



College of  
Policing

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# Implementation – Job-related fitness test

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## Potential for legal challenge

**This guidance has been produced by the College of Policing to support the assessment and validation process concerning the introduction of the job-related fitness test for serving police officers. Police forces that implement these standards will be able to cite them as being assessed as reasonable and appropriate under the Equality Act 2010 and the Health and Safety at Work etc. Act 1974. Any derogation from these standards carries a risk of legal challenge from an officer disadvantaged by the implementation of a higher or a lower standard, any additional standards or a different method of assessment from those recommended in this guidance.**

## 1. Introduction

1.1 This document replaces the implementation guidance issued by the College of Policing in September 2014.

1.2 The home secretary accepted the recommendation of the Police Advisory Board for England and Wales (PABEW) to introduce, in part, the recommendation made in the Winsor Review (Part 2) for annual fitness testing of serving police officers.

1.3 The initial Recommendation 33 to implement fitness testing made in Winsor (Part 2) states:

A fitness test should be introduced in September 2013 for all police officers and staff required to undertake personal safety training. Participants should be required to attain level 5:4 on a 15-metre shuttle run. From September 2014, those who fail the test three times should be subject to the appropriate disciplinary procedures.

1.4 The PABEW reconsidered the part of the recommendation stating that officers who fail the test on three occasions should be subject to appropriate disciplinary procedures. They recommended instead that forces provide supportive action through force performance procedures to officers who fail the test. The home secretary accepted Winsor Recommendation 33, subject to the caveat proposed by the PABEW.

1.5 This guidance sets out how forces should implement the annual fitness testing regime for those police officers who are required to undertake personal

safety training (PST) and provides advice on support measures to assist officers in passing the job-related fitness test (JRFT).

## **2. Fitness testing for police staff**

2.1 No decision has been made with respect to fitness testing for police staff. Winsor Recommendation 33, as it relates to these employees, remains outstanding. The Fitness Testing Working Group (FTWG) is working in partnership with the Police Staff Council to address this.

## **3. Health and safety compliance**

3.1 This guidance will help police forces ensure that the JRFT standards comply with the [Health and Safety at Work etc. Act 1974](#) and the [Police \(Health and Safety\) Act 1997](#). It also complies with the Health and Safety Executive’s guidance on successful health and safety management in the workplace.

## **4. Job-related fitness test standards**

4.1 The JRFT measures aerobic capacity. It is based on scientific research to match the aerobic demands of PST (Brewer, J. (2004) Research into Fitness for the Police Service. Newport: Lilleshall Sports Injury and Human Performance Centre). The JRFT standard is the same as that used in recruiting officers.

## **5. Recommended Winsor Recommendation 33 JRFT standard**

**Candidate**

**Recommended endurance standard  
candidate (level: shuttle)**

Police officer

5:4

## **6. JRFT standards – application**

6.1 Forces must implement this pass standard as a qualifying process for police officers undertaking PST and carry out an annual retesting regime. Only those police officers who undertake PST should be subject to testing. It should be a local force decision as to whether special constables who undertake PST should be tested, however, forces must note that special constables are viewed as employees under the Police (Health and Safety) Act 1997.

6.2 All officers tested should wear appropriate physical training clothing and footwear, not operational police uniform and/or equipment.

6.3 Forces must undertake the testing in an indoor facility with suitable flooring and floor markings. It is important to ensure that the recording of the 15-metre multi-stage fitness test (MSFT) can be heard clearly from all parts of the facility where the testing is being undertaken. Forces must address the suitability of the facility in the risk assessment.

## **7. JRFT familiarisation and support**

7.1 Successfully completing the JRFT is a key component to the broader health and wellbeing of individuals and the wider workforce. As such, forces should make significant efforts to ensure a positive and, at times, sympathetic implementation of the JRFT.

7.2 Forces should establish a system which allows officers to become familiar with the JRFT and, if necessary, attempt an informal test. This should reassure any officer who is anxious about the test regarding the level of physical competence required.

7.3 Forces should fully communicate the local implementation and the basis of the test to all officers in advance of conducting the test. This should include:

- a full explanation of the test
- background to the rationale for the test
- information to help them prepare for the test.

7.4 Forces should be supportive and sympathetic to officers conducting the test. It is, however, ultimately the responsibility of the individual to pass the test.

7.5 Evidence has identified that age and gender of candidates have an impact on performance. While it is inappropriate and illegal for forces to make concessions in the standard of the test for these groups, forces are able to implement relatively simple strategies which improve performance:

- forces should consider running women-only testing sessions
- forces may run open days/events targeted at these groups in a supportive environment
- where possible, forces should consider using female test administrators

- forces should develop mentoring programmes or provide assistance with training and preparing the test
- while it is necessary for tests to be conducted in groups, forces should avoid incidents where individuals are required to conduct the test while observed by numerous bystanders
- where possible, officers' pass/failures should not be communicated outside the necessary chain of command
- forces should consider conducting personal fitness tests for certain individuals
- forces could develop local agreements with sports associations and gymnasiums to ensure that they are familiar with the rigors of the JRFT and can support officers who seek help
- some officers have little experience of pacing events, which leads to excessive exertion and stress for them early in the test, especially if running solo – forces should consider having physical trainers run with those undertaking the JRFT to act as pacemakers.

7.6 Forces should remain open to suggestions from officers, staff associations and training staff to potential methods of supporting their workforce. Ultimately it is in the force's interest that all officers complete the test with minimum disruption to abstraction and the overarching aim of policing within individual force areas.

7.7 Information and peer support is also available through the dedicated Fitness Testing POLKA community.

7.8 All health and safety criteria must apply to ensure that no candidate's safety is compromised as a result of practice tests. This also gives each candidate the

opportunity to receive advice on how to improve their fitness (if required) from the appropriately trained specialist administering the test.

## **8. JRFT protocols**

8.1 The JRFT delivery criteria must be consistent with the recognised 15-metre multi-stage fitness practice. The test administrator must ensure that all candidates are sufficiently warmed up for the test. This should involve some whole-body activity such as jogging, followed by appropriate stretching exercises, particularly of the leg muscles. The administrator should familiarise candidates with the endurance test by taking them to the start of level three as part of the warm up, followed by basic mobility stretching activities. Forces should consider allowing candidates to opt out, however, if they wish to undertake their own warm up.

8.2 Forces must deliver the test to the 5:4 standard only.

## **9. JRFT occupational health referral**

9.1 The purpose of the medical questionnaire (see **appendix A** for an example) is to ensure an officer's safety is not placed at risk when they undertake the JRFT. If an officer cannot pass the medical screening element of the JRFT or records a fail due to an inadequate physical fitness standard, musculoskeletal complaint or ill health, forces must implement a structured referral process involving occupational health. The referral process must include a documented action plan to give the candidate a realistic period to make appropriate improvements to undertake the JRFT successfully.

