

POLICE ADVISORY BOARD FOR ENGLAND AND WALES
111th Meeting
10.30am, 26 April 2018
Home Office, 2 Marsham Street, London, SW1P 4DF

Present:

Independent Chair

Elizabeth France

PABEW Secretariat

Zahra Torabi

The Association of Special Constabulary Officers (ASCO)

Ian Miller

Association of Police and Crime Commissioners (APCC)

Andy Tremayne

Ron Hogg

Police Federation of England and Wales (PFEW)

Andy Fittes

Andy Ward

Joan Donnelly

Police Superintendents' Association (PSA)

Dan Murphy

Kate Halpin

Chief Police Officers' Staff Association (CPOSA)

Gareth Wilson

Shabir Hussain

Home Office

Peter Spreadbury

Nick Lawrence

Angela Chadha

Emma Plummer

Martina Petronio

National Police Chiefs' Council (NPCC)

Francis Habgood

Metropolitan Police

Mark Pomroy

Metropolitan Police – Trade Union Side (MP TUS)

Valerie Harris

College of Policing

Sam Peach
David Tucker

Independent Office for Police Conduct (IOPC)

Kathie Cashell

Observers/in attendance

Diane Mulligan - Department of Justice (Northern Ireland)
Lorraine Lucas - Department of Justice (Northern Ireland)
Karen Pinfold - PFEW
Mariam Conway – PFEW
John Partington – PFEW
Luke Edhouse – PFEW
Kevin Courtney – NPCC

Welcome and apologies

1. The Chair welcomed members to the meeting. Apologies had been received from Unison.

Minutes of the meeting of 31 January 2018

2. Minutes from the last meeting were agreed with no further amendments. The Secretariat is to arrange for a final version of the minutes to be uploaded to the webpage, in addition to circulating a final version to members. **Action point: Secretariat.**

Matters arising and action log

3. Members discussed the action log and this was updated.
4. The Secretariat explained that Emma Plummer (Home Office) was looking to schedule a date for a further meeting on workforce data/strategy (action point 2) and had emailed the relevant individuals to try and secure a suitable date.
5. On action point 6, the Secretariat advised that a date for the PABEW secondments technical working group had now been set for 4 June. This would be added to the agenda for the next PABEW meeting in order for those who attended to provide feedback. **Action point: Secretariat.**

Licence to Practise

6. Dave Tucker (College of Policing) updated the Board on the College's progress with 'Licence to Practise,' and said it would be useful to hear views on the proposed model and the ways of implementing it. He explained that the College had been looking at a qualification to perform tasks (based on a professional delivery model) and ensuring high risk/harm roles had support to deliver high quality services. They had begun by looking at Public Protection leaders within police forces and

were developing a learning programme for them, led by a Superintendent in the Metropolitan Police. This might become the model for a Licence to Practise in this area. He said the College had undertaken significant consultation, during which there had been concerns raised over establishing Licence to Practise in regulations. David Tucker said that the College was not seeking a regulatory change at this point in time and that the work was being taken forward through voluntary adoption. It might be augmented by regulation or code of practice in the future. At the College Board, there had also been concerns about the impact for those who were unable to meet the standards required. While officers and staff should be supported there had to be a significant question about whether they should be in a specific role, identified for a License to Practise, if they could not complete the qualification requirements. David Tucker said this had been concern raised particularly on behalf of police staff, the College had been in discussions with Unison and would look to raise this at Police Staff Council. He welcomed views from PABEW on the model and other aspects, including ways to take the work forward. He also said it would be helpful to hear views on regulations if the College decided to move forward with this option in the future. The Chair agreed that it was timely for PABEW to give their views, given that the College was in the process of developing the model.

