



Royal Canadian Mounted Police External Review Committee

Medical Discharge - Consultation Report



**Royal Canadian Mounted Police
External Review Committee**

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The Committee is publishing a series of discussion papers to elicit public comments to assist the Committee in the formulation of recommendations pursuant to the Royal Canadian Mounted Police Act (1986). The views expressed in this paper are not necessarily the views of the Committee.

Comments are invited; they should be addressed to:

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**Royal Canadian Mounted Police
External Review Committee**

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Other publications

Discussion paper 1

Suspensions - A Balanced View

Suspensions - Consultation Report

Discussion paper 2

Relocation - A Painful Process?

Relocation - Consultation Report

Discussion paper 3

Medical Discharge - A Police Perspective

FOREWORD

The third discussion paper of the RCMP External Review Committee entitled "Medical Discharge - A Police Perspective" was distributed in June 1989 for consultation to several federal and provincial government agencies, to federal, provincial and municipal police forces and to selected Canadian corporations.

The Committee wishes to thank all of the respondents who took the time to consider the effects of medical discharge, not only on the employee but on the employer. Comments received were informative, honest and comprehensive. As in other consultation reports, comments published in this report remain anonymous.

Supported by its research function, the Committee is able to play a national role in the development of human resource management strategies within the policing community.

Research is currently underway on three discussion papers on post-complaint discipline, employee assistance programs and disciplinary dismissal.

Simon Coakeley
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RCMP External Review Committee

MEDICAL DISCHARGE - CONSULTATION REPORT

1. Consultation

(a) **Method and Objective**

In preparing its third discussion paper, Medical Discharge - A Police Perspective, the Committee has continued to use a two-phase approach. The first phase consists of the preparation of a study by a consultant; the Research Directorate of the Committee then produces a discussion paper dealing with issues raised by the consultant. The second phase is a report of the views, ideas and impressions, conveyed in confidence by a predetermined readership, on the contents of the discussion paper. In order to preserve confidentiality, the sources of quotations are not indicated.

The role of the Research Directorate of the Committee in these consultations is to gather feedback on the form and content of the discussion paper and to complete its comparative analysis of the issues discussed. As well, it may be presented with models or options other than those presented in the discussion paper.

The Committee consulted the Attorneys General and Solicitors General of the Provinces and Territories, the Commissioner of the RCMP and the National Executive of the RCMP's divisional staff relations representatives. The Ottawa Police Force, the Metropolitan Toronto Police and the Sûreté du Québec, as well as a representative number of members of the Canadian Association of Chiefs of Police and the Canadian Police Association, were also consulted. In the federal sector, the Committee also sought the views of the Public Service Commission, the Department of National Defence and the Department of the Solicitor General. Selected Canadian corporations were also canvassed for their views or comments. In all, 151 individuals and organizations, representing both employers and employees, were provided a copy of the discussion paper for consultation purposes.

As with other reports, the Committee did not limit its consultation solely to police organizations as this would have limited the variety of responses and ideas. It was important to get feedback from all types of organizations to broaden the views explored in the paper.

The discussion paper distributed for comments presented a comparative perspective of police approaches to medical discharge. The comments received by the Committee were examined closely and compiled for this publication.

Many comments received support the methodology of comparative perspective which identifies a range of employers, their policies and procedures. Most respondents found that a comparison of medical discharge policies and practices among a cross-section of organizations is useful to appreciate the relative strength of programs in their different contexts.

The comparative perspective documentation of the Canadian police forces was noted with interest.



The study in question contains very interesting information

regarding selected employers' approaches to absenteeism and the inability to work due to medical reasons.



The comparison of medical discharge policies and practices will prove most useful to this organization in its future planning.



The Discussion Paper has been reviewed with considerable interest and has been found to be most informative insofar as the procedures of other Departments in dealing with Medical Discharge are concerned.



The fact that the paper throughout discusses the various aspects of medical discharge from the perspective of both the employer and the employee, affords a balanced view of the subject and an appreciation of the conflicting interests involved in settling medical discharge disputes.



