

## Medical reports – Hurt On Duty pension for former members of the Police force

This document is provided to medical specialists who are requested by Mercer Administration on behalf of SAS Trustee Corporation (STC) to provide a medical report on a former member of the Police Superannuation Scheme (PSS) whom has retired or resigned from the NSW Police Force and is seeking a hurt on duty (HOD) pension.

### 1. HOD pension for former members of the Police Force

Former members of the Police Force who joined before 1 April 1988 are entitled to apply for an HOD pension under the *Police Regulation (Superannuation) Act 1906*.

The HOD pension is a lifetime pension that can be increased to up to 100% of their salary as a police officer at the time of their exit from the Police Force if they satisfy certain criteria for such an increase.

### 2. Criteria for entitlement to an HOD pension

#### Criteria for payment of HOD pension

In determining whether an applicant can be paid an HOD pension, the following criteria must be satisfied.

1. the applicant is found to have been incapable of personally exercising the functions of a police officer at the time they left the Police Force due to a medical condition;
2. there is a causal connection between the medical condition and the incapacity, i.e. the applicant's medical condition caused their incapacity; and
3. the medical condition was caused by an injury or illness that occurred in the course of performing their functions as a police officer.

**It is important to note** that, although the benefit could loosely be classified as an incapacity benefit, it is not one that would ordinarily be determined on the basis of the applicant being "totally and permanently incapacitated" from work.

In addition, because the applicant left the Police Force some time ago, possibly a number of years ago, a decision must be made in respect of a time in the past.

### 3. Medical opinion to be based on probability

STC, in making a decision as to an applicant's incapacity and entitlement to an HOD pension, is to have regard to medical advice.

The medical report that will assist STC make the relevant decisions should provide an opinion that is based on the probability of a certain matter rather than the mere possibility of it.

If you are unable to make an assessment on a particular matter, you should say so in the report and explain why.

### 4. Matters to consider when providing the written medical report

You are asked to provide a written report drawing on the following:

1. a detailed medical history from the applicant;
2. a full clinical examination of the applicant;
3. any medical documents provided to you, including those that relate to the time of the applicant's exit from the Police Force;
4. the information provided in the applicant's Application Form (PSS Form 12) that is provided to you; and
5. your examination and interview of the applicant.

Please refer to any reports that you may rely upon in arriving at your opinion.

### 5. Questions to be answered and suggested report format

You should provide your report on your letterhead.

A suggested format is provided for you to include the relevant information in your report. If you would like to use this format, you can download a Word document from the website. Go to [www.statesuper.nsw.gov.au](http://www.statesuper.nsw.gov.au) and search for 'PSS12 - Template for PSS Medical Report Form 12'.

**Please return the attached list of questions, your report based on those questions and the privacy statement to:**

Mercer Administration  
PSS Team  
GPO Box 2181  
Melbourne VIC 3001

*(on doctor's letterhead)*

## Report on HOD pension applicant

### Medical history and findings

*Date of examination:...*

*Applicant's details (name, DOB, address):...*

*General history of the applicant (including dates of injuries/medical conditions, brief history of circumstances of injuries/medical conditions):...*

*Clinical history of applicant (summary of injuries received/medical conditions experienced and diagnoses made, summary of all treatment provided, details and dates of clinical investigations carried out, details of any previous or subsequent injuries, condition or abnormality):...*

*Examination findings (including list of injuries/medical conditions, findings on comprehensive clinical examination including negative findings, comments on consistency of presentation, and where appropriate, how this compares to medical reports and other material sighted):...*

### Answers to questions\*:

#### Part One - Questions addressing HOD pension criteria

1. Does the applicant have any current medical condition?
2. What medical conditions did the applicant have on their last day of service with the Police Force?
3. Was the applicant incapable of personally exercising the functions of a police officer on their last day of service with the Police Force? If so, how was this apparent?
4. Did one or more of the medical conditions referred to in your answer to Question 2 cause or contribute to the applicant's incapacity at the time they left the Police Force? If so, please identify which ones and explain how.
5. Please identify the injury or illness that caused each of the medical conditions identified in your answer to Question 4.
6. What is your prognosis for each medical condition identified in your answer to Question 4?

### Answers to questions\*:

#### Part Two - General questions

7. If applicable, please explain why your conclusions differ from those of other reports.
8. If you are unable to make an assessment of any of the questions, please say so and explain why.
9. Please make any further comments that you think are relevant on the condition or fitness for employment of the applicant.
10. Please indicate if you have any objection to this report being released directly to the applicant and explain why.

*Statement of compliance with Expert Witness Code of Conduct contained in Schedule 7 of the Uniform Civil Procedure Rules 2005.*

\* Please refer to the enclosed Notes on HOD Pension Questions.

