



Derbyshire Constabulary

Force Sick Pay Policy

POLICY REF. AJC

This policy is suitable for Public Disclosure

Owner of Doc: Personnel

Date Approved: February 2003

Review Date: July 2009

Human Rights Act 1998

The Human Rights Act 1998 has been considered with regard to this policy. Proportionality has been identified as the key to Human Rights compliance. This means striking a fair balance between the rights of the individual and those of the rest of the community. There must be a reasonable relationship between the aim to be achieved and the means used.

Diversity Policies

Equality issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with Equal Opportunity legislation and internal Equal Opportunity policies.

Data Protection Act 1998

Data Protection issues have been considered with regard to this policy. Adherence to this policy will therefore ensure compliance with the Data Protection Act 1998 and internal Data Protection policies.

Freedom of Information Act 2000

Freedom of Information issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with the Freedom of Information Act 2000 and internal Freedom of Information policies.

Health and Safety Act 1974

Health and Safety issues have been considered with regard to this policy. Adherence with this policy will therefore ensure compliance with Health and Safety legislation and internal Health and Safety policies.

Policy Bureaucracy

The bureaucratic impact of this initiative has been considered; the benefits justify the costs of compliance with the policy.

1. Introduction

2.1 Police Officers and Police staff are exposed, on occasions, to exceptional risks and hazards inherent in operational policing. Because of this, police officers and police staff have one of the most generous sick pay schemes available. In this respect, both schemes (subject to police staff meeting the service – related eligibility provisions) normally allow up to a maximum of six months full pay followed by six months half pay.

Legal Basis

Regulation 28 of the Police Regulations 2003 refers to the payment of an Officer's salary during the period of sickness. It stipulates:-

If on any relevant day a member of a Police Force has, during the period of 12 months ending with that day, been on sick leave for 183 days, he ceased for the time being to be entitled to full pay. Further, that if the Officer has been on sick leave for the whole period of 12 months ending with that day, he/she ceased for the time being to be entitled to any pay while on sick leave.

Therefore that **there is a presumption within the Regulations that an Officer's salary will be reduced** whenever the period of sickness exceeds that as laid down.

The Chief Constable may in a particular case determine that for a specified period: -

- A member who is entitled to half pay while on sick leave is to receive full pay,

Or

- A member who is entitled to any pay while on sick leave is to receive either full pay or half pay;

and may from time to time determine to extend the period.

Please note:- It has been decided that financial hardship is not a relevant consideration in respect of this regulation.

2. Policy Statement

3.1 This policy statement will ensure consistency and fairness whilst taking cognisance of any special circumstances surrounding, and the merits of, each case. Its main purpose is to provide police officers and police staff engaged in operational work with consistency and fairness when imposing a reduction in pay, which will cause financial hardship.

3. Guidance and Procedures

4.1 Policy Operation (Police Officers)

The Head of Personnel will review the case of any officer who has been on sick leave for a cumulative total of 160 days in the previous 12 months (or 340 days in the case of an officer already under review for these purposes). This review will be based on a case file and recommendation (relating directly to the policy) submitted by the relevant Human Resources Manager, following consultation with the Officer's Divisional Commander/Head of Department. Where appropriate, consultation will also take place with the Health Management Unit.

The Head of Personnel will then report to the Assistant Chief Constable (Support) who will consider whether to authorise the extension of pay in appropriate circumstances, either upon reaching the six or 12 months' stage of a continuous period or, immediately, in the case of a cumulative period.

The decision to allow payment of salary to continue is based on the **merits of the case** and in reaching a decision the following **eligibility factors** may lead to discretion being exercised: -

- Injuries on duty arising from risks inherent in operational policing eg assault on duty. Participation in sporting events when representing the Force will not be regarded as a duty commitment/injury on duty.
- Terminal or life threatening illnesses.
- Where disability-related illnesses apply (as defined by the Disability Discrimination Act 1995 (Amendment) Regulations 2003 and the Disability Discrimination Act 2005) and particularly where a reasonable adjustment has not been made.
- Injuries sustained during the course of operational training, eg self-defence.
- Pregnancy related illnesses.