7. Valerie Harris (MTU) pointed out that the College would not pick up the Metropolitan police staff associations by going through Police Staff Council. She asked that they also come through the Met Trade Union side.
8. Andy Fittes (PFEW) said the PFEW were pleased that the College would not be introducing change to regulations, but they wanted to know how the College would achieve consistency of practice. These were high risk/harm posts therefore it was important to achieve a degree of consistency after the initial pilot. The paper from the College stated that an individual would be identified for appointment with a few months' notice. PFEW had concerns about access to licensed roles and asked how the College would ensure that officers with protected characteristics were not disadvantaged. He further questioned whether the College would be looking to compile a register of who was licensed. In the College's paper it had been proposed that if a licence holder moved roles the licence would cease to be valid. He considered this would present some resilience issues, effectively limiting Chief Officers' discretion to post people where they wanted.
9. Andy Ward (PFEW) questioned what the relationship with the conduct and performance provisions was and asked for instance how licence to practise fit with the different stages in the performance procedures. This was an issue that the PABEW Discipline Sub-Committee would need to consider.
10. Gareth Wilson (CPOSA) asked about the synergy with other programmes. For instance, how would it fit with PIP. Ian Miller (ASCO)

also agreed that training and development opportunities should be looked at.

11. Francis Habgood (NPCC) considered that not pursuing a regulatory route for Licence to Practise was the right direction. He understood the point about consistency but said it had been achieved in relation to firearms and public order. He questioned whether the accreditation process for forensic suppliers had been thought through, and pointed out that the College's paper had suggested there might be some overlap with pay issues. However, this was a matter for the employer, not the College, and nothing had been included around Licence to Practise in the review body submission. If there were pay implications then that would be a matter for NPCC to progress.
12. Katie Cashell (IOPC) said that from their perspective, consistency was important, as was in understanding how this would interact with other processes around performance and conduct. At the moment it was not clear who would have the power to uphold/remove licences. She suggested the College could look at scenario testing for clarity about how they interact. There was a lot of work under legislative reform so it would be good to ensure that these processes aligned. The Chair acknowledged that although there was no formal involvement for PABEW at the moment, there were some interfaces with the Discipline Sub-Committee which would need to be monitored.
13. David Tucker responded to the points made by the group. On the licence list, he said the plan was not to make it public. However, if asked, they would need to directly say whether an individual was on that list. He explained that there was a provision in the model for use of those without a License in exceptional circumstances, and a gap analysis would need to be done to see if greater development was needed. He said the College would work with forces on this as it would vary from role to role. In relation to the standards issues, he said this was about professional development and having a good PDR process; ensuring that those individuals identified to work in certain areas were equipped to do so. He said he understood the point about consistency in firearms/public order, but they were not seeing the same level of consistency in other areas. In terms of pay, he advised the College were not looking at the link between Licence to Practise and pay yet, but they could see it was on the horizon. He also advised the College wanted to do stress testing and this was something they would be looking into. Francis Habgood emphasised again that pay was not a matter for the College.

In terms of a timeframe for the pilot, David Tucker said the College had completed pilots in forces, and they should receive feedback from these in July. On the Public Protection leader's pilot, the learning programme would be completed in October. This would enable the College to get a sense of how well the programme works, then say to people they would be able to apply for a licence by the end of the year/beginning of next year. David Tucker said this began as a discussion with the College on

how they could support Superintendents going into Public Protection leader roles, and it was thought that a new learning programme needed to be developed for individuals taking on high risk/high harm roles. Dan Murphy (PSA) advised that the Superintendents' drive was around the learning and support, and the disciplinary and punitive elements created by the Licence to Practise were a concern.

14. David Tucker concluded by acknowledging that the College would need to work hard to develop consensus around the roles and requirements, and understood that this would not be straightforward. They were focusing on Public Protection leaders at the moment and understood that there was workforce related development going on, and they did not want to add to that burden.
15. The Chair said it had been helpful to have had this information presented to PABEW, and reminded the board that there was no formal role for them at the moment however, because of the link to Discipline, they would keep an eye on the model and look at how it interfaced with changes to the discipline/misconduct regulations.

