justification otherwise, when all parties will be updated.

Where the officer is not provided with ill health retirement and a suitable post identified that can be adjusted or that accommodates their permanent disablement, they will be retained in that post and reviewed annually in line with the restricted duties procedure.

3.7.2 Ill Health Retirement

If retention is not practicable, the officer will be retired on grounds of ill health with 28 days notice at full pay. They will be provided with any pension benefit he or she is to receive, including, for Officers under the 2006 NPPS, whether he or she is to receive a lower-tier or upper-tier ill-health pension¹.

3.7.2 Appeal against Unfair Treatment

If the officer has been ill health retired due to no suitable post being available and they feel that they have been treated unfairly at any stage of the application or failure to apply the process, they can put their case to the Chief Constable. This can then include a meeting to set out their case. Any such appeal must be submitted within 14 days of receiving the original decision.

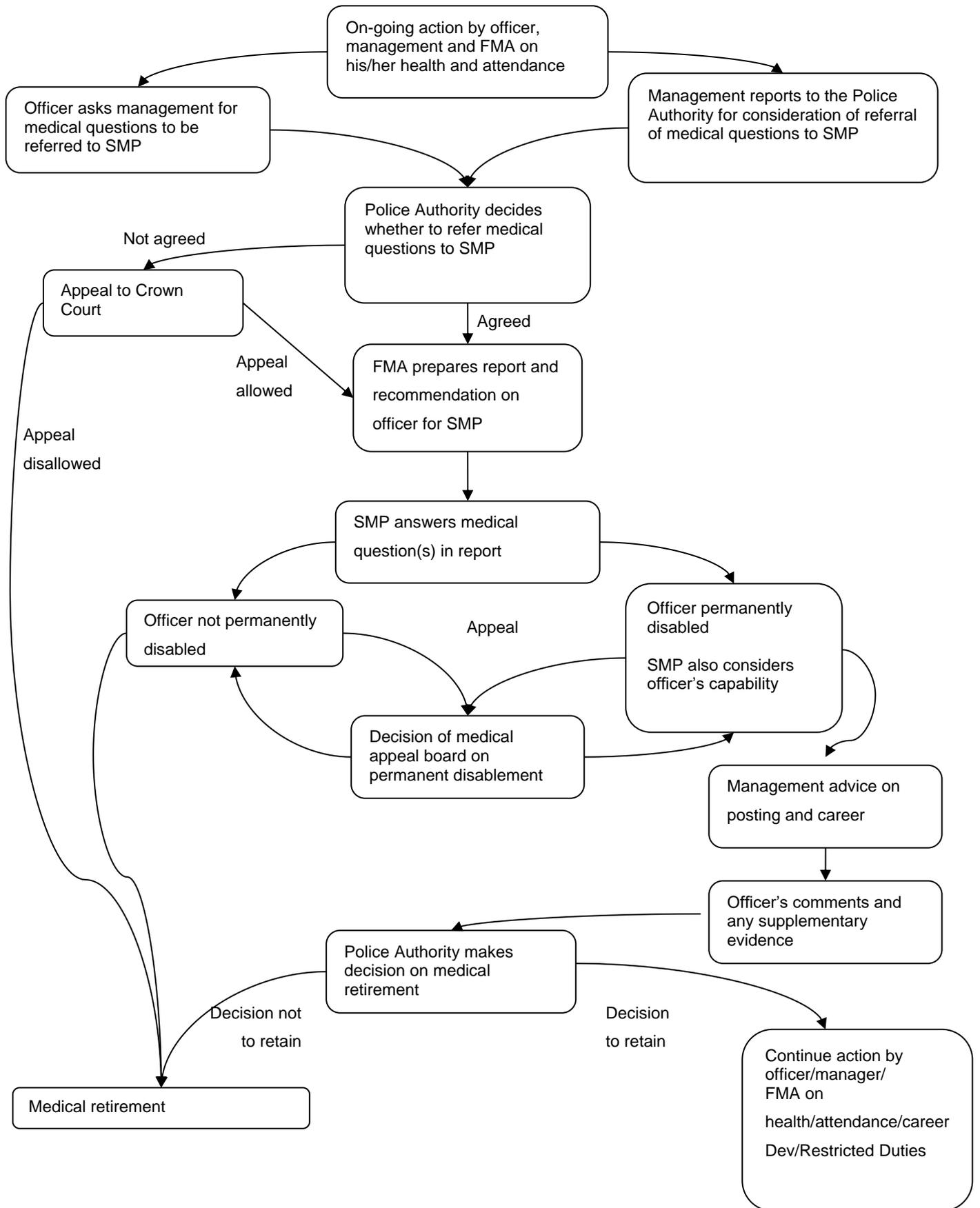
3.8 Review of Ill Health Retirement or Retention on Restricted Duties