If none of these factors are present, salary will not normally be continued. Having considered the merits of each case and the general principles set out above, continuation of salary may still be refused where:-

- There is a contributory fault or negligence on the part of the officer (including where the risks of injury were foreseeable and the officer did not take reasonable precautions).
- The officer has not co-operated and pursued appropriate medical treatment/rehabilitation or has pursued activities that would hinder or prevent rehabilitation/recovery/reasonable adjustments. This includes not complying with requests to attend medical examinations or supplying medical information.

Short temporary extensions may also be considered on an exceptional basis where the return to work has been delayed due to any unreasonable delays in service provision within the Health Management Unit; or where arrangements or workplace adjustments to facilitate a return to work are being finalised.

NOT PROTECTIVELY MARKED

All cases where discretion has been granted will be reviewed at least every two months by the Human Resources Manager in consultation with the Health Management Unit and Divisional Commander/Head of Department. The same guidelines will apply in determining whether salary payment should continue beyond each review point.

The officer will be notified of the decision in relation to payment of salary by letter. This letter must be delivered in person by the officer's line manager so that any welfare needs can be discussed.

It should be noted that the question of whether an injury or illness was sustained in the execution of duty for the purposes of the Police Pensions Regulations is **NOT** the relevant test for the purpose of exercising discretion in relation to sick pay. This has a broad meaning within the Pensions Regulations extending beyond those cases where it will normally be appropriate to exercise discretion to extend sick pay.

The following circumstances will not, taken in isolation, justify an extension of full pay:-

- Delays in obtaining the necessary prognosis and/or medical treatment from the NHS.
- Pursuing a legal claim against the Force, eg Employment Tribunal or Personal Injury Claim.
- Being subject to disciplinary procedures.

4.2 Policy Operation – (Police Staff)

In cases where the salary of a police staff member is to be deducted or stopped, the Head of Personnel will review the matter. This review will be based on a case file and recommendation (relating directly to the policy guidelines) submitted by the relevant Human Resources Manager, following consultation with the relevant Divisional Commander/Head of Department. Where appropriate, consultation will also take place with the Health Management Unit.

The Head of Personnel will consider whether to authorise the appropriate deduction of salary. The decision to allow payment of salary to continue is based on the **merits of the case** and in reaching a decision the following **eligibility factors** may lead to discretion being exercised:-

- Injuries on duty arising from risks inherent in operational policing eg assault on duty. Participation in sporting events when representing the Force will not be regarded as a duty commitment/injury on duty.
- Terminal or life threatening illnesses.
- Injuries sustained during the course of operational training, eg self-defence.
- Where disability-related illnesses apply (as defined by the Disability Discrimination Act 1995 (Amendment) Regulations 2003 and the Disability Discrimination Act 2005) and particularly where a reasonable adjustment has not been made.
- Pregnancy-related illnesses.

NOT PROTECTIVELY MARKED

If none of these factors are present, the payment of salary will not normally be continued. Having considered the merits of each case and the general principles set out above, continuation of salary may still be refused where:-

- There is contributory fault or negligence on the part of the member of support staff (including where the risks of injury were foreseeable and reasonable precautions were not taken).
- The member of support staff has not co-operated and pursued appropriate medical treatment/rehabilitation/reasonable adjustments or has pursued activities that would hinder or prevent rehabilitation/recovery. This includes not complying with requests to attend medical examinations and/or supplying medical information.

Short temporary extensions may also be considered on an exceptional basis where the return to work has been delayed due to unreasonable delays in service provision within the Health Management Unit; or where arrangements or workplace adjustments to facilitate a return to work are being finalised.

All cases where discretion has been granted will be reviewed at least every two months by the Human Resources Manager, in consultation with the Health Management Unit and Divisional Commander/Head of Department. The same guidelines will apply in determining whether salary payment should continue beyond each review point.

The member of police staff will be notified of the decision in relation to payment of salary by letter. The individual's line manager must deliver this letter so that any welfare needs can be discussed.