# Notes for answering the questions (PSS Medical Report 12)

## PART ONE – Questions addressing HOD pension criteria

### Question 1: Does the applicant have a current medical condition?

#### Matters to ***take into account***

- a) Any medical condition that you believe the applicant now has following your examination of the applicant.
- b) Whether any current medical condition is one that the applicant identified as having been present on their last day of service in the Police Force – refer to the answers to Section B of the Application Form.
- c) Whether any medical condition that existed at the time the applicant left the Police Force has been affected by any illness or injury the applicant has suffered since leaving the Police Force – refer to the answer to Q17 of the Application Form.
- d) Whether any medical condition that existed at the time the applicant left the Police Force has been affected by the passage of time or the ageing process.
- e) Any records or reports, including sick leave records, provided to you.

#### Matters to ***address in your opinion***

If you are of the opinion that the applicant **does have a current medical condition**, please describe:

- a) The exact nature of each medical condition in appropriate medical terms.
- b) How the current medical condition is apparent.
- c) How long the applicant has had each medical condition.
- d) If any current medical condition is one that was present at the time the applicant left the Police Force.
- e) The impact on the applicant's medical condition through the passage of time, the ageing process or anything that has occurred to the applicant since leaving the Police Force.

If you are of the opinion that the applicant **does not have a current medical condition**, please explain your answer.

### Question 2: What medical conditions did the applicant have on their last day of service with the Police Force?

#### Matters to ***take into account***

- a) The applicant's last day of service in the Police Force – refer to the answer to Q3 of the Application Form.
- b) The medical conditions the applicant identified in their answers to Section B of the Application Form.
- c) Any other medical conditions that you believe the applicant had at the time of their exit from the Police Force, following your examination of the applicant.
- d) Any rehabilitation or injury management program the applicant participated in prior to or after leaving the Police Force – refer to the answer to Q11 of the Application Form.
- e) The extent to which the applicant was unable to undertake other activities immediately after and in the period following their last day of service – refer to the answers to Section C of the Application Form.
- f) Any records or reports, including sick leave records, provided to you, in particular any reports made around the time of the applicant's last day of service.

#### Matters to ***address in your opinion***

If you are of the opinion that the applicant **did have a medical condition** on their last day of service with the Police Force, please:

- a) Describe the exact nature of each medical condition in appropriate medical terms.
- b) Explain how it is apparent that the medical condition existed at that time.
- c) Indicate how long the applicant had each medical condition at the time of leaving the Police Force.

If you are of the opinion that the applicant **did not have a medical condition** on their last day of service with the Police Force, or if you are unable to make an assessment, please say so and explain your answer.

### Question 3: Was the applicant incapable of personally exercising the functions of a police officer on their last day of service with the Police Force? If so, how was this apparent?

#### Matters to *take into account*

- a) The meaning of “functions of a police officer” as set out at the end of these Notes.
- b) The applicant’s last day of service in the Police Force – refer to the answer to Q3 of the Application Form.
- c) The functions the applicant was unable to perform because of their medical condition on their last day of service – refer the answers to Section B of the Application Form.
- d) Any sick leave taken by the applicant and any restrictions on their functions – refer to the answers to Section B (i) and (j) of the Application Form.
- e) The extent to which the applicant was unable to undertake other activities immediately after and in the period following their last day of service – refer to the answers to Section C of the Application Form.
- f) Information provided to you during your interview with the applicant.
- g) Any records or reports, including sick leave and rehabilitation reports provided to you.

#### Matters to *address in your opinion*

If you are of the opinion that the applicant **was incapable** of exercising the functions of a police officer **at the time they left the Police Force**, please explain:

- a) How the applicant’s incapacity to exercise those functions was apparent at that time.
- b) What functions you consider the applicant was not able to perform or was restricted in performing and how this was apparent at the time.

If you consider the applicant was **not incapable** at the time of leaving the Police Force, or you are unable to make an assessment, please explain why.

### Question 4: Did one or more of the medical conditions referred to in your answer to Question 2 cause or contribute to the applicant’s incapacity at the time they left the Police Force? If so, please identify which ones and explain how.

#### Matters to *take into account*

- a) The applicant’s last day of service in the Police Force – refer to the answer to Q3 of the Application Form.
- b) The medical conditions the applicant has indicated caused or contributed to their incapacity – refer to the answers to Section B of the Application Form.
- c) Any sick leave or restrictions on the functions of the applicant – refer to the answers to Section B (i) and (j) of the Application Form.
- d) Any rehabilitation treatment or injury management program the applicant has participated in before or after leaving the Police Force – refer to the answer to Q11 of the Application Form.

#### Matters to *address in your opinion*

If you are of the opinion that there **is a causal relationship** between one of the applicant’s medical conditions and their incapacity **at the time they left the Police Force**, please describe:

- a) Each medical condition you consider caused or contributed to the applicant’s incapacity at the time they left the Police Force.
- b) How each medical condition caused or contributed to the applicant’s incapacity to exercise the functions of a police officer and how this was apparent at the time.

