

POLICE ADVISORY BOARD FOR ENGLAND AND WALES
112th Meeting
10.30am, 16 July 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)

David Pedrick-Friend

Association of Police and Crime Commissioners (APCC)

Andy Tremayne

Ron Hogg

Police Federation of England and Wales (PFEW)

Andy Fittes

John Partington

Joan Donnelly

Police Superintendents' Association (PSA)

Dan Murphy

Kate Halpin

Chief Police Officers' Staff Association (CPOSA)

Gareth Wilson

Home Office

Rachel Watson

Nick Lawrence

Angela Chadha

Emma Plummer

National Police Chiefs' Council (NPCC)

Francis Habgood (by telephone)

Metropolitan Police

Mark Pomroy

Metropolitan Police – Trade Union Side (MP TUS)

Valerie Harris

Observers/in attendance

Diane Mulligan - Department of Justice (Northern Ireland)

Karen Pinfold - PFEW

Mariam Conway – PFEW

Kevin Courtney – NPCC

Rachel Tuffin – College of Policing

Paula Light – College of Policing

Helen Elderfield – College of Policing

Stephen Oakley - IOPC

Welcome and apologies

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

Minutes of the meeting of 26 April 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.

Regulation 10B

4. Paula Light (College of Policing) presented a paper, outlining proposed changes to Police Regulation 10B to enable officers who leave the service to re-enter beyond the current five year limit and at either the same, higher or lower rank where appropriate. Paula Light explained that consultation on these changes had already taken place however, the paper highlighted a couple of issues that had been identified as falling within the remit of the PABEW, therefore the College wanted to formally seek the Board's views. She also asked that the Board consider any other factors not identified in the paper that fall within the remit of the PABEW and might therefore require further consultation.
5. Andy Fittes (PFEW) said that the PFEW had provided detailed comments and had discussed with the College both its original and amended proposals to change the provisions of Police Regulation 10B. Currently, regulation 10B provides for return at the same rank and a probationary period of six months. He explained that the College had originally proposed retaining a six month probationary period for return at the same rank and a 12 month probationary period for return at a higher rank (at the time return at lower rank was not considered). PFEW had no comments on those proposals but had identified a number of pre-existing regulatory gaps that fell within the terms of reference of other fora such as the PABEW. Subsequently, the College issued a revised proposal for

consultation that provided for a 12 month probationary period for all returners. PFEW had questioned the need for a 12 month probationary period in all circumstances particularly if the officer had only left for a short period of time. He asked what the College was seeking to achieve. Given the PABEW's remit to provide advice to the Home Secretary on general issues affecting policing and that some of the consequential amendments to regulations and determinations such as the power to test for substance abuse or the discharge of an officer on probation under regulation 10B fell within the remit of the PABEW, he asked whether Chief Constables/PCCS thought that a 12-month probationary period for all rejoiners regardless of when they left was necessary and/or appropriate. As currently drafted the probation period would apply however brief the absence had been and whatever the circumstances of reappointment. Gareth Wilson (CPOSA) agreed that while consistency was important the single option might be a barrier to re-recruitment which would be an issue from a Chief Constable's perspective.

6. Andy Tremayne (APCC) considered it was worth thinking about what the change to the regulations was looking to achieve. Was this a question of facilitating people re-joining the service, perhaps at different ranks from when they left? He said there was real attraction to having consistency around probation periods for people joining and re-joining.
7. Paula Light noted that those who go on career breaks could be out of the service for up to five years. If they then decided to re-join at a higher rank, there could be all sorts of different elements to consider. Dan Murphy (PSA) questioned whether forces would be comfortable with people coming in at a higher rank without completing probationary period. The Chair pointed out that recruitment was not within PABEW's remit; the Board's view would therefore be about consistency and fairness.
8. Valerie Harris (MP TUS) said that at the moment it was not possible to change rank when coming back from a career break. She questioned whether this increased the gender pay gap if, for example, a woman had taken time out due to pregnancy. She considered there was an equality issue here which needed to be considered. Paula Light agreed this was a point for consideration and would take this away. **Action point: Paula Light.**
9. Paula Light also raised the issue of substance misuse testing. The Chair informed the group that this had been a substantive item at the most recent Discipline Sub-Committee, in which the consistency across new recruits and serving officers was discussed. The Chair also noted that Regulation 13 was being looked at by the Discipline Sub-Committee. The Chair asked that the Secretariat send the contact details for the representatives to Paula Light. **Action point: Secretariat.**
10. The Chair asked for Francis Habgood's view on Regulation 10B. Francis Habgood considered that the probationary period could be a disincentive

to officers re-joining a force, and questioned whether this was a PABEW or College

