

DURHAM CONSTABULARY



Altogether Better Policing

Limited Duties Policy

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Policy Owner	Human Resources
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Durham Constabulary Freedom of Information Act Publication Scheme	



1.0 LIMITED DUTIES POLICY

2.0 PURPOSE AND SCOPE

- 2.1 The purpose of this policy is to provide guidance to all individuals on the utilisation of recuperative adjusted and management restricted duties as a means of facilitating an Officers return to work or full duties following an injury, illness diagnosis or sickness absence.

3.0 THE LEGAL BASIS AND LEGITIMATE AIMS

- 3.1 Durham Constabulary is required to comply with the requirements of the
- Health & Safety Act Work Act 1974
 - Equality Act 2010
 - Police (Health and Safety) Act 1997
 - Data Protection Act/Access to Medical Records Act 1998
 - Police Amendment Regulations 2015 (S1. 2015/455) and supporting determinations. Effective from the 1st May 2015
- 3.2 Throughout the operation of this policy Durham Constabulary will seek to take the least intrusive action which fits within the working policy criteria and will act fairly and proportionally to achieve the proposed purpose
- 3.3 Durham Constabulary will operate within the policing principles as defined by the College of Policing Code of Ethics and in support of this our policies will seek to promote Accountability, Fairness, Honesty, Integrity, Leadership, Objectivity, Openness, Respect and Selflessness.
- 3.4 The Force recognises the contribution of its entire staff and is committed to creating a fully inclusive working environment. This will be achieved by making reasonable adjustments where appropriate, valuing the differences that a diverse workforce can bring and challenging unlawful and unfair discrimination, bullying, harassment, victimisation and other unfair treatment based on age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, ethnicity, religion or belief, gender and sexual orientation.

4.0 **POLICY STATEMENT**

- a) **Recuperative duties** are defined as duties falling short of full deployment following an injury, accident, illness or medical incident during which an Officer adapts to and prepares for a return to full duties and full hours for which they are paid and is assessed to determine whether they are capable of making such a return. Recuperative duties should be a structured, time-limited, supportive and rehabilitative process. Such duties facilitate the earliest possible return to work by making, if appropriate, short term reasonable adjustments following advice from the Force Medical Advisor (FMA) or Occupational Health Nurse (OHN)
- b) **Adjusted duties** are defined as duties falling short of full deployment in respect of which workplace adjustments have been made to overcome barriers to working.

Adjusted Duties categorisation – within paragraphs a) and b) as outlined above, Officers will be defined as belonging to one of the below categories:-

- a) Fit for full duties
 - b) Fit for control and restraint, fit for response driving but unfit for full shifts
 - c) Fit for control and restraint, unfit for response driving but fit for full shifts
 - d) Fit for control and restraint but unfit for response driving and full shifts
 - e) Fit for control and restraint, unfit for driving of any police vehicles but fit for full shifts
 - f) Fit for control and restraint, unfit for driving of any police vehicles and unfit for full shifts
 - g) Unfit for control and restraint but fit for response driving and full shifts
 - h) Unfit for control and restraint, fit for response driving but unfit for full shifts
 - i) Unfit for control and restraint, fit for driving police vehicles but not response driving and fit for full shifts
 - j) Unfit for control and restraint, unfit for response driving but fit to drive other police vehicles and unfit for full shifts
 - k) Unfit for control and restraint, unfit for driving of any police vehicles but fit for full shifts
 - l) Unfit for control and restraint, unfit for driving of any police vehicles and unfit for shift working
 - m) Unfit for any post that involves public contact – only fit for back-office role
- c) **Management Restriction of Duties** are defined as duties which are allocated in circumstances 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 their current post and /or
 - ii) Serious concerns are raised which require management actions both for the protection of Officers and the Force.

The decision to place an Officer on management restriction of duties will be made by the Chief Constable.

5.0 Health Management Referral Process

- 5.1 Officers who are expected to be absent from work due to sickness for more than 28 days, must be referred to Health Management Unit by their line manager via form Pers 222. Line management may also refer Officers at an earlier stage or if they are currently at work, if they feel it is appropriate. Feedback will be forwarded to the Command/Department via a report and form Pers. 208. Where illness is stress or muscular skeletal related, on completion of the Origin sickness reporting form, HMU will be automatically notified.
- 5.2 An Officer may return to work after being declared fit to do so by their own General Practitioner (GP) unless concerns are raised by the Force Medical Advisor.