PEQF: Sergeants to Chief Officers

16. Sam Peach explained that the College had been due to publish a consultation on the 24 April, in relation to the learning requirements/qualifications for ranks through to chief officers. She advised they had delayed publishing the consultation because of the outcome of discussions at Chiefs' Council. Priorities were around work transformation, therefore the consultation had been delayed for about a month, and they were now hoping to publish at the end of May. She explained while this did not necessarily fall within PABEW's remit she wanted to raise for awareness. The consultation would capture views around learning requirements for sergeants through to chief officers. There were a number of questions included about implications and challenges. There would be a document which set out the thinking, a document which would provide additional information/context, FAQ's and preliminary equality/impact assessment. The consultation would be open for 6 weeks.
17. Andy Fittes said he understood a lot of work had gone into this. He pointed out that a number of consultations were due to be published as summer approached, each open for 6 weeks. This presented difficulties. He urged early publication of the consultation in order to get a comprehensive response.
18. Francis Habgood considered it useful to provide an update of the work discussed at Chiefs' Council in relation to what was happening across workforce and pay reform, and proposed to provide a full update at the next PABEW meeting. He explained the discussion was around identifying the key priorities of workforce reform including implementation of the leadership review recommendations. Pay reform would follow on

from workforce reform. Mike Cunningham, the College CEO, had been looking at areas of work which were in train. The priorities were seen to be entry routes into policing and professional development programmes. Francis Habgood also explained that the advanced practitioner pilots were coming to an end and a review of what those looked like would now be necessary. They would also be benchmarking constable ranks to consider the impact on the pay framework, as things had changed since Winsor's work 10 years ago, what is unique about policing would need to be reassessed. For example, accountability is much more of a focus and there are restrictions to be accepted around the use of social media. There was a need to consider what all of this was worth. Other ranks would also be benchmarked and additional competencies and skills considered. Francis Habgood acknowledged that the pace had changed, and this would be significant over the next few months given that outcomes would need to be fed into the spending review and Government reassured that progress was being made.

19. Shabir Hussain (CPOSA) questioned whether the NPCC were still keen on flexible exit points. Francis Habgood advised that there was more focus on entry, at this stage, but confirmed he was still keen on flexible exit points. The Chair considered this would be an area worth revisiting in another context.
20. In terms of the PEQF consultation referred to by Sam Peach, Dan Murphy commented that while it posed open questions to forces it made no proposal for a way forward; he considered that would make responding difficult by the staff associations. Sam Peach said the consultation was intentionally open, to seek the widest possible range of views on what should be happening. The College did consider putting out specific proposals but had decided to take the consultation back a step; they were not trying to lead, but trying to provide options. Once views and feedback had been received this would be analysed and then the College would come back with proposals. They did not intend to formally consult on these proposals but would discuss them with key groups before putting them to the College Board for approval.

PABEW Terms of Reference and College Remit

21. The Chair advised that she had continued to meet quarterly with Sam Peach ahead of PABEW meetings, and this would continue. The Secretary advised that she intended to meet with the new College Head of Governance (Helen Elderfield) as soon as convenient, to discuss a process for mapping out what consultations from the College needed to be brought to PABEW. Sam Peach offered to put the Secretariat in touch with Helen to arrange an initial meeting. **Action point: Sam Peach/Secretariat.**
22. The Secretary also advised that the PFEW had shared a helpful table which illustrated the terms of reference of different fora and where matters relating to members' terms and conditions should be discussed.

The Chair considered this would be a helpful tool to use when mapping out what needed to come to PABEW from the College.

