

# **Police Advisory Board for England and Wales**

**122<sup>nd</sup> meeting, 29 October 2020**

## **Minutes**

### **Members present via video conference:**

#### **Independent Chair**

Elizabeth France

#### **PABEW Secretariat**

Afsana Begum

#### **National Police Chiefs' Council (NPCC)**

Kevin Courtney

David Paul

#### **Police Federation of England and Wales (PFEW)**

Alex Duncan

John Partington

Joan Donnelly

Karen Pinfold (in attendance)

Nameerah Hameed (in attendance)

#### **Police Superintendents' Association (PSA)**

Dan Murphy

#### **Chief Police Officers' Staff Association (CPOSA)**

Shabir Hussain

#### **Association of Police and Crime Commissioners (APCC)**

Andrew Tremayne

#### **Home Office (HO)**

Frances Clark

Tahmina Ahmad

Emma Plummer

#### **College of Policing (CoP)**

Nicole Higgins

Judith Whitaker

#### **Independent Office of Police Complaints (IOPC)**

Steve Oakley

#### **Met Trade Union Side**

Valerie Harris

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

Alex Hill

### Welcome and apologies

1. The Chair welcomed Frances Clark, replacing Angela Chadha as Deputy Head, Police Workforce & Professionalism Unit - Reward and Recognition at the Home Office. Apologies were received from NALQC and Met Police.

### Minutes of the meeting 16 July 2020

2. Minutes of the previous quarterly meeting were agreed with a minor change in attendance. **Action Point 1: Secretariat to publish finalised minutes of 16 July on webpage.**

### Matters arising and action log

3. *The Chair went through the action log of 16 July meeting, which has been updated in light of the discussion. Key points discussed were:*

#### Outstanding Action Point 2 from 29 January (Pension position for re-joiners)

– This was a long standing action point for the HO to provide the CoP with a factual statement on the pension position for those re-joining so that it could be included in the CoP's re-joiner guidance. Nicole Higgins (CoP) reported they were still awaiting this information. Frances Clark (HO) confirmed that she would follow this action up and contact the CoP. The action point would remain on the log until it was completed.

Outstanding Action Point 1 from 26 March (Police attestation) - HO reported that the matter was still under review and would provide an update on the position at the next meeting.

### Update from College of Policing (CoP)

#### **a) Allowances for those in secondment to CoP**

4. The CoP had provided the PABEW with a briefing note following a discussion with the HO. This set out the past and current position on allowances for those on secondment to CoP. Judith Whitaker (CoP) summarised the current position explaining that Nick Bailey (CoP's Director of Enabling Service) was in communication with PSA and PFEW to look at a solution to the payment of allowances to former secondees, to those currently on secondment to the CoP and the payment of the allowance going forward. The briefing note also proposed that the PABEW secondment working party which had previously developed the *PABEW Police Officer and Staff Secondment Guidance* be reconvened.

5. Dan Murphy (PSA) made clear that the *PABEW Police Officer and Staff Secondment Guidance 2013* agreement was still in place and should be adhered to unless and until it is replaced. Only the CoP had expressed concerns about the application of the current guidance, but any reconsideration should be looked at more broadly. The staff associations had previously set out in a letter to the Chair dated May 2018 a number of suggested areas for change.
6. John Partington (PFEW) said that PFEW would want an assurance that all stakeholders would abide by the published PABEW guidance and any offer from the College to rectify the matter would need to be fair and equitable to all officers both former and current. In response to a question, Emma Plummer confirmed that the HO was still committed to refreshing the PABEW guidance.
7. There was a discussion about how best to make progress. It was agreed that the PABEW should review its guidance and then if necessary, remit to PCF for consideration of any changes to the amounts to be paid, the creation of any new allowance and eligibility criteria. The Chair agreed to chair an ad hoc meeting to take this matter forward. **Action Point 2: HO to arrange an ad-hoc meeting to discuss revising the PABEW Secondments Guidance by the next quarterly meeting.**

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

8. The UKPPCF and SAB met by video conference on 6 October. PABEW members were brought up to date with key matters discussed at the meeting:

#### Police Pension SAB's response to HMT Remedy Consultation

9. The focus of the UKPPCF and SAB was on finalising a joint response to HMT's consultation on the pension remedy. A consensus response was submitted on behalf of the SAB while individual responses were also submitted stakeholders. HMT's response was unlikely to be before the end of the year.
10. Alex Duncan (PFEW) reminded members that the immediate detriment guidance had been sent to administrators regarding those who were about retire. Concerns had been raised that the guidance was confusing and appeared to lack authority. Uncertainty about its implementation was having a direct impact on members who were about to retire. Kevin Courtney (NPCC) confirmed that concerns had been raised with HMT who were responsible for the content of guidance and a response was expected by the end of October. On the lack of authority Shabir Hussain (CPOSA) raised the value of HO circulars for matters of this kind.
11. NPCC suggested that there needed to be more coordinated approach to the different strands of work in relation to remedy as there would be a big workforce impact. This was supported by Alex Duncan (PFEW) who

said it was important for matters to be looked at across the whole landscape including the pay reform agenda which was also expected to be delivered in April 2022.

