

## **Deduction of DSS/DWP Benefits from Police Injury Pensions**

Who is possibly affected?

Any police injury pensioner who was medically retired after 1995.

What are the issues?

### 1) Invalidity Benefit

Prior to 1995, if you were medically retired and qualified for a police injury pension you were told by RCT that you had to apply for invalidity benefit. The reason for this was that at that time, invalidity benefit was non-taxable and was included in the Injury Pension Regulations as a "relevant benefit" which could be legitimately deducted from a police injury pension.

### 2) Incapacity Benefit

In 1995, invalidity benefit changed to incapacity benefit; you may think that this was a simple name change but there was a major and significant difference; incapacity benefit was declared taxable by HMRC.

Furthermore, the Home Office did not change the relevant regulations to include incapacity benefit as a "relevant benefit" and thereby deductible from a police injury pension. So what happened?

Firstly, When HMRC calculated the annual tax code they included in your income the amount of incapacity benefit that DSS/DWP told them you were entitled to. As a consequence, RCT, acting as agents for SWP, deducted the tax due in respect of incapacity benefit from your normal police pension. They also deducted the full amount of incapacity benefit from the police injury pension.

There are two separate and distinct issues here; incapacity benefit was not included as a "relevant benefit" and should not have been deducted at all. The impact of what RCT did was that there was double taxation in respect of incapacity benefit, e.g.

If your incapacity benefit was £100 per week and tax was payable at 20% over a 4 week period RCT would pay £80 to HMRC, from your normal pension, included in your normal tax deduction; they would also take £400 from your police injury pension resulting in a total deduction of £480 but only £400 received from DSS/DWP.

This continued until 2006 when incapacity benefit was included in the Police (Injury Benefit) Regulations 2006 as a "relevant benefit".

These two issues, and others are subject to a group action being co-ordinated by Wayne Evans and funded by the Police Federation.

### 3) ESA

ESA was first introduced by legislation in 2008 but, from personal experience claimants of incapacity benefit were not assessed for ESA until 2012/3. I, for example was judged to qualify and was migrated from incapacity benefit to ESA in September, 2013.

NARPO nationally challenged the deduction of ESA from police injury pension and the national chief executive, Mr Clint Elliott received a letter in April 2014 from the Home Office confirming that there was no legislative authority for ESA to be deducted as the 2006 Regulations had not been amended to include it as a "relevant benefit".

I first challenged the Chief Constable and Capita, acting as agents for SWP in April 2014 and, as we know, they stopped deducting ESA from police injury pensions on 1<sup>st</sup> April, 2015. Since December, 2014 I have been asking SWP for a full refund, plus interest, of the ESA that they unlawfully deducted from me between September 2013 and 31<sup>st</sup> March, 2015; they have refused stating that the Home Office may change the Regulations to include ESA as a "relevant benefit" and that such a change may be made retrospective.

It is generally accepted that retrospective legislation is frowned upon when it has a financial impact on an individual through no fault of his/her own and has been repeated discouraged by the European Courts.

As a separate and distinct issue to those being co-ordinated by Wayne Evans, I approached SWP Police Federation and was contacted by Tony McConnon; my reason for doing this was I had information via a colleague in the West Midlands that the Police Federation had taken up his case and West Midlands Police have now refunded, in full, the ESA unlawfully deducted. I have been informed by Tony that the Police Federation at national level have referred my case to their solicitors for action.

What amazed me in my conversations with Tony McConnon was that nobody else had contacted him regarding this blatant abuse of Regulations. I do not believe that I am the only one affected so would urge others in the same

circumstances as me to register their case with Tony McConnon at the Police Federation Office in Pencoed, his email address is: -

[tmccannon@swpf.polfed.org](mailto:tmccannon@swpf.polfed.org)

If anyone would like to ask any questions, I can be contacted on [barfran2000@gmail.com](mailto:barfran2000@gmail.com).