

**DECISION**  
**OF THE**  
**POLICE ARBITRATION TRIBUNAL**

**Winsor Report Part 2**

**December 2012**

**POLICE ARBITRATION TRIBUNAL**

Present at the hearing held at the London Office of the Advisory, Conciliation and Arbitration Service, 23rd floor, Euston Tower, 286 Euston Road, London NW1 3JJ on Thursday 18 October and Tuesday 30 October 2012.

## **Police Arbitration Tribunal**

**Professor J F B Goodman CBE (Chairman)**

**Ms V Branney**

**Mrs M Salmon**

**Mr A Sen (Secretary)**

## **Representing the Staff Side of the Federated Ranks Committee**

Ian Rennie (Staff Side Secretary and Gen. Sec. Police Federation of England and Wales)

Graham Halliday (National Secretary, Police Superintendents Association (England and Wales) )

Dave Jones, ACC (National Negotiating Secretary, Chief Police Officer Staff Association)

Raj Jethwa (Head of Research, PFEW)

Denis van Mechelen (Research Department, PFEW)

Karen Pinfold (Research Department, PFEW)

Elaine Parker (Research Department, PFEW)

## **Representing the Official Side of the Police Negotiating Board**

Sarah Messenger (Official Side Secretary)

Graham Baird (Official Side Secretariat)

Emine Ali (PNB Official Side Secretariat)

Charles Cochrane (Official Side Chair APA)

Simon Ash (ACPO)

Francis Habgood (ACPO)

Jo Shiner (ACPO)

Tara Deshpande (Home Office)

Richard Pickering (Home Office)

Stephen Finer (Home Office)

Allan Falconer (COSLA)

Oliver Shaw (APA)

## **INTRODUCTION**

By a minute dated 24 September 2012 and a subsequent annex dated 15 October 2012, the Advisory, Conciliation and Arbitration Service gave notice that a meeting of the Police Arbitration Tribunal (PAT) had been convened to consider a difference between the two Sides of the Federated Ranks Committee of the Police Negotiating Board (PNB); the two sides of the Superintendents Committee of the Police Negotiating Board; and the two Sides of the Chief Officers Committee of the Police Negotiating Board.

The agreed terms of reference were:

**To consider a failure to reach agreement between the two Sides of the Police Negotiating Board and the Federated Ranks' Standing Committee on the following matters covered by the attached letter of Direction from the Home Secretary dated 27th March 2012:**

**Recommendation 46** – The Police Regulations 2003 should be amended to create a system of compulsory severance for police officers with less than full pensionable service from April 2013.

**Recommendation 47** – The Police Regulations 2003 should be amended to provide for the payment of financial compensation to police officers with less than full pensionable service who leave the police service by reason of compulsory severance. Forces should be empowered to offer financial compensation on the same terms as are available under the Civil Service Compensation Scheme.

**Recommendation 48** – Officers who have been subject to compulsory severance should have access to employment tribunals if they wish to allege that their severance has been unfair.

**Recommendation 54** – A new, shorter pay scale for constables should be introduced for new entrants from April 2013 as outlined in Table 7.12 of this report. It should have a lower starting salary than the current scale, but should allow constables to move to the maximum more quickly.

**Recommendation 74** – Chief Constables should be given discretion to pay regional allowances up to the current maximum level, as set out in Determination Annex U made under Regulation 34 of the Police Regulations 2003, and the discretion to apply eligibility criteria based on location and performance.

**Recommendation 83** – Competence Related Threshold Payments (CRTPs) should be abolished by April 2013 at the latest, and all accrued CRTP payments up to that date should be made on a pro-rated basis.

**Recommendation 94** – An interim Expertise and Professional Accreditation Allowance (EPAA) should be introduced from April 2013. It should reward qualifying officers for the skills they use in the four stated priority functions: neighbourhood policing; public order; investigation; and firearms. The EPAA should be £600 per annum, and should be paid monthly. It should be removed when an officer leaves the qualifying role. The EPAA should be abolished when the Specialist Skills Threshold is introduced.

**Recommendation 112** – A national on-call allowance for the Federated ranks should be introduced from April 2013. The amount of the allowance should be £15 for each daily occasion of on-call after the officer in question has undertaken 12 on-call sessions in the year beginning on 1 April.

1. Prior to the hearing the parties supplied the Tribunal with, and exchanged copies of, their written statements of case which they developed orally at the hearing.

## **BACKGROUND**

2. The difference arose from the Sides' failure to agree the above recommendations contained in Part 2 of the Independent Review of Police Officer and Staff Remuneration and Conditions (HMSO Cm 8325-II) which came within the remit of the Police Negotiating Board (PNB). The review was commissioned by the Home Secretary on 1 October 2010 and conducted by Mr. T. P. Winsor to be reported in two Parts. The first part of the review was published on 8 March 2011. Differences arising from that report were the subject of the PAT's award which was issued in January 2012. The second part of the review was published in March 2012.

3. In accordance with the terms of reference set by the Home Secretary, the second report focused on longer term reform aimed at providing a police service suitable for the challenges likely to be faced during the course of the next thirty years. In particular, the report covered: the police service employment framework, entry routes and promotion; the health, fitness and management of the police officer workforce; basic pay, contribution-related pay and role-based pay; and the negotiating machinery.

4. Following the release of the second part of the review, henceforth referred to here as the WR2, the PNB was directed by the Home Secretary, in her letter dated 27 March 2012, to consider and make recommendations to her in respect of the matters contained in Recommendations: 46, 47, 48, 50, 51, 54, 64, 74, 83, 86, 87, 88, 89, 94, 103, 112 and 114 by 24 July 2012 at the latest. Of these, recommendations 54, 83, 94, 103, 112 and 114 applied to the Federated Ranks Committee of the PNB. Recommendations 86, 87 and 88 applied to the Superintendents' and Chief Officers' Committees. Recommendations 50, 51, 64, and 89 applied to the Chief Officers' Committee only. The relevant Sides of the PNB were able to reach agreement on Recommendations 50, 51, 64, 86, 87, 88, 89, 103 and 114 during the course of discussions within the negotiating machinery. The remaining recommendations as detailed in the terms of reference above were the matters referred to the PAT.

5. The matters arising from the Winsor Report 1 and which were referred to the PAT were described in its January 2012 award as '...many, varied and complex.' The matters referred to the Tribunal under WR2 were less numerous but no less complex or far-reaching. It may be noted here that some of the issues placed before it on this occasion - CRTPs, EPAA and on-call allowance - were familiar, having been included in the Sides' October 2011 referral. The PAT's previous award took account of the fact that these issues would be considered in WR2. The expected inclusion of these matters in WR2 and the Sides' subsequent inability to reach agreement on them within the PNB, has resulted in the Tribunal being asked to consider these issues for a second time.

6. In what follows, in order to maintain a degree of continuity and consistency, the issues are presented in the order in which they were dealt with during the course of the two-day hearing.

## **SUMMARY OF THE CASE MADE BY THE OFFICIAL SIDE**

7. The Official Side began by expressing its frustration at having to refer the eight matters specified above to the PAT for determination. The Official Side said that the context for its endorsement of the recommendations contained in WR2 was the achievement of long-term reform and modernization of police remuneration and conditions. In its view, the current system, which was put in place following Edmund-Davies in the 1970s, was no longer appropriate to the needs of the police service in the 21<sup>st</sup> century. While there had been significant changes to the challenges facing the police service during this period – for example, technology based crime; the night-time economy; global terrorism and the increased sophistication of organized crime – changes to the basis of police remuneration and conditions in the face of these challenges had failed to keep pace.

8. In the Official Side's view, pay needed to be based not simply on the passage of years of service but rather on the acquisition and use of skills, personal professional development and on contribution. This approach would enable Chief Officers to deploy resources flexibly to those areas where they were most needed and would represent the most effective use of public money. This flexibility was required not least because the needs of police forces differ from one force to another. It would also enable the newly elected Police and Crime Commissioners (PCCs) to meet their objectives.<sup>1</sup> The Official Side said that forces were broadly on track to make the required cuts of about 20% to save £20bn by March 2015. However, this was not entirely assured and significantly, the resources available in the next spending review period from April 2015 were not clear. This might well involve further austerity.