11. From the discussion, Paula Light also noted that the College needed to set out how long the probationary period would be. Andy Fittes emphasised that this needed to be worked through before going ahead with the proposed changes to regulations. The Chair said that the College should make sure the work on regulation 10b linked in with the work the Discipline Sub-Committee was carrying out on substance misuse testing and Regulation 13.

PAB Terms of Reference and College remit

12. The Secretariat explained that she had met with Helen Elderfield, the College's Head of Governance. She said they had agreed that the College would produce a draft document which outlined consultations in the pipeline. This would then be shared with the Secretariat who could signpost which of these consultations needed to come to PABEW. This would be a working document, and the aim was to have an initial draft by October's PABEW meeting. It was also suggested that it might be useful for PABEW to have a template, for when papers needed to be presented to the Board. The Chair and the Secretariat considered this would be useful.
13. Andy Fittes said it would be good to ensure matters were linked up, to ensure changes to regulations where PABEW has a statutory duty are brought to the Board's attention in good time. PABEW is well placed to assist the College of Policing to ensure that changes to members' terms and conditions are clear and workable and do not create unintended consequences.

PABEW Secondments Guidance

14. The Chair informed the Board that volunteers from PABEW had met on 4 June to discuss the secondments guidance, and a note of the meeting had been circulated with key actions. The Secretariat explained that the PFEW had shared comments on the guidance, and the Home Office were incorporating these into a draft, which they aimed to circulate in July/August for further comments. The Secretariat would then arrange a working group meeting for September, with the aim of bringing a final draft of the guidance to October's PABEW meeting for final agreement.

Capability Dismissal

15. The Chair explained that the Capability Dismissal Technical Working Group had taken place on 9 July. The PFEW had the opportunity to present a paper on compensation, then the group went on to discuss the draft regulations. The general feeling from the employers and staff associations was that there was a justification for a compensation

package; the arguments for this would now be put to Ministers. The Secretariat would circulate a note of the meeting to PABEW members.
Action point: Secretariat.

Regulations and determinations

16. An updated version of the Home Office's 'regulations and determinations' table had been circulated. The Chair asked whether members had any questions. Andy Fittes asked whether the regulations outlined in the table had gone through the Government gateway system. Rachel Watson (Home Office) confirmed that all the regulations in the table were expected to go through the full process.

Police Pensions

UK Police Pensions Consultative Forum

17. Kevin Courtney (NPCC) updated the Board on key issues discussed at the latest UK Police Pensions Consultative Forum (UKPPCF). This included: the amendment regulations (buyback of unpaid family leave, AVCs and VES) which the Home Office informed UKPPCF had all been laid. Voluntary Scheme Pays, Brewster and 2015 scheme amendments had gone through consultation, and due to significant comments received from the board, the Home Office had needed to delay the laying date, in order to consider them thoroughly. They had a new laying date of 13 September (as opposed to the original date of 4 June), meaning that the regulations would come into force 4 weeks after. Kevin Courtney noted concerns that this was not progressing as quickly as NPCC would have wanted, in particular because this gave a tight timescale to get communications out for those who want to use the regulations this year. The Chair noted that 'communication' would be on the agenda for October's UKPPCF, as this was something that kept coming up during discussions.
18. CPOSA/PSA had previously presented a joint proposal to manage pension growth (1987 scheme). The Home Office advised the next step was to look in detail at the proposal and at how it could be used by a variety of people. If it seemed a viable proposal it would be put to Ministers. A list of outstanding amendments to the 1987 and 2006 schemes was provided by the Home Office, and members were asked to rank these in terms of priority. The Home Office also agreed to set up a meeting with the staff associations/employer to discuss the 2.25x pension commutation cap in the 1987 scheme.

