

POLICE MEDICAL APPEAL BOARD DECISION.

A Northumbria Police Pensioner has been successful in his recent Appeal against a decision of the SMP to reduce his injury award to Band 1, at age 65 or older, in accordance with the Home Office Circular 46/04.

Amongst other points the Appellant argued that:

- The SMP did not apply case law correctly; in particular ANTON, TURNER and LAWS.
- The Appellant was not examined by the SMP.
- He still had an earning capacity irrespective of his age as determined by the Pensions Ombudsman in AYRE.
- The Appellant was subjected to a different process on review than other pensioners under the age of 65.

All these points are ones that **NARPO** has consistently been advising members to make and which are contained in the draft submission prepared by **NARPO** to assist members going through the review process.

The Board in their findings considered that:

- With his condition the Appellant was capable of working at least four hours a day in a semi-sedentary role and therefore he did have an earning potential, as outlined in ANTON and AYRE.
- However as no new job comparator roles had been provided by the Police Authority and there was no change in his clinical functional capability, it followed therefore that there was no substantial change in his degree of

disablement and accordingly his injury pension could not be revised, as per TURNER and LAWS.

- The Board considered the Home Office Circular and Guidance to Police Medical Appeal Boards, but they had no alternative but to observe The Police (Injury Benefit) Regulations 2006 themselves and concluded that a review at age 65 should be carried out no differently than any other review.
- The Board concluded that despite the Home Office Guidance the Appellant should remain on Band 3 as there had not been a substantial change in his degree of disablement since the last review.

This is a significant decision in respect of our members aged 65 and over and reinforces the points that **NARPO** have consistently been advising our members to make throughout the review process.

In particular the decision highlights the fact that the review process adopted by Police Authorities/Forces must be the same, irrespective of a persons age and that a persons medical condition must be assessed by the SMP and that a persons earnings capacity should be assessed, again irrespective of age.