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<sup>1</sup> These have been summarised by the Home Office as: holding the Chief Constable to account for the delivery of the force; setting and updating a police and crime plan; setting the force budget and precept; regularly engaging with the public and communities; appointing, and where necessary dismissing, the chief constable.

9. The Official Side stressed that the proposals contained in WR2 were not about savings but about reform and modernization. Indeed, according to the Official Side, the package of measures contained in WR2 was largely cost-neutral; of the £1.9bn savings anticipated by 2017, £1.2bn was to be reinvested in the proposed reward structure. The intention to develop professional skills could be illustrated by the proposed establishment of a College of Policing. The role of this new institution would be to allow forces to develop police professionalism and national standards in training, skills and qualifications. More specifically, it was envisaged that the introduction of new pay structures would help the College to incentivise police officers' professional development through the acquisition of skills; establish skills thresholds and formulate an appraisal system that would enable pay progression based on contribution. The Official Side expressed disappointment that, in its view, the Staff Side had not fully engaged with it in consideration of the important issues at hand. In the Official Side's view the Staff Side's reluctance to modernize at a time of general economic difficulty could serve to invite closer public scrutiny of the police service.

10. Having outlined its 'philosophical' view of how and why the police service needs to be modernized, the Official Side explained the six relevant factors which have consistently underpinned its approach to police pay and conditions. These were:

- Making the best use of resources
- Recruitment and retention
- The role and status of police officers
- Wider police workforce arrangements and development
- The wider context of public sector employment and remuneration
- Government policy and the economic context

11. Briefly, the Official Side stressed that police pay must be fair to police officers and to the taxpayer. Therefore, senior police officers had to be given the freedom to manage their forces in a manner which would enable frontline services to be delivered effectively. Despite the changes that the police service is undergoing, recruitment and retention remained strong,

suggesting that a career in the police service was still seen by many as an attractive option. After a period in which many police forces had stopped recruiting, some had now resumed recruitment and were not experiencing any difficulty in attracting applicants. Similarly, retention was not a problem. Voluntary wastage amongst police officers was very low when compared with rates across the wider economy and within the public sector.

12. The Official Side said that it fully supported the principle that the office of police constable was the bedrock of the police service. It was recognized that being a police officer could be both difficult and demanding. Having said that, the Official Side pointed out that the unique status of police officers should not confer 'immunity' from measures such as compulsory severance, which police staff, armed forces personnel and public sector workers generally, were subject to.

13. As far as the context of wider public sector pay, employment and government policy was concerned, the Official Side said that the position of police officers could not be considered in isolation. Throughout the public sector there was a programme of reform affecting workers' pay, pensions and conditions. There was also a policy of pay restraint across the sector. Thus, any consideration of police officers' pay, remuneration and employment had to take these wider factors into account. The Official Side said that some other public sector workers, such as teachers, paramedics and nurses, required higher qualifications, yet police officers' current entry pay levels were higher. In the context of the six factors set out in paragraph 10 above, such a situation could not be justified.

14. Turning to the specific matters referred to the Tribunal, the Official Side set out its case in respect of the amended WR2 **Recommendation 54**. The proposed shorter payscale for new entrants was said by the Official Side to be consistent with its objective of rewarding officers according to skills and contribution. While it would feature a lower starting rate than the current payscale, it would allow officers to reach the maximum of £36,519 more quickly. The Official Side said that the starting

level had been fixed by reference to comparable roles in the context of existing labour market conditions. It was right, the Official Side said, that the proposed lower entry level salary should apply when learning outweighed contribution. Similarly, it was also right that when contribution outweighed learning later in an officer's career, the larger increases in the pay steps would recognize and reward that increased contribution. It was also the case that the minimum time taken to reach the top of the constables' scale had been shortened from ten years to seven years. In considering the proposed new payscale, the Official Side said it had taken into account not only the relative pay of other public sector workers but also those in other parts of the wider police workforce.

15. The Official Side illustrated the care it had given to the development of the proposed police officer payscale and that it had modified the seven point scale proposed in WR2. The Official Side's proposed scale allowed forces to pay new constables up to £22,000. It retained the minimum of £19,000 for those newly recruited constables with no prior police experience or police qualifications, but raised the pay level at the point where those with such experience or qualifications were recruited from the level of £21,000 recommended in WR2 to £22,000. The Official Side said that it had considered in particular the relative pay of Police Community Support Officers (PCSOs).<sup>2</sup> £22,000 was more than the basic starting salary for PCSOs. Police officers, the Official Side said, were increasingly recruited from the PCSO and special constable cadres. Consequently, it was necessary that progression from PCSO to police officer remained an attractive option. While acknowledging that PCSOs and special constables provided an important service to the community, it was the case that the role of police officers required greater skill. The Official Side's proposed scale modified that proposed by WR2 as shown in Table 1 below.

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<sup>2</sup> It was stated that PCSO pay varies from force to force and there is no 'national' scale. During the hearing it emerged that the starting point for PCSO pay could range from £16,551 to £21,780; the latter figure being that used by the Metropolitan Police.

**Table 1: Proposed Winsor and Official Side payscale for Constables (new entrants from April 2013)**

Pay point/year	OS(£)	Winsor (£)
0	(19,000)	(19,000)
1	22,000	21,000
2	23,000	22,000
3	24,000	23,000
4	25,000	25,500
5	27,000	27,700
6	31,032	31,032
7	36,519	36,519

16. The Official Side said that while WR2 was not about making cost savings, cost was nevertheless something that had to be taken into account. In seeking to develop its proposed payscale, consistent with its wider objectives of fairness, incentivization and payment by contribution, the Official Side had pushed the cost 'envelope' as far as it could so that it was at the limit of affordability.

17. Turning to **Recommendation 74** of WR2, the Official Side said that this proposal would afford forces greater flexibility in the way that regional allowances were used and help them to give an efficient service. This approach was consistent with the government's desire to promote greater local accountability for policing and crime reduction. At the present time, London and South East allowances (which were not pensionable and had been introduced to address recruitment and retention issues) were paid as follows:

- London allowance: £4338 (paid in addition to the pensionable London Weighting of £2277, to address the higher living costs in London);
- South East allowance (Essex, Hertfordshire, Kent, Surrey and Thames Valley): £2000;

- South East allowance (Bedfordshire, Hampshire and Sussex):  
£1000.

Forces needed to be able to balance their need to retain officers with the requirement to demonstrate that they were providing value for money. In the current climate, the Official Side expressed the view that there was no basis for raising these allowances. It also noted that the rate at which officers transfer from forces in the South East to London had declined, reducing the pressure on forces to pay higher regional allowances.

18. The Official Side said that there were two features to its approach to this issue. The first was that while there were existing budgets for this allowance, the emphasis should be on spending what was needed rather than spending the pre-determined budget – the value for money dimension. Secondly, there was the performance element. The Official Side felt that forces should be allowed to vary the allowance paid both on the basis that an additional allowance is required to retain officers – as determined principally by location and demand – and whether payment in these circumstances is beneficial to the service and the public. The Official Side acknowledged that the Staff Side had concerns over the possible use of regional allowances as part of the Unsatisfactory Performance Procedures (UPP). The Official Side stressed that there was no intention to use the removal or reduction of regional allowances as a sanction. However, the Official Side did draw attention to the fact that this recommendation was similar to the approach already used for CRTPs and Special Priority Payments (SPPs); in the case of both allowances, unsatisfactory performance could lead to a review of whether continued payment of the allowance(s) was merited. In the Official Side's view it was not unreasonable to stop 'rewarding' those officers who did not perform satisfactorily.

19. A recurring theme in the Official Side's case was the desire to link reward to contribution. **Recommendations 83, 94 and 112** on CRTPs, EPAA and on-call allowance respectively were, in the Official Side's view, all important strands in this approach. The Official Side said that these measures on EPAA and on-call would reward officers who developed their

professional skills and contributed more greatly to the safety of their communities and the effectiveness of their forces. Conversely, the retention of CRTPs rewarded service through time-serving and it was right that they should be abolished.