Capability Dismissal

23. The Board moved onto discuss Capability Dismissal. The Chair explained that an initial working group had taken place earlier in the year and following this, she had been asked to come in as independent Chair for the next working group which was scheduled for the 16 May. She said that issues had been raised in relation to compensation, which had not originally been on the agenda, and was concerned that progress should not be stalled by these additional considerations.
24. Andy Fittes said this was a difficult area and referred to a letter the PFEW had sent to the Home Office on 5 April. He said it would be useful to have responses to some of the questions raised. He understood that the Chair was concerned to see progress, but the staff associations would not accept that consideration of compensation should be separated from consideration of the capability dismissal proposals.
25. Peter Spreadbury (Home Office) said that the questions on compensation were considered and rejected in 2012/13 by PABEW, and he was disappointed they were being raised now; there was a lot to take forward and discuss and if any parties wanted to put compensation on the agenda then that was fine, but he did not consider it should hold up progress.
26. Andy Fittes considered there had been breaks in the conversation around capability dismissal over a long period of time. It was important to understand what the driver was for the introduction of capability dismissal, for instance was operational resilience still the reason.
27. Francis Habgood said that the issue of capability dismissal had come up in conversations about workforce reform. Chiefs said that capability issues needed to be addressed, and while he agreed that resilience was an issue, but there was still a requirement to have a mechanism for this. He hoped that the PFEW were not working up detailed proposals about what compensation should look like, as the working group on 16 May should be about the policy. Dan Murphy asked Francis Habgood what the NPCC view was on whether the Chiefs supported a compensation package. Francis Habgood said that he could not say as he had not consulted with Chiefs and any view would only be his own.
28. Shabir Hussain considered that the pension regulations might need to be re-examined in the light of any policy change. Dan Murphy said that capability dismissal did not fit well with the drive around the mental health and wellbeing agenda. People needed to understand what the likely compensation package would be, and know the process was fair. Peter Spreadbury was concerned about an inappropriate linking of issues. There had been many discussions around supporting police officers, but

this was not the time to look at ill health retirement as this was already established. While compensation could be discussed progress should not be held up by bringing in a new issue to the conversation. Andy Fittes stated that he had not yet had a response to his letter dated 5 April and in order to have a constructive working group meeting a response was needed beforehand. In addition, he also highlighted that capability dismissal was intended to be a 'no fault exit,' without any form of compensation those officers would be disadvantaged and in a worse situation than others exited through other routes. Capability dismissal would have huge financial implications for those officers. The PFEW considered the capability dismissal proposals were a high risk area for litigation.

29. The Chair pointed out that the 16 May was only 2 weeks away, and acknowledged the points made by members of the Board. She suggested that the date might need to change but did not want to delay it for too long. Andy Fittes stressed that a policy decision was needed before work continued. Ron Hogg (APCC) said he would like it to be agreed that compensation packages could be included as part of the conversation. Peter Spreadbury said that if the group wanted to put something on the agenda the Home Office would discuss any arguments put forward. He noted that there was not a compelling case for putting compensation on the agenda 5 years ago, and he was not sure that would be different now.
30. The Chair suggested that the Home Office might respond to the PFEW's letter, with the view of re-scheduling the 16 May meeting to early June. This response could then be the basis for the meeting. She asked the Home Office and NPCC whether there was any broad scope for compensation. The Home Office advised that the current position was that there would be no compensation package linked to capability dismissal. The Chair suggested that key arguments could be brought to the meeting as to why there should be a compensation package.
31. The Home Office agreed to respond to the PFEW's letter and look to schedule a technical working group meeting for early June. **Action point: Home Office.**

Regulations and Determinations

32. The Chair advised that an updated version of the regulations timetable had been circulated by the Home Office. Members did not have any comments on this.
33. Sam Peach wanted to raise a regulatory change the College were looking at in relation to recruitment. She explained the College had received a request from forces to look at the age of application (currently set at 18) to become a police constable. Forces had said it would be helpful if the regulation could change so that individuals could apply at age 17. Sam Peach advised that the College was looking into this to

understand the implications, and she wanted to flag it to PABEW at this stage. They had not committed to making this change but it was likely they would take it forward, and she said it would be helpful if PABEW could let her know of any issues.