The discussion paper clearly identifies that there are a variety of policies seeking to address the issues encountered by organizations and their employees in the matter of medical discharge. Often times the issue of medical discharge is ignored or dealt with in an ad hoc fashion after an actual problem is identified.

(b) General Comments

Comments received are a great source of information not only to the Committee but to police forces as well. Comments referred to the quality of the discussion paper and the interest it generated.

We read your document with great interest.



We found the material regarding medical discharge of great assistance.



Thank you for the opportunity to review the RCMP External Review Committee's Report on Medical Discharge. It is an interesting and insightful report dealing with an issue which is timely for the policing community.



This is an excellent reference document and pulls together in a very complete package the social and legal considerations associated with a medical discharge.



The information contained in the report should be very useful to both police administrators and employees in the search for fairness in the difficult matter of discharging a person on medical grounds.



As with the other research papers published by the Committee, I read "Medical Discharge -a Police Perspective" with great interest.



This document is certainly not lacking in interest and I would like to thank you for having sent me a copy of it.



I compliment you on the depth of the study thus far. I thank you for the opportunity of reviewing your report and commend you for the comprehensiveness of your study. I look forward to further opportunities to consult with you on this particular study and any other police related matters.

Respondents expressed interest and appreciation for the opportunity to receive the Committee's research Paper on medical discharge and to participate in the consultation process. Most continue to be interested in taking part in any future studies and in remaining on the Committee's mailing list.

(c) Response Rate

By November 1989, the Committee had received replies from various individuals and organizations.

Response figures were as follows:

Organization	Percent Responding
Government	
- Federal	22.2%
- Provincial	35.7%
Police	
- Commissions	14.2%
- Forces	21.4%
- Members' Associations	10.0%

Twenty (20) percent of the recipients of the discussion paper provided their views and concerns to the Committee. Researchers generally agree that this is an acceptable rate of response in this type of study.

This twenty percent actually reflects the views of a larger proportion of the discussion paper's audience. Although exact numbers are difficult to ascertain, it is important to acknowledge the significance of the response rate.

For example, of the police forces, over twenty-one (21.4) percent responded. In analysing this response rate, it is significant to note that the respondents account for approximately fifty-five (55) percent of Canadian police personnel.

Of the members' associations, whose mandate it is to represent the concerns and needs of police officers, ten (10) percent responded. Again, if this number is properly analyzed, it can be seen that these associations represent approximately thirty-three (33) percent of police officers throughout the country.

A review of the responses received indicates that they include the largest police forces and members' associations in Canada. Consequently, it is fair to assume that the views expressed actually are representative of the views of the Canadian police community. The views offered can then be seen as representing general opinions on medical discharge.

Medical discharge is an issue that potentially affects employees and employers in all occupations. Those in occupations more prone to sickness, accident or injury should, however, regard with more importance the policies of medical discharge. Despite the wide representation, it is surprising that more responses were not received from the police category, particularly the

members' associations.

To some extent, the 'limited' response from the police category may be attributed to a misunderstanding as to the security provided by long-term disability programs. Long-term benefits for an officer whose disability is permanent are not as generous as some members may believe them to be. In most police organizations, a member must first exhaust personal sick leave and vacation credits until a six-month waiting period is over. If the credits have been depleted before the time period is reached, the member may have to apply for other financial aid such as unemployment insurance.

Collective agreements between employers and employees provide for long-term disability benefits of sixty (60) to seventy-five (75) percent of a member's monthly salary. These benefits may be inadequate to allow members and their families to continue to live in the lifestyle to which they were accustomed prior to the incapacity.

In theory, the disabled member receives long-term disability benefits until retirement age. However, after a period of time, ranging from six months to two years, the member's incapacity is reviewed. In order to be eligible for continued long-term disability benefits, the member must be incapable of performing any other reasonable occupation taking into consideration education, training and experience. Frequently, these plans are administered by insurance companies and it is in their interest to find a suitable position for the disabled member. If members are able to perform any work for which they are qualified, long-term disability benefits may cease. The Committee suspects that in many police organizations members are not aware of these provisions.

