



THE CHIEF CONSTABLE OF NORTH YORKSHIRE

HR: Restrictive Duties

Internal audit report 5.22/23

FINAL

17 November 2022

This report is solely for the use of the persons to whom it is addressed.

To the fullest extent permitted by law, RSM UK Risk Assurance Services LLP will accept no responsibility or liability in respect of this report to any other party.

1. EXECUTIVE SUMMARY

Why we completed this audit

As part of the internal audit plan for 2022 / 2023, we have completed a review of the HR restrictive duties processes in place at North Yorkshire Police (NYP) to assess whether the Force has an adequate framework in place to ensure restrictions or suspensions are carried out in line with Home Office Guidance and that individuals are treated in a fair, reasonable and consistent manner. This included a review of processes to manage both restrictive duties as a result of gross misconduct cases and limited duties as a result of sickness or injury.

Our review has considered the disciplinary and limited duties procedures in place for police staff, which are the responsibility of the People Services Team and the Professional Standards Department (PSD). These procedures have been developed in line with the Police Conduct Regulations 2020 and the Home Office Guidance on Police Officer Complaints and Misconduct Regulation 2020 to ensure consistency when decisions are made to suspend a member of police staff or police officer. Officer misconduct is managed solely by the PSD.

PSD – gross misconduct

The PSD are required to follow Police Conduct Regulations 2020 and the Home Office Guidance on Police Officer Complaints and Misconduct Regulation 2020 in relation to gross misconduct cases. The Head of PSD informed us that suspensions would only be relevant for gross misconduct cases. The Head of PSD has overall responsibility for handling of cases and the Deputy Chief Constable (DCC) is responsible for authorisation of police officer suspensions. Each case is recorded within the Centurion system and allocated an Investigating Officer (IO).

People Services – disciplinary

The Force operates a Discipline Procedure to manage misconduct for police staff. The procedure was published in September 2020 and is within a three-year review period and considered still relevant and appropriate. In order to ensure all police staff are treated fairly and in a consistent manner, all alleged misconduct cases will be reviewed by PSD alongside the People Services Team to assess the level of misconduct and whether cases would amount to gross misconduct.

The People Services Team will complete a disciplinary assessment to outline the level of misconduct and the individual will be informed in writing that an assessment is being undertaken. If the assessment results in possible suspension, the HR Consultant will request the PSD to investigate the case and provide a severity assessment outlining the rationale and decision. Upon receipt of PSD decisions, all information associated with the case will be provided to the Head of People Services to appropriately authorise the decision to suspend. A formal letter will be issued communicating the outcome to the individual.

People Services – adjusted or recuperative duties

In addition, the Force operates a Limited Duties Procedure for those who are unable to fulfil the normal requirements of their role. The Limited Duties Procedure outlines two avenues the Force can take: adjusted duties for individuals who can no longer complete the normal role or recuperative duties for individuals who have short-term periods of sickness or injury preventing them from carrying out their normal role within this period. Both avenues are intended to support individuals who are restricted due to sickness or injury.

Conclusion

As a result of our review, we have agreed **one medium** and **one low** priority management action.

Professional Standards

Our testing verified that the PSD has a structured approach to handling gross misconduct allegations. However, we noted within the testing of the 28-day review process, one review was missed in one of the 10 sampled cases, meaning the DCC authorisation to continue this suspension was not present on file. We conducted a full inspection of the reviews for this case file, and confirmed all prior reviews were completed and evidence retained on file, and therefore we have considered this instance to be an anomaly and low risk.

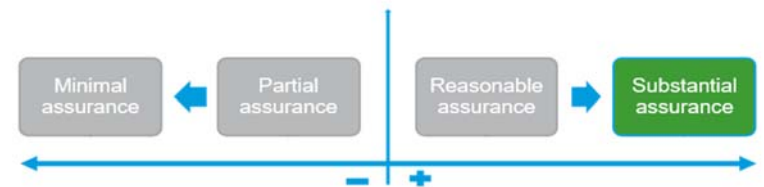
People Services

Based on our testing for adjusted duties for sickness or injury and suspension of police staff for misconduct, we can confirm the Force has a rigorous framework in place to manage and monitor all cases to ensure they are treated fairly and consistently. However, we noted during the testing of the recuperative duties process that there were gaps within the audit trail on the submission of e-forms. We noted some completed retrospectively and did not include a rationale for the agreed changes, which is not in line with the Home Office Guidance.

Further details of these actions agreed can be found under section two of this report.

Internal audit opinion:

Taking account of the issues identified, the Chief Constable of North Yorkshire can take **substantial assurance** that the controls upon which the Force relies to manage this area are suitably designed, consistently applied and effective.



