



## **Recuperative Duty, Adjusted Duty (Officers) and Management Restrictions**

This document is part of North Yorkshire Police policy to which all Chief Constable personnel and the functions provided by the Deputy Mayor for Policing as part of the York & North Yorkshire Combined Authority are required to adhere.

This procedure applies to both Police Officers and Police Staff.

### **Statement**

Operational resilience is the ability of a force to respond effectively and flexibly to the demands placed on it on a daily basis, whether the demand is local or national. In order for North Yorkshire Police (NYP) to meet those demands in a way that makes the best use of resources, the Chief Constable must be confident that individuals have the appropriate level of capabilities that are required and that each officer is being deployed to the full extent of their capabilities.

### **Aim**

The aim of this procedure is to provide advice and guidance to managers, supporting individuals in work who have a restriction, which in most circumstances will be a health condition. This procedure outlines the process for Recuperative Duty (Officers & Staff), Adjusted Duties (Officers only) and Management Restrictions (Officers only).

### **Linkages:**

#### **Overarching Policies:**

Health and Safety Policy

Equality, Diversity and Human Rights (Inclusion and Diversity) Policy

#### **Procedures:**

Flexible Working Procedure

#### **Other Documents:**

Police (Amendment) Regulations 2015, Regulations 22 - Annex EE

Support Plan template

Risk assessment Limited Duties

Appendix A - Case Review Discussion

Appendix B - Consideration of the Redeployment Process of Fully Deployable Officers

Appendix C - Pay guidance

Appendix D - Annual Management Review

## **Police Officers:**

Police (Performance) Regulations 2020

### **1.0 Recuperative Duties (Officers and Staff)**

1.1 Recuperative duties can enable an individual to either return to work from sick leave or support them from going off sick due to a health challenge.

1.2 In most cases after sickness absence, an individual will return to work and continue their normal duties. However, based on the individual needs and in discussion and agreement with Management and Health & Wellbeing as appropriate, an individual may be permitted to reduce their hours or change their duties on a temporary basis. This decision should be based on the realistic prospect of the person returning to full duties as soon as is reasonable, and in any event in less than 9 weeks.

1.3 Recuperative duties are defined as duties falling short of full deployment, undertaken by a member of staff following an injury, accident, illness or medical incident, during which the member of staff adapts to and prepares for a return to full duties and the full hours for which they are paid, and is assessed to determine whether the individual is capable of making such a return. Recuperative duties should be a structured, supportive and a rehabilitative process, with a defined duration,

1.4 Recuperative duties may include full hours performing a role that matches the individual's level of functional capacity for a defined and finite period. It can also include a reduced hours programme in their current role or in a role that matches the individual's level of functional capacity. Please note that if an individual takes a day's leave, a full day will be deducted from their entitlement and not the reduced hours they are working.

1.5 In normal circumstances, all short periods of recuperation will take place within an individual's normal Command/Department (although not necessarily in their normal unit/section). However, in exceptional circumstances, and if deemed beneficial for the recovery of the individual, or if it is deemed that the organisation will gain more value from the individual, a temporary posting to another Command/Department may take place. This will be done in consultation with the individual concerned, People Services and Health and Wellbeing team as appropriate.

## **2. Recuperative Duties Criteria**

2.1 To be considered for a recuperative duties plan an individual must:

- be in a position to sustain performance at work for at least 50% of their normal weekly hours or shift pattern, (e.g. an officer working 40 hours per week would not commence on a recuperative hour's program of less than an average of 20 hours per week), or

- be in a position to sustain performance at work for at least 50% of different weekly hours/shift pattern providing it can be accommodated and;
- where applicable, be able to undertake a role which is mutually agreed prior to their return to work and which accommodates medical restrictions, and;
- undertake their own role with adjustments or a recognised vacancy or a role which is required by the organisation and therefore adds value, and;
- be predicted to be able to perform 100% of their weekly hours and duties within 9 weeks.

2.2 Where all of the above can be met, the line manager has the authority to agree the recuperative duties plan for a period of up to 9 weeks without referral to People Services, unless this is deemed necessary.

