

*Full Report – For Decision*

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<b>REPORT TITLE</b>	<b>Introduction of Injury Award Reviews, Regulation 37(1), Police (Injury Benefit) Regulations 2006</b>
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**PURPOSE OF THE REPORT**

The purpose of this report is to seek approval for implementation of a structured programme to recommence review of existing injury awards.

**RECOMMENDATIONS**

Members are asked to agree the following:

- A staged programme of review agreed with key stakeholders using a prioritisation according to date of last review and indication of substantial change
- Conclude outstanding reviews which were halted in 2010 – (32 cases at varying stages)
- Recovery of costs in the event the pensioner's appeal is not upheld and where there was no realistic prospect of success

**BACKGROUND**

An injury award is a statutory payment to compensate a former officer for loss of earnings as a consequence of an injury received in the execution of police duties payable for the remainder of the officer's life. Northumbria Police currently have 660<sup>1</sup> injury awards in place at an annual cost of £4.8 million to the Force. Not all are in payment due to the offsetting of other benefits pensioners may be in receipt of as a consequence of the qualifying injury. However, at any time an award may come into payment when benefits cease or decrease which would incur an increase in costs to the Force.

The Force has a statutory obligation under Regulation 37(1) of the Police (Injury Benefits) Regulations 2006 to consider at suitable intervals whether there has been an alteration of the pensioner's degree of disablement by means of a medical reassessment. The alteration can result in an increase or reduction of an award.

However, following withdrawal of Home Office Guidance (46/2004), which has since been found to be unlawful, all forces were advised to cease planned reviews from March 2010 until case law provided clarity on the law.

Time has now passed; the law has been clarified, and subsequently forces are now able to recommence reviews of existing awards.

An analysis of the current injury award portfolio highlights many awards have been in payment over long periods (several decades in some instances) without a review ever having been undertaken or a considerable time lapse since the last review.

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<sup>1</sup> See Appendix 1 for breakdown of awards in place

## **NOT PROTECTIVELY MARKED**

There is a financial cost to the force to review existing awards, and the risk of additional cost should the pensioner appeal the decision. However potential savings are achievable should there be a reduction in the level of any current award in place. The review programme may also attract additional costs should there be an increase in the level of awards payable or costs associated with appeals.

The current regulations are silent on the ability of the Police Pensions Authority (PPA) to recover costs from the pensioner should the appeal not be upheld (currently costs are in the region of approximately £12,000 for cases referred to the Police Medical Appeal Board). This occasionally attracts additional costs if external legal advice is sought in the preparation and/or presentation of the case. The proposed revised regulations do make provision for the ability to recover costs in the event the appeal is considered to be frivolous, vexatious or has no reasonable prospect of success.

### **RISKS**

Of the 660 awards in place the annual cost rises each year in line with the index linked pension increase (approximately 3-4% per year). If cases continue to be paid in the absence of review the estimated annual cost will exceed £6 million (not including new awards) in the next 5-6 years and will continue to rise year on year. If the annual budget allocated from the government continues to decrease alongside pressure to achieve savings, then the cost of maintaining the increasing annual bill of injury pensions will impact upon the available budget for frontline services.

Reduction in bandings will reduce the annual bill with immediate effect but the cost associated with the process and any subsequent appeals will need to be offset against projected savings. In real terms savings may not be realised in the initial period and may take a period of 1-3 years to evidence<sup>2</sup>.

By not carrying out periodic review of individual cases the Force is not fulfilling its statutory obligations and it may be that former officers are receiving awards below or above the level to which they are entitled.

The expected increase in the injury award portfolio over the next few years as a result of the Winsor recommendations will inevitably lead to successful awards and an increase in the overall yearly expenditure on injury pensions.

This is an area of business which has attracted considerable interest and consequent legal challenge on a national scale over the past few years and particularly since the ruling that Home Office Guidance (46/2004) was unlawful. The group affected by the procedures in place are recognised as being vulnerable, many are elderly, and they do attract a public sympathy on the basis they have sustained an injury in the execution of police duty which has rendered them unable to work.

