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Our ref: CO/16873/2013  
Your ref: 11049/206.51/Slater

10

~~09~~ February 2014

Dear Sir / Madam,

**Re The Queen on the application of JOHN SLATER versus SECRETARY FOR THE HOME OFFICE**

I am writing to inform you that your Consent Order in the above case was received by this office on 24/12/2013.

Please find enclosed approved and sealed consent order.

Yours faithfully

Leslie Cousins  
For Court Manager



Case No 16873/2013

IN THE HIGH COURT OF JUSTICE

QUEEN'S BENCH DIVISION

ADMINISTRATIVE COURT

Between:

Regina (On the application of JOHN SLATER)

Claimant

- and -

THE SECRETARY OF STATE FOR THE HOME DEPARTMENT (1)  
THE CHIEF CONSTABLE OF DERBYSHIRE (2)

Defendants

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ORDER

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Upon reading letters of consent from the solicitor for the Claimant and the solicitor for First and Second Defendants consenting to the terms of this order.

And upon the First Defendant undertaking:

1. Forthwith to withdraw that part of the Home Office Guidance 2004/46 issued by the First Defendant which recommends the approach to be followed by medical authorities in conducting reviews of police injury pensions for injured former police officers under regulation 37(1) of the Police (Injury Benefits) Regulations 2006 ("the 2006 Regulations") where former police officers had reached their Compulsory Retirement Age ("the Relevant Guidance"), which for convenience is set out as an Annex to this order and forthwith to note the withdrawal of the said Guidance on the Home Office website.

*By the Court*

2. To write to all Police Pensions Authorities within 14 days of the date of this order to draw to their attention the terms of the said order and the fact that the Relevant Guidance has been withdrawn.

And upon the Second Defendant undertaking to appoint a Selected Medical Practitioner ("SMP") promptly to undertake a reconsideration under Regulation 32(3) of the decisions by the Derbyshire Police Authority made in April 2007 to reduce the Claimant's police injury pension from band 3 to band 1 and the decision made in September 2008 to uphold the said decision.

BY CONSENT IT IS DECLARED THAT the Relevant Guidance is unlawful.

AND IT IS ORDERED THAT:

1. The decision of the Chief Constable made on or about 14<sup>th</sup> August 2013 under Regulation 32(3) of the 2006 Regulations to uphold the decision by the Derbyshire Police Authority made in April 2007 to reduce the Claimant's police injury pension from band 3 to band 1 is quashed.
2. This order shall stand as a final order in the proceedings brought by the Claimant against the First Defendant.
3. There shall be no order as to costs between the Claimant and the Defendants.

#### Schedule to Order

The Relevant Guidance is the following part of Home Office Circular 46/2004:

#### *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.

*M. M.*  
M. M.

Chairman's selection  
Committee

19.12.13

Treasurer Solicitor  
(RT Philip)

Solicitor for the Secretary of State.

*[Signature]*

Solicitor for Chief Constable

ADMINISTRATIVE COURT OFFICE  
BY CONSENT ORDER AS ASKED

30 DEC 2013

*[Signature]*