

**Human Resources Committee**

**Tuesday, 21 July 2009**

**Report of the Chief Constable**

**4(c) INFORMATION ITEM**  
**HOME OFFICE GUIDANCE – INJURY ON DUTY UPDATE**

1. Purpose of Report

1.1 To update Members of a review of the procedures undertaken to comply with Home Office Circular 46/2004. This Circular provides guidance in relation to reviewing injury on duty awards under the Police Pension Regulations.

2. Information and Analysis

2.1 Previous reports were presented to this Committee on 10 November 2005, 9 February 2006 and 3 February 2009. A further report has been requested by the Police Authority as part of a review of procedures in response to concerns raised by NARPO, Police Federation and a number of affected retired officers.

2.2 The theme of these concerns is that:

(a) The Home Office Circular has been introduced retrospectively;

(b) That its implementation is affecting officers who have previously been told their awards would not be reviewed;

(c) That its implementation is causing severe financial hardship;

(d) That its implementation has been extended to officers prior to compulsory retirement age;

(e) That improvements can be made to the administration of the process.

2.3 The Police Pension Regulations clearly outlines the requirement placed upon Police Authority's to review these awards. However, discretion is available in relation to the timing of review periods.

2.4 The Home Office document provides guidance on this issue which advises that retired officers should be reviewed at compulsory retirement age for their rank and also at state retirement age (i.e. 65).

- 2.5 A review of an officers earning capacity can be undertaken at any time at the discretion of the Police Authority.
- 2.6 The Home Office Circular outlines that payment of the injury award should continue where a cogent reason that the award should not be reduced is provided.
- 2.7 The purpose of an injury award is to compensate those officers injured on duty and who are required to retire on medical grounds for loss of earnings.
- 2.8 A banding framework is used to assess loss of earnings based on the degree of disablement is outlined below:-

<b>Degree of disablement</b>	<b>Narrative</b>
25% or less	Slight disablement
More than 25% but not more than 50%	Minor disablement
More than 50% but not more than 75%	Major disablement
More than 75%	Very severe disablement

- 2.9 During a review assessment, retired officers cannot have their injury award removed. It can only be reduced to slight disablement even though it may have little or no impact upon their loss of earnings.

#### Original Implementation Process and Time-scales

- 2.10 The Home Office Circular was published in August 2004. Officers that retired after December 2004 were notified of the contents of the guidance as part of the medical retirement procedure. A scoping exercise was undertaken which involved site visits to Police Forces that had implemented the guidance to obtain information and best practice. The County Council provided pension information to determine the impact and potential cost savings presented to the Police Authority if the guidance was implemented. Discussions and costings within Force were undertaken with the Police Reform Project and the Chief Officer Group. In relation to medical retirements awarded before the Home Office guidance, a report was presented to the HR Committee in November, 2005. The recommendation contained within the report that the Home Office guidance be implemented was accepted. It was also accepted that officers would receive 12 months notice in order to enable some financial planning to be undertaken and that officers over the state retirement age would not be affected. A copy of this letter is attached at Annex A. The Reform & Delivery Project highlighted the potential savings by adopting this guidance and after the presentation of papers to the Reform & Delivery Project Board and the Police Authority resources were made available to implement the Injury Review Project.

- 2.11 A programme for implementing the guidance was adopted which is outlined below:-
- (a) Information was requested from the Pensions section of Derbyshire County Council.
  - (b) Officers in receipt of awards received information on the implementation, the Home Office guidance and received 12 months notice that their award would be reviewed. The content of the letters were agreed with NARPO and Police Federation.
  - (c) A frequently asked questions fact-sheet was developed.
  - (d) The project prioritised workloads so that state retirement age and compulsory retirement age took precedent over other cases affected by the Home Office guidance.
  - (e) National Average Earnings were used to fill any appointment gaps.
- 2.12 The Review Process consists of the following stages:-
- (a) An earnings questionnaire is sent to the retired officer with a request that it be returned within 28 days;
  - (b) An Occupational Health appointment is arranged and the retired officer is provided with explanations about the process (frequently asked questions);
  - (c) The completed questionnaire provides information on any earnings and qualifications gained from last review which are taken into account when sourcing potential job roles;
  - (d) A copy of questionnaire is provided to the Selected Medical Practitioner (SMP) (which includes any further medical evidence), along with an analysis of injuries, sickness record and related information from their archived file;
  - (e) Retired Officers receive a letter asking them to attend an appointment at Force HQ or at their nearest Force for officers who have re-located;
  - (f) The SMP is provided with potential job roles and conducts an assessment of capabilities, considering the index injury and reasonable adjustments;
  - (g) The SMP decides and records the Degree of Disablement on a H1 report;
  - (h) The Injury Review team send a letter to retired-officer with the result of the assessment and reason(s) for a reduction where the award has reduced. The retired officer is advised of their right to appeal

within 28 days. The letter also advises the retired officer that there will be a further review unless they have reached state retirement age;

- (i) Derbyshire County Council Police Pensions section are advised to amend (if appropriate) the injury award from the next payroll run, to avoid any overpayment.