34. While the Board were on the item of regulations and determinations, Andy Fittes said that the PFEW were waiting for the Children and Families Act to be applied to regulations, and pointed out that there were officers who were awaiting this change. In the interim they had worked through issues by speaking to the Home Office and the relevant force, and had resolved them without needing to litigate. He was grateful to the team who had helped with this.

Police Pensions

35. The Chair updated the Board on the key issues discussed at the most recent UK Police Pensions Consultative Forum and Scheme Advisory Board, which had taken place in Belfast on 16 April.

UK Police Pensions Consultative Forum

36. Feedback received on the pensions calculator had been around usability. Members had agreed to collect any feedback received and share with the Forum to consider what could be done. The Chair also said that the Home Office was looking to see if they could check how many 'hits' the page with the calculator had received.
37. The Department of Education had published their response as a result of the Walker vs Innospec Ruling. The Home Office were still considering this and hoped to have a clear position by July.
38. The Home Office had circulated a consolidated version of the Police Pension Schemes and Additional Voluntary Contributions (Amendment) (England and Wales) Regulations 2018. This included the buy-back of unpaid family leave, AVCs and VES. They were also due to consult shortly on the Police and Fire Pension SI (VSP, Brewster and 2015 scheme amendments), and would be looking at the list of outstanding amendments to the 1987 and 2006 schemes once the current SI's have been through.
39. The Superintendents' Association raised 2.25 commutation and asked that the Home Office re-visit the possibility of putting this to the Minister again. The Home Office agreed they were happy to put this to the Minister again if there was a unified view. It was agreed that NPCC would work with the staff associations to reach a shared position.
40. The most recent set of opt-out data was discussed. It is important data which helps the group to understand, and if necessary address, the problem so it was disappointing to learn that The Home Office would no longer be collecting this data. The Forum were concerned with this decision and after some discussion, it was agreed that Kevin Courtney

would discuss with the Home Office how they could work with NPCC to continue to collect the data.

41. There was a lengthy discussion around receiving responses from HMRC/HMT and the difficulties this was causing. It was agreed that the Home Office would put together a list of outstanding issues and see with which of those SAB could help. The Chair reported that she had written to HMRC regarding the lump sum excess and awaited a response.
42. Shabir Hussain asked whether the Home Office would also be consulting Pension Administrators on the SI's. Nick Lawrence (Home Office) advised that they would.

Scheme Advisory Board

43. Kevin Courtney (NPCC) advised that The Pensions Regulator (TPR) had increased their engagement with police schemes and were trying to attend as many pension board meetings as possible, presenting on priorities and the outcome of their survey, the results of which were about to be published. He said that NPCC were planning a joint training event with the Fire SAB for 9 May, and they would bring the results of the latest survey to the next SAB.
44. Kevin Courtney highlighted that there was a need for local pension boards to meet more frequently based on the survey results. There were still general concerns about the quality/integrity of pensions data (GMP reconciliation, valuation). Police schemes were making progress but leeway from the Regulator was not likely to be given for much longer,. The Home Office were still waiting for HMT direction on Milne v GAD and members discussed comments that had been given on GAD's valuation data report.

PABEW Discipline Sub-Committee

45. The Chair informed the Board that the Discipline Sub-Committee had met on 23 April. Key issues discussed were police regulation 13; the NPCC had agreed to look at this with their stakeholder group. The Home Office updated the group on the timetable for the new conduct regulations, complaints and misconduct regulations, performance regulations and appeal tribunal rules and guidance. The Chair advised that once the Discipline Sub-Committee had been through the regulations she hoped PABEW would be willing to endorse these via email correspondence. The plan was to have an 8 week consultation period through September and October, with a view to having an ad-hoc committee meeting in September. The aim was for the regulations to be laid in the New Year and come into force by April 2019.

Any other business

46. The Chair advised the Secretariat would shortly begin drafting PABEW's annual report, in time for agreement at the July meeting. **Action point: Secretariat.**

Date of next meeting

47. 16 July 2018