Key findings

Following our audit testing, we have agreed one medium priority management action:



People Services – recuperative duties

We tested a sample of 10 individuals on recuperative duties due to short-term sickness or injury. In all 10 cases, an e-form was submitted by the individual's line manager to support the recuperative duties and in nine of these cases, there was detail on the form to outline the agreed changes. However, in the one remaining case, we could not confirm what changes had been made to the individual's role, such as additional breaks or shorter working patterns. In two of the 10 cases, we noted that the recuperative form was submitted retrospectively, therefore suggesting the change to duties were not approved in advance.

We further noted that the e-forms do not include detail on why agreed changes had been made, for example, whether this was due to sickness or injury, therefore providing insufficient audit trail.

Where an adequate audit trail does not exist to support recuperative duties, there is a risk that the Force cannot evidence adequate provisions have been made to support individuals and approved procedure has not been followed. **(Medium)**

Details of the low priority management action agreed can be found under section two of this report.

Our audit review identified that the following controls are suitably designed, consistently applied, and are operating effectively:



PSD


The PSD follow the Police Conduct Regulations 2020 and the Home Office Guidance on Police Officer Complaints and Misconduct Regulation 2020 when making a decision to suspend police officers for misconduct. We confirmed the current suspension process was in line with the regulation and that regulation documents are available on the .gov website and on the Force's internal intranet platform, the Source.



The PSD operates a strict suspension process in line with the Police Conduct Regulations 2020 and the Home Office Guidance on Police Officer Complaints and Misconduct Regulation 2020 to make a decision to suspend police officers. We tested a sample of 10 suspensions and confirmed the following:

- for all 10 cases, a severity assessment was undertaken, which outlined the decision and rationale to suspend the officer in and outlined the equipment to be revoked;
- in all cases, a notice of suspension from duty form was available and authorised by the DCC and served directly to the individual; and

- in all cases, we confirmed the vetting status was suspended in line with regulation.



All access restrictions are followed as per the Home Office Guidance. The DCC makes all decisions in relation to gross misconduct cases, and this is considered as part of the case assessment. Once a suspension decision is authorised, the officer has all equipment revoked and are escorted off-site to reduce the potential impact on the investigation but also allows for clear lines of communication. All decisions will be communicated verbally in the first instance and are documented in a formal letter to follow.


Within the sample testing completed in the control above, we confirmed for each case within the severity assessment, there is consideration for equipment to be revoked, including warrant cards and mobile phones.

The individual can only request access to a police site via the Area Manager and this is required in writing. The restriction process is documented within the Home Office Guidance, if the individual needs further clarification. When suspensions are imposed, the individual's line manager, Head of Department, People Services, and the appointed welfare contact are all made aware of the suspension via email. This is to ensure all necessary staff are made aware of the situation and they understand access to all premises has been revoked.



People Services

The Force Operates a Discipline Procedure to manage misconduct for police staff. We reviewed the document and confirmed the current review process is every three years to ensure the procedure is still relevant and appropriate. We confirmed the procedure was published in September 2020 and is due to be reviewed in August 2023. The Force also operates a Limited Duties Procedure for individuals who are on adjusted duties due to sickness or injury. Both procedures are available to staff via the Source intranet.



Previously, the People Services Team reviewed all suspensions when new information became available. In order to streamline the review process for suspensions for police staff, the Employee Relations Manager presented a business case to the DCC and as of the 14 October 2022, all suspensions will be reviewed on a 28-day cycle in line with the PSD.



We tested a sample of 10 individuals on adjusted duties in line with the Limited Duties Procedure and confirmed the following:

- in five cases, evidence was available from the adjusted duties panel to authorise a redistribution of the individual and in the remaining five cases, the individual was sourced a new role locally, which is evidenced on the document named 'Appendix A document', which records the severity assessment and supporting rationale for decisions made;
- in all cases, we obtained evidence that a severity assessment was undertaken which outlined the rationale to adjust the individual's duties; and
- in all cases, we obtained evidence of a letter to communicate the outcome to the individual.

The review process is annual for all adjusted duties and within our sample, nine cases did not yet require review, and one case was undergoing the review process in line with the required review date.



We confirmed with the People Services Team that police staff have only had two suspensions due to misconduct within the last 12 months and suspensions are supported by the PSD when undergoing investigations. From the testing we identified the following:

- in both cases, a disciplinary assessment was completed;
- in both cases, a letter was issued to the individuals to confirm a disciplinary assessment was due to be undertaken;
- there was a completed severity assessment available outlining the rationale to suspend the individuals in both cases;
- the Head of People Services had approved the suspension for both individuals;
- a letter was issued to both individuals outlining the decision to suspend; and
- in both cases, the individual was contacted within 48 hours of authorisation to confirm the outcome.

