

**Human Resources Committee**

**Tuesday, 3 February 2009**

**Report of the Chief Constable**

1. **INFORMATION ITEM**  
**INJURY REVIEW AWARDS**

Purpose of Report

- 1.1 To update Members on progress of the Injury Review Awards and compliance with Home Office guidance.

Information and Analysis

- 1.2 The injury review team was established 1 October 2006 after agreement by the Police Authority that Home Office guidance should be complied with, which outlines the approach each Force should take in reviewing injury awards for officers who have reached compulsory retirement age and state retirement age. In view of the fact that the injury on duty award is based on an officer's loss of earnings and their potential earnings, the guidance advocates that forces have the discretion to advise the Selected Medical Practitioner to place former officers, who have reached state retirement age, into the lowest band of Degree of Disablement. In view of the fact that at 65 a former officer would no longer be expected to be earning a salary in the employment market, it is therefore not possible to identify their loss of earnings. However, the guidance does stipulate that where an officer can provide "cogent reasons" about their activity in the employment market this should be taken into account. Guidance on the interpretation of cogency is that wanting to work past 65 is not a cogent reason but having compelling reasons to work past 65 may be. For example, at a recent appeal it was agreed that cogency relates to having to work because an injury on duty award meant the appellant could not top up his pension to the level that police pension would have been if he had not got injured. It must be stressed that because this is discretionary, each case needs to be considered individually and on its merits. A copy of the Home Office guidance is attached at Annex A.
- 1.3 In relation to the regional picture, it is understood that all forces are applying the Home Office Guidance, Leicestershire have recently started to examine how to implement this.
- 1.4 The guidance also outlines the need to have a fair and more cohesive approach to the payment of injury benefits to ill-health retired officers who have reached the compulsory retirement age with their Force. Once a former police officer who is receiving an injury pension reaches what would have been his/her compulsory retirement age under the

Police Pension Regulations, the guidance advises that the Force should consider a review of the award payable. This advice is supported by the fact that it is no longer appropriate to assess the former officer against a police officers pay scale and that it is more appropriate to use the National Average Earnings figure. It is also stressed that Force's have a duty to keep all current injury pensions under review at such intervals as they consider to be appropriate. Derbyshire's approach to this, is to adopt a procedure where compulsory and state retirement age requirements are prioritised and a programme for review established.

- 1.5 Outlined below is a break down of the reductions and the corresponding impact on the police officer pension budget.

### **Injury Review Programme Project AO22**

Period 01 04 07 – 31 12 08

Reviews undertaken in period	81
Number of reductions	38
1 <sup>st</sup> year Savings	£150,589
Savings projected to age 65	£909,229
Savings projected to age 75	£2,507,329

- 1.6 Since the implementation of the guidance there have been 19 appeals and there are ten in the system. Five have been withdrawn before an appeal date was set and have been found in the Constabulary's favour. The cost of each appeal was £3579.15 and this has been increased to £6,200 with effect from 1 January 2009. The Police Authority has the discretion to ask for recovery of costs when it is considered that the appeal is frivolous and vexatious. Some forces have decided to recover these costs in particular circumstances, within Derbyshire these cases are discussed with the Assistant Chief Constable (Support).
- 1.7 When the Police Authority agreed to the implementation of Home Office guidance the implementation plan included a 12-month notice period for all officers affected by the introduction of applying this guidance. This was to ensure that all officers could make the necessary financial arrangements. The Injury Review team have produced guidance in the form of frequently asked questions and an explanatory leaflet, which have been forwarded to officers in receipt of an injury award.
- 1.8 The Injury Review Team have dealt with a number of complaints about the introduction of Home Office guidance and the impact the reduction in injury award has had on an ex officer's finances. These issues have been discussed between the Police Federation and the Chief Constable who is satisfied that the Home Office Guidance has been implemented appropriately and that each case is dealt with as

sensitively as possible. A copy of the frequently asked questions is attached at Annex B together with the Explanatory Leaflet at Annex C.

- 1.9 In the autumn of this year it is understood that there will be new guidance/regulations likely to apply to officers who retire. This will be for forthcoming retirements rather than being applied retrospectively. Information currently available indicates that the involvement of the Selected Medical Practitioner in this process will be removed and the adjustment to pensions will be purely administrative, undertaken on a more automatic basis rather than as a review process.

#### Financial Considerations

- 1.10 Outlined in the report.

#### OFFICER RECOMMENDATION

1. That Members note the report.
2. That the Authority continues to comply with national guidance in relation to injury on duty awards.
3. That consideration is given to recovering costs on appeals considered to be frivolous and vexatious.