

POLICE ADVISORY BOARD FOR ENGLAND AND WALES

Minutes of the 103rd meeting

10.30 am 22nd April 2016

Home Office, 2 Marsham Street, London, SW1P 4DF

Present:

Elizabeth France – Independent Chair

Association of Police and Crime Commissioners (APCC)

Ian Johnston

Andrew Tremayne

Police Federation of England and Wales (PFEW)

Andy Fittes

Geoff Stuttaford

Dave Bamber

Police Superintendents' Association of England and Wales (PSAEW)

Tim Jackson

Gary Buttercase

National Police Chiefs' Council

Mark Johns

Francis Habgood

Chief Police Officers' Staff Association (CPOSA)

Shabir Hussain

Home Office

Peter Spreadbury

Harriet Mackinlay

Angela Chadha

Mayuri Pandya

Police Staff Council - Trade Union Side (PSC-TUS)

No representative

Metropolitan Police- Trade Union Side

Valerie Harris

Metropolitan Police- HR

Sarah Murphy- Brookman

PABEW Secretariat

Chantelle Fields

Hannah Scarr – Acting Secretary

Observers/ in attendance

Matt Johnston – College of Policing

Walter Myles – Department of Justice (Northern Ireland)

Joan Donnelly – PFEW

Karen Pinfold – PFEW

Mariam Conway – PFEW

Elaine Parker - PFEW

Welcome and apologies

1. The Chair welcomed everyone to the meeting; apologies were given on behalf of Fiona Taylor.
2. The Chair thanked Ian Johnston for his valued contribution to the group as this will be his last meeting
3. The Chair apologised to members for the delay in issuing minutes from the previous meeting. **Secretariat agreed to re-circulate minutes once members have provided comments. Secretariat Action Point.**

Matters arising

4. Members discussed the action points from the previous meeting and updates were provided as outlined in the log (see table below).
5. Workforce planning and management data – PFEW noted that this item had been removed from the agenda. Andy Fittes stated that the points raised in the PFEW paper tabled at the PABEW meeting in July 2015 about the quality and reliability of the data collected from forces remained valid. It was not only staff associations

saying this, he pointed out that the NPCC had had to survey forces for data to include in its submission to the PRRB. The Home Office undertook to submit the PFEW paper to the next ADR Board meeting and to share copies of the list of data currently collected through the ADR and census process for comment. **Joan Donnelly welcomed this suggestion as the purpose of the PFEW paper had been to seek a more interactive process. ACTION Home Office**

6. The Chair informed members that the Home Secretary made a Written Ministerial Statement to Parliament on 20 April regarding the triennial review of the Police Advisory Board. **Chair proposed that the relevant recommendations from the Triennial Review should be tabled on the July agenda; this was agreed. Secretariat Action Point.**

Police Pensions

7. Members had no further updates or questions regarding this agenda item.

Scheme Advisory Board (SAB)

8. The Chair informed members that as the last meeting had taken place on 11 April the minutes were not yet available. The Chair gave an oral update confirming that the Home Office and NPCC Coordination Group had updated the Board on pension challenge. The Chair also informed members that the Board would ask scheme administrators to clarify how they propose to comply with the recent Pension Regulator's guidance on information provision regarding annual benefit statements.
9. The Chair recapped the governance discussion regarding the Consultative Forum (PPCF) and the SAB which was intended to identify a clear distinction between the two meetings. Members had agreed that the SAB has a formal role with functions set out in statute, whereas the PPCF has a more discursive role and remained a place for broad discussion and information sharing.

Police Pensions Consultative Forum (PPCF)

10. The Chair informed members that as the last meeting had taken place on 11 April the minutes were not yet available. The Chair provided an oral update on the key topics, explaining that the Home Office confirmed they would be advising Ministers shortly on the 2.25 restriction on commutation in the Police Pension Scheme 1987. The Chair also informed members that the Home Office were working with their Legal Team to ensure priority amendments are made to the 2015 pension scheme.

11. In addition, the Chair told members that the Home Office confirmed that Ministers had agreed to extend to officers on temporary promotion to the superintending ranks the flexibility to offer a non-pensionable payment (in lieu of pensionable pay) to help manage the effect of the reduction in annual allowance (AA) limits. Furthermore, the Chair reported that Police (Injury Benefit) Regulations 2006 and the Police Regulations 2003 would be amended to state explicitly that Employment and Support Allowance (ESA) would be deducted.
12. PFEW asked whether the HO had discussed with the NPCC the interaction with capability dismissal proposals and pension implications. The Home Office confirmed that they had reviewed the Federation's letter dated 31 March 2016 and that they would provide a summary sheet which affirms what the existing legislation says and the current Home Office position. **Chair asked the Home Office to circulate this summary to all PABEW members. Home Office Action Point.**