If you are of the opinion that there **is no causal relationship between** the applicant’s medical condition and their incapacity at the time they left the Police Force or you are unable to make an assessment, please explain your answer.

**Question 5: Please identify the injury or illness that caused each of the medical conditions identified in your answer to Question 4.**

**Matters to *take into account***

- a) Any injury or illness (whether or not work related) that the applicant claims might have caused or contributed to any medical condition – refer to the answer to Section B of the Application Form.
- b) Any relevant information from your interview with the applicant.
- c) Whether any injury has been exacerbated since it first occurred or has been affected by the ageing process or the passage of time.
- d) Whether any injury has been affected by any activity or other event since leaving the Police Force or the ageing process or passage of time – refer to the answers to Section C of the Application Form.
- e) The treatment of the injury and the history of recovery.

**Matters to *address in your opinion***

If you are of the opinion that there is a causal relationship between one or more of the injuries identified by the applicant and the medical condition that caused or contributed to their incapacity at the time of leaving the Police Force, please include in your opinion:

- a) A description of the injury that caused or contributed to each medical condition of the applicant.
- b) The approximate date on which you think the injury might have occurred.
- c) Whether the injury has been exacerbated by any event, the ageing process or the passage of time and, if so, when such exacerbation may have occurred.
- d) In what way and to what extent the injury caused or contributed to the medical condition.

If, in your opinion, there is no such causal relationship or you are unable to make an assessment, please say so and explain your answer.

**Question 6: What is your prognosis for each medical condition identified in your answer to Question 4?**

**Matters to *address in your opinion***

In respect of each medical condition suffered by the applicant at the time of leaving the Police Force that you consider caused or contributed to their incapacity at that time, please give your opinion on:

- a) How long the applicant has had the medical condition and, if they still have the medical condition, how long it is likely to continue.
- b) Whether there is likely to be any improvement and, if so, the extent of expected improvement and how long such improvement may take.
- c) The prospect of the applicant's full recovery.
- d) The need for any future treatment and likely outcome.

## Part two - General question

### Question 7: If applicable, please explain why your conclusions differ from those of other reports.

If your opinion differs in any way from any of the other reports provided to you, please explain why your opinion is different.

### Question 10: Please indicate if you have any objection to this report being released directly to the applicant and explain why.

Comments in your report may not support the applicant's claim for a medical discharge benefit. If this is the case, we will want to give your report to the applicant so they have the opportunity of addressing those comments.

In any case, you may think it is not in the applicant's best interests to release the report to them. Please indicate whether

or not you have any objection to the release of your opinion to the applicant.

If you do object to the report being released to the applicant, please indicate why.

### What are the "functions of a police officer"?

**Functions of a Police officer** means the functions of a Police officer referred to in section 14(1) of the *Police Act 1990*. These functions include (but are not limited to) the functions of a constable. To be capable of personally exercising the functions of a constable, a person is expected to be able to undertake the following activities and exercise the following skills:

- engage in effective day-to-day contact with the public (i.e. demonstrate personal attributes such as patience, conflict resolution and decision-making skills, empathy, tolerance, assertiveness, self-control, emotional stability,
- ability to work with others;
- conduct inquiries about matters of concern;
- render a variety of emergency assistance;
- demonstrate the ability to:
  - exercise discretion and judgement in the exercise of policy powers;
  - observe and memorise effectively;
  - operate effectively in stressful, physically demanding and rapidly changing situations;
- undertake a range of activities including:
  - driving police vehicles;
  - getting in and out of cars;

- standing or sitting for long periods;
- running and negotiating obstacles to pursue and effect an arrest of suspected offenders;
- physically restraining someone and taking action to overcome the will of others to resist;
- exercising a range of tactical options from mere presence to lethal force and having the ability to exercise discretion and judgement for that purpose,
- communicate effectively.

In the case of a Police officer who resigned, retired or was discharged from the *Police Force* before **30 June 2006**, the relevant test for incapacity is not incapacity to personally exercise the functions of a Police officer at the date of resignation, retirement or discharge, but instead is incapacity to discharge the duties of office (as a Police officer) at the date of resignation, retirement or discharge.



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## More information

If you need more information, please contact us:

**Telephone:** **1300 130 097**

8.30 am to 5.30 pm, Monday to Friday.

**Personal interviews:** Please phone 1300 130 097 to make an appointment.

**Postal address:** State Super, GPO Box 2181, Melbourne VIC 3001

**Internet:** [www.statesuper.nsw.gov.au](http://www.statesuper.nsw.gov.au)

**Email:** [enquiries@stc.nsw.gov.au](mailto:enquiries@stc.nsw.gov.au)