2.3 Where all of the above cannot be met, only People Services have the authority to agree a plan that sits outside of the criteria. These instances will be treated as the exception and will only be agreed in conjunction with either the Health and Wellbeing and / or HR Support Team. Outcomes may include:

- A longer period of recuperative duties up to a further six-month period, (in exceptional circumstances this may be extended to a maximum of 12 months);
- Considering the possibility of a change to the individuals working pattern/ hours (as an adjustment) under the Flexible Working Procedure.
- Referral to the Selected Medical Practitioner (SMP) or IRMP process for consideration of permanent disability;
- Place an Officer on adjusted duties (Police Officers only).

2.4 If an individual believes they can perform 100% of their weekly hours and duties within 9 weeks at the beginning of their return on recuperative duties but this changes due to unforeseen circumstances, advice must be sought from People Services and a referral to the Health and Wellbeing Team may be appropriate.

### 3. Recuperative Duties Process

3.1 If recuperative duties are to be applied then a Recuperative Duties e-form must be completed. To access the form, click the following link : Management Agreed Recuperative Duties Form

3.2 Where applicable a risk assessment should be completed to support the recoup plan. For mental health conditions a stress risk assessment should be considered.

3.3 Where a referral to Health and Wellbeing is required the form must be completed with sufficient detail. To access OPAS, click the following link: [OPAS Link](#)

3.4 Where alternative duties are found to support the period of recuperation the substantive line manager remains responsible for the ongoing support and management of the individual.

3.5 A Support plan ([Support Plan template - attendance or performance.docx](#)) must be in place to document the planned return to full hours and duties with clearly defined timescales. This should be added to the Origin record.

3.6 Regular reviews must take place of the recoup form and the support plan. Any amendments to the recoup or extension to temporary amendments require consideration of this process, including a referral to Health and Wellbeing and / or HR Support Services.

#### 4. Review Meetings for recuperative duties

4.1 Review meetings will be held between the line manager and the individual to review progress against the recuperative duties, support plan and ensure the risk assessment remains accurate.

4.2 At the final review meeting the recuperative duties plan and risk assessment may be signed off as complete and the individual will return to full duties, or where necessary further action must be considered. This can include additional support, extension to recuperative duties via Health and Wellbeing, and/or instigation of the UPP or police staff Capability procedure

4.3 Where an individual is not medically capable of resuming their full hours, they may wish to request (as an adjustment) part time/flexible working so that they are paid only for the hours worked, in accordance with the Flexible Working Policy. Should an individual choose not to do this and fails to attend for their normal specified hours, consideration must be given to the implementation of the UAP/Capability process with the expectation this process will be instigated

4.4 Alternatively for officers only, it may be appropriate to place the individual on Adjusted Duties.

#### **5.0 Adjusted Duties (Officers only)**

5.1 NYP accepts that there will be officers who are temporarily or permanently unable to carry out full operational duties. In accordance with the Police (Amendment) Regulations 2015, namely Regulation 22 and 28A, and Determination Annex EE of the Determination under Regulation 22, these will be categorised and managed under the term 'Limited Duties'.

5.2 NYP will consider the support/ management and deployment of these officers in line with the needs of the service and its legal obligations under the Equality Act 2010.

#### 6 Adjusted Duties Criteria

6.1 An officer may be deemed as suitable for adjusted duties in any one of the following circumstances:

- Where the officer has returned to work on a recuperative plan and has not achieved a return to full duty within the timescale set. Or at the point of return, it is known that the individual has a medical condition that will require a longer period to achieve a full recovery before full duty can be achieved.
- Where the officer has a long-term medical condition that prevents them from undertaking roles that require full operational duty.

6.2 For an officer to be placed on adjusted duties, he/she must:

- Be attending work on a regular basis;
- Be working the full number of hours for which he/she is paid (in either a full time or part time role).

6.3 Whether Adjusted Duties are agreed in any individual case, will depend on:

- Whether the officer is able, after any necessary reasonable workplace adjustments have been made, to discharge a substantive police role for the full duration of the hours for which he/she is paid;
- Whether such deployment can be accommodated without unreasonable detriment to overall force effectiveness or resilience, as judged by the Adjusted Duties Panel.

6.4 All reasonable efforts will be made to accommodate any disability the officer may have, and each case will be considered on its individual merits.

## 7. Adjusted Duties Process

7.1 In considering an officer for adjusted duties, the line manager will have a meeting with the officer, a Police Federation representative (if requested) and People Services (if required). An up-to-date medical report should be available from Health and Wellbeing to support progression of the Adjusted Duties process.

