

HOME OFFICE GUIDANCE FOR FORCES ON REVIEWS OF INJURY AWARDS

This Guidance is being issued to help ensure a fairer, more cohesive approach to the payment of injury benefits to ill-health retired officers who have reached the compulsory retirement age with their Force. A recent survey found that practice in this area was diverse. Some forces automatically reduced degree of disablement benefits to the lowest banding when this age had been reached - others continued to pay benefits at the same rate until the death of the Officer concerned.

It is clear that a more standardised approach is needed to safeguard the rights of the Officer and ensure fair treatment across Forces. After consultation, the following Guidance has been agreed:

Forces have the duty to keep all current injury pensions under review at such intervals as they consider appropriate, including where the former officers concerned are now above the compulsory retirement age.

Review of Injury Pensions once Officers reach Compulsory Retirement Age

Once a former officer receiving an injury pension reaches what would have been his compulsory retirement age under the Police Pensions Regulations (55, 57, 60 or 65 depending on the person's force and rank at the point of leaving the police service) the force should consider a review of the award payable, since it is no longer appropriate to use the former officer's police pay scale as the basis for his or her pre-injury earning capacity.

In the absence of a cogent reason for a higher or lower outside earnings level, it is suggested that the new basis for the person's earning capacity, had there been no injury, should be the National Average Earnings (NAE)* at the time of the review. The NAE figure taken should be the average for the population overall. Separate figures for males and females, and regional fluctuations should not be considered. The loss of earning capacity for the purpose of establishing Degree of Disablement should therefore be assessed by reference to the % proportion the person's actual earning capacity bears to NAE.

This procedure should help to ensure that former officers are treated in a consistent way across forces. They will be placed on an equal financial footing with others in the employment market at a time when they could not have been assumed to be earning a police salary.

After a review at compulsory retirement age a force should determine the need and date for the next review. In some cases there may be particular circumstances which make it undesirable to conduct a further review.

Review of Injury Pensions once Officers reach Age 65

Once a former officer receiving an injury pension reaches the age of 65 they will have reached their State Pension Age irrespective of whether they are male or female. The force then has the discretion, in the absence of a cogent reason otherwise, to advise the SMP to place the former officer in the lowest band of Degree of Disablement. At such a point the former officer would normally no longer be expected to be earning a salary in the employment market.

A review at age 65 will normally be the last unless there are exceptional circumstances which require there to be a further review.

Suitable Intervals for Review

It seems to us that whereas it is reasonable for most cases to be reviewed at the compulsory retirement age stage, not all such cases need to be reviewed again at age 65. A police authority would, after concluding the review at compulsory retirement age, be entitled to judge it reasonable not to review a case further where the injury award is already small. This will normally be the case with former officers who were retired injured early in their career. We do not think we can create a specific “minimum” minimum income guarantee under the Police Pensions Regulations in their present form. Each case will have to be considered on the basis of its individual circumstances.

New Cases

Applications received for injury awards from former officers over 65 should not normally be referred to the SMP for consideration.

*. *National Average Earnings figures available from National Office of Statistics (www.statistics.gov.uk). Look under Labour Market and NES (New Earnings Survey) Streamlined Analyses. ~~Relevant figure is Average Gross Annual Earnings.~~*

The NAE figure used should be the one in the most recent New Earnings Survey - Streamlined Analysis. This is an annual pounds and pence figure calculated by using National Insurance contributions. It is validated and produced in October of each year and is, in our opinion, the most robust method.

Note 1 - In the case of an officer who is under retirement age but has already left the service for reasons other than ill-health retirement, it is suggested that the comparator used should still be equivalent police salary. This is because, even if the ex-officer had been dismissed, forces would still have discretion to re-employ and he or she could therefore still be deemed capable of earning that salary.

Note 2 - It is clear that NAE will not be a suitable benchmark in all cases - especially on occasion with higher ranking officers who may claim to be capable of earning substantially more than this figure. It was suggested that this Guidance should contain some kind of formulae to proportionately enhance NAE to the level of the higher ranked salary. We would advise Forces to use their discretion as to whether they would like to adopt this approach.