As a result of the testing, we can confirm in both cases the disciplinary procedure had been appropriately followed.

2. DETAILED FINDINGS AND ACTIONS

This report has been prepared by exception. Therefore, we have included in this section, only those areas of weakness in control or examples of lapses in control identified from our testing and not the outcome of all internal audit testing undertaken.

Area: HR Restrictive Duties		
Control	<p>All gross misconduct cases for officers are the responsibility of the PSD. The Head of Professional Standards reviews all cases on a 28-day cycle or upon the receipt of new information.</p> <p>The individual is informed in writing of the review outcome as soon the decision has been made.</p>	<p>Assessment:</p> <p>Design ✓</p> <p>Compliance ×</p>
Findings / Implications	<p>The Head of Professional Standards confirmed that they are responsible for gross misconduct suspensions in line with the Police Conduct Regulations 2020 and the Home Office Guidance on Police Officer Complaints and Misconduct Regulation 2020 to make a decision to suspend police officers.</p> <p>The Force utilise the national Centurion system to record and monitor the PSD suspensions. However, the system only has a recording functionality and does not allow for case management information to be attached. For documents associated with cases, the PSD use a restricted Q drive to store all information in relation to suspensions. The drive has restricted access assigned to the following people: Head of Professional Service, the Professional Service Administrator, the Professional Standard Investigators, and the Force Vetting Manager.</p> <p>Through discussion with the Force Vetting Manager, we understood there has been 18 suspensions of police officers within the last 12 months. We selected a sample of 10 suspensions to confirm the following:</p> <ul style="list-style-type: none"> • a severity assessment is available; • decisions are authorised appropriately; • reviews are completed every 28 days; and • individuals are informed of decisions in writing. <p>From the sample we identified the following:</p> <ul style="list-style-type: none"> • from one of the samples picked, we identified the suspension process has only just begun in October 2022 and until the investigation has concluded, there would be no supporting evidence. We confirmed with the Head of Professional Standards that the gross misconduct investigation process takes four weeks to conclude and present the findings to the DCC for authorisation. 	

-
- for the remaining cases, we tested to confirm if a severity assessment was undertaken in each case and outlined the decision rationale to suspend the officer in question. In the remaining cases, we confirmed a severity assessment was available and the was clear rationale to suspend the officers;
 - through testing, we confirmed each remaining case in the sample had an appropriate Notice of Suspension from Duty Form available, authorised by the DCC and signed to evidence the letter was sent directly to the individual;
 - however, in one case we identified there was no evidence available to confirm the September 2022 review took place. We confirmed through discussions with the Head of Professional Standards that this review had been missed. We undertook a full check of every other review completed for this individual and confirmed that this was an isolated instance, and all other evidence was retained on file. In the remaining cases, there was a clear audit trail of evidence and decisions which had been made initially and after every review period; and
 - we obtained for each case the last three months of reviews to identify if the 28-day cycle was completed in line with the Police Conduct Regulation 2020, if the DCC had authorised the review outcome and if the decision was communicated to the individual. We identified in one case a review decision from the DCC was not retained (as per the discrepancy above) and there was no evidence to suggest the decision was communicated to the individual. Additionally, we confirmed in the remaining cases that after each review outcome, the welfare contact communicated the outcome to the individual by telephone.

Without the appropriate DCC authorisation, and the outcome communication upon completion of the reviewal process, there is a risk that the Force is not in compliance with the Home Office Guidance on Police Officer Complaints and Misconduct Regulation 2020 and decisions to suspend are not managed fairly and consistently. As our testing established this was an isolated instance, we have raised a low priority management action.

Management Action 1	The Force will ensure all live suspensions have a review every 28 days in line with regulation and the appropriate evidence is retained as an audit trail.	Responsible Owner: Head of Professional Standards	Date: 30 November 2022	Priority: Low
----------------------------	------------------------------------------------------------------------------------------------------------------------------------------------------------	-------------------------------------------------------------	----------------------------------	--------------------------------

