

National Policing Improvement Agency Circular

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This circular is about

**Ex gratia payment for Special Constables
for injury or illness**

From:

NPIA Workforce Strategy Unit

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This circular is addressed to:

**Chief Officers of Police
Chairs of Police Authorities
Directors of HR
Special Constabulary Chief Officers**

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1. Introduction

1.1 This circular sets out the entitlements in relation to the sick pay for special constables under existing legislation and the recommended non-statutory arrangements that forces may follow in circumstances where legislation does not apply.

1.2 The term 'sick pay' taken from the **Special Constables Regulations 1965** (hereafter referred to as the 1965 Regulations) and used in this circular, refers to reimbursement of lost remuneration from a special constable's regular employment, because of a temporary injury or disease contracted whilst on duty or when travelling to or returning home from duty, through no fault of their own.

1.3 The circumstances which legislation does not cover are as follows:

- where the officer is injured or becomes ill (as a result of performing his or her duties) beyond the statutory period of entitlement (28 weeks);
- an appropriate method of calculating lost earnings for self employed special constables;
- other circumstances, such as where a special constable is unemployed.

1.4 The above list is not intended to be exhaustive and it is recognised that there may be other circumstances which are not covered by legislation.

2. Existing Legislation

2.1 Special constables who are permanently incapacitated to the point that they are incapable of any kind of employment or those who die on duty are provided for under the **Special Constables (Injury Benefit) Regulations 1987**. These Regulations provide similar provisions afforded to regular police officers under the **Police (Injury Benefit) Regulations 2006**. The Regulations make provision for enhanced benefits in case of death or total disablement resulting from an injury received by a member of a police force in the execution of his or her duty.

2.2 Those who are permanently incapacitated to the point that they are incapable of continuing in their ordinary employment are provided for under the **Special Constables (Pensions) Regulations 1973**. These Regulations give to special constables and their dependents certain pension benefits which regular police officers and their dependents are eligible for under the **Police (Pensions) Regulations 1987**.

2.3 A special constable who is injured or becomes ill as a result of duty and, as a result, loses remuneration in his or her private employment, is entitled to an allowance by way of sick pay under the 1965 Regulations.

2.4 In particular, the 1965 Regulations apply:

- so long as the special constable continues to lose remuneration in his private employment;
- for a maximum period of 28 weeks at the rate of actual loss of remuneration.

3. Non-Statutory Arrangements

3.1 It is recognised by the Special Constabulary National Consultative Group (SCNCG) that where legislation does not apply, in the interests of fairness and consistency, there should be a standard national approach for forces to deal with such circumstances. Additionally, it is recognised that such an approach should allow a degree of flexibility in how to deal with situations related to temporary injury or illness.

4. Circumstances Identified

(a) Illness or injury beyond 28 weeks

4.1 There may be circumstances where a special constable remains injured or ill beyond the statutory 28 weeks as set out in the 1965 Regulations. Broadly in line with Annex K to regulation 28 of the Police Regulations 2003, under which officers are entitled to half pay for the remainder of the year, forces may wish to offer a similar provision for their special constables. This should be paid at half the rate of pay of their regular employment, or at half the rate of pay of a regular constable with 10 years service (this being the period of time by which a regular constable will reach the top of their pay band), whichever is lower. This additional period should not exceed 24 weeks (equating to a total period of sickness pay entitlement of one year).

(b) Illness or injury in the case of self employed Special Constables

4.2 While the 1965 Regulations do not explicitly refer to special constables who are self employed, it should be taken that the term "private employment" in these regulations includes this category of worker. Therefore in line with special constables in regular employment, where a self employed special constable is injured or ill as a result of performing their duties as a special constable, forces should pay them for the amount of lost earnings for a period not exceeding 28 weeks.

4.3 As earnings of the self employed can vary over time, it is recommended that forces calculate the amount payable for illness or injury by averaging the total income a self employed special constable has received over the previous 28 week period, prior to the injury or illness taking effect.

4.4 Self employed special constables would need to provide forces with the necessary information to enable this calculation to be made i.e. financial records,

accounts, etc. In the event that evidence is unavailable, incomplete or contentious, the force will need to decide whether it is appropriate for an ex gratia payment to be made.

4.5 Following a review of the special constable's condition, as at 4.1, a force may wish to extend the period of sick pay for a period of 24 weeks at half the rate of earnings from their self employment, or at half the rate of pay of a regular constable with 10 years service, whichever is the lower.

(c) Sickness or injury in other circumstances

4.6 It is recognised that there may be other scenarios related to sick pay that fall outside the regulations and are not specified in this circular (unemployed special constables, for example), which could, in the interests of fairness, merit an ex gratia payment to a special constable.

4.7 It will be for the force to determine whether it is appropriate to make an ex gratia payment and the amount of any such payment. However, any payment under (c) should be for an initial period not exceeding 28 weeks at no more than the rate of pay of a regular constable with 10 years service. Following a review of the special constable's condition, any further payments should be for a period not exceeding 24 weeks at no more than half the rate of pay of a regular constable with 10 years service.

5. Ex gratia payments

5.1 In the circumstances listed in (a), (b) and (c) above, a police authority is free to make an ex gratia payment to a special constable where it is considered appropriate. This would consist of a one off payment or series of payments made to a special constable from the police grant received by the force and is not governed by the existing regulations.

5.2 It is only intended that this ex gratia payment be made in specific cases relating to sick pay for special constables for injury or illness. Ex gratia payments should not automatically be granted and there should be a robust justification when they are. Forces should also take into consideration whether the special constable is in receipt of sickness benefit or statutory sick pay as a result of their injury/illness and consider whether to reduce the level of any ex-gratia payment(s) made by that amount.

6. Future arrangements

6.1 As part of a comprehensive review of the existing legislation covering Special Constabulary terms and conditions, the NPIA, under the direction of the SCNCG, will be looking into statutory options to govern the circumstances described in this circular.