

**POLICE ADVISORY BOARD FOR ENGLAND & WALES
TELECONFERENCE**

120th Meeting, 29 April 2020

Minutes

Present:

Independent Chair

Elizabeth France

PABEW Secretariat

Afsana Begum

National Police Chiefs' Council (NPCC)

David Paul

Kevin Courtney

Police Federation of England and Wales (PFEW)

Alex Duncan

John Partington

Karen Pinfold (in attendance)

Police Superintendents' Association (PSA)

Dan Murphy

Eamonn Carroll

Kate Halpin

Chief Police Officers' Staff Association (CPOSA)

Lisa Winward

Shabir Hussain

Home Office

Angela Chadha

Amar Pannu

Mel Sinclair

Frank Murphy

College of Policing

Nicole Higgins

Independent Office of Police Complaints (IOPC)

Stephen Oakley

Association of Special Constabulary Officers (ASCO)

Peter Fitzgerald

Met Trade Union Side

Valerie Harris

Met Police

Mark Pomroy

Welcome and apologies

1. The Chair welcomed members to the meeting held by teleconference in line with COVID-19 guidelines.
2. Apologies were received from APCC and UNISON. There was no attendance from Scottish and Northern Ireland colleagues.

Minutes of the meeting 29 January 2020

3. Minutes of the meeting were agreed and would be published on the webpage. **Action Point 1: Secretariat to publish finalised minutes of 29 January 2020 on webpage.**

Matters arising and action log

4. *The Chair went through the action log of 29 January meeting, which has been updated in light of the discussion. Key points discussed were:*

Action Point 2 – This was a long standing action point for Home Office to provide a factual statement on the pension position for those re-joining for inclusion in the College of Policing rejoiner guidance particularly in light of the police uplift programme. Amar Pannu (HO) reported it was still being worked with lawyers and considered as a priority. She expected for it to be completed within the next few weeks. The issue had a new urgency in relation to the response to COVID-19.

On 22 April, SAB members had been updated by Home Office as below:
“At the last SAB the issue was raised of the impact of the service break of a month (as required by the Finance Act 2004) on recently retired police officers’ decisions to not return as police officers.

The Economic Secretary to the Treasury has today (22 April) made a written statement confirming that the relevant tax rules are temporarily suspended. This means that that retired officers who re-join the police to support Government’s response to the COVID-19 outbreak will not be subject to punitive tax charges which may otherwise deter officers from returning to serve during this period.

The written ministerial statement is available at

<https://www.parliament.uk/business/publications/written-questions-answers-statements/written-statement/Commons/2020-04-22/HCWS196/>

The Government is committed to ensuring forces and officers have the support and resources they need to meet the increased demands of the COVID-19 outbreak.”

The overlap between the longstanding issue at action point 2 and the recent information provided (as above) was noted: both related to the position of re-joiners. CoP were still awaiting drafting for inclusion in their guidance on re-joiners. David Paul (NPCC) confirmed that work was progressing on this and forces were being kept informed. It was an important issue to resolve including for the uplift programme but an immediate response had been provided by the Government to deal with those temporarily re-joining to deal with COVID-19 (*see also Matters raised for information*)

Action Point 3 – The PSA report on “*A Proposal to Improve Independent Accountability and Change the ‘Blame Culture’ Associated with Police Misconduct Investigations*” had been discussed at the recent Discipline Sub-Committee on 20 April. One action had been to invite the National Association of Legally Qualified Chairs to join the Sub-Committee; the Chair reported that this invitation had now been accepted.

