



Department of
Justice

An Roinn Dlí agus Cirt

Máinnystrie O tha Laa

www.justice-ni.gov.uk

Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations (Northern Ireland) 2024

Consultation Response and Way Forward Document

Contents

1. Introduction.....	5
2. Executive summary.....	7
3. Department's response to the Consultation	8
4. Impact Exercises	11
5. Conclusion and next steps	13
6. Contact Details	14

1. Introduction

- 1.1 This document is the post-consultation report for the consultation on the Draft Amendment for Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations, published on 6 November 2023. Following engagement with stakeholders, additional time was granted to provide assistance to consultees and the consultation closed to responses on 5 January 2024.
- 1.2 The report contains: -
- the background to the consultation
 - a summary of the consultation responses
 - the government response to the single question asked and matters raised by respondents, and
 - next steps.

Legislative background

- 1.3 The Police (NI) Act 1998 (“1998 Act”) and Superannuation (NI) Order 1972 provides the legislative powers to make these amendments to be made.
- 1.4 These regulations amend the [Police Service Of Northern Ireland And Police Service Of Northern Ireland Reserve \(Injury Benefit\) Regulations 2006](#) and [The Police Service of Northern Ireland and Police Service of Northern Ireland Reserve \(Injury Benefit\) \(Amendment\) Regulations 2021](#).
- 1.5 Under section 21 of the 2014 Act¹, the consultation sought the views of representatives of such persons as appear to the Department of Justice (the Department) likely to be affected by these Regulations to ensure that the regulations and policies are based on an understanding of how these amendments affect members of the police pension scheme.
- 1.6 In the absence of an Assembly, Permanent Secretary Approval was granted on 03 November 2023 to consult on the proposed regulatory amendments. A public interest test under the Northern Ireland (Executive Formation etc.) Act 2022 has been carried out to support the consultation of these regulations (**Annex A**).
- 1.7. The Department received four responses which included contributions from: -

¹ 2014.c.2

- i. Northern Ireland Policing Board;
- ii. Police Service of Northern Ireland;
- iii. Superintendents' association for Northern Ireland; and
- iv. Police Federation for Northern Ireland

2. Executive summary

- 2.1 On 6 November 2023, the Department launched a consultation on the draft Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations 2024 (**Annex B**).

Proposal being consulted on

Application of Guidance to Medical Practitioners on Injury on Duty Awards

- 2.2 The Department of Justice has a statutory responsibility to bring forward regulation(s) to amend the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefits) Regulations 2006.
- 2.3 The scheme manager, the Northern Ireland Policing Board (the Board) is at legal and financial risk from the inconsistent application of the medical guidance by medical practitioners which do not align to the scheme's published medical guidance.
- 2.4 By placing the application of the medical guidance (Guidance to Medical Practitioners on Injury on Duty Awards) issued by the Board / Department to Selected Medical Practitioners (SMP) and Independent Medical Referees (IMR) on a statutory footing, this will ensure consistency of application of said guidance across all applicants.

Amendment to Police Service of Northern Ireland and Police Service of Northern Ireland (Injury Benefit) Regulations 2021

- 2.5 On 10 March 2021 in reporting on the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations 2021 (S.R. 2021/43), the Examiner of Public Rules brought to the special attention of the Northern Ireland Assembly errors in its drafting.
- 2.6 Schedule 1 of the draft regulations makes amendments to correct the errors in the Police Service of Northern Ireland and Police Service of Northern Ireland (Injury Benefit) Regulations 2021.

3. Department's response to the Consultation

- 3.1 The consultation was published on the Department's website and was to run from 6 November to 17 December 2023, however it was extended to 5 January 2024. A link to the consultation was also issued to policing stakeholders inviting their participation.
- 3.2 A total of four responses to the consultation paper were received on behalf of police employer and employee representative organisations. No responses were received from private individuals or members of the police pension schemes.
- 3.3 Respondents were asked to consider a single question related to the proposed changes and indicate if they felt the Department's proposed amendments to the policy area achieved what they aimed to achieve.

Consultation Question

- 3.4 Should application of the Northern Ireland Policing Board and Department of Justice 'Guidance to Medical Practitioners on Injury on Duty Awards' be placed in statute to ensure a consistent / standardised application of said guidance across all Injury on Duty (IOD) Award applications?

Summary of respondent's commentary

Northern Ireland Policing Board

- 3.5 The Board supported the proposed amendment and welcomes it as a first step in ensuring the consistent and standardised application of the medical guidance across all IOD awards.
- 3.6 The Board referred to a 2020 Northern Ireland Audit Office (NIAO) report 'Injury on duty schemes for officers in the Police Service of Northern Ireland and the Northern Ireland Prison Service' This report looked at what was perceived to be the problems with the schemes and considered what actions should be taken to mitigate those issues in the future.
- 3.7 The Board was of the view that by placing the medical guidance on a statutory footing would be a step forward in satisfying one of the recommendations made by the NIAO that "...more joined up working is needed between all partners to establish efficient, effective arrangements." This would ensure that arrangements are "efficient and effective" the relevant guidance underpinning the scheme is made statutory - impressing a statutory onus on all medical practitioners to work to equivalent methodologies and processes.
- 3.8 A review commissioned by the Board and conducted by Mr Justice Scoffield (2014), stated; "one authoritative, Northern Ireland-specific guidance document should be issued to assist

SMPs and IMRs to interpret and apply the Regulations in a consistent manner (and to enable applicants to understand how this will be done).”

