



FREEDOM OF INFORMATION REQUEST

FOI Reference number: 07/2021

Date: 6 May 2021

Request:

1. How long these **Reconsideration** requests have been waiting to reach this stage?

Answer - The Northern Ireland Policing Board (the **Board**) understands this request to relate to previous correspondence shared outside of the FOI process. These reconsiderations were ultimately progressed and considered at Resources Committee on 24 March 2021 along with a further 6 reconsideration cases. Each of the cases are unique and will have progressed to the Resources Committee over different time periods, dependent on the individual circumstances of each application.

2. Are these **Reconsiderations** just being approved to begin the process?

Answer - The Board is bound by *the PSNI & PSNI Reserve (Injury Benefit) Regulations 2006* (the **Regulations**) when considering any request for a reconsideration. Further to *Regulation 31(2)* of the Regulations the Board must, in the first instance, agree to an applicant's request for a reconsideration (Stage 1). If the Resources Committee agrees that a matter may be considered under *Regulation 31(2)*, the case will be referred back to the Selected Medical Practitioner (**SMP**) or Independent Medical Referee (**IMR**). On receipt of the SMP/IMR's opinion each case will then be returned to the Resources Committee in order that a final decision can be taken in light of the Board's role as the ultimate decision maker in law (Stage 2). Each of the reconsiderations referred to at Question 1 (above) were considered at Stage 1 on 24 March 2021.

3. Are these **Reconsiderations** being approved by the **Resources Committee** and the members concerned having their **IOD** pensions altered without seeing **SMP's**?

Answer - Please see response to Question 2 (above).

4. The **Resources Committee** is only approving, the allowing of the **Reconsideration** to be looked at, then it will have to follow the process before being resubmitted to the **Resources Committee** for final approval?

Answer - Please see response to Question 2 (above).

5. Can I obtain a copy of these "**Revised Processes**"?

Answer - Copy attached.

6. Have members been appraised of the new processes?

Answer - Yes at Resources Committee on 16 December 2021.

7. Has the **NIPB** updated their website information, if not when are future applicants to be informed of these new processes?

Answer - In all cases in which an applicant has applied for a reconsideration further to *Regulation 31(2)*, a dedicated caseworker has been appointed. In every reconsideration case applicants have been provided with written correspondence detailing the "two stage" statutory process whereby the Resources Committee must approve the reconsideration request in the first instance prior to a case being returned to an SMP or IMR. An applicant's caseworker will liaise with them throughout the entirety of the process and provide updates as a case moves through the various stages. In every case, the caseworker issues written updates including bespoke advice and assistance based on the individualities of any given case. In addition Board Officials remain available by telephone to answer any further queries arising out of this correspondence.

8. How many **Reconsiderations** have taken place since appointments have resumed?

Answer - The Resources Committee has considered 29 Reconsideration applications between December 2020 and April 2021.

9. What were the findings of the **Reconsiderations**? (approval/increase banding/not approved/ decrease in banding/no change)

Answer - In line with the statutory process, the Resources Committee has considered these 29 cases at Stage 1. In cases where the Resources Committee has approved an

applicant's reconsideration request, these have been returned to a caseworker and are being processed in the normal manner for consideration by the SMP/IMR.

How many applicants for **Reconsideration**,

10. were provided information? (numbers please)

Answer - Please see response to Question 7 (above).

11. what information was provided?

Answer - Please see response to Question 7 (above).

12. how was it provided?

Answer - All information issued to applicants is issued by way of hard copy correspondence delivered by way of Royal Mail Special Delivery.

13. Are the delayed **Reconsiderations** now being fast tracking, so that no applicant must wait any longer than necessary?

Answer - As at even date all reconsiderations have been progressed insofar as they are able by Board Officials and there are no current delays in respect of same.