20. CRTPs had been introduced as a means of rewarding contribution and incentivizing officers at the top of their scale to perform better. However, over time, they had not fulfilled their purpose but had become in effect, an additional increment based on time served. The Official Side said that there did not appear to be sufficiently rigorous management processes in place to ensure that payments according to competence were being made and thus no evident link between performance and the CRTP. The Official Side said that the latest data available to the PNB suggested that 90% of eligible officers were in receipt of the payment at an estimated cost to the service of £70m per year. Moreover, the Official Side said, there were some concerns about the gender equality impact of CRTPs, since as a consequence of the historic gender composition of the workforce, far more men than women were in receipt of CRTPs. It would be preferable, the Official Side said, for the funds saved from the abolition of CRTPs to be re-invested in a way which supported reform. While the Official Side could understand that the Staff Side, in its representative capacity, had concerns about the impact of the abolition of this element of pensionable pay for some officers, such a stance could not be justified in the context of the police service's current financial position; the difficulty being experienced by many workers in the wider public sector in relation to pay and redundancies; and the ever more pressing need to make the best possible use of public money.

21. In the Official Side's view, the interim EPAA would create a link between pay, role and contribution. The Official Side accepted that the Staff Side had reservations about the specific roles covered by the interim EPAA – Investigation, Public Order, Specialist Operations (Firearms) and Neighbourhood Policing - but stressed that this was an opportunity to reinvest savings to the benefit of the service and officers. These roles had been identified after discussions with ACPO and the National Policing

Improvement Agency (NPIA) and using data from the latest National Strategic Assessment of Policing. The amount of the allowance payable initially had been proposed in WR1 at £1200 per annum. However, in order to ensure that this aspect of reform was affordable, the Official Side endorsed the revised level of £600 as proposed in WR2.

22. The Official Side said that in previous years the Staff Side had sought the introduction of a national on-call allowance. Indeed, the matter had been the subject of a referral to the Tribunal in 2009. At that time, the Tribunal had decided that there should be a national on-call allowance. Following this decision the two Sides have worked closely together to establish the level, terms and costs of an agreed national on-call payment. However, at the request of the Staff Side, negotiations were put on hold until the findings of the Winsor Report Part 2 became known. For its part, the Official Side had previously seen no need for a national allowance. However, in its view, circumstances had now changed. In the Official Side's view there was now a need for Chief Officers to be able to incentivize officers to cover key roles. The Official Side said that forces had earlier been using the now abolished SPPs to pay on call allowances to officers and bonuses were now being used for this purpose. The latter were not in the Official Side's view a sound way of rewarding officers but there was currently no mechanism for dealing with this issue. For operational reasons the issue of on-call now needed to be addressed, the Official Side said. In accordance with the figure proposed in WR2, the Official Side endorsed a national on-call allowance of £15, after the unpaid 12 sessions per year. £15 represented, the Official Side said, the average being paid by forces, using bonuses. The Official Side added that Constables and Sergeants who are required to work while on-call would also be entitled to an overtime payment.

23. The Official Side said that **Recommendations 46, 47 and 48** were an important part of the 'suite' of tools that management needed to have at its disposal to manage its workforce at a time of considerable challenges facing the service. Workforce planning was in the Official Side's

view essential given the economic and financial climate. The possibility of compulsory severance of officers already existed in non- Home Office forces such as the British Transport Police – although it had not been used there given the apparent success of the voluntary severance arrangements in place. The Official Side said that it had worked with the Staff Side to develop voluntary exit arrangements which were to be introduced and which would add to the suite of tools that management could use. This scheme gave additional strategic flexibility and was fair and transparent. Further, it was noted that the existing and recently amended Regulation A19 already provided for Chief Officers to be able to require those with full pensionable service to leave the force. The Official Side recognized that these recently agreed arrangements marked a major change for police officers. However, the Official Side said that given the length of time it would take to introduce compulsory severance provisions, the police service did not have the ‘luxury’ of time to wait for the introduction of the voluntary exit scheme and then a subsequent assessment of the way in which it was operating. The compulsory severance of officers would require primary legislation which in itself was a lengthy process and would add considerably to the timescale. Forces had already faced severe financial problems and had made or were making reductions in the numbers of both staff and officers. Many have curtailed recruitment. However, currently it was the case that police staff were bearing a disproportionate level of job losses, which in the Official Side’s view was unfair and could potentially lead to inefficiency. The Official Side illustrated the relative savings to be made by stating that the current cost of a constable was £47k while that of a police staff member was £26k. This implied that more people could be lost to the service if compulsory severance terms were confined to police staff – and officers with full pensionable service only - and that the adverse impact on police service delivery and efficiency could be greater, e.g., if relatively highly paid officers were to fill the roles previously performed by police staff.

24. The Official Side noted the concerns of the Staff Side in relation to the possibility that compulsory severance may be applied unfairly. It had wanted to design a scheme jointly but it said that the Staff Side would not

discuss this. The Official Side provided assurances that there would be checks and balances in place to ensure that officers were not treated unfairly. It also stressed that compulsory severance would be a measure of last resort and WR2 recommended that officers be given access to employment tribunals if they felt their selection or treatment had been unfair. The Official Side stressed that Chief Officers had indicated that they feel the option to use compulsory severance of officers should be available in order to meet the challenges their forces were facing. Moreover, any proposal for new arrangements would be subject to prior parliamentary scrutiny to ensure fairness and transparency. The Official Side also tried to address Staff Side's concerns about the appointment of Police and Crime Commissioners (PCCs) following the elections on 15 November 2012, to these newly created posts. The Official Side did not accept that the risks of political influence or abuse of their authority by these elected office holders were necessarily any greater than had been the case when the police authorities had been in place. The need to have a robust system of checks and balances was not, in the Official Side's view, a 'new problem' and reiterated that safeguards against abuses of power would be put in place.

25. In conclusion, the Official Side said that its proposals, which built on the recommendations in WR1 needed to be implemented as soon as possible for a number of reasons. The Winsor Report represented a unique opportunity to change police remuneration and conditions so that they enabled the continued improvement of policing and helped the police service to meet the challenges of the 21<sup>st</sup> century. Such changes would also help the police service to manage a very challenging financial environment by making the best possible use of resources for the benefit of the community. Due to the urgency of the situation, there was no time to lose. The Official Side's proposals would remunerate police officers according to contribution and would incentivize the most capable and ambitious. Police forces would be better able to manage and plan their workforce requirements consistent with practices elsewhere in the wider economy and this in turn would enable the service to make the best possible use of resources at a time when the environment was especially

difficult. The Official Side said that the package of proposals put forward was in the best interests of the service and the public and called upon the Tribunal to find in its favour.

### **SUMMARY OF THE CASE MADE BY THE STAFF SIDE**

26. The Staff Side commenced by expressing its regret at having to appear at the Tribunal in less than a year since the last hearing. The Staff Side said that it had attempted to be both constructive and positive in its approach to negotiations with the Official Side. It said agreement had been reached on 17 of the 29 recommendations contained in WR2. It added that, in addition, agreement had been reached with the Official Side not only on the implementation of many issues arising out of WR1 but also on the reform of police pensions. The Staff Side said that it had attempted to engage in constructive discussions with the Official Side over a range of measures which were of great importance to its members. In its view if there was to be effective change it was vital that the workforce was brought along with the proposals. It was more important – as experience of earlier reforms in the service had shown – to get change right rather than constantly to give priority to alleged urgency. The Staff Side said its commitment to reform could be illustrated by its provision of alternative, properly costed proposals. The Staff Side rejected earlier Official Side suggestions that its calculations of costs and savings were flawed and cited the findings of the Office of Manpower Economics (OME) in support of this. Despite these earlier differences it was the case, the Staff Side said, that the financial calculations presented to the Tribunal were now agreed by both Sides.

27. The Staff Side argued that it was not unreasonable for it to explore the possibilities for recycling savings made under proposals contained in WR1. In this context, the Staff Side drew comparisons with the experience of the NHS which, when undergoing major reform under the Agenda for Change (AFC), saw the injection of substantial funds towards the cost of the increased paybill. The Staff Side said that – by contrast - it had not sought any such increases in pay. Although the Official Side had said that

WR2 was about cost-neutral reforms, the Staff Side said that its alternative proposals would result in paybill savings of £359m by 2017/18. To achieve this outcome, re-investment by the Official Side of £189m would be required.