6.0 Recuperative Duties

- 6.1 All recuperative duties should be meaningful and wherever possible performed as part of an Officer's normal role. However, it must be noted that on occasions this may not be possible and an Officer may be offered recuperative duties in an alternative role/location. Officers do not have the automatic right to work recuperative duties.
- 6.2 If recuperative duties are recommended, then it is the responsibility of the Head of Command/Department in liaison with the Strategic Resourcing Manager/HR, to attempt to identify an appropriate role or duties for the Officer to undertake. If a Command/Department cannot accommodate the recommended recuperative duties this should be communicated to the Head of HR to allow a wider search to be conducted by the Strategic Resourcing/ HR Manager.
- 6.3 If recuperative duties cannot be offered to an Officer he/she must remain on sick leave or commence sick leave.
- 6.4 Not all Officers' will be on sick leave when a period of recuperation is recommended. On occasions to avoid an individual taking sick leave, the Force Medical Advisor/Occupational Health Nurse may recommend that a period of recuperative duties should be undertaken.
- 6.5 Officers on recuperative duties will be subject to a written return to work plan (Pers 251) which sets out the arrangements for a phased return to full duties and the time scales involved.
- 6.6 Officers restrictions will remain, until the individual is either assessed by the Force Medical Advisor/Occupational Health Nurse and these are subsequently removed or

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as outlined on the phased return to work plan. However, where an Officer considers they are fit to resume full duties prior to the completion of the phased return to work plan, they may raise such a request with their Line Manager for consideration. Subject to approval by the Line Manager, an appropriate risk assessment will be completed to capture the new arrangement and a copy forwarded to HMU for information. A further referral to HMU will not be required under these circumstances.

- 6.7 The minimum number of hours worked per day should be no less than 4 unless there are very exceptional circumstances evidenced by Occupational Health. Occupational Health will provide recommendations regarding a phased return to full hours.
- 6.8 Recuperative duties should normally be no longer than 6 months, although it is recognised that in exceptional circumstances it may be appropriate to extend the recuperation period up to a further 6 months (12 months in total). The Force Medical Advisor/Occupational Health Nurse will outline their rationale why the recuperative duties should be extended. The Officer will continue to be regularly assessed by the Force Medical Advisor/Occupational Health Nurse.
- 6.9 If any problems occur with the return to work plan the Head of Command/Department must consult with the Force Medical Advisor/Occupational Health Nurse via the HR Manager.
- 6.10 The Force Medical Advisor/Occupational Health Nurse may need to seek further medical information from the Officer's G.P. or Treating Consultant before making their recommendation. This information is gathered and stored within the remit of the Data Protection Act/Access to Medical Records Act 1998.
- 6.11 If necessary, management may be required to undertake a workplace risk assessment prior to the Officer commencing recuperative duties. Information is available from the force Risk Assessment Policy which is available on the Force intranet. In some instances specialist external assistance may be sought via the Health and Safety Advisor.
- 6.12 At the end of the recuperative period, an Officer may:-
 - i. return to full duties
 - ii. if not medically capable of resuming their full hours an Officer may wish to request (as an adjustment) part time/flexible working and be paid for the actual hours worked
 - iii. be referred to the Selected Medical Practitioner (SMP) for determination of permanent disablement/or permanent medical unfitness from undertaking the ordinary duties of a Police Officer.

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- iv. be subject to Police Performance Regulations (UPP) where an Officer fails to make adequate progress against an agreed recuperative support plan.
- v. be placed on adjusted duties

7.0 Adjusted Duties

7.1 For an Officer to be placed on adjusted duties he/she must:-

- i) have returned to or be attending work on a regular basis
- ii) be working the full number of hours for which he/she is paid in either a full time or part time role

7.2 Triggers for Officers to be placed on adjusted duties are as follows:-

- i) the Officer fails to recover to recommence full duties following a period of recuperation
- ii) the Officer fails to pass a fitness test or personal safety training identifies an underlying medical condition that makes adjusted duties appropriate
- iii) a medical review of the Officer that identifies an issue

7.3 If appropriate a case conference comprising the Head of HR, Strategic Resourcing Manager, an appropriate Senior Leadership Team (SLT) member and the Officer will be held to determine a suitable role for deployment. This represents the Force's intention to retain the Officer in a substantive policing role that matches the Officer's individual capabilities on the understanding that this may necessitate long term or permanent workplace adjustments. The Officer will be fully involved in this process and will be invited to make suggestions to overcome any perceived barriers.

7.4 As a reasonable adjustment an Officer may be posted to a role which they are medically capable of performing but which they do not have all the necessary skills or experience. In these circumstances a reasonable period of up to 6 months for retraining will be afforded.

