

## Hurt On Duty Pension Increase

This document is to be provided to a medical specialist who is requested by Mercer Administration on behalf of SAS Trustee Corporation (STC) to provide a medical report on a pensioner member of the Police Superannuation Scheme (PSS) who is seeking an increase in a hurt on duty (HOD) pension.

### 1. Pension increases that are payable

An HOD pension is payable to a former member of the *NSW Police Force* who:

- is medically discharged from the *Police Force* after *STC* certified that he or she was incapable of personally exercising the *functions of a police officer*; or
- resigned or retired from the *Police Force* but where *STC* subsequently certified that he or she was incapable of personally exercising the *functions of a police officer* at the time of resignation or retirement,

and only where the incapacity to personally exercise the *functions of a police officer* was due to a specified *medical condition* that is determined by the *Commissioner of Police* to have been caused by an HOD (ie work-related) *injury* (an **HOD medical condition**).

In the case of a former member of the *Police Force* who resigned or retired, he or she must have notified the *Commissioner of Police* of the HOD *injury* within 6 months of receiving the *injury* and before the resignation or retirement in order to be eligible for an HOD pension.

For the purposes of assessment of eligibility for an HOD pension, the *functions of a police officer* include (but are not limited to) the functions of a constable.

The minimum rate for an HOD pension is 72.75% of the salary payable on the pensioner's last day of service in the *Police Force*. The minimum rate can be increased:

- By up to 12.25% of that salary, depending on the extent to which the pensioner is incapacitated for work **outside** the *Police Force* because of an HOD *medical condition*. If the pensioner is totally incapable for work **outside** the *Police Force* because of an HOD *medical condition*, the maximum rate of 85% of that salary is payable.
- By up to 27.25% of that salary, if the pensioner is **totally** incapacitated for work outside the *Police Force* and

the incapacity is due to the *medical condition* that the *Commissioner* determined was caused by an HOD *injury*, **and** the HOD *injury* occurred because while in the *Police Force* the pensioner was required to be exposed to risks of physical or psychological *injury* to which members of the general workforce are not normally required to be exposed, commensurate with the risks to which he or she was required to be exposed. A rate of up to 100% of that salary may be payable.

### 2. Criteria for entitlement to a pension increase of up to 12.25%

For an applicant to be entitled to an increase of pension above the minimum rate of 72.75% of salary by a rate of up to 12.25%, *STC* must determine that the applicant is currently incapacitated for work outside the *Police Force* to some extent i.e. the applicant cannot, **because of an HOD medical condition or conditions**, earn in a labour market that is reasonably open to the applicant as much as a person with the applicant's skills, education, experience, qualifications and age, **but without any HOD medical condition** could earn in such a labour market.

The percentage difference between what the applicant, with their HOD *medical condition*, is or could be earning and what a person with the applicant's skills, education, experience, qualifications and age but without the HOD *medical condition* could be earning, will generally be the percentage increase in the HOD pension to which the applicant is determined to be entitled.

An applicant will only be entitled to an increase of 12.25% (i.e. to 85% of salary) if they are totally incapacitated for work outside the *Police Force* because of an HOD *medical condition*. However, it is important to note that the test for total incapacity for work outside the *Police Force* is not the same as for total and permanent incapacity.

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

*STC*, in making a decision as to whether an applicant is incapacitated for work outside the *Police Force*, may have regard to medical advice and/or a vocational assessment.

The medical report that will assist *STC* to make a decision 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 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 that the applicant left the *Police Force*;
4. the information provided in and with the applicant's Application (PSS Form 14) that is provided to you; and
5. your examination and interview of the applicant.

Please refer to any reports that you rely upon in arriving at an 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 at [www.statesuper.nsw.gov.au](http://www.statesuper.nsw.gov.au).

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

State Super (PSS)  
GPO Box 2181  
Melbourne VIC 3001

*(on specialist's letterhead)*

### Report on HOD pension increase 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 increase criteria

1. The *Commissioner of Police* determined that an HOD *injury* or injuries caused the *medical conditions* (set out in the attached letter) that the applicant had on their last day of service in the *Police Force*. Does the applicant currently have the HOD *medical condition/s*? If so, please describe the exact nature of the *medical condition/s*.
2. Does any HOD *medical condition* identified in your answer to Question 1 prevent or restrict the applicant in undertaking any activities or performing any functions? If so, please explain how.
3. Please describe how the applicant's capacity for work is affected by those restrictions and limitations arising from the HOD *medical condition/s* identified in your answer to Question 1.
4. What is your prognosis for the applicant with respect to each HOD *medical condition* identified in your answer to Question 1?
5. What is the applicant's likely capacity to undertake work in the future, having regard to the HOD *medical condition/s* identified in your answer to Question 1?
6. Does the applicant suffer from any non-HOD *medical condition* that affects the applicant's incapacity to work? If so, how? Please also comment on the applicant's current state of health.

