

# **Scottish Police Federation & Association of Scottish Police Superintendents**

## **FLEXIBLE WORKING FOR POLICE OFFICERS IN SCOTLAND**

Police officers work under the requirements of the Police Service of Scotland Regulations and Determinations 2013 which govern their pay and terms and conditions of work. People are recruited to undertake the generic role of a police officer, rather than to a specific job, and can be posted to perform duty where and when required. This does not change if you agree with the Force that you can work flexibly or reduce your hours.

### **FLEXIBLE OR PART TIME WORKING**

Police officers can join Police Scotland working less than full time hours (40 hours a week). They can request part time or flexible working for any reason at any time. An officer of any rank (including probationers) can apply to reduce their hours or work flexibly, but it is especially valuable for officers who have caring responsibilities, enabling them to manage their work life balance better.

There is no minimum number of hours an officer is required to work over a period, but it is important that the hours are sufficient to ensure the officer can undertake a meaningful role as well as meeting the training needs and assessment for that role.

Officers are not limited to working the same shift pattern as their colleagues, and can work a pattern over a week, several weeks or even a year. They can work term times, a fixed shift pattern (e.g. regular nights) or a variable shift arrangement so long as the pattern meets the needs of the Force and complies with health and safety and working time legislation as set out in the Workforce Agreements that Police Scotland has entered into with the Scottish Police Federation and the Association of Scottish Police Superintendents.

Flexible working has positive benefits for the Force and for individuals. It can increase productivity and reduce sickness absence and it enables officers to manage their work life balance better. The Force is committed to considering all applications for flexible working objectively and reasonably.

### **REQUESTING FLEXIBLE WORKING OR A REDUCTION IN HOURS**

Police Scotland has a process for requesting a change in working patterns or hours, and officers should use the forms provided. However, it is important to remember that, unlike police staff, police officers do not come under the statutory process defined by the Right to Request Flexible Working Regulations, so the decision making process is different for police officers.

Before making a request it is important that you are clear about why you want to alter your hours and what hours you can and cannot work. Policing is a 24/7 operation and there will be times and places when the Force needs more officers on duty; for example Friday and Saturday nights in a city centre. It will maximise the chances of the Force accepting a request if you can match your hours with the hours the Force needs.

Applications for part time and flexible working should be made on the forms provided by the Force, but it is advisable to discuss any proposals with your line manager first. You can get advice at any stage from your SPF or ASPS representative.

You do not have to say why you want to reduce your hours or work flexibly. Your manager should identify their operational demands at different times and carefully consider whether your proposal would be workable. You should try to reach a compromise that suits you both. You are not guaranteed a change in hours in the same role or at the same location, but if it is not possible for you to work your proposed hours in your current role the Force should look to find you a suitable role elsewhere in the Force.

When you agree a change in hours with the Force this agreement applies only to the number of hours you work. The Force can require you to work those hours where and when necessary. They can cancel your rest days and require you to stay on late or come in early if there is a pressing policing need.

Although this means that, like full time police officers, you have no absolute guarantee that you can start or finish work at the agreed times, in practice the Force needs to consider your restrictions when you are redeployed.

## **REFUSAL OF A REQUEST TO WORK FLEXIBLY OR A REDUCTION IN HOURS**

In some situations, if a request is refused, an officer could have a legal claim for discrimination under the Equality Act 2010. Cases taken to Employment Tribunal because of the denial of flexible working have concerned direct or indirect discrimination because of a person's sex, disability or religious belief.

Direct discrimination occurs when an officer is treated less favourably than someone with a different protected characteristic in the same circumstances. Indirect discrimination occurs when a Force imposes a provision, criterion or practice (such as a shift pattern) that puts members of one protected group at a disadvantage compared to those in another group. The Force can justify indirect discrimination if they can show that the provision, criterion or practice is a proportionate means of achieving a legitimate aim. So, for example:

- If a woman officer with childcare responsibilities was unreasonably refused part time working, she could have a potential claim of indirect sex discrimination;
- If a male officer was refused part time working in the same circumstances, he could have a potential claim of direct sex discrimination;
- If an officer needed flexibly working in order for them to observe their particular religious needs, they could have a claim of indirect religion or belief discrimination.

In addition, the Equality Act requires the Force to make reasonable adjustments for a disabled officer where working arrangements (such as a shift pattern) puts them at a substantial disadvantage to officers who are not disabled. So, for example:

- If an officer with a disability who needed to work a fixed shift pattern in order to manage their condition, was refused a flexible working pattern they could have a claim that the Force failed to make reasonable adjustments.