28. The Staff Side expressed the view that the Winsor Report did not take into account sufficiently the views of the Staff Side and the evidence which it had commissioned from independent researchers and submitted to Winsor. To address this perceived situation, the Staff Side said that it had commissioned papers from those experts and shared them with the Official Side during negotiations. In particular, the Staff Side said that it wished to ensure that changes to the pay structure of police officers enhanced equality within the police service by being demonstrably fair, equitable and objectively justified in accordance with legislation. In this connection, the Staff Side cited concerns raised by the PNB's 2009 and 2011 pay equality audits around gender pay inequality within police pay systems.

29. Turning to the recommendations in WR2 on which agreement had not been reached the Staff Side said that, in its view, the recommendations fell into four distinct groups:

Recommendation 54 on the Constables' payscale which was to be welcomed in principle, but on which there was disagreement in respect of the practical implementation;

Recommendation 112 on the introduction of a national on-call allowance on which there was no principled difference of opinion, but which Staff Side was willing to forego in order to reach agreement in other areas through the re-allocation of pay;

## Recommendations

- i) 74 on the discretion to be given to Chief Constables in respect of regional allowances and eligibility criteria on location and performance and
- ii) 83 on the abolition of CRTPs by April 2013 on which there was a difference in respect of the principle, but on which Staff Side was willing to make concessions in order to reach an agreement;

Recommendation 94 on EPAA and Recommendations 46-48 on compulsory severance which were issues of considerable significance which represented a fundamental and principled difference of opinion between Staff Side and the Official Side.

The Staff Side then turned to a consideration of each of the recommendations referred to the Tribunal, in the order of those groupings.

30. **Recommendation 54** (Constables' payscale) was welcomed in principle, but there was disagreement in respect of some aspects of the practical implementation. The Staff Side welcomed the reduction in the number of points on the scale but had three major concerns about the proposed payscale. The first was that the reduction in the starting salary from £23,259 to £19,000 in both WR2 and the Official Side proposal was likely to have an impact on the ability of the service to recruit people of the right calibre. In this context, the Scarman Report had highlighted the need for the police service to attract mature recruits. The Staff Side said that the average age of new recruits, in times when forces were recruiting, was 27 years but in the Staff Side's view the proposed starting salary was set at too low a level to attract mature applicants. The Staff Side proposal was for a higher starting minimum of £21,000, which was lower than the current rate of £23,259. Secondly, the Staff Side said that the proposed payscale was 'unbalanced'. The relatively limited value of incremental progression of £8,000 between point 0 and point 5 on the pay

scale compared with the much larger increase of over £9,500 between point 5 and point 7 was, in the Staff Side's view, disproportionate to any increased skills and abilities at those later points in service. The third area of concern for the Staff Side in relation to the proposed payscale was a likely increase in the gender pay gap in basic pay for serving constables. This had been 5.7 percent in 2009 and 6.6 percent in 2011. Quoting data from the 2011 PNB Census of Earnings, Hours and Length of Service, the Staff Side said that the Official Side's proposals would widen the gender pay gap further to between 7.5 percent and 8.1 percent in favour of men.

31. In order to try to address its concerns in relation to the proposed payscale, the Staff Side suggested an alternative payscale (see table 2) and an extension until April 2015 of the current two-year pay freeze imposed on the Federated Ranks in England and Wales. Staff Side proposed that:

- progression between pay points, for all officers other than those in their probationary period, would take place on the basis of one year's service and a satisfactory end-of-year appraisal;
- continued retention of the top pay point would depend upon the achievement of a satisfactory end-of-year appraisal;
- officers who were subject to formal proceedings for unsatisfactory performance would have their pay progression suspended or removed if already on the top pay point.<sup>3</sup>
- consideration be given to modifying the basis for the award and retention of the top pay point to the Specialist Skills Threshold - as proposed by Winsor - subject to a proper evaluation of roles being carried-out. This would provide a justification for differences in pay while also avoiding unfairness and potential legal challenge;
- consideration be given to linking progression beyond the new Pay Point 4 to the introduction of the Foundation Skills Threshold - also as proposed by Winsor – if the service developed and agreed a suitable basis and mechanism which supported such an approach.

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<sup>3</sup> Subject to the qualification that this did not include matters relating to attendance or conduct.

32. The Staff Side submitted that its alternative proposals demonstrated its commitment to engaging with the Official Side in putting in place pay structures which moved towards contribution and skills-linked pay for both serving officers and new entrants to the police service. The Staff Side said its proposed payscale better reflected the rate of acquisition and use of skills and abilities over a seven-year period. A comparison of the proposals made by the two Sides is shown below at Table 2.

**Table 2 :**

**Proposed Constables' payscale (for new entrants from April 2013)**

<b><u>Pay Point</u></b>	<b><u>Staff Side</u></b>	<b><u>Official Side</u></b>
0	£21,000	£19,000
1	£23,259 (fit for independent patrol)	£22,000 (With police experience)
2	£25,962 (on completion of probation)	£23,000
3	£27,471	£24,000
4	£30,066	£25,000
5	£31,032	£27,000
6	£33,753	£31,032
7	£36,519	£36,519

33. The Staff Side said that it proposed that at the end of the current pay freeze in April 2014, officers should move onto the appropriate reckonable step on the Staff Side scale, that is to say the point they would have reached in the absence of a freeze on incremental progression. The Staff Side said that its proposal would place the burden of pay restraint on those most able to bear it, those who had longer service, and ease the burden on recent joiners, many of whom were female. In order to fund its

alternative payscale, the Staff Side said that it would forego any pay increase for federated ranks beyond the current pay freeze, until April 2015. Their proposal would, the Staff Side said, cost £331m but when offset by the additional voluntary pay freeze being offered, would result in savings of £349m.

34. **Recommendation 112** – (On-call allowance) was a matter on which there was no principled difference of opinion, but which Staff Side was willing to forego in order to reach agreement in other areas through the re-allocation of pay. The Staff Side agreed with the Official Side that there were some specialist roles in small forces which required the force to have an on-call facility. However, the Staff Side did not agree that the introduction of a specific allowance at this time was an essential requirement. Moreover, the Staff Side did not agree that an on-call allowance could be used as an incentivizing tool, as many forces did not pay for deploying officers on-call anyway and the Official Side's average of 12 unpaid sessions per year then £15 per session thereafter did not provide adequate compensation for being on-call. The Staff Side acknowledged that on-call was a long-standing claim but said that in the current climate it would be better to direct funds to areas of greater priority. Further, the Staff Side said that the Sides had reached agreement on Recommendation 114 which called on the Sides to work together to compile clear management information on the incidence of on-call, which remained a voluntary and not a mandatory deployment.

35. Staff Side then turned to a consideration of two issues on which there was a difference in respect of the principle, but on which Staff Side was willing to make concessions in order to reach an agreement. The first of these was **Recommendation 74** relating to the payment of regional allowances and Chief Constables being given discretion to apply eligibility criteria based on location within force areas and performance. The Staff Side expressed its disquiet at the proposal to link performance to the payment of regional allowances. The Staff Side said that regional allowances were paid according to the location where an officer worked and performance was not relevant to that decision. The Staff Side, in

support of its position, also cited Incomes Data Services (IDS) which reported that it did not know of any private or public sector body, past or present, which allowed local management to vary location premia payable to an individual based on their performance. The Staff Side stressed that the issue of regional allowances was one of recruitment and retention not one of performance. Within force areas the Staff Side said that it would be prepared to consider reducing the current minimum level of South East allowance, subject to there being no reduction in the total value of the money currently allocated for the payment of regional allowances. The Staff Side argued that the WR2 recommendation referred explicitly to Chief Constables and did not refer to the titles used in the Metropolitan Police and suggested that this meant that London was not covered by it. Subject to the London allowance remaining outside the foregoing provision, and in recognition of the Official Side's long held reservations about officers on long-term sickness continuing to receive regional allowances after their entitlement to receive sick pay has ended, the Staff Side said it would also consider the removal of regional allowance payments in these circumstances – subject to the usual safeguards which would apply under the UPP.