## **10. JRFT failure**

10.1 If an officer is not able to pass the JRFT at the first attempt, forces must provide supportive action and allow a series of at least two retakes, with sufficient intervals between each attempt. A period of at least six weeks is advisable between each retake in order to allow the officer time to train and develop to achieve the 5:4 standard. If all appropriate support measures and alternatives have been delivered and the officer is still unable to achieve the required standard, forces should use the unsatisfactory performance procedures as set out in the Police (Performance) Regulations 2012.

10.2 If an officer cannot pass the JRFT, forces must not permit the officer to undertake PST. To allow the officer participation in PST may not be a legally defensible position if an injury occurs.

## **11. Alternative test**

11.1 On 2 November 2016, the College of Policing Professional Committee endorsed the Chester Treadmill Police Walk Test (CTPWT) as a validated alternative to the 15-metre MSFT. Details of the CTPWT are provided in **appendix B**).

11.2 Some forces have already implemented alternative fitness tests, but this approach may bring certain risks. The 5:4 multi-stage shuttle run test standard can be justified as being equivalent to the level of aerobic capacity reached in PST (defined in terms of VO<sub>2</sub> max).

11.3 It is ultimately a local decision as to when forces choose to offer an alternative test. Forces should develop a clear and consistent policy regarding the use of the alternative test, however, based on medical grounds or as a reasonable adjustment, following a decision from occupational health.

**11.4 Forces are strongly advised to use the CTPWT in favour of any previously used alternative tests. This is because, without robust evaluation, there are very real risks with any other alternative (apart from gas analysis) tests, especially those reliant on heart rate telemetry.**

## **12. Equality and diversity**

12.1 Forces may consider the positive action provisions under the Equality Act 2010. These provisions allow the police force to enable people with that protected characteristic to overcome or minimise the disadvantage, meet their needs or to enable or encourage them to participate in the JRFT. Examples of potential positive action are outlined in **JRFT familiarisation and support**.

12.2 Any measures will only be legitimate if they are a proportionate means of achieving the aims set out above.

12.3 Forces should assess all initiatives as a proportionate means of enabling officers who share a protected characteristic to overcome any disadvantage connected to the protected characteristic, to meet their needs or to enable or encourage them to participate in the JRFT.

12.4 There should not be a blanket policy in place to always treat officers who have protected characteristics more favourably than those who do not share the protected characteristic.

12.5 In addition, forces must consider support processes for all to help candidates pass the JRFT on their first attempt or develop them after they have recorded a fail.

## **13. Potential for unlawful discrimination**

13.1 Any test that is part of a selection process for a job comes under the requirements of the employment provisions of equality legislation. A fitness test has the potential to discriminate unlawfully, directly and indirectly. Direct discrimination occurs if someone is treated less favourably because of a protected characteristic. Indirect discrimination occurs if a provision criterion or practice (such as a fitness test) is applied universally but puts a person from a protected group at a particular disadvantage, and cannot be justified as a proportionate means of achieving a legitimate aim.

13.2 Forces need to assess a fitness test that, if not passed, has sanctions and potential employment implications, and consider if any potential discrimination can be justified as being a proportionate means of achieving a legitimate aim. An equality impact assessment (EIA) showed that the tests had the potential to adversely affect individuals because of their sex and/or age (see **appendix D**).

#### **14. Legal justification**

14.1 The FTWG carefully considered the legal justification required and the potential for any discrimination. They identified that the aim of the in-service fitness test was to ensure that officers were able to meet the aerobic demands of PST and, therefore, effectively perform the role of a police officer. Under the indirect discrimination provisions of the Equality Act 2010, any disproportionate impact has to be legally justified against this aim.

14.2 The FTWG identified a disproportionate impact on women and older people through data provided to the College of Policing of pass and failure rates for those groups who undertook the test in the interim period of implementation. The College of Policing also requested data regarding the pass and failure rates of those with a disability, however, forces struggled to capture meaningful data so no conclusions could be drawn.

14.3 It is not unlawful to treat a disabled person more favourably than a person who is not disabled, however, there is no legal requirement to reduce standards that are a necessary requirement of a role.

14.4 The Equality Act 2010 requires forces not to discriminate against officers for a reason arising from their disability and to make reasonable adjustments for officers where working arrangements place a disabled officer at a substantial disadvantage to officers who are not disabled. Forces may want to consider reasonable adjustments in order to comply with their duty to provide these, which may include offering officers an alternative test – see **alternative test**. Forces must make justifiable decisions on reasonable adjustments on a case-by-case basis.

14.5 The physical demands of PST have been assessed scientifically and identified as 5:4 on a 15-metre shuttle run (Brewer 2004). This is, therefore, an appropriate and necessary standard to ensure that the officers are sufficiently fit to safely undertake a role that requires PST.

14.6 Case law in relation to fitness testing indicates that any test must be the same for all those from a protected group. Although only an employment tribunal can decide whether indirect discrimination is justified in the particular circumstances, the FTWG considers that the standard is likely to be a proportionate means of achieving a legitimate aim.

16.7 Forces must be aware that this justification covers only roles that require PST.

14.8 See **appendix D** for a full EIA. Forces should also conduct their own diversity monitoring to take into account local force considerations.

## 15. Equality monitoring

15.1 The FTWG considers that the outcomes of implementing the in-service fitness test should continue to be monitored at force and national level. This ensures that the standard remains relevant and can continue to be justified as being a proportionate means of achieving a legitimate aim. In order to use the positive action provision of the Equality Act 2010, forces will need to monitor and review the pass rates of all those required to undertake the test by reference to their protected characteristics.

## 16. Delivery

16.1 **Health and safety** – A specific risk assessment for the JRFT (shuttle run or CTPWT) must be completed by a suitably experienced person. The risk assessment should be reviewed by a designated health and safety adviser/officer periodically, or in the event of significant injury/ illness to a participant, or if an organisational restructure affects JRFT delivery. An example of an appropriate risk assessment is shown in **appendix C**. Other local force considerations will be needed to add or influence the scoring or content of the risk assessment.

16.2 **Staffing** – Forces must be satisfied that staff members delivering the JRFT test are competent to do so, as well as first aid-certified. Forces must record the qualification/certification in the risk assessment. It is for individual forces to decide the required qualification to administer the JRFT and any alternative test offered. It is envisaged that a generic PTI qualification, such as Level 2 Fitness Instructor, is sufficient for the 15-metre MSFT and the CTPWT.