Action Point 7 – Dan Murphy (PSA) asked for an update on cases across a number of forces and two separate administrators where there had been failure to act on ‘scheme pays’ instructions. Kevin Courtney (NPCC) explained this arose mainly from a recent HMRC audit of 2016-17 Scheme Pays, where HMRC sought confirmation from individuals of how the Scheme Pays election had been discharged. In some cases the current administrators were not the administrators at the time in question and so had needed to obtain records from the previous administration. Administrators were not responsible in all cases for the paying over of the tax and in many cases it was the force. He also explained that in many cases errors had been made by the payer in attributing payments to the incorrect account or payer by, for example, use of the incorrect PSTR number or lumping payments for several items under one reference, so individual amounts went missing. This was usually done by the force, rather than the administrator.

Due to current the Covid-19 situation; administrators moving to a home working arrangements, lack of access to historic records and absence of key people through isolation, Kevin Courtney (NPCC) said the administrators had the case details but were still working on responses.

Action Point 10 – At the last meeting the PABEW asked the HO to consider the use of HO circulars to inform forces of agreements reached at the PABEW and/or the PCF pending the publication of revised regulations and determinations. At the time there were several outstanding regulations and determinations. Mel Sinclair (HO) said a number of revised determinations had been recently agreed and the immediate need for HO circulars was not currently required. The Chair noted that PABEW’s position remained that HO circulars should be issued. For the future the HO would consider the use of circulars on a case by case basis.

Matters raised for information

5. Shabir Hussain (CPOSA) raised a point regarding the COVID-19 service break. He explained an officer, who wished to retain their protected pension age, had to take all their benefits on the same day. He requested a change to HMRC rules to allow for split benefits. This would make allow officers to take their commutation immediately and bank their pensions, which would be accessed once when they finally retired. This in his would make it easier for the employer and employee to have a seamless continuation of service.
6. David Paul (NPCC) recognised the urgency around service break in terms of COVID- 19 but pointed out that there was a longer term need to have a clear and easily understood position which forces could use to make decisions on re-joiners.
7. Amar Pannu (HO) said she would take away the point and follow up with CPOSA outside meeting. While HMRC and HMT were unlikely to agree to make changes to the short term solution members agreed that it would be useful for Home Office to consider the suggestion for longer term.
8. Dan Murphy (PSA) said he was aware of a large number of officers considering re-joining but waiting to fully understand the deal before doing so. He considered there to be a potential negative media impact if an officer offered re-join and then did not. There was also uncertainty about the period for re-joining with some confusion over whether re-joining officers will still benefit from the taxation relaxations if they continue in service beyond policing the COVID crisis.
9. David Paul (NPCC) said forces were most interested in a scheme that had an exit clause. Forces would want the ability to clarify the period of reemployment for the re-joiner and for their own financial provisions. The Board noted further work was being done between NPCC and Home Office as a top priority to ensure a package that was clear. NPCC would continue to work with Staff Associations to reflect the points raised by their members. Reference was made to HMRC guidance which would support the service break point. This would be circulated as soon as it was available.

Update from College of Policing (CoP)

a) Secondment guidance – allowances

10. Dan Murphy (PSA) had written to CoP on 7 April about inconsistency in the payment of allowances to officers on secondment to the College of Policing which was not consistent with the published PABEW guidance. and the CoP's intention to review the future payment of such allowances.
11. The Chair noted this issue had been raised previously at PABEW. The PABEW had noted that the secondment guidance was owned and issued by PABEW. At paragraph 2.14 it states that if an officer or police staff member is on secondment to the College, they could qualify for a

non-pensionable allowance. It sets out the different rates for different ranks. Through a review at the College it had become clear that some were paid in accordance with the PABEW guidance while others were not. The situation needed to be clarified and the PABEW had agreed that if the CoP wanted to propose changes to the guidance they should bring those proposals to PABEW.