In these circumstances you would need to tell the Force why you need to work the hours (rather than simply wanting to do them) so that they can properly balance your individual needs against their operational needs and consider whether there are alternative means of achieving their aims.

## **PAY**

Pay and leave entitlement is calculated 'pro rata' (in proportion to the hours worked).

If you have agreed a reduction in hours from 40 per week, the number of hours are known as your "determined hours" over a relevant period. The relevant period is the period over which your shift pattern operates; for example 32 hours in a week, 120 hours over a 4 week period (if a different number of hours are worked each week), or even 1,248 over a 12 month period (if for example a term time pattern is worked).

Pay and leave entitlement are worked out by dividing the determined hours with the number of weeks in the relevant period multiplied by 40. This calculation is set out in Police Regulations and is known as the "appropriate factor". For example:

- If the officer works 32 hours a week the appropriate factor would be calculated by dividing 32 by  $(1 \times 40) = 0.8$ .
- If the officer works 150 hours over a 4 week period the appropriate factor would be calculated by dividing 150 by  $(4 \times 40) = 0.75$ .
- Working 1,248 hours over 52 weeks would be 1,248 divided by  $(52 \times 40) = 0.6$ .

Annual leave is pro-rated by multiplying a leave day (8 hours) by the appropriate factor. In the examples above a part time officer would get 6.4 hours, 6 hours and 4.8 hours respectively credited for each leave day.

## **OVERTIME**

As a police officer, whether you are full or part time or whether you have a flexible working agreement, you can be required stay on beyond your agreed hours. If you are part time and you are required to work additional hours, you are entitled to plain time payment or TOIL for every hour you work up to 40 hours in a week (just like a full time officer). Additional hours payments are pensionable.

### **Constables and Sergeants**

Thereafter a part time Constable or Sergeant receives the appropriate overtime payment for any additional hours worked over their determined hours up to 40 hours in the relevant week. They can choose to take time off in lieu (TOIL) of payment. Inspectors and ranks above have no entitlement to overtime payment or TOIL for hours worked over the 40 hour threshold.

A relevant week is a 7 day period commencing 0700 on Monday each week.

## Examples of the calculation of overtime payments for Constables & Sergeants

### Example 1

Week 1	M	T	W	T	F	S	S	Total
Rostered hours to work	6	8	8	8	RD	RD	RD	30
Additional hours worked	4	0	4	4	RD	RD	RD	12

The officer's determined hours are 30 in a week, worked in a flexible pattern. In this week they actually work 42 hours.

The officer is compensated at plain time for the 10 hours worked up to the 40 hour threshold and at the appropriate overtime rate for the 2 hours worked in excess of the 40 hour threshold.

### Example 2

Week 2	M	T	W	T	F	S	S	Total
Rostered hours to work	6	6	6	6	RD	RD	RD	24
Additional hours worked	4	0	4	6	RD	RD	RD	14

The officer's determined hours are 30, worked in a flexible working pattern which means that this week they are rostered to work 24 hours. They actually work 38 hours. Their determined hours (30) + the additional hours actually worked (14) means that the officer has exceeded the 40 hour threshold with 44 hours.

The officer is compensated at plain time for the 10 hours worked up to the 40 hour threshold and at the appropriate overtime rate for the 4 hours worked in excess of the 40 hour threshold.

## Inspectors and Superintendents

Inspectors and Superintendents required to stay on beyond their determined hours are paid at their normal hourly rate (plain time) plus allowances for each hour worked up to 40 hours in a week; they receive no additional pay for hours worked over 40.

## ANNUAL LEAVE

A part time officer's annual leave is calculated as a proportion of their working hours, and any additional hours worked will accrue additional annual leave entitlement. This should be paid retrospective (usually annually) based on the additional hours worked over the officer's determined hours over the relevant leave year.

## PENSION

Any reduction in hours will affect an officer's pension entitlement. Different rules apply depending on which Police Pension Scheme you are in. In the 1987 and 2006 PPSs you may be able to work longer to make up any deficit in your pension caused by reducing your hours; however, in the 2015 PPS your pension is accrued according to the pay you receive, and there is no maximum accrual (so you can carry on working as long as you are able to do so).

You need to get personalised advice from the Force Pensions Administrator.

