

# Student Officers

## Overview

Our award winning employment department has a team of expert lawyers who specialise in all employment aspects of police work. From our experience in handling cases involving student officers we set out below some of the most frequently asked questions.

These Q&As are intended to provide an overview of the main issues which arise in student officers cases. Student officers are referred to in the Police Regulations as probationers. If you need further assistance about this or any other employment related matter you should contact your JBB Secretary.

### Can probation be extended?

Yes. The probationary period is for 2 years or a longer period if the Chief Constable decides to extend this period for a particular probationer.

### Can probation be extended after the event?

No. The decision to extend the probationary period must be made before the date on which the period is due to end (i.e. at the end of the two year period or at the end of any previous extension). An attempt to 'back date' an extension will not be valid. A decision to extend will, however, probably be valid, if it is actually taken before the probationary period ends but not notified to the probationer until after the period has ended.

### Does previous service in another force count?

If you have previously completed your probationary period in another force, you will not have to redo it on transfer to another force. If you rejoin after a period of absence from the police, you will have to serve your first year as a probationer, unless the Chief Constable decides to reduce or dispense with this probationary period.

If you have more than one year's service as a probationer but did not complete your probationary period, you will have to serve another year as a probationer after your transfer or on rejoining after a period of absence. The Chief Constable may decide to reduce the probationary period in this case but the total probation period served must not be any less than two years. If you have less than one year's previous service as a probationer, you will have to recommence the probationary period on transfer or on rejoining.

### Who can decide to extend?

The Courts have accepted that the Chief Constable can delegate the decision to extend. It is likely that the courts would agree that the delegation should be made to an officer of appropriately senior rank.

### Does maternity leave count towards probation?

The relevant provisions are found in the determination at Annex C under Regulation 12, Police Regulations 2003. The first 26 weeks of maternity leave count towards probation (or the whole period if a shorter period of maternity leave is taken). Further, where a probationer has more than 26 weeks' continuous service at the beginning of the fourteenth week before the expected date of birth, any period of maternity leave falling within the 29 weeks after the birth also counts.

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### Can I work part-time during my probationary period?

While it used to be the case that probationers could not work part time, this is now possible. The relevant provisions are contained in the determination at Annex C under Regulation 12, Police Regulations 2003.

### Can the force consider dispensing with the services of a probationer?

Yes, under Regulation 13, Police Regulations 2003, a chief officer can dispense with the services of a probationer if s/he considers that the probationer is physically or mentally not fitted to perform police duties, or that the probationer is not likely to become an efficient or well conducted constable.

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## Who can make the decision to dispense with the services of a probationer?

Only the chief officer can make this decision.

## What steps need to be taken before services are dispensed with?

While the precise obligations may differ from case to case, a chief officer who is considering dispensing with the services of a probationer should generally inform the probationer prior to the decision being made that s/he is considering using Regulation 13, Police Regulations 2003 and the reasons why it is being considered. S/he should give the probationer copies of any reports which are being relied on and should allow the probationer (and representative if wished) the opportunity to put his or her case. If the issue is a medical one, the probationer should be allowed sufficient time to obtain medical reports if they wish to do so.

## Is it possible to challenge a decision under Regulation 13, Police Regulations 2003?

If steps such as those set out above are not taken, it may in some circumstances be possible to challenge the decision in the High Court in a claim for judicial review.

Further, Regulation 13 should not be used to circumvent the misconduct process. Where disputed allegations against a probationer could properly form the basis for a misconduct charge, that process should in most cases be used rather than the Regulation 13 process. (If the allegations are admitted, Regulation 13 can be used.)

If there is a likelihood of an award under the Police Pensions Regulations, a challenge might also be possible. Again, advice should be sought immediately.

If steps such as those set out are taken and there are no ill-health pension or misconduct implications, it is rare for there to be any ground for challenge. However, it is recommended that advice should be sought if there is any doubt at all. Issues of disability discrimination can arise if the probationer had a disability ('a physical or mental impairment which has a substantial and long term adverse effect on normal day to day activities') and the disability has impacted on the Regulation 13 decisions.



It is generally unlikely that the Court would order a force to reinstate a probationer after their services have been dispensed with. For this reason, it is advisable to bring any challenge before service is terminated i.e. before the expiry of any notice which has been given. This means that advice should always be sought immediately in a Regulation 13 case.

## Is a probationer entitled to ill-health retirement?

A probationer with more than 2 years' service is entitled to an ill-health award if s/he retires on the ground that s/he is permanently disabled from performing the ordinary duties of a police officer.

A probationer with less than 2 years' service who retires in these circumstances is entitled to an ill-health gratuity.

## Is a probationer entitled to an injury award?

A probationer who is permanently disabled as a result of an injury received without default in the execution of his/her duty is entitled to an injury award (irrespective of length of service).

**If you need further assistance, in the first instance please contact your local Joint Branch Board.**  
W: [www.slatergordon.co.uk/policelaw](http://www.slatergordon.co.uk/policelaw)

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