Capability Dismissal (and ongoing review of Limited Duty Regulations)

13. The Chair said that a number of papers had been circulated to members on this issue. These were:
 - NPCC and HO letter to forces dated 19 April 2016 on collection of data on limited duties to inform PAB review
 - final NPCC draft proposal for capability dismissal
 - PFEW comments on NPCC draft proposal for capability dismissal
14. The terms of reference of the PABEW working group made clear that it would obtain advice from members on the capability dismissal proposal and report findings back to PABEW. Mark Johns, on behalf of the NPCC was meeting that commitment and told members that where a consensus had not been reached issues would be kept under review by the technical working group. In addition, Mark Johns informed members that the NPCC considered that the term operational resilience needed to be reviewed in line with limited duties by the Home Office Legal Team. Harriet Mackinlay said that she would respond point by point to the comments provided by PFEW when the issues had been considered by the HO drafting lawyer.
15. Mark Johns confirmed that finer details of this proposal were still being considered and that there would be a further opportunity for members to influence the final guidance. Andy Fittes acknowledged that the technical working party had made some progress however there remained a number of significant areas of disagreement. It was not clear from the paper provided to the meeting what PABEW was being asked to do – was it to approve the NPCC proposal for submission as PAB advice to the Home Secretary or was the NPCC asking for PAB's views on its proposals that it intended submitting directly to the Home Office.

16. The Chair responded that the PABEW would have an opportunity for formal comment once regulations have been drafted. Andy Fittes said that it would be better to consider both draft regulations and determinations and NPCC guidance to forces at the same time. PFEW had sought Counsel's advice and there were a number of significant policy areas that required clarification before PABEW was in a position to advise the Home Secretary. These included the meaning of capability dismissal, the circumstances of when it would be used and the test that would be applied, PFEW for instance had not agreed to the removal of two years, the appeal process, compensation arrangements and how the NPCC capability dismissal proposals fit with the scheme of delegation previously agreed by the PABEW. He acknowledged that there was always likely to be areas of contention however PFEW had engaged in this process and hoped that further progress could be made through a technical working group where both the NPCC proposal and the draft regulations and determinations could be considered in tandem. He said that PFEW would find it helpful if the NPCC could provide examples of circumstances when capability dismissal would be used.
17. Francis Habgood said that this remained 'work in progress', that it was not the finished product and the points contained in the detailed commentary provided by the PFEW would be taken into account as the work developed. He confirmed that at this stage PABEW was not being asked to sign off the draft process. Regulations needed to be drafted. Home Office lawyers would have both NPCC proposals and comments from PFEW and others. There would then be the usual consultation process. Once regulations had been made the draft guidance would need to be looked at again.
18. Members agreed that they were content for Home Office lawyers to start drafting the regulations based on the draft guidance. The Chair asked whether the Home Office could say how long they expected the process to run. **Secretariat to liaise with Home Office and NPCC to identify when the draft regulations would be available. Secretariat Action Point.**
19. Members noted that the NPCC and the HO had written to forces on 19 April 2016 regarding the collection of data to inform the PABEW's review of the implementation of the limited duties provisions which was due in Autumn 2016.

PABEW Discipline Sub-Committee

20. The Chair explained that the last meeting was held on 14 April and that minutes were not yet available. The Chair informed members that the Policing & Crime Bill had passed its Second Reading without division and had now entered Report Stage. The Chair also told members that the Home Office hoped to have Royal Assent by November and that this would determine when revised regulations were available for the Sub-Committee to consider. In addition, the Chair told members that Home Office would be sharing a sample of the data they intended to collect through the ADR from

forces on misconduct and outcome. Members confirmed that they had corresponded with the Home Office on this.

PMAB Review

21. The Chair shared advice received from the General Medical Council (GMC) regarding Dr Broome's concerns. The GMC view supported the PABEW's provisional position that there was insufficient evidence to support a case for any change in status of Selected Medical Practitioners (SMP). **The Chair confirmed that she would respond to Dr Broome accordingly. Chair Action Point.**
22. Matt Johnston (College of Policing) questioned whether the case law that GMC had cited was comparable, as in that instance the doctor was used as an expert witness. While the difference was noted it was agreed that this did not make a case for PABEW involvement. However Matt Johnston added that the lack of consistency of practice and the variable level of guidance and training amongst forces was a major problem for SMP's. The Chair confirmed that in the response letter to Dr Broome she would make clear that SAB would work to encourage improved consistency.

Item 11 - Any other business

23. **The Chair said that the secretariat would provide a first draft of the annual report in July. Secretariat Action Point**

Item 12 - Date of next meeting

24. The next meeting will take place on 28 July 2016 at the Home Office, Marsham Street.