## **TRAINING AND PROMOTION**

Part-time officers are protected from being treated less favourably than equivalent full-time officers because they are part time. Under the Part Time Workers (Prevention of Less Favourable Treatment) Regulations 2000 part-time officers are entitled to the same treatment for training and career development, selection for promotion or transfer and opportunities for career breaks

## **REVIEW**

The Force should review your part time/flexible working agreement with you at least once a year to see that it is still working for you and the Force. However, the number of hours you agreed cannot be changed without your agreement.

## **RETURNING TO FULL TIME HOURS**

Officers joining the Police Service of Scotland usually join working full time (40 hours a week). If an officer reduces their hours they can return to full time hours at any time within 2 months of notifying the Force, although this can be reduced to 1 month if there is a suitable vacancy available.

You can join the Police Service of Scotland on fewer hours than 40 a week, but you then have no right to “return” to full time working and would have to apply to do so.

## **PARENTAL LEAVE**

It is also possible for police officers to use parental leave under Police Regulations to temporarily reduce their hours. Police officers can take up to 18 weeks unpaid leave for each child for whom they have parental responsibility up to the child’s 18<sup>th</sup> birthday. The leave can be taken in days and there is no maximum period of leave that can be taken in any one year. Parental leave is subject to Force exigencies and can be cancelled if necessary. The leave is unpaid, but pension entitlement can be bought back for any period the officer is absent

## EXAMPLES OF FLEXIBLE WORKING CASES FROM THE POLICE SERVICE

The following seven case briefing notes have been provided by Jayne Monkhouse OBE. They show the balancing exercise that needs to be undertaken between the identified needs of the Force and the needs of the individual officer in cases of potential unlawful discrimination. Five cases concern allegations of sex discrimination (four where the applicant was successful) and two concerning disability discrimination (where one applicant was successful).

### **1. Chew v Avon & Somerset Constabulary EAT 2002**

*It was unlawful indirect sex discriminated to require a woman part time officer to follow the division's shift pattern.*

In 1994 Avon & Somerset Constabulary introduced a Part Time Working policy which said that part timers should “*accord with the cycle of duty allocated on the shift pattern which has been adopted by the district/department in which the officer is serving*”.

In 1998 Mrs Chew agreed a part time working arrangement in accordance with the policy, working day time hours on Thursday, Friday and Saturday in the Child Protection Team. In October that year her marriage broke down and she needed to find an alternative post which accommodated her childcare needs.

There was a vacancy for a part time DC in Somerset West working 24 hours a week. Mrs Chew applied, suggesting a 28 hour shift pattern (3 x 3 day weeks + 1 x 5 day week including a weekend). Without seeing her, the District Commander turned down her application on the grounds that it did not fit with the shift pattern on the District. She made further applications which were also rejected.

She made an application to an Employment Tribunal alleging indirect sex discrimination in that the requirement to accord with the shift pattern in the district or department impacted more on women than men and could not be justified.

In balancing the needs of the Force and the needs of Mrs Chew, the ET noted that Mrs Chew was a single mother with two small children. She had no available family assistance with childcare and was dependent on professional childcare except for one weekend in five when her ex-partner had the children. The Nursery her children attended was open between 08.00 and 18.00.

The Force argued that 24/7 policing was best met by a rotating shift system and in divisions where crime was on the increase there were more atypical officers. They also said that there would be problems if an officer worked in more than one team; officers working atypical hours would have an adverse effect on morale and making an exception for Mrs Chew would lead to a large number of applications from other officers.

The ET rejected the Force arguments on the grounds that there was little or no evidence for their reasons, and no consideration of other ways of working. They said that “there is a singular absence in the respondent’s witnesses of any acceptance or appreciation of the discriminatory effect of the (requirement to work the set hours) or therefore any attempt to carry out the balancing exercise”.

The ET concluded that the requirement for officers who reduce their hours to do so in line with the shift pattern in their department/division could not be justified either generally in the Force or in Somerset West.

## **2. Mather v Chief Constable of Greater Manchester Police ET 2015**

*It was unlawful indirect sex discrimination to require a woman officer to work in the school holidays.*

PC Mather became a single parent in 2002 and had no further contact with her child's father. Her parents lived 40 miles away. In 2007 she became a School Based Police Officer. In 2008 she reduced her hours to work term time only; the arrangement was reviewed in 2009, 2010 and 2011 with minor variations.