36. **Recommendation 83** (CRTPs) was the second item on which the Staff Side said it was prepared to make concessions in order to be able to reach agreement. The Staff Side said that the CRTP payment was paid only to those officers who were entitled to it. Of those entitled to apply for CRTP, less than 90% applied and the success rate was 99%. Officers who did not apply usually did not submit an application because they had been given prior intimation that they would not be successful. This would suggest that there was an effective scheme already in place which related pay to performance. The Staff Side emphasised that CRTP was a part of officers' pensionable pay, not an allowance. The Staff Side said that while WR2 had proposed the abolition of CRTP, an appropriate replacement within the pay structure had not been put forward. The Staff Side said that in its previous award the Tribunal had recognised that CRTPs did form part of the pay structure and that it was more appropriate at that time to put a freeze on new applications rather than to abolish the payment.

Therefore, the Staff Side proposed that from April 2014, the CRTP be consolidated into the top point of the salary scales for all serving officers up to and including inspector ranks. For example, the top pay point for serving constables would be £37,731, incorporating the value of the CRTP (currently £1,212). The top of scale for new entrants would be £36,519. This would allow the pay structure to be reformed but without having a negative impact upon officers' pensionable pay. The top pay point would be subject to removal when an officer was subject to formal performance procedures. The Staff Side also said that its proposal to absorb CRTP into the payscale for presently serving officers would remove Official Side concerns that at the present time, relatively fewer women officers applied for CRTPs. Under its proposal, the Staff Side said, all officers who met the required performance standard (a satisfactory box marking in the end-of-year appraisal) would proceed to that pay point. The Staff Side said it was also prepared to demonstrate its commitment to the contribution and incentive based reform agenda by indicating that it would consider modifying the basis for the award and retention of the top pay point to the Specialist Skills Threshold proposed in WR2, subject to the provision that a proper evaluation of roles was carried out which would provide a justification for differences in pay and address unfairness and potential legal challenges.

37. Turning to the issues where there were fundamental differences between the Sides, the Staff Side outlined its response to **Recommendation 94** (EPAA). The Staff Side supported the idea that officers should be paid according to 'job-weight' and pointed out that superintendent ranks had in the recent past, received additional payments linked to the weight of their jobs. However, the Staff Side expressed its concern about the four qualifying roles identified in the Winsor Reports for the EPAA. These roles – Investigation, Public Order, Special Operations (Firearms) and Neighbourhood Policing<sup>4</sup> – were said to have been identified after the production of the 2010 National Strategic Assessment

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<sup>4</sup> Investigation – Professionalising Investigation Programme Level 2; Public Order – Public Order Levels 1 and 2; Specialist Operations (Firearms) – Authorised Firearms Officer Status; Neighbourhood Policing – three years in a neighbourhood policing team.

produced by ACPO for the National Policing Improvement Agency. The Staff Side considered that there were a number of issues around the Official Side's thinking on this which were of serious concern.

38. The Staff Side said that the four selected roles seemed, in its view, to be based largely on Winsor's own views of what constituted those roles which were the most important to the public, while overlooking the 24/7 emergency response role which was the first priority for forces. The Staff Side also expressed concern about the likely adverse effect on the gender pay gap within the police service. The Staff Side said that women made up 10 percent of firearms officers and 11 percent of public order officers. Gender breakdown data on the other two EPAA roles was unavailable. In the light of this, the Staff Side expressed surprise that Winsor had suggested that there would be a slight reduction in the gender pay gap if the EPAA was introduced.

39. The identification of roles within the rank structure that were deemed to be more important than others was an issue that needed to be discussed and it was arguable, in the Staff Side's view, whether such a hierarchy of roles should be created. For example, the Staff Side drew attention to the possible implications for flexibility between roles and tasks which it argued was much greater in the police than virtually anywhere else. The Staff Side also pointed to further uncertainty arising from the identification by WR2 of the four roles. For example, the Staff Side said that it had evidence that detectives in several forces who were qualified to the required level to receive an EPAA – in say specialist criminal investigation work – had been notified that their roles, whilst still being unchanged, would no longer require such accreditation. On the other hand, the neighbourhood policing role which – unlike the other three roles selected for EPAA - to date did not have any qualification attached to it, could now attract an EPAA payment if the officer simply served three years in a neighbourhood policing team. In conclusion, the Staff Side's view was that funding set aside for the EPAA should be used instead to fund the top pay point of the proposed Staff Side payscales, particularly as this pay point was expected to become the Specialist Skills Threshold

payment. Staff Side indicated its willingness to accept a Specialist Skills Threshold as proposed by Winsor, subject to a proper evaluation of the roles being carried-out which would provide a justification for differences in pay and avoided unfairness and the potential for legal challenge. The Staff Side reiterated its view that policing was a 'team game' and that team spirit would be threatened by the introduction of pay differentials which lacked a clear demonstrable justification following a proper evaluation.

40. Turning to **Recommendations 46, 47 and 48** (on Compulsory Severance), the Staff Side said that these three proposals in WR2 were seen quite differently by the two Sides. In the Staff Side's view, the Official Side saw them as essentially economic matters. However, for the Staff Side these matters, taken together, were of 'constitutional' importance. The Staff Side highlighted the possibility of increasing party political influence on the police service and its decision making as a consequence of the creation of directly elected full-time PCCs many of whom were sponsored by political parties. The Staff Side quoted a letter from Ms Shami Chakrabarti, Director of Liberty, addressed to the Right Honourable Damian Green MP, Minister of State for Police and Criminal Justice. In that letter, the Staff Side said, Ms Chakrabarti expressed her concerns about the possible implications of introducing compulsory severance for police officers in this context. In particular, the concepts of non-partisanship and accountability to the law allied to that of 'policing by consent' were stressed as being the foundations of policing in this country. The characteristics of neutrality and independence from political interference were said to have ensured, among other things, the preservation of human rights. Central to these arrangements was said to be the Office of Constable. In Liberty's view, shared by the Staff Side, the proposal to allow police officers to be made compulsorily redundant conflicted with the traditional status of the police constable as an independent, non-partisan legal officer. Referring to the independence of the police, Staff Side drew also on the comments of Lord Denning who

stated that police officers were: ‘...answerable to the law and to the law alone.’<sup>5</sup>

41. The Staff Side noted the Official Side’s comparisons with other groups of public sector workers such as the armed forces, firefighters, prison officers and nurses, who could be made redundant. It recognized that these groups and others also made distinctive and valuable contributions to society, but in the Staff Side’s view those comparisons were not valid. In the Staff Side’s view, a police officer’s independent status as an office holder coupled with the requirement to be accountable to the law both on and off duty was fundamentally different from the roles and responsibilities of the groups mentioned even though in the case of the armed forces and prison officers they were also denied the possibility of taking industrial action legally.

42. The Staff Side said that it was aware that British Transport Police (BTP) could be subject to compulsory redundancy. However, it pointed out that in practice this had never been used, which it understood was because of the existence and use of a generous voluntary severance scheme. This was in marked contrast, the Staff Side said, to the situation confronting police officers. Although it had recently agreed a voluntary scheme which was due to be introduced imminently, there was – as yet – no voluntary exit scheme in place for police officers. While officers in the BTP could – and did – apparently make sufficient use of the voluntary arrangements that were in place, police officers had no such option. Despite this, it was the Official Side’s intention to introduce compulsory severance provisions for the precise purpose of making officers compulsorily redundant.

43. The Staff Side said that it did not accept the Official Side’s justification for the introduction of compulsory severance on the basis that it was likely to reduce the uneven impact of the current financial difficulties across the whole workforce in the police service. It pointed out that in Winsor Part 1,

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<sup>5</sup> R v Metropolitan Commissioner, ex-parte Blackburn [1968]

various measures including the freezing of progression pay and the proposed abolition of CRTPs were intended to produce savings which would avoid the need to introduce compulsory severance and reduce redundancies of police staff. Despite this, the Staff Side said, the WR2 and the Official Side had proposed to introduce compulsory severance for police officers.