16.3 **Medical screening** – All candidates must complete a medical screening questionnaire prior to undertaking the JRFT, including alternative tests (an example questionnaire is shown in **appendix A**). The screening questionnaire must be part of the risk assessment and approved by an occupational health specialist. A designated occupational health specialist must review the medical screening

questionnaire periodically or in the event of significant injury/illness to a participant. Candidates should complete this questionnaire as part of the pre-join instructions for undertaking the fitness test.

16.4 Where practicable, forces should provide the questionnaire to candidates at least six weeks prior to the anticipated date of the JRFT. The questionnaire will identify the requirement for a referral to a specialist for further assessment and determine the individual's suitability to participate in the JRFT. On the day of the test, participants should complete a further health declaration (**appendix E**) confirming that they are fit to perform the test and there is no medical condition or injury which prevents them from undertaking the test.

## **17. Data collection**

17.1 It is important that forces continue to audit the number of passes and failures to understand how specific groups of individuals (eg, age, sex and officers who have a disability) are performing and to help improve the implementation of the test.

# Appendix A – JRFT medical screening questionnaire

The purpose of this questionnaire is to ensure that your health is not placed at risk when you perform the job-related fitness test (JRFT).

Name \_\_\_\_\_

Date \_\_\_\_\_

Warrant No. \_\_\_\_\_

Contact Tel: \_\_\_\_\_

If no positive answers are given to questions 1, 2 and 3, you may take the JRFT. If a positive answer is given to questions 1–4, you will be referred to occupational health for further assessment to determine if you are able to take the JRFT.

1. Are you pregnant or have you given birth within six months of your JRFT due date?

**Yes / No**

2. Do you have any injury, ailment or condition which could inhibit your participation in the JRFT?

**Yes / No**

If Yes, please specify:

3. Are you currently on any prescribed medication?

**Yes / No**

If Yes, please specify:

4. Are you currently being investigated or receiving treatment for a heart or cardiovascular condition?

**Yes / No**

If Yes, please specify:

**Signature**.....

**Date** .....

# Appendix B – Test procedure for the Chester Treadmill Police Walk Test

## Equipment required

- High quality motorised treadmill, calibrated, regularly serviced and capable of operating accurately at **6.0km/hr** and at inclines up to a maximum gradient of **15 per cent**.
- A rating of perceived exertion (RPE) chart (Borg 1982).

## Pre-test health screening

It is imperative that there are **no medical contraindications** to the subject undertaking the Chester Treadmill Police Walk Test (CTPWT).

Most individuals don't require a medical check-up before taking this test or starting regular, moderate exercise. If there are any doubts about the individual's suitability to partake in moderately vigorous physical activity, however, then please advise them to consult a doctor and do not conduct the treadmill test.

## Pre-test conditions

- The subject should not have eaten, smoked, exercised or drunk tea or coffee for at least two hours before the test.
- The subject should not be recovering from illness or have a cold, or be taking beta blocker drugs which will depress heart rate scores.
- The subject should be wearing comfortable clothing suitable for running.
- The room should be quiet, well-ventilated and between 18-20 degrees Celsius.
- The subject should not have undertaken any heavy physical exercise for at least 24 hours before the test.
- An appropriate risk assessment has been completed and approved.

## Administering the CTPWT

**The test administrator should be well-trained, knowledgeable and experienced in conducting the test. They should be totally familiar with operating the treadmill and in explaining to a subject the use of the RPE chart. If at any time**

**during the test, the subject shows signs of over-tiredness, discomfort or dizziness and/or reports an RPE of 18+, then the test should be stopped and the subject allowed to recover and cool down.**

Ensure that:

- there are no medical contraindications to performing the CTPWT
- the test environment is suitable
- the treadmill has been carefully calibrated and you (the tester) are a skilled operator
- the RPE chart is clearly visible for the subject
- the subject is appropriately dressed, wearing suitable footwear and is fully able to walk confidently on the treadmill at a brisk pace with increasing gradients
- the subject has a suitable warm up with mobility, stretching and limbering floor exercises of low to moderate intensity.

Inform the subject what they will be required to do, explaining the importance of good treadmill walking technique.

Following a suitable warm up, ask the subject to stand on the treadmill. Attach safety cord as appropriate.

Start the treadmill and slowly increase the speed to a comfortable walking pace (around 4-5km/hr) at 0 per cent gradient for a 2-minute familiarisation. This also acts as a further cardiovascular warm-up period. Increase the speed to **6.0km/hr** and **start the test.**

**Level 1:** 0-2 minutes at 0 per cent gradient. At the end of the level, check RPE is less than 18 and, if so, continue to level 2, increasing the gradient to 3 per cent.

**Level 2:** 2-4 minutes at 3 per cent gradient. At the end of the level, check RPE is less than 18 and, if so, continue to level 3, increasing the gradient to 6 per cent.

**Level 3:** 4-6 minutes at 6 per cent gradient. At the end of the level, check RPE is less than 18 and shows no signs of distress or discomfort. If so, continue to level 4, increasing the gradient to 9 per cent.

**Level 4:** 6-8 minutes at 9 per cent gradient. At the end of the level, check RPE is less than 18 and subject shows no signs of distress or discomfort. If so, continue to level 5, increasing the gradient to 12 per cent.

**Level 5:** 8-10 minutes at 12 per cent gradient. On successful completion of Level 5 (10 minutes), the subject will have reached an aerobic fitness standard of 35mls O<sub>2</sub>/kg/min. At the end of the level, check RPE is less than 18 and subject shows no signs of distress. If so, continue to level 6, increasing the gradient to 15 per cent.

**Level 6:** 10-12 minutes at 15 per cent gradient. For those in specialist posts required to pass at a higher level of fitness, the test may be continued for up to a further 2 minutes, providing that the RPE is less than 18 and subject shows no signs of distress.

**Cool down:** At the end of the test, lower the gradient to 0 per cent, reduce the treadmill speed to a gentle stroll (around 4-5km/hr) and ask the subject to continue walking until they feel recovered and can hold a conversation comfortably – normally around 4-5 minutes. Also, ensure that the subject further cools down with some gentle limbering and stretching floor exercises.

**CTPWT target time for personal safety training**

<b>Personal safety training</b>	<b>CTPWT target time (min:sec)</b>	<b>Est. aerobic capacity* (mls O<sub>2</sub>/kg/min)</b>
JRFT 15m shuttle run to level 5:4	10:00	35

\* Aerobic capacity must be at least this value to attain the target time

As with the 15m shuttle run, the CTPWT could be a near-maximal (or even maximal) test for some individuals and the tester should take care to ensure that, if the subject is unable to keep up with the work-rate and becomes overly distressed, the test should be stopped and the subject should be allowed to cool down.