7.5 The decision to allocate an Officer to adjusted duties should take account of medical advice which may be needed to:-

- i) evaluate the appropriateness of adjustments/whether adjustments will help the Officer overcome barriers to working in a substantive police role.

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- ii) identify the potential impact of any restriction or limitation on others including colleagues, teams or the public
- iii) conduct a health and safety risk assessment
- iv) determine the impact of adjustments on the Force's performance and workload
- v) assess the impact of the Equality Act 2010
- vi) assess whether it is reasonable for the Force to make the adjustments to the role. This would include consideration of operational resilience alongside the capabilities of the individual such as: health and safety risk assessment, cost, impact of adjustments on colleagues and team/force performance.

7.6 If a difference of opinion arises between the Officer and the Force in relation to such medical advice to place a member on adjusted duties where the difference of opinion relates to whether or not the Officer is 'fully deployable', the Chief Constable or delegated authority shall within 28 days of the difference of opinion coming to light, arrange for the member to be examined by a different registered medical practitioner appointed by the Chief Constable. The second doctor's opinion will be final.

7.7 The Officer may then be placed on adjusted duties and new or further reasonable adjustments, if required, will be implemented.

7.8 The adjusted duties will be appropriately monitored by Line Managers and may be subject to amendment to meet the needs of the Officer or the Force.

7.9 After 9 months on adjusted duties, the Officer will be notified in writing that they will be assessed by the Force Medical Advisor to determine whether they are able to discharge a substantive police role for the full duration of the agreed hours for which they are paid and whether such deployment can be accommodated without unreasonable detriment to overall Force resilience.

7.10 Following advice from the Force Medical Advisor a formal management review will be undertaken with the individual to assess whether there has been a change in their medical circumstances. The outcome of which may be:-

- a) the officer is considered for a return to full duties
- b) the officer is considered for referral to the SMP
- c) UPP may be considered if appropriate
- d) adjustments are no longer adequate and further adjustments to the role are agreed to be reasonable and implemented
- e) some adjustments are no longer necessary and can be removed and any

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necessary arrangements put in place to enable the Officer to be more fully deployed

f) business circumstances have changed and existing adjustments can no longer be accommodated as reasonable in which case the force would invoke its procedures for allocating the Officer to a more appropriate role

g) the Officer remains in role with existing adjustments remaining in place.

7.11 Where the Officer remains on adjusted duties and the Selected Medical Practitioner (SMP) is not considering the possibility of permanent disablement or permanently medically unfit as appropriate, a further outcome of the review would be a recommendation regarding a reduction to salary as outlined at paragraph 7.12

7.12 If the Officer remains on adjusted duties after 12 months they may be subject to a reduction in salary as outlined below:-

A deduction of pay to the value of-

- 8% of the pay to which the individual is entitled as a constable
- For all other ranks, 8% of the pay to which the individual is entitled in his/her current rank capped at 8% of the maximum of a constables pay

7.13 A decision to reduce salary will be made by the Assistant Chief Constable following a recommendation of an adjusted duties panel comprising the Head of HR, Police Federation representative and the individuals Line Manager. Officers will be notified in writing of the decision to reduce pay and provided with one months' notice regarding such a reduction.

7.14 The Officer will be informed of all possible outcomes of the review as outlined at paragraph 7.10 and will be invited to make written representations if required.

7.15 Reviews of adjusted duties should take place on at least an annual basis to establish that arrangements are still appropriate for both the Officer and the Force and that any pay adjustments are still appropriate. These reviews should reflect the arrangements as outlined at paragraph 7.10.

7.16 A review can be initiated at the request of either the Officer or Line Managers at any time if there is any significant change in circumstances i.e. a change in the Officers condition or change in the level of force resilience. If the conclusion of the review is that an Officer's condition has improved to the point where adjustments are no longer necessary, then they will be removed from adjusted duties and pay reinstated accordingly.

7.17 The Assistant Chief Constable may decide that full salary may be retained by the Officer in the following circumstances:-

a) The range of roles to which the Force is able to deploy the Officer is not

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significantly reduced.

- b) 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.
- c) An Officer is on adjusted duties solely as the result of an injury sustained or contracted in the execution of their duties
- d) Some other exceptional reason

8.0 **Return to work and further Medical Opinion**

- 8.1 If the Officer 's GP determines they are fit for work and the Force Medical Advisor deems they are not, they may be suspended from duty by the Chief Constable
- 8.2 If an Officer's GP states that they are not fit to return to work and the Force Medical Advisor deems that they are fit, then the opinion of a suitably qualified third party doctor may be sought (please refer to Attendance Management Policy).

