

Cumbria Police Authority
Personnel Committee
3rd February 2005

Agenda Item No. 11.

Report by the Clerk and Chief Executive.

GUIDANCE TO CHIEF OFFICERS ON THE USE OF DISCRETION TO RESUME/MAINTAIN PAID SICK LEAVE (PNB CIRCULAR 05/1)

Attached for information is a copy of PNB Circular 05/1 which sets out guidance to chief officers on the use of discretion to resume/maintain paid sick leave, amended to take account of the provisions of the Disability Discrimination Act.

RECOMMENDED: That the report be received.

C R Alcock
Clerk and Chief Executive

25th January 2005

Background documents: There are no background documents.

Race and Diversity and Human Rights Act Implications: Working positively to promote equality is central to all the Authority's work and informs all aspects of the Authority's daily activities. Ensuring that Members are fully aware of the latest information on issues within the police service is an important element in achieving the Authority's goals.

POLICE NEGOTIATING BOARD

Independent Secretary:
Gwyneth Edwards
Office of Manpower Economics
Oxford House
76 Oxford Street
LONDON W1D 1BS

AGREEMENT REACHED IN THE POLICE NEGOTIATING BOARD

1. At the meeting of the Police Negotiating Board on 21 March 2003, agreement was reached on additional ***guidance to chief officers on the use of discretion to resume/maintain paid sick leave*** in support of the Secretary of State's determination of sick pay under regulation 28 of the police regulations 2003. Following agreement between the Sides, the Police Negotiating Board has agreed to amend the guidance to reflect the provisions of the Disability Discrimination Act. Details are set out in the attached memorandum.
2. This agreement requires no amendment to police regulations or specific authorization by home department circular.
3. Any enquiries about this circular should be addressed to the Independent Secretariat at the Office of Manpower Economics ☎ 020 7467 7218, to the Official Side Secretary ☎ 020 7296 6746 or the Staff Side Secretary ☎ 020 8399 2224. Enquiries to the Independent Secretariat relating to the interpretation of this circular should be made in writing.

19 January 2005

* PNB Circulars form a single numerical series. Those which in themselves provide authority to implement an agreement carry the serial number alone, while those which are advisory are designated as such after the serial number.

MEMORANDUM

The following agreement reached in the Police Negotiating Board is submitted for the approval of the Secretary of State for the Home Department, the Scottish Ministers and the Secretary of State for Northern Ireland.

Guidance to chief officers on the use of discretion to resume/maintain paid sick leave

1. The Secretary of State's determination of sick pay under regulation 28 of the Police regulations 2003 provides that a member of a police force who is absent on sick leave shall be entitled to full pay for six months in any one year period. Thereafter, the member becomes entitled to half pay for six months in any one year period.
2. The chief officer of police may in a particular case determine that for a specific period :
 - A member who is entitled to half pay while on sick leave is to receive full pay;
 - Or that a member who is not entitled to any pay while on sick leave is to receive either full pay or half pay.
3. The PNB Agreement of 9 May 2002 includes agreement that:

"The PNB will consider guidance in relation to situations where it would be reasonable for chief constables to exercise their discretion favourably to resume/maintain paid sick leave."
4. PNB has considered the matter and agreed the following guidance.
5. The decision to exercise the relevant discretion is one for the chief officer who must consider each case on its merits. A force cannot have a fixed policy that discretion always will or will not be exercised in a particular kind of case. It is however possible for forces to lay down guidelines to promote fairness and consistency in the decision making process, so long as the possibility of exceptions is not ruled out.
6. The PNB recommends that forces have a written policy on the exercise of discretion. Such a policy should:
 - Set out the procedure by which decisions will be reached
 - Include an appropriate opportunity for an affected officer to make representations prior to the decision being made
 - Provide for a periodic review of decisions
 - Set out guidelines in relation to the exercise of discretion, while emphasising that each case should be considered on its merits
 - Have due regard to relevant legislation, including the Disability Discrimination Act

7. Whilst each case must be considered individually, the PNB considers it would generally be appropriate for chief officers to exercise the discretion favourably where:
- The chief officer is satisfied that the officer's incapacity is directly attributable to an injury or illness that was sustained or contracted in the execution of his/her duty or
 - The officer is suffering from an illness which may prove to be terminal; or
 - The case is being considered in accordance with the PNB Joint Guidance on Improving the Management of Ill Health and the police authority has referred the issue of whether the officer is permanently disabled to a selected medical practitioner
 - The Force Medical Adviser advises that the absence is related to a disability as defined by the DDA* ("A physical or mental impairment which has a substantial and long term adverse effect on the ability to carry out normal day-to-day activities.") and the chief officer considers that it would be a "reasonable adjustment" to extend sick pay, generally speaking to allow (further) reasonable adjustments to be made to enable the officer to return to work.
8. Chief officers are reminded that disability-related sickness absence should be recorded separately from non-disability-related sickness absence (such as flu) and from disability-related leave, e.g. leave allowed for treatment, hospital appointments or rehabilitation.
9. Chief officers are reminded that these guidelines do not remove the obligation to consider each case on its merits. A chief officer may decide to exercise discretion favourably in circumstances not covered by the guidelines set out above or may decide not to exercise discretion favourably in a case which is covered by those guidelines. In particular a chief officer may decide not to exercise the discretion where:
- There is evidence of default or neglect on the officer's part; or
 - The officer's actions may be delaying the process of recovery; or
 - The officer is unreasonably failing to co-operate with a rehabilitation programme, or with an adjustment to facilitate a return to duty within a reasonable timeframe, or to comply with requests to attend medical examinations or to supply medical information; or
 - The officer is actively engaged in a business interest during the period of absence
10. Where extensions of full or half pay have been granted, chief officers should review their decisions regularly. An appropriate interval between reviews might be one month.