In 2012 she made her usual application to work her term time pattern, but this was rejected by her new Chief Inspector who said he was "not particularly concerned about part time working. However, I am concerned with how it is set up, taking six or seven weeks off in the summer is not an option for me". He said her shift pattern "was no longer tenable and did not strike the appropriate balance with the organisation". It was suggested that her hours moved forward an hour to 08.30/16.30 so that she could cover anti-social behaviour at the end of the school day and that she would be required to work 9 "critical days" outside of term time. She was asked to resubmit her application.

She resubmitted exactly the same working pattern - she disputed the time of anti-social behaviour at her schools and said that a change in her hours would mean her daughter would be at pre- and after-school clubs for a total of 13 hours a day; she also queried whether the Force were requiring her to increase her hours (contrary to Police Regulations) or alternatively, where the 9 extra days were to come from. At a meeting with her line managers she agreed to work 8.00/16.00, but her application in respect of a term time pattern was refused. She appealed, but this was rejected.

She lodged an ET application alleging indirect sex discrimination.

The Tribunal found that the requirement for officers to work during the school holidays indirectly discriminated against women who have greater responsibility for childcare and that it put PC Mather at a particular disadvantage. They therefore sought to balance this discriminatory impact against the Force's aims.

The Force identified four aims – training, updates prior to the beginning of the new school year, deskilling and operational resilience. The Tribunal rejected the first three aims as not being legitimate aims – they had all been accommodated in PC Mather's existing working arrangements. They accepted that operational resilience was a legitimate aim - the cuts had had put pressure on the Service and she could help alleviate this by working critical days or school holidays. However they found that there was no explanation as to how the 9 extra days she had been required to work had been identified and they recognised that PC Mather would struggle to obtain childcare on these days which covered overnight. They also took into account the evidence that the CI had not initially been keen on term time working.

The Tribunal found that the disadvantage to PC Mather outweighed the advantage to the Force and was a disproportionate way of achieving the Force's aim. They found that she had been the victim of indirect sex discrimination.

### **3. Burden v Hampshire Constabulary ET 2015**

*It was unlawful indirect sex discrimination to post a newly promoted woman Sergeant to a station where she could not work because of her childcare commitments*

In 2013 PC Hayley Burden applied for promotion to Sergeant. She was 1 of 11 successful candidates; 8 men and 3 women, 2 of whom, including her, worked part time. The Force usually factored candidates' welfare needs into the postings process, however, on this occasion they did not do so. Mrs Burden was posted to a station over an hour's journey from her home.

On being notified of her posting PC Burden immediately submitted her welfare concerns; she identified that she was the primary childcare provider; that she worked opposite shifts to her husband, a PC at the same station, so that they could manage childcare for their daughters aged 4 and 17 months; their travel time to work was approximately 12 minutes each way and she had no other childcare available.

A C/Superintendent reviewed and rejected her appeal saying that "changing the posting would undermine the decision making of the SMT and a number of other moves have been planned to take place at the same time". She made a flexible working application to work at the new station, but this was rejected because of "the need for leadership for teams at the commencement of duties, being present when the teams are on duty and the need to work nights in the interest of fairness". Mrs Burden decided to withdraw from the posting because it was impossible to manage her childcare. She offered to work in any other station within a 30 minutes commute

PC Burden submitted a grievance but this was rejected by the DCC who said that he considered reasonable efforts had been made to achieve a good balance between her needs and those of organisation and the new team; he said "I am satisfied that (the HR procedures) were applied equally to everyone..."

PC Burden complained to the ET that she had been indirectly discriminated against because of her sex. She alleged that the Force's requirements for the promotion posting were provisions, criteria or practices (PCPs) that put women in general, and her in particular, at a disadvantage because of childcare commitments. These were:

- to work at a particular location and distance up to 30 miles from her home
- to attend 7am briefings each day shift
- to work a full night shift (8 hours each night shift without an early departure) and
- to work a minimum of 30 hours a week

The Force stated that their aim was "to ensure the efficient and effective supervision of police constables and the provision of proper and effective policing for the whole of the Hampshire area". The Tribunal accepted that these were legitimate aims and the PCPs were an appropriate means of achieving them. However, they concluded that the combined effect of the PCPs was not a proportionate means of achieving the aims and there were alternative postings that would have met their aims.

PC Burden was successful in her claim of indirect sex discrimination.



#### **4. Mair v Police Service of Scotland ET 2018**

*It was unlawful indirect sex discrimination to refuse a woman officer flexible working on a full time basis.*

PC Mair had a baby in 2000. Her marriage broke down and her husband later moved abroad. She did not work nights because of her childcare needs.