It is not expected that a decision to ill health retire an officer should have to be reviewed, unless there is significant changes to the officer's condition or to the operational requirements of the force. If this is the case the Senior Management Team will raise the issues to the Chief Constable so that it can review its decision in light of fresh evidence/reports.

The decision to retain an officer will be reviewed annually in line with the restricted duties procedure.

¹ The tier depends on whether an officer is permanently disabled for any regular employment. In NPPS an officer retired on grounds of ill-health can, on review, move from one level to the other if his or her condition worsens or improves. This is known as a "two tier" ill-health system and is common to a number of public service schemes.

Appendix A Flow Chart showing the management process of ill-health retirement in the most standard



Note – “medical questions” relate to the questions at regulation H1(2)(a) and (b) [1987] and 71 (a) to (d) [2006]
“medical retirement” relates to the decision at regulation A20 [1987] and 21 [2006]
This Flow Chart includes all the key stages of a standard case but not all possible stages
Not every standard case will involve all these key stages

EQUALITY ANALYSIS

STEP 1 – Relevance

The general duty is set out in section 149 of the Equality Act 2010. In summary, those subject to the Equality Duty must have **DUE REGARD** to the need to:

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

Authors have a statutory requirement to have **DUE REGARD** to the relevant protected characteristics shown below, whilst taking a common sense approach

- age
- disability
- gender reassignment
- marriage & civil partnership*
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

*marriage and civil partnership – the analysis applies only to the elimination of unlawful discrimination, harassment and victimisation.

Section 23 of the Equality Act 2006 allows the Equality and Human Rights Commission (EHRC) to enter into a formal agreement with an organisation if it believes the organisation has committed an unlawful act.

Under section 31 of the Equality Act 2006, the EHRC can carry out a formal assessment to establish to what extent, or the manner, in which a public authority has complied with the duty.

Additional guidance can be found by accessing the EHRC website: <http://www.equalityhumanrights.com/advice-and-guidance/public-sector-equality-duty/guidance-on-the-equality-duty/>

Does this proposal have a direct impact on people who:	a) are any part of the Police workforce (including volunteers)?	YES Police Officers from Bedfordshire, Cambridgeshire or Hertfordshire Police Forces
	b) reside in any part of England and Wales	YES
If NO to both questions	<i>Explain why and give rational</i>	
	No Further Action and Return to Sponsor for Authorisation	
If Yes to either question	Continue through to Step 2	

STEP 2 – Consultation / Engagement

You should engage with those people who have an interest in how you carry out your work generally, or in a particular proposal. This may include former, current and potential service users, staff, staff equality groups, trade unions, equality organisations and the wider community. In deciding who to engage, you should consider the nature of the proposal and the groups who are most likely to be affected by it.

The proposal owner (Sponsor/Author) must be satisfied that consultation / engagement will take place with the relevant business lead and stakeholders.

This **MUST** include engagement with the following relevant groups:

Equality and Diversity Specialist
 Staff Associations
 Staff Support Groups
 Relevant community groups and members of the public

In addition, consider who else should you consult with internally and externally?

Who might be affected?

Does what you are considering further the aims of the general duty, to

- eliminate unlawful discrimination, harassment and victimisation;
- advance equality of opportunity between different groups; and
- foster good relations between different groups.

Identify the risks and benefits where applicable, according to the different characteristics.