The Committee also believes that police members may not distinguish between incapacities incurred while on duty and those resulting from off-duty injuries or illnesses. The benefits an incapacitated employee receives depend on whether the injury or illness is work-related.

If the injury is work-related, an employee is eligible for Workers' Compensation benefits. Most employers supplement these payments so that the total amount received is equivalent to the employee's salary. The employee is off work, with full salary, for an unlimited period of time.

Those whose incapacity is not work-related receive long-term disability benefits. This insurance plan provides for only a certain percentage of a member's monthly salary. The distinction is important in the determination of the officer's benefits entitlement.

2. Commentary on Content

Respondents recognized the value of the paper as a guide providing useful information pertaining to social and legal considerations and possible assistance in the formulation of future policy.

I found the report very interesting and enlightening and can assure you it will be referred to when contract negotiations reach the serious discussion stage.



It will no doubt be very useful to boards or associations bargaining for new policy or programs in this regard.



We are of the opinion that this is a valuable research document which will guide any police force in its efforts to manage absenteeism and implement an absenteeism policy.



I have read with interest this publication, and I believe it will serve as a useful reference tool for the Department in respect of issues involving medical discharge. The sections dealing with legal considerations involved and the comparisons between various police and non-police organizations will be particularly valuable, in instances where [I am] called upon to advise on revisions of medical discharge policies and procedures.

Respondents, representing both employers and employees, expressed concern regarding the hardship on an employee's self-esteem brought about by medical discharge. One respondent stated that "we agree with the philosophy that an employee's self-esteem must be maintained".

However, another respondent was concerned with ensuring that the organization "...gets its money's worth".

Employers expressed a genuine concern for their employees. Most organizations attempt to find light-duty work for disabled members. However, as police forces, with an eye on economy and budget restraints, employ an ever-increasing number of civilians in positions of support personnel, light duties for police officers carry greater ramifications.

The issue of equity is considered to be important for employers. The reassignment of a disabled

member to a civilian position creates a disparity between the classification of the position and the member's salary. These differences in pay may create difficulties. The employer must be fair and consistent in paying equal salaries to police and civilian employees for doing work of comparable value in keeping with pay equity legislation or policies.

Despite these difficulties, most employer respondents felt they would exhaust all other avenues prior to discharging an employee for medical reasons.

I agree that the Medical Discharge of any employee should be a last consideration due to the profound impact such a disposition can have on not only the employee but the employer.

One large municipal police force greatly assists its members who have been seriously ill or injured while off duty. A six-month waiting period is necessary for the disabled member to become eligible for long-term disability provisions. It is quite possible that a member has used all sick leave before the six-month waiting period is over. Through cooperation, the employer and employees have managed to settle that difficult matter.

The members of that particular employee's division or platoon will donate hours that they have accumulated in their lieu time bank to the affected employee's lieu time bank.

This could provide uninterrupted salary to the disabled member until the six-month time period for eligibility is reached.

Balancing the interests of both the employee and the employer is the key to the success of a medical discharge policy.

I concur with the findings of the committee that the approach to the issue of "medical discharge" must by necessity be tailored to the specific circumstances of each organization.

Some respondents commented on a policy pertaining to rehabilitation and retraining whereby employees who are unable to perform the work for which they were hired are retrained and placed in other suitable positions.

All employees, both police and civilians, who are medically unfit, are given opportunities in a retraining program or change of status within the department.



Plans are in place to help financially the disabled person and to help the person to retrain himself, if capable to do so.

Numerous respondents commanded police forces on their light-duty policies where the forces attempt to place disabled members in alternative positions. It has been suggested by a respondent that:

Each police force should consider the Human Rights Code, with reference to "Light-Duty" requests. This legislation may impact on their policies in that it provides a duty on the employer to consider accommodating employees who have been injured.