9.0 **Specific Instructions**

- 9.1 Officer's on recuperative duties should not work overtime.
- 9.2 Officer's with approved Business & Private Interests agreements will not be permitted to continue with the conditions of this agreement whilst on, recuperative or adjusted duties, without the prior approval of the Head of Professional Standards.
- 9.3 Officers working reduced hours as part of recuperative duties will be required to take annual leave as full days irrespective of the hours worked. (Please refer to the Leave Policy).
- 9.4 Any temporary limitations in relation to maternity are not covered under the provisions of this policy. Please refer to the Risk Assessment policy

10.0 APPEALS PROCEDURE

If an individual wishes to appeal against any decision made in connection with this policy, they should write to or email, the Deputy Chief Constable at the below address within 14 days of receiving a decision. The appeal will be considered and consultation will take place with appropriate individuals to establish all facts before a decision with regard to the appeal is made. A response to the appeal will be provided in writing within 10 working days of receipt of the appeal. Should this period not be achievable the individual will be notified in writing when a decision will be communicated.

The Deputy Chief Constable
c/o Human Resources
Police Headquarters
Aykley Heads
Durham
DH1 5TT
Email human.resources@durham.pnn.police.uk

EQUALITY IMPACT ASSESSMENT (EIA)**LIMITED DUTIES POLICY**

An equality impact assessment (EIA) form **must** be completed by the Policy/Function lead when developing or reviewing policies or procedures which may impact on the way the Force conducts its business (both internally and externally) and must show that when making decisions we:-

- Give due regard to the impact it will have on protected groups
- Undertake an assessment **prior to** any decisions around policies/procedures being ratified to identify what potential impact has been found and subsequent action taken, and
- Provide an audit trail of the assessment undertaken which identifies how the policy or procedure is likely to affect protected groups.

The EIA must be completed **before** decisions are made, and remain a live document to be reviewed and continually updated during policy/procedure development or updating

This form is a Tool to document the assessment and should be completed, attached to the relevant policy/procedure document and submitted to the HR User Group or other strategic group for ratification

1) Purpose of the policy. Why do we need it and what will it achieve

To provide guidance to all individuals on the utilisation of recuperative **adjusted** and management restricted duties as a means of facilitating an individual member of staffs return to work or full duties following an injury, illness diagnosis or sickness absence.

2) Explain briefly why the Policy/Procedure is being developed or reviewed?

Updated to reflect all decisions with regard to Adjusted Duties will be made by the FMA only

3) What research/resources have been used or considered in the initial stages of this assessment?**4) Who has been consulted around the potential impact during the development/amendment of the policy/procedure**

All support networks.	Force Executive (AC0)
HR Staff	Independent Advisory Groups (IAG's)
Staff associations	Business Disability Forum
Legal Services	Stonewall
Heads of Command	

5) Following assessment of available information, has a positive or adverse impact been identified OR is the initiative equality neutral?

A **Positive Impact** – will actively promote equality of opportunity or improve relations between one or more groups

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<p>An Adverse impact – will cause some form of disadvantage or exclusion. Neutral impact is when there are no notable consequences for any diversity group</p> <p>Provide details on ALL decisions for ALL the protected characteristic groups below. Specify what actions, if any, will be taken as a result of the assessment, provide any findings and the reason any decisions were reached, and determine what changes may be necessary to either reduce any adverse impact or enhance any beneficial impact. If an adverse (negative) impact has been identified question 5 must be completed.</p>				
	<u>Positive</u>	<u>Negative</u>	<u>Neutral</u>	<u>Details</u>
Age			X	
Disability			X	
Transitioning from one sex to another (either thinking of, in the process of or have)			X	
Marriage and Civil Partnership			X	
Pregnancy and Maternity			X	
Race			X	
Religion or Faith			X	
Gender			X	
Sexual Orientation			X	
<p>6) If a negative impact has been identified, please provide further details stating what actions need to be undertaken as a result of the section 5). How any negative impact can be justified for this initiative.</p>				

Confirm the above Actions have been incorporated and the EIA is now ready for submission to HR PUG or other Strategic Group.	
Signature...	
Name Sylvia Horsfield	Date 2nd February 2018
7) – Ratify the Policy / Procedure at HR PUG or other Strategic Group	
Meeting/Group:-	HR PUG
Chair of Meeting/Group:-	Gary RIDLEY