Police Service for Northern Ireland (PSNI)

- 3.9 While PSNI did not state whether they welcomed the proposed amendment they did make a number of comments concerning the operation of IOD awards, which the Department will consider at the right time.

Police Federation of Northern Ireland (PFNI)

- 3.10 PFNI have stated that they do not support the inclusion of any draft IOD guidelines on a statutory footing following what they perceive to be a flawed and disappointing consultation process, which leaves them with more questions than answers.
- 3.11 The PFNI expressed disappointment in that the consultation was issued without updated medical guidance. A draft copy of the updated guidance was subsequently issued. The Department explained this regulatory amendment was being made to ensure the application of said medical guidance issued by the Board to SMPs and IMRs is used in conducting IOD assessments is followed consistently. The Department explained that nothing of substance within the guidance had changed. Terminology, older processes (no longer used), and legislation references were outdated, and needed to be updated and a general formatting was applied to the guidance. To be completely transparent, this topic was discussed with all police stakeholder groups at the Police Advisory Group on the 30th November 2023. The Department offered a meeting with PFNI and all other Policing stakeholders to go through the document in detail to discuss all changes.
- 3.12 PFNI questioned if this consultation proposal is about the Board / the Department crudely attempting to exert control over the SMP/IMR medical recommendations by attempting to put their own guidelines on a par with the associated injury regulatory mechanisms. The current guidance is reflective of current legislation, and in accordance with current Injury on Duty legislation Regulation 29(5) - The decision of the selected medical practitioner on the question or questions referred to him under this regulation shall be expressed in the form of a report and a certificate and shall, subject to regulations 30 and 31, be **final**.
- 3.13 The Department further explained the medical guidance was a living document and would be continually updated to reflect the current IOD environment and future legislation changes.
- 3.14 In summary, from PFNI's perspective was this was a maladroit provision of limited information rather than a proper consultation process.

Superintendent Association for Northern Ireland (SANI)

- 3.15 SANI made no suggested amendments.

Amendment to Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2021

- 3.16 The Department noted no substantive comments on the proposed amendments to correct the errors in the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) Regulations 2021.

Department of Justice (DOJ) response

- 3.17 The Department welcomes the responses received from stakeholders which will also be considered in conjunction with future proposed regulatory changes to IOD regulations.
- 3.18 The Department's view is by placing the application of the medical guidance (Guidance to Medical Practitioners on Injury on Duty Awards) issued by the Board to SMPs and IMRs for use in IOD awards and appeals on a statutory footing it will ensure a consistent / standardised approach / application of said guidance across all IOD cases.
- 3.19 The Department acknowledges that the medical guidance will evolve over time, and both the Board and Department, will ensure the current version of this medical guidance will always be easily accessible to all parties.

4. Impact Exercises

Equality

- 4.1 Section 75 of the Equality Act (NI) 1998 statutory duties aim to encourage public authorities to address inequalities and demonstrate measurable positive impact on the lives of people experiencing inequalities. Its effective implementation should improve the quality of life for all the people of Northern Ireland.
- 4.2 Section 75 requires public authorities to have due regard for the need to promote equality of opportunity between:
- Persons of different religious belief, political opinion, racial group, age, marital status, or sexual orientation
 - men and women generally
 - persons with a disability and persons without
 - persons with dependants and persons without
- 4.3 The Department has carried out an Equality Impact Assessment ('EQIA') screening exercise when considering the drafting of these regulations. The purpose of this screening was to identify those policies that are likely to have an impact on equality of opportunity and/or good relations and so determine whether an EQIA was necessary.
- 4.4 The screening concluded that the draft regulations proposed will have an affirmative impact upon ex PSNI Police Officers who have been injured in the line of duty. Currently the guidance used to assess an officers' Injury on Duty Award is not applied consistently by some medical practitioners. The intention to place the said Guidance (Guidance to Medical Practitioners on Injury on Duty Awards) on a statutory footing, will provide a consistent and equal approach across all applicants and diminish legal and financial risk to the scheme manager. On the basis of this conclusion a full EQIA was screened out on 27 October 2023 and published alongside the consultation.

Data Protection

- 4.5 The Department have carried out a Data Protection Impact Assessment ('DPIA') screening when considering the drafting of these regulations. As these draft regulations do not require the Department to process individual's personal information a full DPIA has been screened out.

Rural Communities

- 4.6 The Department considered a Rural Needs Impact Assessment as part of the implementation of these proposed regulations. It identified that there would be no significant adverse or differential impact on people living in rural communities compared with those in an urban setting.