2.13 In the light of feedback from the Police Federation the above procedure will be changed to include a panel consisting of Federation and HR to consider potential job roles and salaries prior to it being submitted to the SMP.

2.14 The review programme has been reviewing retired officers since January 2007 and until recently received very few complaints. However, since the change in personnel within Federation a particular interest has been taken in this topic. A number of affected retired officers have written to the Police Authority outlining their concerns about the application of Home Office guidance and requesting that it be restricted to new cases. This resulted in a paper being prepared to the February meeting of the HR Committee and at the request the Chair of the Police Authority a further paper is presented for consideration. The themes of concern are:-

- (a) The Home Office Circular has been introduced retrospectively;
- (b) That its implementation is affecting officers who have previously been told their awards would not be reviewed;
- (c) That its implementation is causing severe financial hardship;
- (d) That its implementation has been extended to officers prior to compulsory retirement age;
- (e) That improvement can be made in the administration of the process.

2.15 Consideration is given below to each of these points.

#### Implementation retrospectively

2.16 The Police Authority report dated 10 November 2005 highlighted the potential savings to public finances by introducing this circular. The savings are shown at Annex B attached.

2.17 Discussion has previously taken place with Federation about the guidance being applied retrospectively, however it was agreed that it was difficult to provide an explanation to the public of Derbyshire to defend such a decision, particularly in view of the fact that this affected public money. The injury award, whilst provided for under Police

Pension Regulations is not a pension but is a benefit to compensate for potential loss of earnings. Those officers that are reviewed and can show that the same level of compensation is applicable continue to receive the award. It is usual however for the award to be reduced to the lowest banding at state retirement age, in these cases the retired officers police pension remains unaffected.

That its implementation is affecting officers who have previously been told their awards would not be reviewed

2.18 At the time of retirement the certifying Occupational Health Medical Advisor issued a Certificate of Permanent Disablement which included a recommendation on when and how often the Police Authority should re-consider the degree of disablement. It is accepted that this may have implied to retired officers that the award would remain after the review period. Until this review programme, Derbyshire did not tend to review officers outside of the review period, however on publication of the Home Office Guidance this approach needed to be re-considered. Research was undertaken in relation to the approach of other Police Forces and Police Authorities and at that time the indication was that the Home Office Guidance would be introduced by the majority of Police Forces. In view of this a report was presented to the Police Authority outlining the provisions of the guidance and recommending that it be implemented. The Police Federation and NARPO approached the Force and Police Authority to outline their concerns about the guidance being implemented retrospectively, however the demands for public accountability in relation to the "public purse" were a major consideration in determining that retrospective application was within the spirit of the Home Office publication.

That its implementation is causing severe financial hardship

2.19 Whilst the Force has been alerted to financial difficulties created by the implementation of this guidance there has been no evidence provided to support the claim that retired officers are experiencing severe financial hardship as a result of this process. It may be appropriate for these cases, when evidence is provided, to be discussed more thoroughly with the Assistant Chief Constable (Support).

That its implementation has been extended to officers prior to compulsory retirement age

2.20 The Home Office Circular states that Forces have a responsibility to keep all current injury awards under review at such intervals they consider to be appropriate, including officers at compulsory retirement age.

That improvement can be made in the administration of the process

2.21 The Federation have expressed concerns about the salary / job matching process that is required to enable the Selected Medical Practitioner to calculate the loss of earnings and to assess the medical suitability of the identified role. They have suggested that the job information is shared prior to it being submitted to the Selected Medical Practitioner. It is intended to hold a meeting of a panel consisting of HR and Federation to discuss this information prior to its submission and this will be piloted over the next few months.

OFFICER RECOMMENDATION

That support for the programme continue and the effectiveness of the revised administrative processes be reported back to this Committee in 12 months.

Enclosures:

Annex A - Letter to Officers

Annex B - Potential Savings