# Appendix C – Generic risk assessment – job-related fitness test (JRFT)

<b>APHSA generic risk assessment – job-related fitness test (JRFT)</b>		
Assessment scope/title:	Date of assessment:	Date for review:

Ref.	Hazard details (Record details of what could cause injury or harm)	Who may be harmed & how? (Record details of all those at risk from the hazard and how they may become harmed)	Risk (Force risk matrix refers) <b>Likelihood x Severity = Risk</b>	Control measures (List all necessary control measures needed to reduce the risk to acceptable levels)
1	<b>Inadequate instruction</b>	P, I & PS		<ul style="list-style-type: none"> <li>For JRFTs, all instructors suitably trained to in-house standards ensure consistency and standard of competency</li> <li>Instructors must give the standard pre-test brief outlining test procedure and tips on turning and pacing</li> <li>Implement generic warm up prior to the JRFT, which allows opportunity for familiarisation with the test</li> </ul>
2	<b>Unsuitable venue</b>	P, I & PS		<ul style="list-style-type: none"> <li>Ensure venue is suitable for the activity and adequately risk-assessed prior to the dates</li> <li>Ensure reasonable housekeeping standards are maintained, clear signage and students made aware of designated assembly point/fire exits</li> <li>Compliance with venue safety assessment</li> <li>Instructors to complete safety assessment of venue immediately prior to JRFT to ensure it is suitable for use JRFT pre-test checklist</li> <li>All candidates must be clear of the facilities (eg, fire exits)</li> </ul>

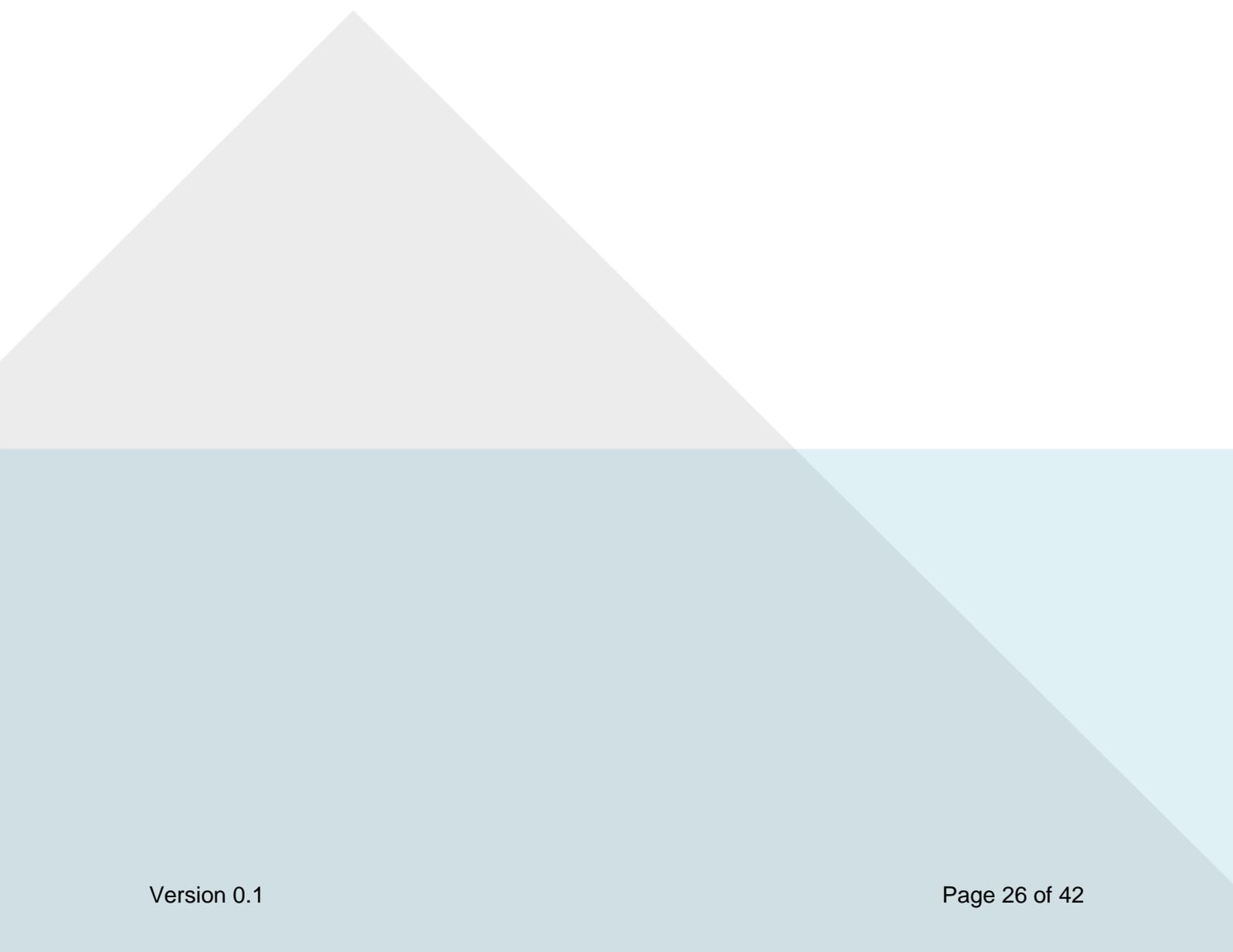
				<p>procedures)</p> <ul style="list-style-type: none"> <li>• Instructor to participant ratio</li> <li>• force protocols and procedure</li> <li>• Instructors to stop JRFT if potential risks of injuries arise</li> <li>• There must be a minimum metre between participants</li> <li>• A one metre clear run-off s given either side of the 15-metre area – ensure any p equipment (badminton p football goals) are well clear testing area</li> <li>• Store all bags and personal b away from the area where the being conducted</li> </ul>
3	<p><b>Pre-JRFT (screening and pre-test)</b> Serious illness or fatality</p>	P & PS		<ul style="list-style-type: none"> <li>• All participants informed of a dress prior to test via the information pack</li> <li>• Implement action/familiarisation of testing for all potential participants</li> <li>• Complete informed cons health screening question least four weeks prior to JRFT</li> <li>• Questionnaire reviewed appropriate competent person</li> <li>• Do not test any staff if medical problems on questionnaire</li> <li>• Occupational health referral potential problems identified questionnaire</li> <li>• Participants must present a clearance form to instructor day of the JRFT</li> <li>• All participants will be required day to sign a declaration that fit to undertake the JRFT there have been no changes submitting the pre-s questionnaire</li> <li>• Only participants who are dressed with appropriate footwear advised in the JRFT information will be permitted to undertake JRFT</li> <li>• Instructors must make a s</li> </ul>