12. Nicole Higgins (CoP) acknowledged this was a long standing issue. In terms of the PABEW guidance, Judith Whittaker at the CoP had a meeting scheduled with Dan Murphy and would liaise with the PSA and the PFEW to ensure a consistent approach. As this was more complex than the CoP had thought, they were still working on a way forward but would write to the PABEW explaining what their position once it was clear.
13. PFEW raised concerns and disappointment that this matter had been going on for at least six months and that there was no clarity from the CoP. Alex Duncan (PFEW) noted that at the last PABEW meeting, it was made clear that the College of Policing needed to resolve this issue and yet a meeting had not been scheduled until after this PABEW meeting. PFEW expected the College of Policing to comply with the published guidance unless there were compelling reasons why the PABEW should consider amending its guidance. Nicole Higgins (CoP) said she would take these concerns back to those leading on this work. **Action Point 2: Nicole Higgins (CoP) to provide a written update on the CoP progress on the issues relating to payment of allowances to officers on secondment to the College of Policing by the next quarterly meeting.**
14. At the last PABEW meeting, it was understood that the inconsistent application of PABEW Secondment guidance was also an issue in relation to secondments to HMICFRS. As HMICFRS were not in attendance at the PABEW meeting, the Chair said the secretariat would write to HMICFRS drawing this issue to their attention and asking them to liaise with the CoP on a joint response by the July meeting. **Action Point 3: Chair/Secretariat to write to HMICFRS about the inconsistent application of PABEW Secondment Guidance and to liaise with CoP to provide a joint response by the July meeting.**

Police Pensions: UK Police Pensions Consultative Forum & Scheme Advisory Board

15. The UKPPCF and SAB teleconference meeting was held on 2 April. The Chair updated PABEW members on key matters discussed at the meeting:

Response to HMT Paper; Public Service Pensions-Addressing unjustified age discrimination in transitional arrangements to the 2015 pension schemes – working proposals.

16. The Chair informed members that a Technical Working Group had been set up and held three meetings to prepare a response to the HMT paper which was sent to the Home Office at end of March. Amar Pannu (HO) confirmed the response had been forwarded onto HMT.

Opt Out data

17. HO statisticians provided an analysis of the opt-out data collected. The analysis did not distinguish between schemes when showing opt out numbers, but the age of members opting out gave cause for concern. Looking at the 25-39 age cohort there was an 8-9% opt out rate. GAD would be asked to provide an illustrative model showing the impact on the current scheme of such an opt-out rate.

Contribution rates for the Police Pensions Regulations 2015

18. Staff associations raised their concerns about the impact of the failure to change the accrual rate on the cohort of members not impacted by the pensions remedy. The need to progress these issues was recognised. HMT and Departments were narrowing down the options around McCloud/Sergeant. Although there was an understanding that an answer could not be given, Home Office took on board comments and would pass them on to HMT.

Commutation Cap – Pre action letter

19. There was a pre-action letter from PSA and PFEW which maintained that the commutation of pension benefits under the Police Pensions Regulations 1987, indirectly discriminates against members on grounds of age. Dan Murphy (PSA) said the government's legal department had asked for an extension to respond and the extension was due to expire on 30 April.

2020 Benefit Statements

20. Kevin Courtney (NPCC) had raised the question whether it would be misleading to have projections in this year's benefit statements, and if there are no projections, whether there should be some form of wording saying why. Amar Pannu (HO) had explained that there would be central guidance. Members were concerned that this would be needed quickly as benefit statements were being prepared.

21. Amar Pannu (HO) reported the progress since the 2 April meeting: NPCC and Home Office had looked at this matter together and HO had provided wording which reflected central guidance and explained why the benefit statement could not reflect the changes which would follow from McCloud Sergeant. Kevin Courtney said this had been transmitted to the administrators.

AOB from UKPPCF & SAB

22. The Chair informed PABEW that the pensions meeting would use its wider brief to look at questions of consistency in relation to injury benefits and medical retirement. Kevin Courtney (NPCC) said that he had been working with Andy Fittes (NPCC National Reward Team) and had been gathering materials from previous reviews and exchanges on these issues. He would work with PFEW to ensure their examples were included in a paper for the July pensions meeting.

23. Amar Pannu (HO) reported that the transfer to Utmost Life had been formalised through Statutory Instrument. Utmost Life had written out to members, and HO took away an action to provide communications to supplement information already provided by Utmost Life.