Area: HR Restrictive Duties

Control	<p>The Force operates a Limited Duties Procedure and an Attendance Management Guidance, which outlines the process for adjusted duties and recuperative duties for individuals who are sick or injured and require alterations to normal working arrangements. Procedures are available to staff via the Source intranet.</p> <p>Recuperative duties are changes to normal working hours for up to a nine-week period. Line managers are responsible for completing the e-form on the Source Intranet to authorise the agreed changes. Once complete, an automatic notification is issued to the People Services Team for approval.</p> <p>The recuperative duties e-form outlines the agreed changes and proposed timescale for these changes. If the changes continue after nine weeks, management must submit a new form. Recuperative duties are reviewed by line managers at the proposed end date of the changes.</p>	Assessment:	
		Design	✓
		Compliance	×

Findings / Implications

We tested a sample of 10 individuals on recuperative duties and confirmed the following:

- in eight cases, the recuperative duties period was extended and a subsequent e-form was completed, in the remaining two cases the recuperative duties were not extended;
- evidence was available in all cases to confirm an e-form was submitted by the individual's line manager, and in nine cases there was evidence within the form to outline the agreed changes. However, in the remaining one case, we could not confirm what changes to their role had been made and in two cases, the form was submitted retrospectively after the start of the recuperative duties period;
- in all cases, we confirmed there was evidence available of line management authorisation;
- in all cases, we confirmed there was evidence available of People Services approval;
- we obtained evidence to confirm the start and end date for each e-form submitted; and
- we confirmed with the Employee Relations Manager that there is no formal review process in place for recuperative duties as the procedure stipulates the e-Forms only last a period of nine weeks, and if extended, a new submission should be made.

However, we noted from the testing that in all cases there was no rationale available to why the agreed changes had been made, for example, whether this was due to sickness or injury.

Where adequate audit trail does not exist to support recuperative duties, there is a risk that the Force cannot evidence adequate provisions have been made to support individuals.

Management Action 2	<p>2a) The Force will breakdown the current categories for recuperative duties to provide context within the recuperative e-form. Examples:</p> <ul style="list-style-type: none"> • Recoup Return from Sickness absence • Recoup Sickness Support • Recoup Ongoing Condition <p>2b) The Force will update the current return to work guidance to outline the process for management to review recuperative duties before the nine-week period ends.</p> <p>In addition, the Force will consider a notification function to line managers to prompt them to review current recuperative duties and submit new e-forms, where appropriate.</p>	Responsible Owner: Employee Relations Manager	Date: 31 December 2022	Priority: Medium
			31 May 2023	

APPENDIX A: CATEGORISATION OF FINDINGS

Categorisation of internal audit findings

Priority	Definition
Low	There is scope for enhancing control or improving efficiency and quality.
Medium	Timely management attention is necessary. This is an internal control risk management issue that could lead to: Financial losses which could affect the effective function of a department, loss of controls or process being audited or possible reputational damage, negative publicity in local or regional media.
High	Immediate management attention is necessary. This is a serious internal control or risk management issue that may lead to: Substantial losses, violation of corporate strategies, policies or values, reputational damage, negative publicity in national or international media or adverse regulatory impact, such as loss of operating licences or material fines.

The following table highlights the number and categories of management actions made as a result of this audit.

Area	Control design not effective*	Non Compliance with controls*	Agreed actions		
			Low	Medium	High
HR Restrictive Duties	0 (7)	2 (7)	1	1	0
Total			1	1	0

APPENDIX B: SCOPE

The scope below is a copy of the original document issued.

Scope of the review

The scope was planned to provide assurance on the controls and mitigations in place relating to the following area:

Objective of the area under review

The Force has an adequate framework in place to ensure restrictions or suspension are carried out in line with Home Office Guidance and that individuals are treated in a fair, reasonable and consistent manner.

It is sometimes necessary for the Force to remove a police officer or member of police staff from duty whilst an investigation into a conduct matter is conducted. Our review will focus on the controls once a decision has been made to restrict the duties of a police officer or member of staff. In addition, at the request of the Deputy Chief Constable, we have been asked to consider the Force's approach to restrictive or adjusted duties for other reasons, such as sickness or injury. Our review will cover the following areas:

- Disciplinary policies and procedures applicable to both police officers and staff are in place, are up to date and available to all staff.
- Whether disciplinary policies and procedures are aligned to the Police (Conduct) Regulations 2020 and the Home Office Guidance on Police Officer Misconduct.

Misconduct / Gross misconduct (officers)

- We will select a sample of misconduct / gross misconduct cases, in which the police officer is suspended from duty:
 - A severity assessment has been undertaken by the appropriate authority to determine whether the conduct amounts to misconduct or gross misconduct.
 - There is clear audit trail to evidence the decision and rationale for the suspension, restriction or change of duty, which aligns to the Home Office Guidance on Police Officer Misconduct.
 - Decisions to suspend to non-senior officers and senior officers are authorised by an appropriate authority, in line with Home Office Guidance.
 - Decisions to suspend have been communicated by an appropriate individual as per guidance and the officer has been informed in writing of the reason for suspension or being moved to other duties.
 - Where the Independent Office for Police Conduct (IOPC) are supervising, managing, or investigating a matter, the appropriate authority has consulted the IOPC on decisions to suspend, and subsequently reinstate individuals.