				<p>verbal check that all participants to participate prior to completing the generic warm up</p> <ul style="list-style-type: none"> <li>• All instructors must be trained in providing basic first aid</li> <li>• A defibrillator and a mobile phone for summoning emergency assistance must be present at all JRFT sessions</li> </ul>
4	<b>Slip, trip or fall</b>	P		<ul style="list-style-type: none"> <li>• The floor surface should be to a suitable standard</li> <li>• The floor surface must be clearly marked and maintained</li> <li>• All candidates must be wearing appropriate footwear</li> <li>• All instructors must be trained in providing basic first aid</li> <li>• Compliant with all relevant Health and Safety Executive Approved Code of Practice (HSE ACOPs)</li> </ul>
5	<b>Physical exertion Musculoskeletal injury</b>	P		<ul style="list-style-type: none"> <li>• All candidates must not run to a demonstrable standard</li> <li>• All candidates must be clear on safety and requirements</li> <li>• Candidates must declare any musculoskeletal injury which may deteriorate as a result of undertaking the JRFT</li> <li>• Instructors to constantly monitor participants for signs of injury – instructors must stop participants who have obvious injury in order to prevent more serious injury</li> <li>• The JRFT must be terminated if a participant displays signs or symptoms of serious injury or</li> <li>• All Instructors must be trained in providing first aid</li> </ul>
6	<b>Inadequate warm up and preparation</b>	P		<ul style="list-style-type: none"> <li>• All JRFTs must be preceded by an approved generic warm up conducted by a competent instructor</li> <li>• Participants should be informed that they must comply with the warm up to participate in the test. If an officer repeatedly fails to comply with the warm up, they should be removed from the test</li> </ul>

				<p>permitted to undertake the JRFT</p> <ul style="list-style-type: none"> <li>Participants should be given 10 minutes to make their own final adjustments immediately before the test</li> </ul>
7	<b>Defective electrical equipment</b>	P, I & PS		<ul style="list-style-type: none"> <li>Electrical equipment is to be handled in accordance with the manufacturer's instructions</li> <li>Electrical equipment to be PAT tested in accordance with PAT testing schedule</li> </ul>
8	<b>Soreness, stiffness or medical problem post test</b>	P		<ul style="list-style-type: none"> <li>The test must be terminated if a demonstrable standard has not been attained</li> <li>On completing the JRFT, instructors should encourage participants to undertake the generic cool down</li> <li>Instructors to ask participants if any injuries were sustained as a result of undertaking the JRFT</li> <li>Instructors must complete a Safety Incident Report Form and document all injuries</li> </ul>
9	<b>Harm due to thermal effects</b>	P, I & PS		<ul style="list-style-type: none"> <li>JRFT must only be conducted in ambient temperatures of 5-30 °C – check ambient temperature using room thermometer when there are concerns temperature is outside this range</li> <li>Initial safety brief to include information on thermal effects</li> <li>Instructors to make participants aware that they should inform instructors if they are or suspect they are suffering from thermal effects</li> <li>Instructor to constantly monitor the physical condition of participants and must intervene if any are suspected of suffering from thermal effects</li> <li>Participants should be encouraged to bring their own water/fluids in line with joining instructions</li> </ul>

ASSESSOR NAME:	SHOULDER/STAFF NUMBER:	SIGNATURE:	DATE:
BUSINESS RISK	SHOULDER/STAFF	SIGNATURE:	DATE:

MANAGER:	NUMBER:		
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# Appendix D – Equality impact assessment

December 2016

This is a revision of the equality impact assessment (EIA) conducted by Jayne Monkhouse OBE in June 2014.

## 1: Identify the aims and purpose of the policy

This should identify the legitimate aim of the policy (there may be more than one).

**Purpose:** To implement Recommendation 33 of the Independent Review of Police Officer and Staff Remuneration and Conditions (the Winsor Report) as amended by the Police Advisory Board of England and Wales (PABEW) and the Police Negotiating Board (PNB) and agreed by the home secretary: 'A fitness test should be introduced in September 2013 for all police officers required to undertake personal safety training. Participants should be required to attain level 5:4 on a 15-metre shuttle run'.

**Aim:** To ensure that officers are sufficiently physically fit to carry out their duties safely (appendix 13, paragraph 19 of the Winsor Report).

## 2: Identify the individuals and organisations likely to have an interest in, or be affected by the policy

This should identify the persons/organisations who may need to be consulted about the policy or procedure and its outcomes (there may be more than one).

The organisations considered to be interested in and most likely to be affected by introducing in-service fitness tests are members of the NPCC Fitness Testing Working Group.

## 3: Consultation

Who was consulted and how? (This should include reference to people and organisations identified in section 2.)

The Fitness Testing Working Group (FTWG) was formed in 2003 by the PABEW. It now continues as a working group of the College of Policing, chaired by an NPCC

officer. It includes representatives from the Home Office, the Association of Police Commissioners, the Police Federation of England and Wales (PFEW), the Police Superintendents' Association of England and Wales and a number of specialist advisers on fitness testing and equality.

Correspondence was received and considered from groups including the British Association of Women in Policing (BAWP) and force fitness specialists. The PFEW representatives consulted Women Reserve Seat representatives and kept them informed of the FTWG's work.

From time to time, specialist advisers including ACPO (PUF) and health and fitness experts have been invited to the meetings. More recently, the meeting included representatives from the BAWP, the National Disabled Police Association, force fitness instructors and a representative of the Association of Local Authority Medical Advisors.

#### **4: Research**

Summarise the findings of any research you have considered regarding this policy. This could include quantitative data, qualitative information and anything you have obtained from other sources.

#### **Background**

In 2003, the PABEW expressed concerns about the potential for unlawful discrimination in certain fitness standards operated by forces. They commissioned the FTWG to make recommendations and produce guidance for:

1. an interim solution for the type and level of fitness required at recruitment on the best evidence currently available, based on an assessment of job and competency requirements
2. how the recruitment fitness test (based on the interim solution in point 1 above) should be conducted fairly and consistently and what the response should be to those who do not meet the standard
3. further work (with timetable to progress) that will be needed to:
  - a. assess fully, and validate, the required standards and test
  - b. establish the type and level of job and competence-related fitness required for specialist roles and how to test fairly and effectively for them
  - c. establish the possible needs for and forms of ongoing support and assessment of the fitness and health of police officers.

By 2010, the FTWG had completed work identified in points 1, 2, 3(a) and 3(b). Lilleshall Consultancy Services was commissioned to develop the JRFT for recruits to the police service, which was adopted in 2004. In 2008, Lilleshall Consultancy Services was again commissioned to develop job-related fitness standards for 13 specialist posts. Its report was accepted by the PABEW in 2010 and distributed by ACPO in January 2012.