### **KEY OUTCOMES AND PLANNED EVALUATION**

Implementation of a structured review programme will:

- demonstrate the Force's commitment to meet its statutory obligations to review awards in place at periodic intervals not only to ensure accuracy of banding and payment of subsequent entitlement but also as a means of ensuring fairness and consistency over its statutory function and reliance on public funds

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<sup>2</sup> See Appendix 2 for projected costs and savings over a 3 year period assuming an annual programme assesses 96 cases with a consequent reduction in banding of 25%, 50% and 75% of awards respectively.

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- enable the Force to increase the trust and confidence of those applying for awards and pensioners already in receipt of awards in the Force's ability to meet its statutory obligations in a fair and consistent manner
- The Force will incur costs to administer the process however a planned and transparent programme will not only ensure statutory obligations are maintained but likely attract some financial savings.<sup>3</sup>

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<sup>3</sup> See Appendix 2 for projected costs and savings over a 3 year period

## APPENDIX 1

## Breakdown of portfolio by banding:

<b>Band</b>	<b>Awards in place</b>	<b>Range of Annual Payments within band.</b>
Band 1	246	£195.36 - £14,647.68
Band 2	232	£1,441.44 - £13,048.68
Band 3	116	£3,302.64 - £22,290.96
Band 4	43	£6,010.29 - £24,856.92
Anomalies (old cases where records are not available.)	23	
<b>Total</b>	<b>660</b>	

**NOT PROTECTIVELY MARKED**

**APPENDIX 2**

**Review of Injury on Duty Bandings**

**Option 1 - Review 288 cases - 25% Success Rate of Band Reduction**

**Option 2 - Review 884 cases - 50% Success Rate of Band Reduction**

**Option 3 - Review 288 cases - 75% Success Rate of Band Reduction**

<b>25% Cases Successful</b>			
	<b>No Cases Successful</b>	<b>£</b>	
Band 4-3	9	34,410.32	
Band 3-2	18	87,270.17	
Band 2-1	27	120,491.85	
Band 0	18	73,310.25	
Saving		315,483	
Cost of Reviews *	288	576,000	
<b>MTFS Year</b>	<b>Cases Reviewed</b>	<b>Cost</b>	<b>Saving***</b>
2015/16	80	160,000	61,344
2016/17	96	192,000	210,322
2017/18	96	192,000	297,956
2018/19	16	32,000	315,483
<b>Sub Total</b>	<b>288</b>	<b>576,000</b>	<b>885,105</b>
<b>Cost/(Saving)</b>			<b>(309,105)</b>

<b>50% Cases Successful</b>			
	<b>No Cases Successful</b>	<b>£</b>	
Band 4-3	18	68,821	
Band 3-2	36	185,844	
Band 2-1	56	238,790	
Band 0	38	150,638	
Saving		644,093	
Cost of Reviews *	288	576,000	
<b>MTFS Year</b>	<b>Cases</b>	<b>Cost</b>	<b>Saving</b>
2015/16	80	160,000	125,240
2016/17	96	192,000	429,395
2017/18	96	192,000	608,310
2018/19	16	32,000	644,093
<b>Sub Total</b>		<b>576,000</b>	<b>1,807,038</b>
<b>Cost/(Saving)</b>			<b>(1,231,038)</b>

<b>75% Cases Successful</b>			
	<b>No Cases Successful</b>	<b>£</b>	
Band 4-3	26	103,231	
Band 3-2	54	278,766	
Band 2-1	84	358,185	
Band 0	56	225,956	
Saving		966,139	
Cost of Reviews *	288	576,000	
<b>MTFS Year</b>	<b>Cases</b>	<b>Cost</b>	<b>Saving</b>
2015/16	80	160,000	187,860
2016/17	96	192,000	644,093
2017/18	96	192,000	912,465
2018/19	16	32,000	966,139
<b>Sub Total</b>	<b>288</b>	<b>576,000</b>	<b>2,710,556</b>
<b>Cost/(Saving)</b>			<b>(2,134,556)</b>

\* Costs based of £2k per Doctors assessment per case.

\*\* In addition there is likely to be legal costs incurred. Estimated 25% of cases will go to appeal @ approx £12k per case therefore potenital £120k per annum.

\*\*\* Savings are calculated on assuming there will be a decision by SMP to reduce by 1 Banding