- The use of suspension is reviewed at least every four weeks by the appropriate authority, or sooner, if facts become known which suggest suspension is no longer appropriate.
- Where the suspension has been reviewed, and the decision is to continue the suspension, the police officer is informed in writing of the reasons why in a timely manner.
- Review of how decisions to restrict access (in relation to suspensions only) to police premises or police social functions are considered in the decision-making process by the appropriate authority, and how these restrictions are communicated and imposed across the Force.

Misconduct (police staff)

- We will select a sample of conduct cases relating to police staff where the individual is suspended or restricted of duties to confirm whether decisions to restrict duties are clearly documented and carried out in line with Force procedures.
- There is a regular review of the decision to suspend or restrict the duties of an individual whilst the disciplinary proceedings are underway.
- Consideration of how decisions are communicated to the relevant individuals and imposed across the Force.

Sickness / injury

- Policies and procedures are in place which outline the processes for managing changes or restriction to duties due to sickness, injury, or other personal reasons, which are in place, are up to date and available to staff.
- Decisions to change or restrict duties are appropriately authorised and rationale for doing so clearly documented.
- Consideration of how decisions are communicated to the individual and other relevant persons across the Force, including line management, and imposed across the Force.
- Whether regular review of decisions made is undertaken to ensure that changes / restrictions to duties remain appropriate.

The following limitations apply to the scope of our work:

- The scope of the work will be limited to those areas examined and reported upon in the areas for consideration in the context of the objectives set out for this review.
- Any testing undertaken as part of this audit will be compliance based and sample testing only.
- We will not interview officer or staff as part of the audit.
- We will not comment on the appropriateness of decisions made in respect of misconduct cases or sickness / injury cases.
- We will not provide assurance on the Force's compliance with employment legislation.
- We will not make an assessment of whether there is potential inequality between officers and staff. We will only confirm that the Force's processes have been followed as described.
- We will not review policies and procedures for adequacy.
- We will not comment on the appropriateness of actions taken.

Debrief held Professional Standards - 31 October 2022
People Services - 1 November 2022

Draft report issued 9 November 2022

Responses received 17 November 2022

Final report issued 17 November 2022

Internal audit contacts
Dan Harris, Head of Internal Audit
Philip Church, Senior Manager
Mike Gibson, Client Manager
Hollie Adams, Assistant Manager
Naomi Longstaff, Internal Auditor

Client sponsor
Detective Chief Constable,
Managing Director of EnableNY
Temporary Head of People Services
Head of Professional Standards Department

Distribution
Detective Chief Constable,
Managing Director of EnableNY
Temporary Head of People Services
Head of Professional Standards Department

rsmuk.com

The matters raised in this report are only those which came to our attention during the course of our review and are not necessarily a comprehensive statement of all the weaknesses that exist or all improvements that might be made. Actions for improvements should be assessed by you for their full impact. This report, or our work, should not be taken as a substitute for management's responsibilities for the application of sound commercial practices. We emphasise that the responsibility for a sound system of internal controls rests with management and our work should not be relied upon to identify all strengths and weaknesses that may exist. Neither should our work be relied upon to identify all circumstances of fraud and irregularity should there be any.

Our report is prepared solely for the confidential use of **The Chief Constable of North Yorkshire**, and solely for the purposes set out herein. This report should not therefore be regarded as suitable to be used or relied on by any other party wishing to acquire any rights from RSM UK Risk Assurance Services LLP for any purpose or in any context. Any third party which obtains access to this report or a copy and chooses to rely on it (or any part of it) will do so at its own risk. To the fullest extent permitted by law, RSM UK Risk Assurance Services LLP will accept no responsibility or liability in respect of this report to any other party and shall not be liable for any loss, damage or expense of whatsoever nature which is caused by any person's reliance on representations in this report.

This report is released to you on the basis that it shall not be copied, referred to or disclosed, in whole or in part (save as otherwise permitted by agreed written terms), without our prior written consent.

We have no responsibility to update this report for events and circumstances occurring after the date of this report.

RSM UK Risk Assurance Services LLP is a limited liability partnership registered in England and Wales no. OC389499 at 6th floor, 25 Farringdon Street, London EC4A 4AB.