The following circumstances will not, taken in isolation, justify an extension of full pay:-

- Delays in obtaining the necessary prognosis and/or medical treatment from the NHS.
- Pursuing a legal claim against the Force, eg Employment Tribunal or Personal Injury Claim.
- Being subject to disciplinary procedures.

4. Human Rights Compliance

- 5.1 The content of this policy has been tested against Derbyshire Constabulary's Human Rights Compliance Test.

Consideration has been given to the compatibility of this policy and related procedures with the Human Rights Act and European Convention on Human Rights; with particular reference to the legal basis of its precepts; the legitimacy of its aims; the justification and proportionality of the actions intended by it; that it is the least intrusive and damaging option necessary to achieve the aims; and that it defines the need to document the relevant decision making processes and outcomes of action.

5. Diversity Compliance

- 6.1 The content of this guidance has been tested against Derbyshire Constabulary's Diversity Compliance test. The application of this policy will be monitored on a half yearly basis in relation to reductions and extensions of occupational sick pay, and for any adverse discriminatory impact.

6. Monitoring and Review

- 7.1 The Human Resources Manager, in consultation with the Health Management Unit and Divisional Commander/Head of Department, constantly monitor all members of staff subject to this policy

7. Appeals Process

8.1 Police Officers

Where the Assistant Chief Constable (Support) considers that it is not appropriate under the policy guidelines to allow an extension of full pay, there is a right of appeal to the Chief Constable, initially by report, outlining the reason(s) why they feel entitled to remain at the appropriate salary level. The reasons given must fall within the guidelines stated within the policy.

8.2 Police Staff

Where the Head of Personnel considers that it is not appropriate under the policy guidelines to allow an extension of full pay, there is a right of appeal to the Assistant Chief Constable (Support), initially by report, outlining the reason(s) why they feel entitled to remain at the appropriate salary level. The reasons given must fall within the guidelines stated within this policy.

8. Certificate of Compliance

- 9.1 This document was audited in July 2008 by the Head of Department, Personnel within the guidelines of the Human Rights Act 1998. The audit was carried out on the assumption that the guiding legislation is itself compliant with the Human Rights Act 1998.
- 9.2 Where there are areas of potential interference with individuals' rights under the Act due regard has been given to the issues of legality legitimate aim proportionality and fairness.
- 9.3 Subject to any new legislation or changes in case law which require immediate amendment this document next requires reviewing in July 2009 by the Head of Department, Personnel.

1. **Police Officers Sick Pay**

Legal Basis

Regulation 46 of the Police Regulations 1995 refers to the payment of an Officer's salary during the period of sickness. It stipulates:-

"If on any relevant day a member of a Police Force has, during the period of 12 months' ending with that day been on sick leave for 183 days, he/she ceases for the time being to be entitled to full pay."

Further, that if the Officer "has been on sick leave for the whole of the period of 12 months' ending with that day, he/she ceases for the time being to be entitled to any pay while on sick leave."

It follows therefore that **there is a presumption within the Regulations that an Officer's salary will be reduced** whenever the period of sickness exceeds that as laid down.

2. **Police Staff Sick Pay**

Legal Basis

The terms and conditions governing occupational sick pay for Police Staff are as set out in Appendix 6 of the Force's Attendance Management Policy. The entitlement to sickness leave with pay is calculated as follows:-

During the first year of service	One month's full pay and (after four months' services) two months' half pay.
During the second year of service	Two months' full pay and two months' half pay.
During the third year of service	Four months' full pay and four months' half pay.
During the fourth and fifth years' service	Five months' full pay and five months' half pay.
After five years service	Six months' full pay and six months' half pay.

If there is less than a six week break from a previous employment with the Derbyshire Police Authority this shall be counted as continuous service. The payment of sick pay to those below the minimum earnings level for National Insurance Contributions will be made where applicable.

Subject to the Discretionary processes outlined in this policy, the presumption is that a Police Staff member's salary will be reduced whenever the period of sickness exceeds that as laid down in the above table.