44. The Staff Side said that this was particularly worrying in the light of what many of its members saw as the increasingly politicized nature of police governance as illustrated by the new (elected) PCC posts. This new development and its possible implications for the independence of officers coupled with the proposed introduction of compulsory severance for police officers lay behind the Staff Side's suggestion that discussions on compulsory severance should be held after the introduction of a voluntary exit scheme as proposed in Winsor Part 1 and the amendments to Regulation A19. Indeed, the Staff Side had agreed to both these changes on the 'understanding' that compulsory severance measures would not be required.

45. In conclusion, the Staff Side said that it would urge the Tribunal to appreciate the strength of feeling among police officers affected by the proposals before it. There was a genuinely held belief among police officers that they were being treated unfairly by this government. Such was the strength of feeling among officers that many were demanding that they be given the right to strike. This sentiment, while not supported by the Staff Side, was nevertheless understandable. Officers had seen deterioration in their pay and their pensions - the former being frozen; the latter requiring higher contributions and reduced benefits under a new scheme. Many officers had lost SPPs and many believe that they would shortly also lose CRTPs which, in their view, they have earned and which formed part of their pensionable pay. Finally, many officers have expressed deep concerns that the introduction of PCCs will politicize the running of the police service and put at risk the independence of police officers.

46. In the Staff Side's view the significance of the proposed introduction of compulsory severance was of fundamental constitutional importance and had the potential to alter the nature of policing in this country. The Staff Side said that forces would, through the mechanism of a new voluntary exit scheme and amendments to Regulation A19, have sufficient workforce management tools at their disposal. The Staff Side reiterated its commitment to reform and rejected Official Side claims that the Staff Side was responsible for delaying the process of reform. In this context, the Staff Side argued for a phased programme of fair reform. The Staff Side supported the principle – as stated by the Official Side - that the Office of Constable was and must remain the bedrock of policing; that people should be fairly rewarded according to the skills they use, job weights and performance and called upon the Tribunal to find in its favour.

### **CONSIDERATIONS**

47. We thank the respective Sides for their clear, detailed and well presented submissions. We have given full and careful consideration to all the oral and written information presented to us. In reaching our Award we have considered only the evidence put before us by the Sides. In keeping with normal practice, this award does not make reference to each and every point raised by the Sides in their written submissions, orally at the two hearings and in answers to questions at those hearings. This should not be construed as an indication that they have been overlooked by the Tribunal. In the interests of fairness, the Tribunal has worked through each of the items placed before it carefully and in turn, to ensure that both Sides' arguments have been given full and proper consideration.

48. In making its award, the Tribunal had regard to the circumstances and background surrounding the matters put before it and attempted to take a balanced approach. The recommendations before this hearing, and those which were before the Tribunal in late 2011, derive from Winsor Part 1 and 2 respectively. Notwithstanding, the terms of reference for this hearing are distinct, and have been treated as such. However, the Tribunal was mindful of the relationship between the two parts of the Winsor Report (as were the Sides in their submissions) as well as

developments since the publication of Part 1 that were drawn to our attention.

49. Given the range and magnitude of the matters covered under Winsor Parts 1 and 2 it would have been surprising had there been no further referrals to the Tribunal especially as some of the decisions made by the Tribunal in its previous award were contingent upon the recommendations made in WR2. In the Tribunal's view the matters before it on this occasion, although fewer, were no less complex or far-reaching. The Tribunal was also mindful that the economic environment and outlook were not much improved and that the management of public expenditure continued to be extremely challenging. However, it was pointed out by the Official Side, in the course of its presentation, that the recommendations made in Winsor's Final Report were broadly cost neutral in the short term and therefore the debates around the various recommendations were less about the cost reductions and quantum of monetary savings, and more about the nature of reform.

50. As stated in its previous award the Tribunal was conscious of the very special place occupied by the police service in civil society, the reliance placed on it by citizens and the constraints placed upon police officers' lives arising from their work. Taken together, the recommendations contained in Winsor Part 1 and 2 comprise the single most comprehensive set of proposals for police pay and conditions seen in recent times. It is hoped that in the course of pursuing necessary savings and reform, the positive features of the police service, such as effective teamwork, are maintained.

51. In its previous award, the Tribunal had commented on the variable quality of some of the data presented to it by the Sides. It was encouraging and especially helpful that the Sides had on this occasion clearly worked hard together and been able to agree on the costs, savings and expenditures associated with the changes that each was proposing. Consequently, this made it possible for the Tribunal to estimate the costs and savings of its award with greater confidence. For the sake of

continuity and ease of reference, the Tribunal's deliberations as set out below, are in the order in which the WR2 recommendations were presented and discussed at the hearings.

**52. Recommendation 54** – Proposed new payscale for new entrant constables.

The Tribunal was made aware of three proposals designed to shorten the payscale for constables recruited after April 2013. One was contained in WR2 while the other two were submitted by the Sides. As the Official Side considered it desirable to modify the payscale recommended in WR2, it was the payscale submitted by the Official Side that was considered, together with that submitted by the Staff Side. Both Sides agreed that any new payscale should be shorter than that currently in place and this was reflected in their proposals; both had seven steps and both (subject to the Staff Side's proposal on the consolidation of CRTPs – see below) shared a common top point of £36,519. The Tribunal noted that the payscale proposed by the Staff Side would cost more than that of the Official Side. However, to offset this, the Staff Side's proposal assumed that its offer of a one-year (voluntary) extension of the current two-year pay freeze would be adopted. The Tribunal welcomed the spirit of a shared objective between the two Sides on proposals to shorten the payscale. However, there were important differences between them which emerged and which had a bearing on the Tribunal's decision.

53. In the Tribunal's view, the Official Side's payscale incorporated a welcome degree of flexibility at the bottom end by ensuring that the starting point was greater than recommended in WR2 and therefore higher than the starting salary paid to PCSOs in the highest paying areas. However, the Tribunal considered that the Staff Side's contention that the Official Side's payscale was 'unbalanced' because of the steep incremental steps between pay points 5, 6 and 7 had some merit. Furthermore, the size of the proposed incremental steps did not appear to be underpinned by a full analysis. Nor were the Official Side's arguments about the likely beneficial equality impacts of their proposal especially clear. For its part, the Staff Side payscale was somewhat smoother in its progress from

bottom to top. Further, its important offer to incorporate satisfactory performance-related appraisal as a prerequisite for progression was to be especially welcomed. In particular, the linking of progression to the introduction of the Winsor-proposed skills thresholds, subject to agreed evaluations of jobs, marked a major shift by the Staff Side in the direction of reform. The Staff Side's study of the equality and diversity implications also seemed to the Tribunal to have been undertaken with a greater degree of rigour but the degree of certainty of both Sides' analyses was not conclusive.

54. However, the Tribunal was not persuaded by the Staff Side's argument that the Official Side's payscale would deter more mature applicants or that it would fail to attract graduate applicants. The Official Side's evidence of the recruitment position, taking into account recent constraints on forces in this connection, did not appear to suggest that there was a problem in attracting good applicants. The Staff Side argument that graduates were unlikely to pursue a career in the police carried less weight because new applicants to the police force are not required to be qualified to that level. An increasing proportion of police officers were recruited from among police staff or experienced PCSOs or special constables. Moreover, the Official Side, like the Staff Side, has an interest in ensuring that the quality of entrants into the police service is maintained and does not suffer any deterioration. It appeared to the Tribunal that an assessment of the impact of the new entrant salary levels should be undertaken with this issue in mind, after a period of operation. The Tribunal was not convinced by the Staff Side's argument that incremental progression lost in the pay freeze should be restored after the freeze was lifted. Nor was it persuaded that a new shorter payscale, signalling a move towards a performance and contribution related system of pay, should be subject to an additional year's (voluntary) pay freeze. On balance, while some elements of the Staff Side's proposals in relation to this recommendation had much to commend them, the Tribunal found that, overall, the Official Side's arguments were more convincing. (The related question of CRTPs – Recommendation 83 – is considered below.)