With increased focus on human rights and the unacceptability of discrimination on the basis of disabilities, the potential for appeals of medical discharges is greater.

One respondent stressed that appeal procedures should guarantee equality and justice. Judges and arbitrators seek to balance the interests of the employer and the employee through the appeal and grievance process.

One respondent brought a recent arbitration case to the Committee's attention. A police officer was dismissed because of illness which prevented the member from performing the duties of a patrol officer. The employer had stated that the disabled member was a probationary constable, thus not eligible for long-term sick leave benefits. The appeal procedure proved successful for the constable. The decision was based on the fact that there was no mention in the collective agreement of a probationary employee being excluded from these benefits.

Respondents affirmed that a policy of fairness and cooperation is essential. If no such policy exists, relationships between employers and employees will be undermined by distrust, doubt and suspicion. One respondent stated:

... the only problem with medical discharge is how the disabled/injured person views the medical discharge policy and procedure. Many people have great difficulty accepting the fact that something bad has happened to them without their fault and now have to face a loss of employment, of career. Since there is nobody to blame, the employer becomes the target and so its policies.

A fair process should ensure that an employee who is subject to a medical discharge will better accept the outcome of the proceedings. It should be noted that fairness also requires that the process be applied consistently and uniformly.

Views and comments such as these are useful to the Committee in the consultation process.

3. Conclusion

Medical discharge is important for employers and employees, especially those who suffer injury

or permanent incapacity. These employees can no longer perform their assigned tasks or continue their occupation. In extreme cases, they may be unable to perform any occupation whatsoever.

As seen in the discussion paper, at one end of the spectrum, a police organization has a policy where no light duty is offered to an injured police officer; a policy of full fitness for its members exists regardless of rank. At the other end of the spectrum, in another police organization, light duty is obligatory; where this is not possible, the officer is allowed sick leave, with full salary until retirement age.

The respondents felt the issues raised in the paper, particularly the social and legal considerations, were significant in the discussion of medical discharge. Both parties, employer and employees, want to foster an atmosphere of fairness and cooperation in their relationship, especially in the field of medical discharge. Generally, employers assert that employees who cannot fulfil their obligations may be discharged but that the employer retains a discretionary authority to accommodate the disabled employee.

The policy of light duty was discussed by many respondents who feel it is the employer's moral duty to accommodate a disabled employee. For a large police force, the transfer of a member to light duties is less of a problem than it is for a smaller police force.

Larger forces have more flexibility. They place police personnel in positions where smaller forces employ civilians. The larger forces may be able to identify a suitable position for the member as administrative duties are greater in number with forces that have several divisions. These positions can more readily accommodate a member unable to perform duties on the street. Such flexibility, however, is purely discretionary without the security of enabling policy.

There may be a misunderstanding among police members about the benefits of long-term disability. Long-term disability programs are most often temporary and provide only a partial payment of the member's salary. The distinction between incapacities incurred while on duty and those resulting from off-duty injuries may be relevant in the determination of an employee's benefits entitlement.

If light-duty positions are offered, employers should give some consideration to the employee's previous position. However, the employer has to consider equity for all employees. A comment from a respondent reflects various opinions:

... the main issues of such policy should reflect a sense of fairness and social, moral, legal and financial acceptability.

A consensus of comments would indicate that the following characteristics should be inherent in a medical discharge policy:

- a) a sense of fair play;

- b) a policy of light duty whenever possible;
- c) a consistency in treatment of employees by the employer;
- d) a process imbued with the principles of natural justice.

The medical discharge paper and the subsequent consultation process form a valuable vehicle for the exchange of ideas and the discussion of policies and practices. Continuing re-evaluation of existing policies is necessary to accommodate the changing needs of both employers and employees.

The mandate of the Research Directorate is to put together the elements of various policies on medical discharge. Through the discussion paper and the consultation report, it will hopefully foster progressive, effective and informed policy-making throughout the police community.

NOTES