

POLICE ADVISORY BOARD FOR ENGLAND & WALES

121st Meeting, 16 July 2020

Minutes

Members Present:

Independent Chair

Elizabeth France

PABEW Secretariat

Afsana Begum

National Police Chiefs' Council (NPCC)

Kevin Courtney

Police Federation of England and Wales (PFEW)

John Partington

Joan Donnelly

Karen Pinfold (in attendance)

Fran Boag-Munroe (in attendance)

Police Superintendents' Association (PSA)

Dan Murphy

Chief Police Officers' Staff Association (CPOSA)

Shabir Hussain

Association of Police and Crime Commissioners (APCC)

Andy Tremayne

Home Office

Amar Pannu

Emma Plummer

Sara Alderman

Frank Murphy

College of Policing (CoP)

Nicole Higgins

Nick Bayley

Judith Whittaker

Independent Office of Police Complaints (IOPC)

Kathie Cashell

Met Trade Union Side

Valerie Harris

Met Police

Mark Pomroy

Her Majesty's Inspectorate of Constabulary and Fire & Rescue (HMICFRS)

Alex Hill

Welcome and apologies

1. The Chair welcomed members to the meeting held via video conference.

Minutes of the meeting 29 April 2020

2. Minutes of the previous meeting were agreed with no further comments.
Action Point 1: Secretariat to publish finalised minutes of 29 April on webpage.

Matters arising and action log

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

Outstanding Action Point 2 (Pension position for those re-joining) – Further to discussions at the SAB on 1 July, NPCC provided information on re-joiners to the Home Office (HO) which was being considered by HO lawyers. Shabir Hussain (CPOSA) expressed his frustration that this action was taking so long to progress. In addition, to the position of those who had temporarily rejoined during COVID-19, the HO had an outstanding action from January 2019 to provide a factual statement on the pension position of re-joiners for inclusion in the College of Policing rejoiner guidance, Nicole Higgins (CoP) confirmed that they had issued the guidance without waiting for the piece on pensions and were keen to add this as soon as possible.

Additional Action Point -The Police Consultative Form had briefly discussed on 26 March 2020, the current position on attestation. Recalling that the Home Office had proposed that officers did not need be attested by a magistrate from the force area – this was to address problems that Police Now had encountered. Subsequently, the HO had concluded that there was no need to amend the Police Act 1996 because amendments to the Courts Act 2003 had led to a change in interpretation of the Police Act.

However, in correspondence with the HO, PFEW then questioned why it was necessary for officers to be re-attested on transfer if Police Now recruits could be attested by any lay magistrate. The HO in letter dated 19/5/18 said that it was necessary to comply with the requirements of section 29 of the Police Act but that it (the HO) would keep this under review.

The PCF suggested that PABEW be asked to track progress on this matter. The action: 'Home Office to take matters relating to police attestation further with Home Office policy lead.' would now be progressed.

Draft PABEW Annual Report 2019/20

4. A draft version of the PABEW Annual Report was circulated to members. There were comments from CPOSA still to be received. **Action Point 2: Finalised PABEW Annual Report to be submitted before the end of the summer recess.**

Update from College of Policing

Secondment guidance – central service allowance

5. As background information, previous PABEW minutes from 2015 and 2016 were circulated to members outlining long standing issues relating to CoP's secondment allowances. From the PABEW's view, the matter was first raised by PFEW who had become aware that the College of Policing had been paying allowances to officers who are seconded to the College at a rate different to that set out in the PABEW's guidance to forces. As set out in the minutes of previous meetings, the PABEW had previously advised the College that if it wishes to propose changes to the PABEW's guidance then proposals need to be brought to the PABEW for consideration. In the meantime, officers should be paid an allowance as set out in the guidance. More recently, the matter was raised by Dan Murphy (PSA) again around the inconsistency in the payment of allowances to officers on secondment to the CoP.
6. A paper setting out the College's approach had been circulated with the agenda. Nick Bayley (CoP) said the CoP proposal for the future application of CSA for police secondees was to adopt a principle which was fair, transparent and consistent with other policing bodies. In the work they had done so far, they had been unable to find anything to justify the CoP uniquely providing an enhanced rate. They therefore proposed to pay the standard rate in line with other policing bodies, but would consider also paying a recruitment and retention allowance where posts met criteria for so doing (for example, specialised or hard to fill posts). They would consult on the criteria as well working on the equality impact assessment.
7. Dan Murphy (PSA) said there also remained an urgent need to deal with those currently seconded to the CoP, and those who had left, who had received rates of allowance which were below those of colleagues. He was disappointed with the level of engagement offered by the CoP on this matter in the period since April; it was important to understand the CoP position in terms of police officers terms and conditions. As things stood, the 2013 guidance had not been superseded and no agreement for change had been reached with PABEW following the discussions in 2015 (contrary to the suggestion in paragraph 2.2 of the College paper

there is no record that agreement was reached to pay the standard allowance).