55. **Recommendation 112** – the introduction of a national on-call allowance for the federated ranks from April 2013 at an allowance of £15 for each daily occasion of on-call after the officer in question has undertaken 12 on-call sessions in the year beginning on 1 April. This issue has been put before the Tribunal on a number of occasions. The Sides were clearly working together to try to produce workable management data and were to be commended for their collaborative efforts. As before, there did not appear to be great consistency in the manner in which forces in England and Wales operated on-call.<sup>6</sup> The Tribunal shared the Official Side's view that it was inappropriate following the withdrawal of SPPs for forces to be utilizing funds from other 'pots' of money to pay for on-call. On balance, the Tribunal accepted that at this juncture the case for introducing a national on-call allowance for England and Wales was clear. However, the Tribunal decided that the WR2 recommended rate of £15 per session should be paid but without the requirement for 12 unpaid 'qualifying' sessions. This was consistent with the practice adopted by some forces – as mentioned before the Tribunal in respect of two different forces. It would also avoid some administrative record-keeping. In making its award on this recommendation, the Tribunal was aware that there remains a paucity of reliable data and, in the Tribunal's view, the parties should continue to work together to develop better joint data. The matter should then be reviewed in two years in the light of progress made on data collection. The Tribunal's award is made on the strength of the assurance given by the Official Side that there would be no change to the basis on which officers undertake on-call. The Tribunal understands that being on-call is a voluntary not a mandatory activity.

56. **Recommendation 83** – The abolition of CRTPs.

In its previous award, the PAT had recommended a two-year freeze on new CRTP applications with those officers already in receipt continuing to receive them, pending the then imminent release of WR2 and its anticipated recommendations on longer term pay issues. In line with

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<sup>6</sup> The case in Scotland is somewhat different. A standard allowance of £23 is applied (the amount being based on data available to the Scottish police forces at the time the allowance was introduced).

Winsor Part 1, WR2 also proposed the abolition of CRTPs, this time with effect from April 2013, notwithstanding the PAT's earlier decision, and this was supported by the Official Side. The Staff Side argued that the many officers at the top of their payscales and in receipt of CRTPs, had exercised their entitlement to apply for the payment and its award indicated that their superiors considered their performance was to a standard that merited such payment. So, the Staff Side said, there was an element of performance appraisal built into the system, thus disputing the Official Side's concern that CRTPs were simply a further time-served element of pay. The Staff Side had argued strongly that CRTPs formed part of pensionable pay and that officers had made pension contributions on the combination of their basic salary and CRTPs - and in some cases had done so for many years. It said the Official Side, in line with Winsor, called for the abolition of CRTPs largely on the basis of cost. The Tribunal accepted that both Sides' arguments carried some force. At the time of its award on WR1, the PAT did not know the nature of the future pay structure which was to be proposed in WR2. The police service, like all public sector bodies was facing huge financial pressures but the removal in one step of the entire allowance of £1,212 from those officers in receipt of the payment was, in the Tribunal's view, too severe and a period of phased withdrawal was justified. Therefore, the Tribunal decided that the CRTP be withdrawn over three years with effect from April 2013 – April 2016. The freeze on new applications would therefore continue until CRTPs were phased out. (In April 2016, it is anticipated that eligible officers would be able to apply for the proposed Specialist Skills Threshold Payments.) Over a five-year period from 2013/14- 2017/18, the phased withdrawal of CRTPs should result in savings of £284m to the police service.<sup>7</sup>

**57. Recommendation 74** – The payment of regional allowances. There were several elements at issue in this proposal, of which the most surprising was the proposal to link performance to the payment of

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<sup>7</sup> The Tribunal has calculated the estimated costs and savings on this item (see Appendix 1) on the basis that CRTPs would be paid (to officers currently in receipt of them) as follows: from April 2013 - £900; from April 2014 - £600; from April 2015 - £300.

regional allowances. The Tribunal had no evidence before it of any organizations which linked performance to the payment of distinct allowances which related directly to the location of the place of work. The issue of performance should not, in the Tribunal's view, be intertwined with location. Poor or unsatisfactory performance could be dealt with in accordance with established procedures. In the light of the evidence presented, the Tribunal could find no reason to accept this part of the recommendation. The Tribunal did agree that subject to the relevant maximum levels, Chief Constables should be able to have discretion to pay varying levels of regional allowances in accordance with the retention needs of their forces. Thus, for example, in the case of Thames Valley, the allowance in Slough, due to its proximity to London, could be different from that in say Banbury, although both locations fell within the same force's boundaries.

58. The Tribunal noted that Recommendation 74 did not make reference to the Commissioner of the MPS. The Staff Side submitted that London should be excluded from any decision in respect of flexibility in the payment of regional allowances. In support of its case, the Staff Side quoted Winsor's view that the value of the London Allowance should not be reduced. The Official Side said that having carefully considered the Staff Side's arguments, the Official Side considered that the retention situation varied within Greater London and that the MPS should benefit from the move towards greater flexibility. If excluding the MPS led to unnecessarily high allowances in some locations, the Official Side had concerns that this could impact on the ability of nearby forces to retain officers. Further, the Official Side advised the Tribunal that the MPS wished to be included in the Tribunal's decision on this WR2 recommendation on regional allowances. On balance, the Tribunal was persuaded that London should not be excluded. For the avoidance of doubt, the Tribunal's decision on Recommendation 74 (as worded) is not intended to exclude the City of London Police Commissioner as London Allowance applies to the two London forces. The Tribunal makes this award on the basis that the levels of regional allowances do not vary between officers who work at or from the same location and that Chief

Constables and the Commissioners of the MPS and City of London will consult their local JNCs about changes before introducing them.

**59. Recommendation 94** – The introduction of an EPAA by April 2013. In the Tribunal’s view, there is considerable merit in the argument that some form of systematic assessment of the demands of police officer jobs and relative job weights would provide a secure foundation for fundamental reform of police pay structures. This has been the basis for pay modernization in other parts of the public sector including the NHS. The Tribunal was also mindful of the team-based work culture in the police service and the critical importance of effective team working. When officers performing different roles work together in teams, it is imperative that they are confident their pay (including role-related allowances) – relative to one another – is fair and can be justified on the basis of clear, relevant criteria. As is appreciated by both Sides, pay equality is also a key consideration in the reform of pay structures, not least because in recent years women and BAME officers have comprised a growing proportion of new entrants. Against this backdrop, it was disappointing that WR2 did not develop this ‘secure foundation’ in relation to role-based pay. In this regard, the Tribunal thought that the Staff Side’s contribution to the debate had been given insufficient consideration. On the proposed interim EPPA itself, it appeared to the Tribunal that the criteria used to determine the skills to be rewarded were not clear; and that it was not clear precisely whether the EPPA was intended primarily as a recruitment and/or retention payment in ‘priority functions’ or as a reward for skills acquisition. Moreover, it was acknowledged that there were gaps in the equality data. Consequently, the Tribunal doubted that the conclusions of the equality impact assessment could be relied upon. More broadly, acceptance of this recommendation would be likely to get further moves towards introduction of role-related pay off to a highly controversial and unhelpful start. The Tribunal also noted the level of the payment recommended in WR2 (£600pa) was half that recommended in WR1 and that the payment was intended to be an interim payment only, to be superceded by the introduction of the Specialist Skills Threshold payment (except in the case of Public Order, where – subject to the frequency of

deployment – the £600 would remain). In the light of these considerations and the Staff Side's persuasively argued reservations surrounding the introduction of the interim EPAA, the Tribunal could not accept this recommendation.

**60. Recommendations 46, 47 and 48** – the introduction of compulsory severance for police officers. The police service is facing and undergoing major changes – brought about by a combination of very substantial budgetary cuts which are unprecedented in recent times and the Winsor reports' recommendations. This set of recommendations is amongst the most radical proposals to emerge from the Winsor reports and would constitute a major change from the present. At present, with the exception of Chief Officers appointed on fixed-term contracts, police officers, as office holders rather than employees, cannot be made redundant or have their appointments severed, short of having attained full pensionable service. Officers are explicitly excluded from access to employment tribunals for unfair dismissal, and internal procedures are operated in relation to dismissals related to unsatisfactory performance and attendance and disciplinary matters. These recommendations should, in the Tribunal's view, be seen in that context.

