

RESOURCES COMMITTEE  
TUESDAY 1ST FEBRUARY 2011  
REPORT OF THE CHIEF EXECUTIVE

**6A THE POLICE (INJURY BENEFIT) REGULATIONS 2011**

PURPOSE OF REPORT

1. To update Members on the proposed new Regulations in relation to payment of Injury Pensions to Officers who have had to leave the Force as a result of Injury on Duty and to provide outline comment as to the Authority's proposed response.

INFORMATION AND ANALYSIS

2. The Police (Injury Benefit ) Regulations 2006 currently govern the payment of Injury Awards to Officers who have suffered an Injury on Duty and have, as a result, both had to leave the Police Service and been left with a reduced earning capacity.

3. The Home Office is proposing to reform the system of payments of these benefits and has issued draft Regulations, the Police ( Injury Benefit ) Regulations 2011. These are attached at **Annex A**. The draft reflects the discussions to date with the Police Negotiating Board and the Home Office is now seeking the views of Police Authorities on the draft as the penultimate stage in the consultation process.

4. These regulations would replace the Police (Injury Benefit) Regulations 2006 and would apply to all new claims for an injury award which are made once the regulations have come into force.

5. Some of the key terminology has been changed from the previous regulations. The term "degree of disablement" is no longer used since this is synonymous with loss of earning capacity under the current regulations. The new

regulations simply refer to “loss of earning capacity” from the outset. Also the term “injury related income supplement” replaces the term “injury pension”.

6. The other key features, especially where they differ from the previous Regulations, are as follows:

a. Regulation 7 (2) (a) introduces the requirement for the injury received on duty to be wholly or mainly attributable to duty.

b. Regulation 7 (2) (b) (i) and (ii) provide that an award is not payable for an injury received on a journey to or from an officer’s normal place of duty unless the injury is specifically related to the officer’s status as a constable. I should note that ACPO guidance, focusing on the issue of fatigue and driving to or from work, was published and disseminated in December 2010.

c. Regulation 7 (4) (a) and (b) exclude injuries resulting from disciplinary proceedings against the officers or any dispute between the officer and another member of the force or the force itself.

d. Regulation 7 (5) defines default as culpable negligence or culpable misconduct, with specific definitions of those terms given in paragraph 6 of that regulation.

e. Regulation 10 (2) (a) and (b) excludes awards for an officer who had a pre-existing medical condition which made him/her liable to suffer disablement or death at any point and the injury was received in the course of non-operational duties.

f. Regulation 11 (1) introduces a 5 year time limit for making a claim after leaving the force, except for the diseases and conditions specified in Schedule 3, which may take longer to come to light. We will continue to consult with medical experts and would welcome view on whether there are any further conditions which should be specific in the schedule.

- g. Regulation 14 (2) introduces the payment of an adult survivor pension to a nominated unmarried partner.
  - h. Under these regulations adult survivor pensions are payable for life and would not cease on remarriage, cohabitation or forming a new civil partnership.
  - i. Regulation 20 sets out a simplified set of gratuities, which are mostly larger than those currently provided.
  - j. Regulation 22 provides for abatement of the injury award if the former officer receives damages under a court order for the same injury, provided the court has not already taken into consideration the injury award.
  - k. Schedule 4 sets out the new scale of benefits, which is no longer based on length of service. In the new scale of benefits, 85% of average pensionable pay is given as the minimum income guarantee for “severe loss” of earning capacity. This replaces an earlier proposal of 90% of APP.
  - l. A minimum income guarantee is provided only once the loss of earning capacity is greater than 10%.
  - m. A minimum income guarantee is replaced by a minimum retirement income guarantee at age 65 or State Pension Age, whichever is the later.
7. Any Police Authority comments need to be forwarded to the APA by 4<sup>th</sup> February 2011.
8. The Force HR department deals with the award and review of Injury Benefits on behalf of the Authority and discussions are underway to seek their comment on the draft. Any comment or advice from them will be relayed verbally at the meeting.

FINANCIAL, RISK, LEGAL, EQUALITY, AND HEALTH AND SAFETY  
CONSIDERATIONS

9. The following considerations should be considered or noted:
- a. Legal Considerations – inherent within the report.
  - b. Financial Considerations - These Regulations will not be retrospective and so will have no effect on the current Injury pensions being paid. Advice is being sought from HR as to the likely financial effect the key differences will make to future claims.

OFFICER RECOMMENDATION

10. It is recommended that the Report is discussed so that any further comment members have can be included in the response .

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Attached : Annex A – Police (Injury Benefit) Regulations 2011 (draft Regulations)

Background Papers : Letter from Home Office to Police Negotiating Board dated 7<sup>th</sup> January 2011.

Gem 139/2011 Consultation; Police (Injury Benefit) Regulations 2011