In March 2012, the Winsor Report recommended that a fitness test should be introduced in September 2013 for all police officers and staff required to undertake PST. Participants should be required to attain level 5:4 on a 15-metre shuttle run. From September 2014, those who fail the test three times should be subject to the appropriate disciplinary procedures.

In July 2013, the PABEW agreed the principle of the recommendation in respect of police officers only. In addition, it proposed that unsatisfactory performance procedures rather than disciplinary procedures would be appropriate to deal with a failure to meet the standard, subject to support from a force's occupational health services to remedy the failure. The home secretary accepted the PABEW's amended Recommendation 33 and the PABEW tasked the FTWG to produce guidance on implementing the in-service fitness test.

## **Requirements of the Equality Act 2010**

A test that is part of a process relating to work comes under the requirements of the employment provisions of the Equality Act 2010. Police officers have been found to have been discriminated against in the application of fitness tests. Examples include:

### **Sex discrimination**

In the case of *Allcock v the Chief Constable of Hampshire Constabulary* [1997] IT/3101524/97, an industrial tribunal found that a lower pass mark for women than for men was unlawful direct discrimination against men. Direct sex discrimination cannot be justified under the requirements of the Equality Act 2010.

In the case of *Dougan v the Chief Constable of the Royal Ulster Constabulary* [2006] 03244/97SD and 01734/98SD, the industrial tribunal found that a fitness test which had the same pass mark for men and women, but which fewer women than men were able to pass was unlawful indirect sex discrimination against women. The constabulary was able to justify the requirements of the upper body strength element of the test but failed to justify the timings for the circuit run of the physical competency assessment against the requirements of the role.

### **Sex and age discrimination**

In the case of *Bamber v Greater Manchester Police* [2011] 2401829/09 and 2404977/10, an employment tribunal found that a fitness test resulted in indirect sex and age discrimination against an older woman officer. The tribunal found that the

test used by the force for level 2 public order training could not be justified as being a proportionate means of achieving a legitimate aim.

### **Sex/maternity and pregnancy discrimination**

In the case of *Tapp v the Chief Constable of Suffolk Constabulary* [1998] ET/1501546/97, an employment tribunal found that removing a pregnant officer from PST and transferring her to clerical duties without carrying out any risk assessment was unlawful sex discrimination.

The Equality Policy Statement of the Winsor Report indicates that ‘there are certain groups for whom mitigating action would need to be taken (before they can take the fitness test). Women returning from maternity leave would need time to regain their fitness before taking the test, as would those returning from illness, injury or certain medical treatments’.

### **Potential for direct age discrimination**

A lower pass mark for older people would result in direct discrimination against younger people denied a job if they passed the older person’s pass mark, but not the one for younger people. Direct age discrimination may be justified if it can be shown to be a proportionate means of achieving a legitimate aim.

### **Potential for disability discrimination**

A fitness test could also result in unlawful discrimination against disabled people. A disabled person is defined under the Equality Act 2010 as someone with a physical or mental impairment that has a long-term, substantial adverse impact on that person’s ability to undertake normal day-to-day activities. It is not unlawful to treat a disabled person more favourably than a person who is not disabled. There is no legal requirement, however, to reduce standards that are a necessary requirement of a role. Forces need to ensure that they do not discriminate directly or indirectly against disabled officers taking the test.

The Equality Act 2010 also requires forces not to discriminate against officers for a reason arising from their disability and to make reasonable adjustments for officers where working arrangements place a disabled officer at a substantial disadvantage to officers who are not disabled. This might mean, for example, that an officer with a knee condition who cannot undertake the turn on the bleep test should be offered an alternative method to demonstrate their ability to undertake PST.

The Equality Policy Statement of the Winsor Report indicates that ‘Forces should take care to treat appropriately those who are assessed as unable to pass the test because of a health condition or problem. It could be as a result of a disability under the Equality Act 2010. Subject to medical advice and a risk assessment, this is likely to include placing the individual on restricted duty, in a role appropriate for his disability, and in respect of which reasonable adjustments have been made’.

The Winsor Report continued that ‘officers ... with a hearing impairment, or another medical reason which would prevent them from running the shuttle run test, would need to have an appropriate alternative provided, for instance the “Chester Test” in which a treadmill or “straight line” test is offered to measure cardiovascular fitness. Those who are unable to take the test for reasons of illness, injury or disability would also be referred to occupational health departments for advice and assistance or further action’ (appendix 13, paragraph 21).

### **Alternative test**

The PFEW commissioned a report for the FTWG from fitness expert Paul Buckle MSc on the suitability of an alternative fitness test. His report (Nov 2013) indicated that:

‘Many fitness tests are available to use as an alternative to the JRFT, which involve both sub-maximal and maximal methods of testing. Sub-maximal fitness tests include the Chester Step Test and the Astrand-Ryhming Cycle Test. Both tests rely primarily on heart rate to predict the  $VO_2$  max value, which factors in unknown errors into the result. Maximal field tests include the Cooper 12-minute mile running test; the 1.5-mile running test and the Rockport one-mile walking test. Adverse weather conditions, mis-judged pacing and lack of motivation to perform maximally can adversely affect scores, resulting in an under-estimation of a  $VO_2$  max result. The Bruce treadmill running test is another maximal test, but again lack of motivation may result in a poor performance being recorded, and the speed of the treadmill belt, compounded by a steep gradient, makes it hazardous for officers with known health issues’.

The report concluded that the ‘Chester treadmill walking test seems the only fitness test that could be considered as an alternative to the JRFT. It is a straight forward test to undertake and to administer and is relatively safe, as the pace is only ever at walking speed, albeit brisk. The only equipment needed is a treadmill, and there is no reliance on heart rate readings. The validity and reliability of the test to determine  $VO_2$  max is as trustworthy as that of the multi-stage shuttle run’.

The report recommended that the Chester Treadmill Police Walk Test (CTPWT) be used as the alternative test to the police JRFT, with the standard calibrated at nine minutes, at a gradient of 12 per cent, as the equivalent to 5:4.

The College of Policing undertook further work on the scientific analysis that underpinned the research with Kevin Sykes, emeritus professor of occupational health and workplace fitness at the University of Chester, the developer of the Chester tests.

In November 2016, the College of Policing Professional Committee endorsed a validated alternative test. Research, conducted by The University of Chester (through Cumbria Police) has developed and validated two treadmill tests: the CTPWT and Chester Treadmill Police Run Test (CTPRT). The CTPWT replicates the aerobic capacity necessary for the JRFT (5:4) and the majority of the fitness standards required for specialist roles. The CTPRT validates roles requiring the highest fitness standards, namely the armed response vehicle and dynamic intervention AFO roles.