	Positive Impact or Benefits	Negative Impact or Risks
Age (<i>Consider elderly or young people</i>)	There are no obvious considerations	There are no obvious considerations
Disability Groups (<i>Consider physical, sensory, cognitive, mental health issues or learning difficulties</i>)	This policy applies to officers who have been determined as permanently disabled by a Selected Medical Practitioner and will potentially result in their early retirement on grounds of ill health. This may be a positive impact if it is something the officer wants to happen and is as a result of their request. However it could be a negative impact if the Officer is exercising their rights to appeal IHR but there is no possibility for the Officer to remain with the Force.	See positive impact notes Whether the officer is seeking IHR or not the officer may need assistance to adjust to no longer being a police officer especially as this may be earlier in their career than they had intended.

Gender Reassignment (Consider transgender, Transsexual, Intersex)	There are no obvious considerations	There are no obvious considerations
Marriage & Civil Partnership	There are no obvious considerations	There are no obvious considerations
Pregnancy and Maternity	There are no obvious considerations	There are no obvious considerations
Race and Ethnic origin – includes gypsies and travellers.(Consider language and cultural factors)	There are no obvious considerations	There are no obvious considerations
Religious / Faith groups or Philosophical belief (Consider practices of worship, religious or cultural observance including non belief)	There are no obvious considerations	There are no obvious considerations
Sex (Male, Female)	There are no obvious considerations	There are no obvious considerations
Sexual orientation (Consider known or perceived orientation, lesbian, gay or bisexual)	There are no obvious considerations	There are no obvious considerations

	Positive Impact or Benefits	Negative Impact or Risks
Have you considered how this decision might affect work life balance? (Consider caring issues re: childcare & disability, safeguarding issues, environmental issues, socio economic disadvantage, and low income families.)	The SMP may advise that an Officer could be permanently disabled but retained by the Force working part time hours. The officer would need to be in agreement to work part time but this may enable them to be retained rather than retired.	Yes and there are no obvious considerations

STEP 3 – Assessment

Complete the EIA by analysing the effect of your proposal and detail the outcomes.

What were the main findings from any consultation carried out?

What feedback has been received?

Using the information you have gathered and consultation that you have undertaken answer the following questions. This will help you to understand the effect on equality your proposal might have.	
Has the feedback indicated any problems that need to be addressed?	The majority of the feedback has been incorporated within the policy and guidance document and where this has not been possible it has been discussed with the individual proving the feedback.
Describe and evidence any part of the proposal which could discriminate	There is the potential that if the procedure is not applied fairly that this could impact negatively on individuals with a disability. The potential of this happening should however be reduced by the procedure being applied fairly with any adjustments being made under the Equality Act 2010. Managers should be working closely with their HR representative and this will ensure that actions taken are in line with legislation including police regulations and associated guidance. In addition any professional advice which would assist with the management of a case will be obtained.
Can the adverse impact identified be justified as being appropriate and necessary? If so, state what the business case is:	Yes, if an officer is permanently disabled and the Force cannot accommodate their restrictions within an established post then there would be no other option than to retire them on grounds of ill health.
Where impact and feedback identified, what, if anything can be done?	
What outcome will be achieved that demonstrates a positive impact on people?	Individuals will feel they have been supported and that the procedure has been applied in a fair and consistent manner taking their personal circumstances into account. Where Officers are unable to carry out an established role, it is not possible to keep them over establishment until their retirement and so would need to be managed appropriately. IHR would always be considered prior to commencing UPP and may be a preferable outcome rather than the potential of being dismissed.

	If the officer has requested IHR or supports their management requesting a referral to an SMP then an outcome of IHR would be positive.
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The above charts shows the number of IHR's over the last 3 years and current year to date. The noticeable aspect of this is that the majority, 14 out of the 19 cases from Beds and Herts, are officers aged 41-50 and in Cambs 13 of the 21 are aged 35-54. The different ways of reporting on age make it difficult to do a direct comparison however each case is assessed individually and any continuing trends will continue to be monitored and reviewed.

STEP 4 - Monitoring and Review

Equality analysis is an ongoing process that does not end once a document has been produced.

What monitoring mechanisms do you have in place to assess the actual impact of your proposal?	Each Force will review IHR cases on a regular basis at a senior level. Each case will be closely monitored by an HR representative and line managers. In addition IHR cases are reported to the relevant Police Authority.
Review Date: First review must be no later than one year.	One year following implementation