Scheme Advisory Board

19. Kevin Courtney said a key point raised at the Scheme Advisory Board (SAB) was the Scheme Valuation; the Home Office was waiting for directions from Treasury on intentions for the determinations. Once these were received the Home Office could inform schemes of the outcome of

the valuation and start the process of responding. The plan was then to set up a working group with GAD. The Home Office confirmed that they had not received an update from Treasury, and it was possible this would not be received before recess. The Chair said the delay was a concern, and Andy Fittes said this put employers in a difficult position. Nick Lawrence (Home Office) said he could pass on the concerns with the delay. Kevin Courtney added that the employer contributions needed to be changed by 2019, and NPCC were keen to address this issue as well. Nick Lawrence suggested the Home Office could set the new regulations to extend the current contribution rates and any changes to the contribution rate could be backdated.

20. The Home Office advised that the pension calculator page had received 26,000 hits, and 20,500 people had downloaded the calculator. The most downloads had taken place in April and May. Comments/feedback received on the calculator would be a substantive agenda item at October's SAB meeting.
21. Kevin Courtney considered that the SAB had demonstrated they had listened to what the Pensions Regulator wanted from police schemes. The Chair noted that Neil Wilson (TPR), who had observed some of the most recent pensions meetings, had expressed the view that combined pension boards might not be working as well as single force boards. This seemed to be based on concerns about lack of representation by some forces on the biggest boards. The Chair said she would be attending the combined board meeting to be held at Northallerton in September, which would be an opportunity to see the level of engagement.

PABEW Discipline Sub-Committee

22. The Chair informed the group that a paper was presented at the most recent Discipline Sub-Committee around drug testing regulations, which had not been looked at since 2012. The proposed changes related to the testing for substance misuse in relation to both random and with cause testing of serving officers and the ability to use hair samples in this testing procedure. Furthermore, an amendment was proposed to the current Regulation to allow officers and staff to be recalled to duty to allow testing, should the intelligence case make it necessary. Richard Smith had presented the paper on behalf of Chief Constable Watson and, following the discussion, the Chair had asked them to collect more data to help assess the scope of the problem.
23. Kate Halpin (PSA) said that the main focus was around intelligence led testing. There was a need to look at how many 'with cause' testing procedures were carried out, and how many led to no further action. There was also a question around what would happen if people did not have hair.
24. The Chair informed the Board that Chief Constable Guildford had carried out work with stakeholders (through the Professional Standards

Directorate) around the use of Police Regulation 13, as requested by the Sub-Committee. He agreed that the regulation as it stands was not fit for purpose, but wanted to maintain the regulation with amendments to broaden it. Andy Fittes noted that the PFEW had raised concerns at the meeting, and they were not sure about the line suggested as an amendment. The Chair said that CC Guildford would be revising the paper in light of the discussion.

25. The Chair explained the Home Office had also provided an update on the reform programme. The Home Office expected statutory consultation on the draft regulations to commence in late September 2018, which would run for a period of 8 weeks. The Chair hoped that PABEW would agree that the Sub-Committee could carry out the substantive work.

PABEW Annual report 2017-18

26. The Chair thanked members for their comments on the PABEW's Annual Report. The Secretariat had circulated tracked and clean versions, with member's comments incorporated. The Board agreed the report with no further amendments. The Secretariat would complete a covering letter and submit the report to the Home Secretary. **Action point: Secretariat.**

Any other business

27. The Chair informed the Board that the College was producing guidance for PCSOs and the transition from the 'old' Level 3 learning to the new L4 entry routes (two routes - apprenticeship and non-apprenticeship). This was similar to the Transitional Guidance the Discipline Sub-Committee had been consulted on earlier in the year. The Chair asked for the Board to consider whether this was something PABEW needed to have sight of. Members agreed that this was not for PABEW, but recommended Police Staff Council and employers of PCSO's were consulted.
28. Francis Habgood said he would deliver a presentation at October's meeting to provide an update on workforce reform. **Action point: Secretariat.**
29. The Chair noted that this was Andy Fittes' last PABEW meeting as General Secretary of the PFEW. She thanked him for his constructive contribution and wished him well for the future.

Date of next meeting

30. 30th October 2018