### Part Two - Question on deterioration of any HOD *medical condition* (where this is not the first application for an increase)

7. Has any HOD *medical condition* of the applicant changed since their last application for a pension increase was decided? If so, please describe how it has changed and how that change has affected the applicant's capacity for work?

### Part Three - General questions

8. If applicable, please explain why your conclusions differ from those of other reports about the applicant.
9. If you are unable to make an assessment of any of the questions, please say so and explain why.
10. Please make any further comments that you think are relevant to the applicant's current state of health and/or capacity for work.
11. 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 *Notes for answering the questions (PSS Medical Report 14)* from page 4 onwards.

## NOTES FOR ANSWERING THE QUESTIONS (PSS MEDICAL REPORT 14)

### PART ONE – Questions addressing HOD pension increase criteria

**Question 1: Does the applicant currently have the HOD *medical condition/s*? If so, please describe the exact nature of the *medical condition/s*.**

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

- Information provided to you during your interview with the applicant and your examination of the applicant.
- Any records or reports, including rehabilitation reports and the applicant's Application Form (PSS Form 14) provided to you.
- The HOD *medical conditions* and symptoms the applicant has identified as currently existing – refer to the answer to Q26 of the Application Form.
- The applicant's last day of service in the *Police Force* – refer to the answer to Q12 of the Application Form.
- The illnesses or injuries (whether or not work related) that the applicant has suffered since leaving the *Police Force* – refer to the answer to Q25 of the Application Form.
- Whether the HOD *injury* that caused the *medical condition* at the time the applicant left the *Police Force* has been exacerbated since it first occurred.
- The treatment of the HOD *injury* and the history of recovery.

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

If you are of the opinion that the applicant currently has the HOD *medical condition/s* identified by the *Commissioner*, please:

- Describe the exact nature of each HOD *medical condition* in appropriate medical terms.
- Explain how long you think the applicant has had each HOD *medical condition*.
- Say whether the HOD *injury* that caused the HOD *medical condition* at the time the applicant left the *Police Force* is still a cause of the current HOD *medical condition*.
- Explain your answer to c.

If you are of the opinion that the applicant **does not** currently have an HOD *medical condition* that was identified by the *Commissioner*, please explain your answer.

**Question 2: Does any HOD *medical condition* identified in your answer to Question 1 prevent or restrict the applicant in undertaking any activities or performing any functions? If so, please explain how.**

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

- The HOD *medical conditions* you identified in your answer to Question 1.
- The interests, hobbies, pastimes or pursuits the applicant has participated in since leaving the *Police Force* – refer to the answer to Q20(a) of the Application Form.
- The interests, hobbies, pastimes or pursuits the applicant has given up, and the reason for giving them up, since leaving the *Police Force* – refer to the answer to Q20(b) of the Application Form.
- The work undertaken by the applicant since leaving the *Police Force* – refer to the answer to Q21 of the Application Form.
- Any illnesses or *injuries* suffered by the applicant since leaving the *Police Force* – refer to the answer to Q25 of the Application Form.
- The applicant's current HOD *medical conditions* and symptoms – refer to the answer to Q26 of the Application Form and any relevant information from your interview with the applicant.
- Whether any HOD *injury* has been affected by any activity or other events since leaving the *Police Force* or the ageing process or the passage of time.
- The treatment of the *injury* and the history of recovery.

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

If you are of the opinion that one or more of the HOD *medical conditions* you identified in your answer to Question 1 **does prevent** or restrict the applicant from undertaking any activities or functions, please:

- a. Describe the activities and functions that you think the applicant is now unable to perform, or is restricted in performing.

- b. Describe how any HOD *medical condition* is preventing or restricting the applicant from undertaking those activities or functions.

If you are of the opinion that the applicant is **not prevented** from undertaking any activities or functions or you are unable to make an assessment, please explain your answer.

**Question 3: Please describe how the applicant's capacity for work is affected by those restrictions and limitations arising from the HOD *medical condition/s* identified in your answer to Question 1.**

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

- a. It is important to note that any increase to an HOD pension is determined on the basis of the extent to which the applicant's current incapacity to work outside the *Police Force* is caused by an HOD *medical condition/s*. The applicant may currently have other *medical conditions* and any impact they may have on the applicant's capacity to work should be explained (see Question 6 below).
- b. Your examination of the applicant and any medical or other records provided.
- c. Any HOD *medical condition* identified in your answer to Question 1.
- d. The employment undertaken by the applicant while in the *Police Force* – refer to the answer to Q18 of the Application Form.
- e. Any employment the applicant has undertaken since leaving the *Police Force* – refer to the answer to Q21 of the Application Form.
- f. Any unsuccessful attempts by the applicant to find employment since leaving the *Police Force* and the reasons why those attempts were unsuccessful – refer to the answer to Q22 of the Application Form.
- g. Any re-training or vocational training undertaken or planned by the applicant – refer to the answer to Q23 of the Application Form.