14. How has the legal advice in relation to **Charity Commission** ruling changed our processes?

Answer - The Court of Appeal judgment in *McKee & Hughes v The Charity Commission for Northern Ireland [2020] NICA 13* upheld the High Court's earlier decision that the Charity Commission of Northern Ireland (**CCNI**) could not discharge of its decision making functions to a member of staff. Rather, it was held that CCNI as a "*body corporate*" must make all decisions required to fulfil its statutory powers, obligations and functions. Owing to the fact that CCNI and the Board operate in the same manner (i.e. arms-length body with a sponsor Department) the ruling emphasised that any/all cases injury on duty and/or ill health pension cases must be considered in the first instance by the Board, by way of the Resources Committee. The Board (as the ultimate decision maker in law) must be content for any/all cases to be progressed based on the information made available to them each month. As such, in light of this ruling, Board

Officials now bring an anonymised report on a monthly based on all cases for consideration and final decision by the Committee.

15. Have any of the **Reconsiderations** highlighted matters which the **NIPB** may have to seek legal advice, further delaying them?

Answer - No.

16. How long, on average, does it take to complete a **Reconsideration** application, compared to an **Injury on Duty** pension application?

Answer - It is not possible to determine an average time for the progression of any case as each case will turn on its own specific facts and will be dependent on, inter alia, receipt of third party information and doctor selection and availability.

If you have queries about this request or the decision please contact the Board quoting the reference number above. If you are unhappy with the service you have received and wish to make a complaint or request a review you should write to the Board's Chief Executive at the following address:

Northern Ireland Policing Board
Waterside Tower
31 Clarendon Road
Clarendon Dock
Belfast BT1 3BG

Email: foi@nipolicingboard.org.uk

If you are not content with the outcome of your complaint, you may apply directly to the Information Commissioner. Generally, the Information Commissioner's Office cannot investigate or make a decision on a case unless you have exhausted the complaints procedure provided by the Board. The Information Commissioner can be contacted at:-

Information Commissioner's Office
Wycliffe House
Water Lane
Wilmslow
SK9 5AF

Telephone: - 0303 1231114

Email: - ni@ico.org.uk

Please be advised that Policing Board replies under Freedom of Information may be released into the public domain via our website @ www.nipolicingboard.org.uk.

Personal details in respect of your request have, where applicable, been removed to protect confidentiality.

**RECONSIDERATION PROCESS
INJURY ON DUTY ONLY
REGULATION 31(2) PSNI & PSNI RESERVE (INJURY BENEFIT) REGULATIONS 2006**

- 1.1 Board Officials have prepared the attached flowchart being the agreed process for reconsiderations to both the Selected Medical Practitioner (**SMP**) and the Independent Medical Referee (**IMR**).
- 1.2 This process relates to reconsiderations of Injury on Duty (**IOD**) awards only which have been made under *Regulation 31(2)* of the *PSNI & PSNI Reserve (Injury Benefit) Regulations 2006*. This regulation states that, in relation to IOD awards only,
- “The Board and the claimant may, by agreement, refer any final decision of a medical authority who has given such a decision to him for reconsideration, and he shall accordingly reconsider his decision and, if necessary, issue a fresh report and certificate, which, subject to any further reconsideration under this paragraph or paragraph 31(1) or an appeal, where the claimant requests that an appeal of which he has given notice (before referral of the decision under this paragraph) be notified to the Secretary of State, under regulation 30, shall be final.”*
- 1.3 The attached process relates to reconsiderations to the SMP and IMR by both serving and retired officers.
- 1.4 All correspondence and communication relating to any Serving Officer shall only be exchanged between Board Officials and PSNI HR.
- 1.5 All correspondence and communication relating to any Retired Officer shall only be exchanged between Board Officials and one of the following:
- Applicant; or
 - The Applicant’s Appointed Representative (e.g. solicitor, MLA, relative, friend, staff association group).
- 1.6 Any/all communications relating to the arrangement of the IMR reconsideration will be facilitated by the Department of Justice. The only further communication the Board will have with the Applicant is confirmation of the Resources Committee’s final decision.