61. The Tribunal recognized that both Sides were aware of the significance of these three recommendations although their approaches were very different. The Staff Side stressed the fundamental nature of the 'constitutional' changes being proposed. Deeply held concerns were expressed by the Staff Side about the implications for the change in the independent status of a police officer from that expressed by Lord Denning and cited earlier. The introduction of directly elected PCCs, often sponsored by political parties, added a new dimension to the running of the police service, possibly threatening the impartiality of the police service and influencing the way in which police officers may act given the availability of compulsory severance. As indicated earlier, the Staff Side argued that the consideration of this radical change should be deferred pending assessment of the impact of the PCCs and the new voluntary exit provisions. For its part, the Official Side saw these proposals essentially as

issues of workforce planning and as an addition to the suite of tools available to management. However, there was also an emphasis on the need for police officers to share some of the burdens inherent in the difficult economic climate which their police staff colleagues and others in the wider public sector were already bearing. The Official Side stressed the 'last resort' nature of the measures being proposed and indicated that they would welcome Staff Side involvement in the development of any new measures if introduced. The Tribunal appreciated that these three recommendations could be seen as part of a whole, but they each merited individual consideration.

**62. Recommendation 46** - The Police Regulations 2003 should be amended to create a system of compulsory severance for police officers with less than full pensionable service from April 2013.

The Tribunal acknowledged that compulsory severance (in the form of redundancy) was a common feature of the employment landscape. Police officers were the single largest group in the workforce excluded from measures applicable to the large majority of this country's civil workforce. At a time of prolonged economic pressures, including possibly further deep cuts in future public spending reviews, their continued exclusion is, in the Tribunal's view, very difficult to sustain.

63. That having been said, the Tribunal felt that the urgency for the approval and introduction of this measure as argued by the Official Side was overstated, even allowing for the fact that it would require primary legislation. There were a number of important areas which the Tribunal thought needed to be addressed. The first of these was the distinction between severance and redundancy. The Tribunal questioned the use of the term 'severance' but the Official Side was unable to explain the distinction in any detail. The analogous term 'redundancy' is more commonly used and possibly better understood in this context. It is also more narrowly and legally defined and is a term which employment tribunals have extensive experience of applying.

64. Assurances were provided by the Official Side to the effect that 'severance' would be a measure of 'last resort' to be used only at times of, for example, financial exigency; that there would be 'safeguards' and checks and balances in place to ensure that officers were not unfairly selected for compulsory severance / redundancy; and that an internal appeals process would be put in place. While there was some indication of what some of these safeguards may be – for example, access to employment tribunals in cases of alleged unfair selection for 'compulsory severance' and parliamentary scrutiny of the new process- there was a lack of detail provided in these important areas. The Tribunal would anticipate – bearing in mind usual employment practice – that the use of compulsory severance would be preceded by the operation of the new voluntary exit procedure, but this was not confirmed at the hearing. Similarly, questions would be likely to arise about other avoidance measures, such as the use of existing powers to redeploy officers between roles or geographically within a force area or other action such as reduced recruitment. The Official Side drew attention to a presently unresolved issue relating to compulsory severance and the new pension scheme but suggested that these and other issues could be sorted out once the decision to introduce compulsory severance had been made and the lengthy legislative process started.

65. The Tribunal noted that the experience of the BTP could not be drawn upon to address these issues, as voluntary applications for severance in that organization had to date rendered the use of compulsory severance measures unnecessary. The Official Side suggested that the success of voluntary severance may be influenced by the availability of compulsion in the background, and also that BTP experience showed that the availability of compulsion did not mean it would be used.

66. The Tribunal took the view that the Sides should be given more time, until July 2013, to conclude negotiations on Recommendation 46. This timescale would give the Sides a further opportunity to reach agreement on this important matter. Failing agreement, it would allow the Official Side to set out its detailed proposals concerning the procedures to be

introduced and the measures to be taken, for example the priority to be given to the new voluntary exit scheme to ensure that compulsory severance is used only as a last resort. This timescale will bring this issue into line with that set by the Home Secretary for the remaining WR2 recommendations that fall within the scope of the PNB.

67. The Tribunal considers that there is little to be lost – and potentially much to be gained – by extending the time schedule by six months or so to July 2013. It is anticipated that the voluntary exit scheme will have been introduced by that date and the Staff Side's willingness to participate in meaningful negotiations of the main features of the safeguards, checks and balances, definitions, etc., in the Official Side proposals will have been established.

68. **Recommendation 47** - The Police Regulations 2003 should be amended to provide for the payment of financial compensation to police officers with less than full pensionable service who leave the police service by reason of compulsory severance. Forces should be empowered to offer financial compensation on the same terms as are available under the Civil Service Compensation Scheme; and

**Recommendation 48** - Officers who have been subject to compulsory severance should have access to employment tribunals if they wish to allege that their severance has been unfair.

These two recommendations are very closely linked with the outcomes arising from the extended discussion until July 2013, as awarded above, between the Sides in relation to Recommendation 46. Until the matters highlighted in paragraphs 63 and 64 above are addressed, the Tribunal decided that it was not appropriate to make decisions on recommendations 47 and 48.

69. In considering the recommendations put to it, the Tribunal, as before, calculated its own schedule of costs and savings, based on the figures supplied by the Official Side. These calculations are included at Appendix 1 and suggest that net savings are approximately £142m over the period 2013-14 to 2017-18. This represents a figure of approximately £47m in

additional savings over the Official Side's calculations in relation to its proposals .

### **PAT AWARD**

The Tribunal's Award is set out below. The full text of each of the recommendations from the Winsor Report Part 2 referred to us, is given in our terms of reference in the Introduction and not repeated here. The Award relates to the exact wording used in each recommendation and is in the same order as dealt with in the hearings and in the main body of this document.

**Recommendation 54** – Proposed payscale for new entrant constables. The Official Side's proposed payscale is ACCEPTED.

**Recommendation 112** – the introduction of a national on-call allowance. MODIFIED. The rate of £15 per session is to be applied but there is to be no requirement for any 'qualifying' sessions.

**Recommendation 83** – The abolition of CRTPs. MODIFIED. CRTPs are to be phased out over three years from April 2013 - April 2016.

**Recommendation 74** – The payment of regional allowances. MODIFIED. Chief Constables and the Commissioner of the Metropolitan Police are to be given discretion to vary levels of payment up to the maximum, but with no performance linkage.

**Recommendation 94** – The introduction of an interim EPAA allowance. REJECTED.

**Recommendation 46** – The introduction of a system of compulsory severance for police officers with less than full pensionable service from April 2013. NO DECISION. The Sides are to be given up to July 2013 to conclude negotiations on this issue.

**Recommendation 47** - The payment of financial compensation to police officers with less than full pensionable service who leave the police service by reason of compulsory severance. Forces should be empowered to offer financial compensation on the same terms as are available under the Civil Service Compensation Scheme. NO DECISION, pending the outcome of negotiations relating to Recommendation 46.

**Recommendation 48** - Officers who have been subject to compulsory severance should have access to employment tribunals if they wish to allege that their severance has been unfair.

NO DECISION, pending the outcome of negotiations relating to Recommendation 46.

## APPENDIX 1

### PART 2 – COSTS AND SAVINGS SCHEDULE

	<u>13/14</u>	<u>14/15</u>	<u>15/16</u>	<u>16/17</u>	<u>17/18</u>	<u>TOTAL</u>
<u>SAVINGS</u>						
Abolition of CRTP	-18	-36	-59	-84	-87	-284
New Constables Pay Scale	-2	-9	-22	-42	-68	-143
Total Savings Part 2	-20	-45	-81	-126	-155	-427
<u>COSTS</u>						
Removal of Pay points 6,7,9.		3	12	47	80	142
Savings lost from progression freeze		-1	-2	10	35	42
Removal of point 0 on sergeants scale		0.3	1	2	3	6
On Call Allowance	19	19	19	19	19	95
Total Cost Part 2	19	21	30	78	137	285
Net Savings Part 2	-1	-24	-51	-48	-18	-142