8. It was also noted that paragraph 2.5 suggested that the College had not been fairly represented at PABEW meetings. The Chair said that her recollection was that during the last 3 years the College had been well represented and that previous minutes showed regular attendance.
9. PFEW shared PSA's concerns. John Partington (PFEW) said there was a difference between CoP's role and that of bodies with operational roles. Moving forward he suggested it would be valuable to reconvene the secondments working group to look more broadly at the position. Shabir Hussain (CPOSA) supported this proposal.
10. There was a discussion about whether the PABEW was the right forum to deal with this or whether it should be the PCF/PRRB. It was noted that matters relating to secondment fall within the terms of reference of the PABEW. It was agreed that the substance of the secondment guidance would be for the PABEW however any proposals to create a new allowance or amend the rate of the allowance may be a matter for the PCF/PRRB to consider. In addition, it was also noted that the higher rate allowance, for those seconded to the College of Policing and its predecessor organisations Centrex and the NPIA, had been retained in the PABEW guidance published in 2013 at the request of the College who was newly formed in December 2012 and who had not had an opportunity to review payment of the allowance at that time. The published PABEW guidance addresses periods of relevant service under section 97 of the Police Act 1996 (commonly referred to as secondment) as well as other periods of service away from force and applies to both officers and staff. A secondment to the College of Policing is a period of relevant service under the Police Act.
11. Separately, it was noted that the PABEW secondment working group had last met in 2018 after it had emerged that the College of Policing had attempted to amend the PABEW guidance to provide for secondments under police regulation 13A, which had been introduced following the College Leadership Review. At the time, the working group agreed that it would be beneficial to review the existing guidance. PFEW had identified a number of potential areas for change and had set these out in a letter to the Chair dated 29 May 2018. Both the HO and the College had offered to redraft the document for the working group's consideration but subsequently no further progress was made.
12. The Chair expressed disquiet that the current practice was out of line with the published guidance. There were a number of different aspects of the issue to be addressed. After further discussion it was agreed that the best way forward would be for the CoP and HO to have a preliminary bilateral discussion and provide the Chair with a note setting out the issues to be addressed, how and by whom, they should be taken forward. It would be important to have early sight of the proposed way

forward so that the staff associations could decide how to progress the individual cases with which they were involved. In welcoming the proposal for a working group Alex Hill (HMICFRS) confirmed that HMICFRS like other central bodies, pay the standard rate. This seems therefore to be an issue which relates only to secondments to the CoP.

Action Point 3: CoP and HO to arrange a bilateral meeting and set out for the Chair the outcome of their discussion on secondments.

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

13. The UKPPCF and SAB teleconference meeting was held on 1 July. PABEW members were brought up to date with key matters discussed at the meeting:

McCloud/Sarjeant HMT Consultation

14. Amar Pannu (HO) reported the consultation on proposals to remove the discrimination identified in the McCloud/Sarjeant litigation had gone live. The closing date for the consultation was 11 October. There was also an announcement on the lifting of the pause on the cost cap mechanism. A link to the consultation and FAQ document would be circulated to the SAB after the meeting. Both remedy options discussed at the SAB technical discussions, immediate and deferred, were being consulted upon. The Chair confirmed that three working groups had been scheduled to prepare an SAB response and would focus on areas where consensus might be achieved. **Action Point 4: Home Office to share link to pension scheme consultations and FAQ document.**

Covid-19 Pension Service Provision and update on re-joiners

15. HMRC announced an extension to the easement of the tax rules relating to Protected Pension Age (PPA). The deadline had been extended to 1st November 2020 for retired officers and firefighters re-employed in relation to Forces/FRA's response to the coronavirus pandemic.

Pension Abatement

16. Letters from the PFEW on the treatment of officers who re-join the service, and the arrangements being made regarding abatement of their pensions, had been circulated to members. They made the point that if there was not clarity on the issue it could impact the uplift programme.