7.2 At the meeting the line manager, in discussion with the officer, will complete a case review form (Appendix A) which will provide the following information:

- A summary of the officer's condition and action taken to date;
- Assessment of the officer's capabilities and restrictions;
- Detail of the duties that the officer is understood to be unable to carry out (see core capabilities listed in the definition section below)
- Medical advice received;
- Recommended adjustments;
- Career history of the officer;
- Career aspirations of the officer;
- Any other possible options;
- A recommendation on the way forward.

7.3 Once the form has been completed, it should be passed to the relevant Chief Inspector (Police Staff Equivalent PO9-12). They will consider the case and should seek advice from HR to assist them in doing so.

If a local resolution is identified (permanent or temporary posting), the recommendation of whether an officer should be placed on adjusted duties will be made in the first instance by the Chief Inspector and then referred to an Adjusted Duties Panel for ratification.

7.4 The Chief Inspector will make their recommendation based on information, which includes:

- The completed adjusted duties review form;
- The core capabilities required of each police officer roles in the department; and

- A comparison between the officer's core capabilities and those required by roles in the department.

7.5 Where a local resolution is not identified the case will also be referred to an Adjusted Duties Panel, which will be scheduled to meet as and when required.

7.6 The membership of this panel will be as follows:

- Director of People Services (Chair)
- Senior Operational Officer (Supt or above)
- People Services Advisory Team
- Health & Wellbeing, where applicable

Although not essential, or a member of the panel, a Police Federation representative will also be invited to attend the meeting.

7.7 The Adjusted Duties Panel will be provided with a copy of the adjusted duties review form and may decide that new or further reasonable adjustments should be put in place, including a move to a more appropriate, substantive role where one is available (see section 8.0).

7.8 Details of the Adjusted Duties Panel decision will be communicated in writing to the officer and the line manager. The rationale for the decision should be recorded, attached to the adjusted duties review form and placed on the officer's personal file.

7.9 Having been placed on adjusted duties, the line manager and officer should monitor the adjustments which may be altered as necessary to meet both the officer's and the force's needs. If the officer's condition suffers a significant deterioration, it may be appropriate to consider referral to the SMP process for consideration of permanent disability.

7.10 Any officer referred to the SMP for consideration of permanent disability should not be placed on adjusted duties until the outcome is known.

7.11 Officers who have been retained under the Police Pension Regulations because the SMP has determined that they are permanently disabled, may be placed on adjusted duties. If it is decided that the officer should be placed on adjusted duties, this would be subject to the annual management reviews and consideration of whether or not the officer should retain their x factor.

## **8.0 Suitable Substantive Role**

8.1 Where possible, an officer will be retained in their current role. If this is not possible, a comparison will be undertaken of the officer's core capabilities against the core capabilities held in the database of police officer roles, in order to determine if a suitable alternative substantive role is available.

8.2 The key considerations when deciding whether to post an officer on adjusted duties into an appropriate substantive role are:

- Whether the workplace adjustments could reasonably be accommodated (including adjustments to the range of duties) in order to facilitate the officer being capable of performing the specified role;

- Whether it is reasonable for the force to make the adjustments that are identified to that role. This would include consideration of:
  - Operational resilience implications;
  - Health and safety risk assessment outcomes;
  - Cost of workplace adjustments, taking into account financial and other assistance available;
  - Impact of adjustments on colleagues and team/force performance; and whether adjustments have been made for others etc.;
  - The context of the totality of the police officer workforce;
  - Vacant posts;
  - The needs of disabled officers and officers returning from maternity leave as well as any other statutory duties which may apply.
  - Whether the officer has the required skill or they could develop the required skills in a reasonable period of time.

8.3 If the officer's skills match the skills required for the post, the officer may be redeployed straight away. If they do not the officer may be invited for a suitability assessment.

8.4 Departments must retain the officer, and they will be expected to post them into a suitable role even if it is filled by an officer who is:

- Not on adjusted duties; or
- On adjusted duties but is able to carry out a wider range of duties.

The process for the above is detailed in Appendix B.

8.5 Consideration will be given to every police officer role within NYP and every effort made to identify a suitable role.

8.6 The officer's views, wishes and personal circumstances will be taken into account when considering roles. NYP will do all that it can to find a role suitable for the officer's restrictions that meets their needs and supports the needs of NYP. However, the Chief Constable reserves the right to post the officer to a role he/she feels meets their restrictions. If an officer refuses to accept a post and cannot provide suitable evidence to support reasons for the refusal, the matter may be dealt with under Misconduct Regulations specifically failure to follow a lawful order.