In September 2014 she was told she was to be posted to response. She applied for flexible working but it was rejected. She submitted an amended application, but it was also rejected because “30% hours proposed are starting early and not with the shift ... Lack of work available during the proposed hours starting early when other groups on duty (on occasions 2 groups). Only 70% with shifts and not at times of high demand therefore detrimental impact on performance and quality of service”.

She submitted an amended pattern but this was rejected in similar terms. She appealed but this was also rejected by the Superintendent . He said that the shift pattern was designed to match demand and that “it was important to uphold Police Scotland’s values to ensure fairness to other officers/staff members”.

PC Mair resigned on 1 September 2016. She had 25 years service. She complained to an Employment Tribunal of indirect sex discrimination.

The Tribunal decided that the Force’s policy that applicants for flexible working “should start and finish their shifts within the actual shift core hours” would disadvantage single parents, the majority of whom are women.

They accepted that the Force’s aims of “providing a comprehensive and cost effective policing service 24 hours a day, 7 days a week in response to public demand, force objectives and Scottish Government requirements; to do so within the restraints of available human, financial and other resources, and by the deployment of officers and civilians with the necessary skills and experience” were legitimate aims.

The Force argued that to meet those aims all officers needed to work the same hours as their shift under the supervision of their line manager and for proper management supervision and important briefing and debriefing sessions at the beginning and end of each shift; for health and safety reasons officers could not be single crewed given the heightened security threat. They also argued that there was insufficient meaningful police work available at the times PC Mair wanted to work.

The Tribunal rejected the Force’s reasoning – they said that Ms Mair had 24 years’ service and did not require constant supervision; she would have missed the briefings on only a few occasions and could have briefed herself from the available papers. In respect of the alleged requirement for double crewing, they commented that shift numbers were inevitably flexible because of annual leave, sick leave, court attendance etc and the Force’s evidence was that an officer could pair up with an officer from another shift. They also noted that Force statistics and oral evidence did not support the Force’s contention that there was no work at the relevant times. They therefore concluded that the means of achieving the identified aims were not proportionate and the Force had indirectly discriminated against PC Mair because of her sex.

They also commented that the decision makers “appeared to focus on the business needs of the respondent to the exclusion of the discriminatory impact on the claimant” and noted that the SOP appeared to be designed to meet the requirement of the Flexible Working Regulations where the test for justifying refusal is different from the test for justifying indirect sex discrimination.

## **5. Carr & McManus v Lincolnshire Police ET 2009**

*It was not indirect sex discrimination to require women part time officers to undertake weekend working as part of a rota.*

PC Carr and PC McManus worked part time in the Criminal Investigation Units (CIU) in Lincolnshire Police. Both women had reduced their hours because of childcare commitments. PC Carr worked 24 hours a week from 9am to 5pm on Mondays, Tuesdays and Wednesdays. Her husband was self employed. PC McManus worked an average of 27 hours a week (30 hours a week Monday to Friday during term time and 16 hours a week Wednesdays and Thursdays during school holidays). Her husband was an Inspector in Lincolnshire Police. Both women relied on their mothers for the majority of their childcare support.

In November 2007 the CIU Inspector identified that the unit's work peaked during weekends. He proposed changing the hours officers were rostered to work so that there was coverage at weekends and overtime costs would be reduced. It meant that PC Carr and PC McManus worked one day at the weekend every 4 or 5 weeks.

Both officers objected to the proposals on the ground that it would adversely impact on their childcare arrangements. They were offered the opportunity to retain their shift pattern in another unit. Instead, both officers made claims of indirect sex discrimination to an Employment Tribunal after their grievances were rejected.

Under the indirect sex discrimination provisions of the Equality Act 2010, they had to show that women, as a group, were disadvantaged by the requirement to work some weekends. The Force argued that women were no more disadvantaged than men and referred to a report from the Equal Opportunities Commission which showed that in 2000 and 2004 26% of women in work usually worked weekends in their main job, compared to 30% of men.

The Tribunal therefore found that there was no disproportionate impact on men or women but also went on to say that even if there had been a greater impact on one sex the requirement to work some weekends was a proportionate means of achieving a legitimate aim. In balancing the needs of the Force with the needs of the two women officers they said that there was a financial imperative to reduce overtime costs and that it was necessary to process prisoners and prepare prosecution files expeditiously in order to meet the detention period limitations set down by PACE and to meet general service quality expectations of prisoners and other persons such as victims and witnesses.