TPR Survey

17. Nick Gannon from TPR presented the key findings of their Governance and Administration surveys run in November and December 2019. The

Chair said the results was a good outcome as all but one police force responded as well as:

- On the six key processes, police schemes are now very close to the performance of all schemes, although only 64% have all six in place
- Improved focus on cyber risk
- 98% of schemes believe the Scheme Manager/board have enough time & resources to run scheme properly
- 60% of schemes report that all active members received ABS on time.

Against these positive indicators, there remain concerns over assessment of training and training needs, membership of boards, meetings scheduled which did not take place and identification and management of risk. TPR's aim was to help pension boards and schemes, especially through the testing time of McCloud/Sarjeant.

Opt out data

18. Shabir Hussain (CPOSA) updated members that he and Kevin Courtney (NPCC) had received the raw opt-out data from the HO and satisfied themselves that they could be analysed to give the information sought by the SAB and that they provided guidance to the analyst.

Discipline Sub-Committee

19. The Discipline Sub-Committee teleconference meeting was held on 9 July. The Chair said there was now a representative from the National Association of Legally Qualified Chair (NALQC) on the sub-committee, John Basset, who had asked if NAQC might also be an observer at the PABEW when agenda items suggested the meeting would be relevant to them. Members agreed to the request. The Chair then went through key matters discussed at the meeting:

Police Barred List Review

20. The sub-committee would have the opportunity to provide comments on the relevant guidance. As the first review could take place in January 2021 it was expected draft guidance would be available to review in the autumn.

Draft Sexual Harassment Guidance

21. Draft guidance had been circulated to members for feedback.

JRs of panel decisions

22. NPCC wrote to all Heads of Professional Standards Directorates (PSDs) requesting responses to the questions: how many times since the 1st January 2016 had their force judicially reviewed a decision by a disciplinary hearing panel or meeting chair. In total, twenty nine forces

responded and fourteen (an expected response rate) did not. Two forces had applied for a judicial review but were refused at the permission stage. The seven remaining cases were summarised in NPCC's letter.

23. While it was recognised that JR was always an option there was concern that public money was being spent on challenge rather than acceptance of the changed process. The sub-committee would keep the matter under review.

IOPC Victims' Right to Review (VRR) Policy

24. The IOPC shared a power point presentation introducing a Victim's Right of Review (VRR). They sought comments on: 1. The proposed timescales for the process; 2. Any potential impact on disciplinary proceedings (and any other proceedings) and any views on managing any such impacts; and 3. How to treat 'out of time' requests.
25. From 26 October 2020, it was proposed that in respect of criminal investigations only, there would be a Victims' Right to Review (VRR) in respect of a decision not to refer a case to the CPS. Consequently, any decision not to refer to the CPS made on a criminal case would from that date be a provisional decision.
26. After extensive discussion it was agreed that the Chair would write to the IOPC and the Home Office to ask for a clear statement of the legal basis for the introduction of the policy and confirmation that HO Ministers were sighted on the proposals.

Monitoring (data collection) regarding Practice Requiring Improvement

27. PSA were collecting early figures on how often PRI has been used in order to review whether regulations have had an impact since their introduction in February. HO had asked Heads of PSD for data in relation to this and were expecting to receive information within the next few weeks. The sub-committee would await the first tranche of data and discuss the matter as a substantive agenda item in October.

Home Office Legislation Update

28. 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).
29. Frank Murphy (HO) said they were awaiting on the PRRB recommendations and HO's response, which would also have effect on matters that are progressed. Emma Plummer (HO) said the pay award announcement should be by next week and would call all stakeholders to notify them when they had confirmation.

Date of next meeting

30. The next meeting date was scheduled for 29 October 2020.

PABEW Secretariat
17 July 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 April on webpage.	16 July 2020	Secretariat by 17 July	Completed
2	Finalised PABEW Annual Report to be submitted before the end of the summer recess.	16 July 2020	Secretariat by 29 July.	Completed
3	CoP and HO to arrange a bilateral meeting and set out for the Chair on outcome of their discussion on secondments.	16 July 2020	CoP and HO in advance of 29 October.	Completed
4	Home Office to share link to pension scheme consultations and FAQ document.	16 July 2020	Home Office	Completed Circulated to members on 15 September.
	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	29 January 2020	Home Office by 29 October	Ongoing This was with HO lawyers and being dealt as a priority.

	copied to staff associations			
1	Home Office to take matters relating to police attestation further with Home Office policy lead.	26 March 2020	Home Office to provide update at next quarterly meeting on 29 October.	Ongoing It is currently being kept under review.