## **Cost**

The Winsor Report estimated that the total cost of introducing in-service fitness using the JRFT would be around a maximum of £6.6 million per annum, across all forces (paragraph 5.1.133).

A number of forces expressed concerns to the FTWG about the lack of availability of venues, occupational health support and the cost of operating an annual test. In particular, West Midlands Police indicated that the cost of the shuttle run was prohibitive and they had decided to provide an alternative arrangement involving the Chester Step Test and an overall health assessment of officers.

## **5. Monitoring**

Summarise the findings of any monitoring data you have considered regarding this policy. This could include data which shows whether the policy is having the desired outcomes and also its impact on members of different equality groups.

### **Monitoring data specialist posts**

The FTWG were aware that the EIA to identify any disproportionate impact of the specialist post fitness standards in 2010 had shown that the tests, albeit from a range of higher standards, had a disproportionate adverse impact because of age and sex.

## **Monitoring data in the Winsor Report**

Hampshire Police operated in-service fitness testing between July 2010 and June 2011. The monitoring data from the testing, referred to in paragraph 5.1.56 of the Winsor Report, indicated that there were differences in pass rates between people of different genders and ages taking the test. The percentage of men who failed the test was 0.6 per cent, compared with 5.3 per cent of women. The average age of women who failed the test was 42, while their average age overall was 35. The average age of men who failed the test was 47, while their average age was 38.

## **Interim guidance**

In July 2013, the FTWG produced interim guidance for the College of Policing. This included an EIA to support the introduction of the in-service test in September 2013. During the first year, no sanctions were to be imposed on officers failing or unable to take the test.

This gave forces the opportunity to develop their procedures, officers to try the test and improve their fitness if necessary and the FTWG to monitor the equality impact of the test on significant numbers of officers for any disproportionate impact by age, sex and disability (only). The results were to be analysed by the FTWG and, if necessary and appropriate, changes would be proposed to the College of Policing to reduce or remove any unjustifiable adverse impact.

## **Data collection May 2014**

At the end of May 2014, useable data had been received from 37 forces. 22 forces supplied data on disability, but much of this was incomplete. Only 34 officers under the age of 20 took the test, making conclusions in this age group untenable.

Three forces (Suffolk, Surrey and Sussex) each tested an officer over the federated rank's compulsory retirement age of 60, indicating that they were testing officers of superintendent rank or above. Two forces tested more officers than were in their force (Kent: 102 per cent and Surrey: 112 per cent), indicating that the data included officers who had taken the test more than once. 12 forces out of 27 which provided information on the numbers of officers expected to take the test indicated their intention to test every officer in their force.

The data concerned 31,072 officers who had taken the test – 30,185 of whom had passed (97 per cent). The data represented 24 per cent of the total number of officers in England and Wales at the end of March 2013. Women made up 27 per cent of all officers in the police service at March 2013 and 26 per cent of those tested.

The most recent statistics available for the age of officers in the police service are from March 2012, when there were some 4,000 more officers than at March 2013. This data showed 8,910 officers up to the rank of chief superintendent between the ages of 50 and 59 (6.6 per cent of the total), 1,083 women (0.8 per cent of all officers) and 7,827 men (5.8 per cent of all officers).

In comparison, 8.9 per cent of officers tested were in the 50-59 age group, plus three officers over the age of 60. The 2012 data showed that there were three women and 69 men over 60 up to the rank of chief superintendent.

Data was subsequently collected for the period from September 2014 to August 2015 for all 43 forces. While most forces provided data from 1 September 2014-31 August 2015, two forces provided data for smaller time periods. The results of nearly 94,000 fitness tests showed officers have achieved a pass rate of nearly 98 per cent.

In total, 93,956 officers attended the test and 92,093 passed. The results showed male officers achieved an average pass rate of 98.9 per cent, with 67,376 attending the test and 66,619 passing. Female officers achieved an average pass rate of 95.4 per cent. Out of 23,154 attending the test, 22,095 passed.

## **6. Conclusions**

Taking into account the results of the monitoring, research and consultation, set out how the policy affects or could have an impact on people from the following protected groups (include positive and/or negative impacts).

### **6.1 Age**

The data showed that adverse impact increased with age and was particularly evident in those over 50.

Those in their 20s had an average pass rate of 98.6 per cent, in their 30s a 98.3 per cent pass rate, in their 40s a 96.6 per cent pass rate and those over 50 had an average 92.5 per cent pass rate.

Several forces showed a significantly lower pass rate for the over 50s, however, with the lowest having a 77.5 per cent pass rate for 71 officers tested. The pass rate for those in their 20s and 30s compares with the average pass rate for men. The pass

rate for those in their 40s shows a 2 per cent difference compared with those in their 20s. For those in their 50s, this increases to 6.1 per cent.

In some forces, the age difference between 20 and 50 was as much as 10 per cent, with the greatest difference being nearly 18 per cent.

Subsequent data collections confirm the existence of this adverse impact.

## **6.2 Disability**

No conclusions were possible because the data was incomplete.

## **6.3 Sex (including transgender and pregnancy and maternity)**

The data showed that the average pass rate for men was 98.8 per cent, with no force showing less than a 98 per cent pass rate for men. The average pass rate for women was 92.4 per cent, with the lowest being 84.1 per cent. This is an average gender difference of 6.4 per cent, with several forces showing a gender difference of over 10 per cent – the highest being 14.1 per cent.

This is a greater disproportionate adverse impact against women than could have been expected from the figures quoted in the Winsor report. This could be explained by the fact that officers used as part of the Winsor Report have been required to take the test since 2010 and have had a greater opportunity to train to take the test.

Officers over 50 were over-represented in the data set compared with their proportion in the workforce (8.9 per cent compared with 6.6 per cent). This could be explained if senior officers and others in roles not requiring the performance of PST were taking the test.

While the subsequent data collection demonstrates an increase in the pass rate of female officers, the average is still below that of male colleagues and male pass rates are higher in all forces.

### **Transgender**

No information was collected.

The test standard does not distinguish between genders. It allows officers to demonstrate their cardiovascular capacity without reference to gender. Any medical concerns during transition would be identified and accommodated on an individual basis through completing the medical questionnaire prior to taking the test.

### **Pregnancy and maternity**

No information was collected.

Any medical concerns identified by a new or expectant mother would be addressed on an individual basis through completing the medical questionnaire prior to taking the test.

Health and safety legislation that covers new and expectant mothers requires that they are subject to specific risk assessments at work. The Health and Safety Executive defines new and expectant mothers as women who are pregnant or who have given birth within six months. The medical questionnaire that is filled in prior to taking the test contains a specific question to identify new and expectant mothers so that a specific risk assessment may be completed.

