

NATIONAL ASSOCIATION OF RETIRED POLICE OFFICERS

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BRANCH CIRCULAR 04/11

To: All Branch Secretaries
NEC Members

9th February 2011

Dear Colleague,

Injury Award Reviews

The subject of injury award reviews is a developing one which has been subject to several Branch Circulars in recent years. Several important legal and Pension Ombudsman decisions have been reported to members through Branch Circulars, NARPO News and our website at www.narpo.org – click on ‘Injury Pensions’. Many of the legal challenges and approaches to the Pensions Ombudsman in respect of review decisions has been created by the Home Office insistence on more regular reviews of those on injury awards and the circulation of Home Office Circular 46/2004, which recommended age related reviews. We have challenged this circular since its introduction.

At our Annual Conference in 2009 the then Police Minister promised a re-write of Circular 46/2004 which dealt with injury award reviews taking into consideration the most recent legal cases. That re-write has been held up by the significant case of LAWS, which was heard in the Court of Appeal last year with the judgement being handed down late last year. Throughout the majority of 2010 new reviews of those in receipt of injury awards have been on hold on the recommendation of the Home Office. Police Medical Appeals Board hearings continued until late last year but following considerable successes by NARPO members, they too were put on hold by the Home Office in response to pressure from some forces and despite our objection.

The LAWS judgement upheld the decisions of the Administrative Court. Subsequent to the decision, the Home Office set about drafting a new circular for consultation. We have been in communication with the Home Office over these matters regularly during this period and will be responding to any draft documents the Home Office produce on this subject. There have, however, been further developments, both at the Police Medical Appeals Board and within some forces, prior to the release of any new Home Office guidance, which may be less than helpful to our members.

At least one force, West Yorkshire, have agreed to allow members, who have applied, to have access to a review of the original Selected Medical Practitioner decision under Regulation 32(2) of the Police (Injury Benefit) Regulations 2006. This is after a considerable period of internal consideration by the Force.

More worrying is that several cases have now been heard by the Police Medical Appeals Board and we have moved from a position prior to suspension of that Board activity by the Home Office, where members were winning appeals based on our interpretation of legal cases, including ANTON and TURNER and the Pension Ombudsman decision in AYRE, to a position where members are losing cases based on Police Authority representatives' interpretation of a single phrase in the LAWS decision. That phrase is 'external factor' and the Police Authority representatives seem to argue that 'age' alone can be that external factor.

We believe that this is a perverse situation and are seeking to challenge, where possible, this situation. It is however a complex and developing situation and we strongly believe that our members caught in this situation will need to take advice from us prior to any review or Police Medical Appeal Board hearing. In addition, from our most recent dealings with the Home Office, we are not convinced that any new circular drafted by them will improve the situation for members. We will naturally keep Branches and members updated with developments through the usual channels.

Details of all the cases mentioned and other important cases in respect of injury awards together with some basic advice on how to approach a review can be found on our website at www.narpo.org – click on 'Injury Pensions'. We continue to be happy to advise branch officials and members about the individual circumstances of their case, particularly in the light of these most recent developments.

Yours sincerely,

A handwritten signature in black ink, appearing to read 'Clint Elliott', with a stylized, cursive script.

Clint Elliott QPM
Chief Executive Officer