## **9.0 Management Review of Adjusted Duties**

9.1 Officers will be assessed one year after being placed on adjusted duties, on an annual basis thereafter to determine:

- Whether the officer is able, after reasonable workplace adjustments have been made, to discharge a substantive police role for the full duration of the agreed hours for which he/she is paid; and

- Whether such deployment can be accommodated without unreasonable detriment to overall force resilience.

9.2 The review will be conducted by a Chief Inspector, line manager and People Services (if required). Advice will be obtained from Health & Wellbeing if needed. They will meet with the officer concerned, who may invite a Police Federation representative or a work colleague. In assessing the above, they will consider whether there have been any changes in the officer's medical circumstances, whether there need to be any changes made to the adjustments already put in place, and whether any such changes can reasonably be accommodated in that role. They will decide whether a referral to the Force Medical Advisor(s) is required. The recommendation should be referred to the Adjusted Duties Panel.

9.3 They will complete the Annual Management Review Form (Appendix D) and, make a recommendation as to whether:

- a) The officer is considered for return to full duties;
- b) The officer remains in role with existing adjustments remaining in place.
- c) Adjustments are no longer adequate, and further adjustments to the role are agreed to be reasonable and implemented;
- d) Some adjustments are no longer necessary and can be removed, and any necessary arrangements put in place to enable the officer to be more fully deployed;
- e) The officer is referred to the Selected Medical Practitioner (SMP) process for consideration of permanent disability, this must be supported by FMA advice;
- f) Business circumstances have changed, and existing adjustments can no longer be accommodated as reasonable, that consideration will be given to posting the officer to a more appropriate role; (in these circumstances consideration would be given to whether there was a suitable role in the same way as an initial adjusted duties consideration);

9.4 The meeting may be adjourned, if necessary, for further research or information to be obtained.

9.5 The completed Appendix D form and any supporting papers, for example, Health & Wellbeing advice and risk assessments, should be sent to People Services who will arrange for the officer's case to be considered by the Adjusted Duties Panel as described in section 7 above .

## **10.0 A 12 Month Review – Actions in Advance**

10.1 After 9 months on adjusted duties, the officer should be notified in writing by People Services that should they remain on adjusted duties following a 12-month management review, they may be subject to the loss of the deployment element of the X-factor payment.

This constitutes a deduction of pay to the value of:

- 8% of the pay to which the officer is entitled as a constable

For all other ranks:

- 8% of the pay to which the officer is entitled in his/her current rank, capped at 8% of the maximum of constables' pay.

10.2 The officer should also be informed of all possible outcomes of the review. The officer will then be invited to make written representations to the Chief Inspector detailing any changes they have identified in their ability to be deployed and whether they consider that adjusted duties should continue.

### **11.0 Pay implications**

11.1 On receipt of the recommendation from the review meeting and the officer's representations, the Chair of the adjusted duties panel, will decide, on a case-by-case basis, whether or not an officer should:

- 1) remain on adjusted duties;  
and
- 2) make a recommendation to the nominated Assistant Chief Constable (ACC) as to whether the officer should sustain a deduction from pay to the value of the X-factor.

All cases should be considered individually, taking into account the relevant facts and circumstances of each. The chair of the Adjusted Duties Panel must consider each case on its merits, having due regard to equalities legislation and to the operational requirements of the force at that time. The decision will be paper based; however, a Federation representative will be invited to attend the meeting.

11.2 The Chair of the Adjusted Duties Panel may recommend that the deployment component of the X-factor may be retained by the officer in the following circumstances:

- The range of roles to which the force is able to deploy the officer is not significantly reduced.
- The avoidance of manifest unfairness e.g. where fully fit officers are performing the same range of duties within a role as an officer on adjusted duties.
- An officer is on adjusted duties solely as the result of an injury sustained or contracted in the course of having put themselves in harm's way in the execution of their duties.
- Some other exceptional reason.

Appendix C provides examples relating to the exercise of discretion regarding pay deductions (as detailed in the Limited Duties Guidance).

11.3 If the Chair of the Panel considers that the officer will continue to retain the X factor, no further action will be taken.

If, however, the Chair of the Panel considers that the officer does not meet any of the above circumstances, then they must recommend, in writing, to the ACC whether the X-factor deployment component should be retained by the officer.