## **7. Decisions**

If the policy will have a negative impact on members of one or more of the protected groups, explain how the policy will change or why it is to continue in the same way.

If no changes are proposed, the policy needs to be objectively justified as being an appropriate and necessary means of achieving the legitimate aim.

### **7.1: Identify the aims and purpose of the policy.**

The employment provisions of the Equality Act 2010 state that any test that is required for work must not discriminate unlawfully against people from the protected groups, ie, age, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex and/or sexual orientation.

The case law in respect of fitness tests indicates that any test must be the same for all people from the protected groups (ie, it does not directly discriminate). Direct discrimination cannot be justified in respect of any of the protected characteristics except age. Direct age discrimination may be justified if it can be shown to be a proportionate means of achieving a legitimate aim.

The FTWG considered that setting different standards for different age groups was not justifiable. The aim of the test is to ensure that officers are sufficiently fit to undertake their duties safely. Justification is founded on the ability to undertake a role which requires PST. The standard is required for the role, irrespective of age or any other protected characteristic.

Further, any disproportionate adverse impact caused by the fitness test on people from any of the protected groups (ie, indirect discrimination) must be justified as being a proportionate means of achieving a legitimate aim. The means chosen for achieving the aim must be appropriate and necessary.

Although the data set provided by forces operating the in-service test prior to June 2014 was not as large as hoped, it showed that the test has a disproportionate adverse impact on women and on older officers. Older women suffer a double disadvantage.

The average difference in impact was 6.4 per cent in favour of men and 6.1 per cent in favour of younger officers. The difference showed considerable variation between forces, however, rising to 14.1 per cent in favour of men and to 17.7 per cent in favour of younger officers.

The aim of the test is to ensure that officers are sufficiently fit to undertake their duties safely. The purpose of PST is to teach the appropriate use of equipment and techniques needed for personal protection, such as restraining violent people effectively and safely. This is an important risk control measure to ensure a safe working environment under the Police (Health and Safety) Act 1997.

The physical demands of PST have been assessed scientifically and identified as 5:4 on a 15-metre shuttle run. This is, therefore, an appropriate and necessary standard to ensure that officers are sufficiently fit to safely undertake a role that requires PST.

Although only an employment tribunal can decide whether indirect discrimination is justified in the particular circumstances, the FTWG considered that the standard is likely to be a proportionate means of achieving a legitimate aim.

This justification covers only roles that require PST. Justification does not extend to holders of other posts who may wish to undertake the fitness test for personal reasons but who are not required to perform PST in their role. Women and older officers who are not required to undertake PST but who are subject to a disadvantage because of a failure to meet the fitness test standard may have a claim of unlawful indirect sex or age discrimination. In these circumstances, a force could not rely on the justification set out in these guidelines.

It is important to note that the test is not a test of health. It is a test of cardiovascular capacity and the standard has been set against the physical requirements of PST. Although it is important to undertake a risk assessment to ascertain whether an officer is physically able to undertake the test without injuring themselves or others, the test is not designed to measure or promote health or to counteract obesity in the workforce.

The test does not test functionality, ie, the ability to turn or twist. It tests cardiovascular capability only. A disabled officer may be able to demonstrate their ability to undertake PST but may not be able to undertake the shuttle run because of their disability.

It may be a reasonable adjustment to use an alternative fitness test in these circumstances.

Cost alone is not enough to justify discrimination. It can be taken into account as part of the justification if the force can show there are other objective reasons for the treatment. Cost may be a factor taken into consideration when making a reasonable adjustment.

## **8. Equality improvement plan**

List any changes to policies or procedures that need to be included in the equality action plan/ service plan.

### **8.1 Positive action**

Forces should make positive efforts to improve the fitness standard for those from groups particularly disadvantaged by the test, namely women and older officers.

Under section 158(1) (a) of the Equality Act 2010, positive action is permitted if a force reasonably thinks that persons who share a protected characteristic suffer a disadvantage connected to the characteristic. Sections 158(1) (b) and (c) also allow forces to take positive action if persons who share a protected characteristic have different needs from persons who do not share it, or whose participation in an activity by persons who share a protected characteristic is disproportionately low.

The actions taken must be a proportionate means of achieving the aim of enabling or encouraging persons who share the protected characteristic to overcome or minimise that disadvantage, meet those needs, or enable or encourage persons who share the protected characteristic to participate in that activity.

Actions that the force could consider include training and testing sessions only for women or older officers, training packages tailored to the needs of individual women or older officers, mentoring or shadowing by women or older officers during training and/or testing.

The positive action provisions of the legislation allow special treatment that would be otherwise unlawful. There is no requirement to provide similar facilities for members of groups not disadvantaged by the fitness test, but it would be good practice to provide advice and assistance to all officers to help them pass the test.

The FTWG has also supported the development of good practice guidance in support of the implementation guidance.

## **8.2 Monitoring**

In order to use the positive action provision of the Equality Act 2010, a force – as an employer – would need to monitor and keep under review the pass rates of all those required to undertake the test by reference to their protected characteristics. This would show whether the test continued to put women and older people at a particular disadvantage in that force.

Forces should collect testing success rate data in respect of sex and age and make six-monthly returns to the College of Policing in order to ensure that the test is appropriate and necessary.

The FTWG is currently considering the data requirements for the JRFT (15m MSFT) and the validated alternative test. The impact of the test with regards to gender and age have been recognised and accepted as a proportionate means to a legitimate age.

The current data collection does not assist in assessing the impact of the fitness test on those with disabilities. Proposals as to future data collection will be put to the College of Policing's Professional Committee for consideration in due course.

## **8.3 Alternative test**

In order to comply with their duty to make reasonable adjustments for disabled people, forces need to be able to have available a validated and appropriate alternative test. Not all disabled officers will require an alternative test, but those with

lower limb conditions, for example, may be disadvantaged by the requirement to turn on the shuttle run while still being capable of undertaking PST.

# Appendix E – JRFT health declaration

I am/I am not at present undergoing treatment/taking medication under the direction of a medical practitioner (including physiotherapy).\*

I have the following injury/medical condition(s) outlined below.\*

I do not have any injury or medical condition(s).\*

Delete as appropriate.

**(Enter details in comment box below or strike through as appropriate.)**

Comments:



I understand that failure to disclose any existing medical or physiological condition may affect any future claim for loss or injury as a result of this training or undertaking the job-related fitness test.

Date:

Signed:

Print name:

Warrant/employee no:

Trainer's comments (confirm with individual if they have undertaken an occupational health assessment concerning their suitability to take the JRFT, and if any of the conditions have arisen subsequent to that assessment):

This form may be forwarded to occupational health if required.