- h. Whether the applicant is currently registered with an employment agency or is otherwise looking for work – refer to Q24 of the Application Form.

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

Please give your opinion on the following matters with respect to any HOD *medical condition* identified in your answer to Question 1.

- a. How and the extent to which the applicant is prevented from, or restricted in, undertaking any work, and what work they are not capable of undertaking, because of their HOD *medical condition*.
- b. What kind of work the applicant is capable of undertaking with their HOD *medical condition* and why.
- c. Whether the applicant is capable of employment on a full-time basis, or on a part-time basis only (number of hours per week).
- d. Taking account of the applicant's skills, education, experience, qualification, age and any non-HOD *medical condition*, what kind of work the applicant would be capable of undertaking if they did not have the HOD *medical condition*.
- e. The extent to which the applicant's capacity for work might be affected by their motivation to work.

#### Question 4: What is your prognosis for the applicant with respect to each HOD *medical condition* identified in your answer to Question 1?

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

In respect of each of the HOD *medical conditions* identified in your answer to Question 1, please give your opinion on:

- a. How long the *medical condition* 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. Whether there is likely to be a deterioration and if so, the extent of the deterioration and over what period it might take.
- d. The prospect of the applicant's full recovery.
- e. The need for any future treatment for the *medical condition*, the likelihood of the applicant undertaking that treatment and likely outcome.

#### Question 5: What is the applicant's likely capacity to undertake work in the future, having regard to the HOD *medical condition/s* identified in your answer to Question 1?

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

- a. Whether you consider, taking account of the prognosis of each HOD *medical condition* addressed in Question 4, the applicant's capacity for work is likely to increase or decline because of an improvement or deterioration in that *medical condition*.
- b. Whether the applicant could take any action (e.g. additional training) that might increase the applicant's capacity for work.
- c. Whether you consider the applicant's future capacity for work will be affected by their motivation for work.

#### Question 6: Does the applicant suffer from any non-HOD *medical condition* that affects the applicant's incapacity to work? If so, how? Please also comment on the applicant's current state of health.

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

- a. Information provided to you during your interview with the applicant and your examination of the applicant.
- b. Any records or reports, including rehabilitation reports and the applicant's Application Form (PSS Form 14) provided to you.
- c. Any *medical condition* (and symptoms) identified by the applicant as currently existing **other than** any HOD *medical conditions* identified in your answer to Question 1 – refer to the answer to Q27 of the Application Form.

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

If you are of the opinion that the applicant **currently** has a *medical condition/s* **other than** any HOD *medical conditions* identified in your answer to Question 1, then please:

- a. Describe the exact nature of each other *medical condition* in appropriate medical terms.
- b. Explain how long you think the applicant has had each other *medical condition*.
- c. Indicate whether any such other *medical condition* prevents the applicant from undertaking any activities or functions and how it affects their capacity for work.
- d. Provide an opinion about the current state health of the applicant.

If you are of the opinion that the applicant **does not** currently have any *medical condition* **other than** any HOD *medical conditions* identified in your answer to Question 1, please state this opinion and any relevant explanation.



**PART TWO - Question on change in any HOD *medical condition* of applicant (where this is not the first application to an HOD pension increase)**

**Question 7: Has any HOD *medical condition* of the applicant changed since their last application for a pension increase was decided? If so, please describe how it has changed and how that change has affected the applicant's capacity for work?**

**Matters to take into account**

- a. Any medical reports provided to *STC* for the purpose of any previous applications by the applicant for an increase in the HOD pension.
- b. The answer to Q29 in the applicant's Application Form (PSS Form 14).

**Matters to address in your opinion**

- a. Whether or not there has been a change, which can be either a deterioration or an improvement, in any HOD *medical condition* of the applicant since their last application for a pension increase was decided.
- b. The extent to which any change in any HOD *medical condition* of the applicant has affected the applicant's capacity for work.

**PART THREE - General questions**

**Question 8: If applicable, please explain why your conclusions differ from those of other reports about the applicant.**

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

Please comment not only if you disagree with the diagnosis of the applicant in another report, but also if you disagree with an opinion in another report about the extent of the applicant's incapacity to work outside the *Police Force* because of an HOD *medical condition* or about the number of hours per week of work they may be capable of.

**Question 11: 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 an increase in their HOD pension. If this is the case, we will want to give your report to the applicant so they have the opportunity of addressing those comments.

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

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.

## 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)