5. Conclusion and next steps

- 5.1 The Department have engaged with Northern Ireland Policing Board who now have the opportunity to make the necessary process changes in advance of these Regulations coming into operation in Spring 2024.
- 5.2 Having considered the responses to this consultation, the Department will seek approval from the Department of Finance under section 72(2A) of the 1998 Act to the making of these Regulations.
- 5.3 Subject to the Executive Formation etc (2022) Act, in absence of a NI Assembly officials will seek Permanent Secretary approval to the making of the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations 2024.

6. Contact Details

Further copies of this report and consultation documentation can be obtained by contacting the address below:

Email: pphr.consultations@justice-ni.gov.uk

DoJ Police Policy Human Resources Branch
Knockview Buildings
Stormont Estate
Belfast BT4 3SG

This report is also available at the Department's website [here](#).

Alternative Format

If it would assist you to access the document in an alternative format or language other than English, please contact Police Policy Human Resources Branch who will attempt to assist you.

Complaints or comments:

If you have any complaints or comments about the consultation process, you should contact the Department at the above address.

Principle within the guidance	Consideration in relation to the current decision
Major new policy/significant change to existing policy should be Ministerial decisions	The Department views this amendment as a minor policy adjustment to the current IOD legislation. Its legislative purpose is simply to ensure the medical guidance (Guidance to Medical Practitioners on Injury on Duty Awards) used by SMPs and IMRs when assessing IOD awards and appeals across applicants and appellants is applied fairly and consistently in all cases.
Departments must control and manage expenditure	Failure to implement these regulations exposes both the Board and Department to potential litigation and costs.
Departments should act to fulfil a statutory obligation	The Department is responsible for the policy and legislative framework associated with matters relating to Injury on Duty arrangements for ex PSNI officers.
Departments should act to avoid greater budgetary pressures or significant financial costs	Given the inconsistent application of this guidance by SMPs and IMRs there is the possibility of further legal challenges to IOD awards. This may lead to associated unknown legal costs and awards impacting the Department's financial position.
Departments should act to avoid detriment to the provision of a public service or public safety	By placing this guidance on a statutory footing, it is ensuring a consistent / standard approach to dealing with assessments for IOD awards by all medical practitioners. It is also safeguarding public monies in order to ensure that public funding is used appropriately and consistently when making awards. Also, it reduces the risk of bring the Department into disrepute.
Departments should act to address a civil contingency or manage a significant risk	The implementation of these regulations will ensure a consistent approach across IOD awards and re-assure ex-police officers awards are being made justly based on the information being presented by the officer.
Departments should act to avoid significant loss of opportunity/advantage	By implementing these regulations both the Board and Department exposure to potential litigation is reduced,
Policy direction of former Ministers should be followed unless in conflict with the above principles or there is a significant change in circumstance	You agreed to a request made by the Northern Ireland Policing Board (the Board)/DoJ to consider placing Injury on Duty (IOD) Award Guidance to Medical Practitioners (guidance) on a statutory footing. This is not in conflict with the above principles.
It is a priority to maintain the delivery of public services as sustainably, effectively, and efficiently as possible	While IOD awards are continuing to be assessed and awarded, this regulation will ensure a standardisation of approach by all medical practitioners providing the service.

Requirement to consult OGDs if matter is cross cutting	The Department will be approaching DOF for approval under Section 72(2A) of the 1998 Police NI Act.
Where a matter is deferred it should be kept under review	N/A
Where a decision is not taken preparatory work should continue	N/A

Proposed drafted amendments

New paragraphs at regulations 29: -

- At regulation 29 after paragraph (6) insert —
(7) An SMP or IMR must comply with the provisions of Guidance to Medical Practitioners on Injury on Duty Awards to SMPs and IMRs at all times including any updates to that guidance.

For the purposes of this regulation a —

“duly qualified medical practitioner“ means a registered medical practitioner who holds—

(a) (i) the minimum of Associate of the Faculty of Occupational Medicine or the equivalent EEA or Swiss qualification; or

(ii) any other equivalent qualification acceptable to the Board; and

(b) (i) a current registration with the General Medical Council or equivalent regulatory body in the EEA or Switzerland; or

(ii) an equivalent registration with an appropriate regulatory body in relation to their qualification

“Guidance to Medical Practitioners on Injury on Duty Awards to SMPs and IMRs” means the guidance provided by the Board to duly qualified medical practitioners when considering eligibility for an Injury on Duty award.

“Selected Medical Practitioner” (“SMP”) means a duly qualified medical practitioner selected by the Board or the Chief Constable of the PSNI.”

“Independent Medical Referee” (“IMR”) means an independent medical practitioner appointed by the Department of Justice.

Schedule 1 makes minor amends (errors in drafting) to the Police Service of Northern Ireland and Police Service of Northern Ireland (Injury Benefit) Regulations 2021. On 10 March 2021 in reporting on the Police Service of Northern Ireland and Police Service of Northern Ireland Reserve (Injury Benefit) (Amendment) Regulations 2021 (S.R. 2021/43), the Examiner of Public Rules brought to the special attention of the Northern Ireland Assembly errors in relation to its drafting. These regulations make amendments to correct the errors so identified.