## **6. Aberdeen v the Chief Constable of the Police Service of Scotland ET 2019**

*Requirement to work until 1am was discrimination arising from disability and failure to maintain reasonable adjustments.*

Lana Aberdeen became a police officer in 2013 aged 38. She declared on the pre-recruitment questionnaire that she had a history of depression and anxiety. During her probation, she applied successfully for flexible working because of her childcare commitments. In January 2016 she reduced her hours to 30; finished before 1am, except at weekends when the shift could end at 3 or 4am.

In March 2016 she was sent home after an anxiety attack at work and was absent for 2 months. Her managers became aware of her mental health condition and referred her to OH. Her role was changed to Community Support Officer. Over the next 15 months she had further OH assessments which said she was fit for her role, with the proviso that she did not work after 11pm. The Force acted on the recommendation.

Her Inspector became concerned that PC Aberdeen was doing materially less work than other CSOs and was not convinced that finishing at 11pm was practicably achievable for a CSO. She was set an informal Action Plan in June 2017 under which she was required to work to 1am on Friday and Saturday when on late shift.

PC Aberdeen became more anxious and her sleeping pattern was adversely affected. In October/November she failed to deal with an incident appropriately; stayed in the office until 1am on two nights; and failed to deal appropriately with a car carrying gas canisters causing an obstruction in the road. She informed her Sergeant that she was anxious about work and had increased her medication. He made a remark to the effect that she should not have to increase her medication to be able to function properly at work. On 16 November she went off sick.

Over the next four months she received welfare visits from her Inspector and Sergeant at home. Eventually, in March 2018 she was required to attend a performance meeting under the PSoS Performance Regulations. The meeting was held at her home because she disclosed that she had been diagnosed with agoraphobia. However, the meeting had to be cut short as she became distressed.

She resigned on 15 April and claimed to an Employment Tribunal of discrimination arising from disability, direct disability discrimination, failure to make reasonable adjustments, disability harassment and unlawful dismissal.

The Tribunal found that one part of the informal Action Plan, (regarding working to 1am) was unlawful discrimination arising out of disability. They said the increase in hours had been implemented without and in contravention of previous medical advice; and that whilst they accepted that the Force's aims (maintaining an appropriate level of service and protection to the public and ensuring that all police officers perform their operational duties to an acceptable standard) were legitimate aims, the means were not proportionate.

The Tribunal also found that the requirement for PC Aberdeen to increase her hours to 1am in Dundee City Centre when she was working late was a failure to maintain the reasonable adjustment they had made for her not to work beyond 11pm.

All her other claims were dismissed. The Tribunal said that the creation of informal action plans and the decision to start formal performance proceedings were appropriate in the circumstances.

## **7. Cullen v Chief Constable of Humberside Police ET 2013**

*It was not unlawful disability discrimination to refuse a disabled officer's requested shift pattern.*

In 2008 Sergeant Cullen agreed a flexible working pattern because of his childcare responsibilities. He worked 4x10 hour shifts, no nights and no weekends. In 2009 he sustained a shoulder injury and could not carry out confrontational duties. He was promoted to Inspector in 2010.

In 2012 he was told his post was to be merged into a new post of Violent Crime Inspector, which was not suitable for him because of his restrictions. He was to be posted to the Incident Response Team. He was not happy that this had been decided without any consultation with him; he went off sick the following day.

In August the FMA indicated that Inspector Cullen was being treated for chronic fatigue syndrome and depression as well as his shoulder condition but said he was fit to return to work in a non-confrontational role and, following rehabilitation, he would be able to work a normal shift pattern. Inspector Cullen wanted to keep his compressed hours but the doctor said that in his view shorter shifts would be more beneficial, so it was refused.

He returned to work in September when he was due to be reduced to half pay. He subsequently made claims of disability discrimination, discrimination arising from his disability, failure to make reasonable adjustments and disability harassment.

The Tribunal found that there was no medical necessity for him to work the ten-hour shifts and that he had not been discriminated against by the requirement to work the IRT shift pattern. The decision to move him was not discrimination arising from disability because as a police officer he had no right to be consulted and there were genuine operational reasons for the decision. The Tribunal found that the Force had made a number of adjustments to his duties and shift pattern and rejected his claim that they had not taken reasonable steps to remove any disadvantage.