The ACC must produce a full detailed report providing the clear rationale behind their decision and must include supplementary evidence to support this decision.

11.4 People Services will notify the officer in writing of the outcome, within 5 days of the decision being received and will inform Payroll. One month's notice will be given of any deduction of the deployment element of X-factor from pay.

## **12.0 Appeals**

12.1 The officer has the right to appeal to the Chief Constable in relation to the deduction of X-factor. Allowable grounds for appeal are:

- Abuse of process.
- Perverse decision.

12.2 An appeal detailing the grounds upon which it is based, must be submitted in writing to People Services within 21 calendar days of formal written receipt of the decision.

12.3 The appeal will be considered and determined by the Chief Constable, who will be advised by a member of the People Services Senior Management Team. The appeal will be paper based; however, a Federation representative will be invited to attend.

12.4 People Services will notify the officer in writing of the outcome of the appeal within 5 days of the appeal being determined.

12.5 Should the officer submit an appeal that is upheld, pay will be reinstated, including any back pay as applicable.

12.6 The outcome of the appeal is final.

## **13.0 Annual Reviews following initial 12 Month Review**

13.1 Further, formal management reviews of adjusted duties officers should take place on at least an annual basis to check that arrangements are still working for both the individual and the force and that any pay adjustment is still appropriate. These reviews will take the same format as the 12-month review.

13.2 There may be occasions where, after the first 12-month review, the officers condition remains the same and the role remains appropriate, that a review is not required. In these cases, the line manager should complete Appendix D, section one, and forward to the Chair of the Adjusted Duties panel who should confirm the decision and forward to the People Services Helpdesk to record on the officer's personal file.

13.3 In addition a review can be initiated at the request of either the officer or local managers at any time if there is any significant change in circumstances (i.e. a change in the officer's condition for better or worse, a change in the level of force resilience etc). If the conclusion of the review is that an officer's condition has improved to the point where adjustments are no longer necessary, they should be taken off adjusted duties and pay reinstated with effect from the date of the conclusion of the review (including consideration of any new medical advice).

## **14.0 Support Plans and Risk Assessments**

14.1 Every officer with adjusted duties will have a support plan where appropriate. This will be reviewed by the line manager at agreed intervals.

14.2 Where necessary, a line manager will carry out and document a risk assessment for every officer with restrictions. This will be linked to policing activities and based on Health & Wellbeing and Health and Safety advice. This will be reviewed and updated at the same time as the support plan.

14.3 Before an officer starts in a new role their new department manager will review the risk assessment and their support plan and will make sure that any agreed reasonable adjustments are put in place.

### **15.0 Police (Performance) Regulations**

15.1 The attendance and performance of the officer will continue to be managed irrespective of whether the officer is subject to an adjusted duties agreement. The requirement for the officer to perform the role to an adequate standard and maintain acceptable levels of attendance remains. It should be noted that failure to do so will result in management interventions that may include the instigation of UAP and/or UPP procedures which have the ultimate sanction of dismissal.

15.2 Under the regulations NYP may consider redeployment to a post at a lower rank as an alternative to dismissal.

### **16.0 Role No Longer Suitable**

16.1 At any point it could be decided a role is no longer suitable. For example, if:

- The adjustments are no longer reasonable;
- There is a health and safety risk;
- The role is no longer available, or
- The role has changed.

If this happens the officer will start the process at the initial stage again.

### **17.0 Pregnant Officers**

17.1 Maternity restrictions may be placed on an officer following a pregnancy risk assessment. Where these only remain in place until the officer returns from maternity leave this procedure will not apply.

However, if Health & Wellbeing advise that restrictions are needed once the officer returns to work after having a baby this procedure will be used.

### **18.0 Welfare, Social and Domestic Issues**

18.1 Welfare, social or domestic issues are not medical restrictions and will not be dealt with using this procedure.

### **19. Management Restricted Duties (Officers Only)**

19.1 'Management restricted duties' is defined as duties to which an officer is allocated in circumstances in which:

- i Verifiable confidential or source sensitive information or intelligence has come to the notice of the Force that questions the suitability of an officer to continue in his or her current post; and/or
- ii Serious concerns are raised which require management actions, both for the protection of individuals and the organisation.

19.2 In either of the above situations, it should also be the case that:

- i Criminal or misconduct proceedings are not warranted; and
- ii The Chief Constable has not lost confidence in the officer continuing in their current role