Discipline Sub-Committee

24. The Discipline Sub-Committee teleconference meeting was held on 20 April. The Chair went through key matters discussed at the meeting:

Police Barred List Review process

25. The Sub-Committee agreed that its views ought to be sought on any guidance issued to forces on the police barred list review process. The work on the development of guidance, led by Suzanne Caddell (CoP), was ongoing.

Legally Qualified Chairs (LQCs) – Training

26. The Sub-Committee was satisfied there was training in place for the LQCs. As NALQC had been invited to become members of the DSC, this would be a matter for future discussions.

Issue of Chief Constables judicially reviewing independent panel decisions

27. Concerns were raised about cases where CCs had judicially reviewed the decisions of panels with Legally Qualified Chairs. Superintendents are often panel members and might find themselves in receipt of notices requiring attendance or witness statements. There was a discussion about the legal support for 'side members' and who would pay for it. More information was needed about the approach being taken and about the circumstances in which CC's were using public money to challenge decisions of the panels which had been set up to provide an independent view.

IOPC Complaints guidance

28. It was agreed that once the IOPC guidance had been used for 6 months, there would be a review to look at issues that had arisen and to deal with any lack of consistency with the Home Office Guidance.

IOPC report to the Home Secretary on the Efficiency and Effectiveness of the IOPC

29. Stephen Oakley (IOPC) reported a lot of the work was still in progress and although a timetable had been set out in the letter from IOPC to the Home Secretary this had been impacted by other priorities.

Home Office Legislation Update

30. A paper was tabled for information and discussion showing forthcoming legislative changes that fall within the terms of reference of the PABEW and the Police Consultative Forum (PCF).

31. Frank Murphy (HO) reported that progress had been made on a number of PCF matters. The current outstanding issues being progressed with lawyers were the parental bereavement leave, overtime for those on temporary promotion and acting up allowance. The longer standing issues still to be progressed were Part time Audit - Align P/T Officer conditions with F/T, Police (Amendment) Regulations 2018 – Children & Families Act and Re-call to duty during annual leave.

32. The Chair had written to the Policing Minister on areas where there was PCF consensus for change. The Chair and Staff Associations thanked the Home Office for progress on these matters and looked forward to this continuing in the future.

Any other business

Date of next meeting

33. It was agreed that when a new action points arises, the Chair would seek to get an expected date of when it would be completed by or the secretariat would after meetings if members could not give a date, to enable a focus on decision making and resolution.

34. The next meeting scheduled is on 16 July 2020.

PABEW Secretariat
30 April 2020

	New Actions	Date of the Meeting	To be completed by and expected date of completion:	Status – to be updated and re-circulated before the next meeting
1	Secretariat to publish finalised minutes of 29 January 2020 on webpage.	29 April 2020	Secretariat	Completed

2	Nicole Higgins (CoP) to provide a written update on the CoP progress on the issues relating to payment of allowances to officers on secondment to the College of Policing by the next quarterly meeting.	29 April 2020	Nicole Higgins (CoP) by 16 July 2020	Completed A paper provided by CoP was circulated to members on 9 July as part of papers for the next quarterly PABEW meeting on 16 July.
3	Chair/Secretariat to write to HMICFRS about the inconsistent application of PABEW Secondment Guidance and to liaise with CoP to provide a joint response by the July meeting.	29 April 2020	Chair/Secretariat by 6 May 2020	Completed Letter sent to HMICFRS on 5 May.
	OUTSTANDING ACTION POINTS FROM PREVIOUS MEETINGS	Date of the Meeting	To be completed by	Status
2	Amar Pannu (HO) to ensure a factual statement on the pension position for those re-joining would be provided to the CoP and copied to staff associations	29 January 2020	Amar Pannu, Home Office	Ongoing This was with HO lawyers and being dealt as a priority.