12. Frances Clark (HO) said that the HO would continue to seek an answer from HMT on the immediate detriment guidance. She reported that HMT had now agreed to the NPCC, as employers' representatives, joining their project management working group. This would be helpful in bringing the SAB closer to the work on implementation. As the HO lead on pensions and pay for police officers, she gave an assurance that changes and issues in either of these areas would be considered and linked where appropriate.
13. Dan Murphy (PSA) warned of a potential equality issue if pay and pensions reforms were brought in together in 2022 with little notice to individuals of their position. If the older cohort were held back on their pay, the impact of this on their pension could be significant.
14. David Paul (NPCC) understood the concerns raised about understanding what actions would be needed on pay and pensions, and their timing. He would coordinate the development of a 'roadmap' on the work expected up to April 2022. **Action Point 3: NPCC to produce a roadmap of the work expected in relation to pay and pensions up until 2022.**

#### Cost Cap

15. The SAB would be making observations on the cost cap proposal in advance of any HMT engagement with the SAB, which was planned for in 2021.

#### Opt-out rate data

16. GAD's comments on impact of 8-9% opt out on the viability of the scheme had been circulated to members, as well as an analysis of the 2020 police opt-out data. This included a spreadsheet which contained the opt out rates by force for 2020, including the raw data broken down by age group and pension scheme. The data appeared to confirm concerns that the opt out rate could impact the integrity of the scheme, as well as highlighting the need to explain to recruits the value of the pension as part of their remuneration package. It was agreed that the Chair would draft a letter to the Home Office drawing attention to the concerns and suggesting more communication was needed from the HO and NPCC to tell people about the benefits of the pension scheme.

#### Pension abatement

17. There was a discussion about abatement and the importance to having an appropriate balance. Questions were raised as to whether the HO could remind Chief Officers of their discretion in the current context. HO

and NPCC would discuss what action might be appropriate in relation to rules around abatement.

#### Covid-19 tax relation

18. HO had circulated a statement on tax relaxation for officers returning in response to the Covid-19 crisis who then carry on service. The text of the government's update said that the tax relaxation *may* be extended to April 2021. It was important to know as soon as possible whether it would be, as it could affect an individual's decision to retire. HO would continue to seek a response from HMT on this matter.

#### **Discipline Sub-Committee**

19. The Discipline Sub-Committee met by video conference on 22 October. The Chair noted the benefit to the subcommittee of having the NALQC present as observers. The Chair went through key matters discussed at the meeting:

#### Misconduct Outcomes Guidance

20. There were concerns raised by PFEW, PSA, CPOSA and NALQC that the misconduct outcomes guidance did not have updated case law. The CoP said the guidance was only intended to be refreshed in line with updated legislation and that they did not have enough resource to include updated case law.

21. John Partington (PFEW) repeated the point made in the sub-committee meeting that it was not acceptable for the CoP to issue this guidance without updating the case references. He suggested that a letter should be sent from the full PABEW to the CoP outlining the concerns and recommending that the guidance should not be used until it was fit for purpose. He also said the letter should highlight that the CoP had said it did not have the resources necessary to produce a fully revised document. This was agreed by PABEW members.

22. While Nicole Higgins (CoP) was not able to comment on the matter she confirmed that a response would be provided to the sub-committee by CoP (Richard Bennett – Faculty lead) in due course. **Action Point 4: Chair to write to CoP outlining concerns raised at DSC in relation to the Misconduct Outcomes Guidance.**

#### Police Barred List Review Process

23. CoP informed the sub-committee that they had been working on the Police Barred List Review Process since the last quarterly meeting. They held a working group with HO and forces, to go through the process using real time examples of individuals who might at some point want to have their name removed from the barred list.

24. The feedback from meetings resulted in minor changes but overall the process would remain unchanged. The CoP welcomed feedback on the documentation and while the deadline for comments was 4 November it could be extended if necessary. The first potential review would be in January 2021.

### **Home Office Legislation Update**

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

26. Emma Plummer (HO) reported since the last meeting, the Minister had signed the determination to introduce an allowance for officers engaged in core protection duties which would take effect on 01 December.

27. HO lawyers were reviewing the draft determination and the NPCC's supporting guidance regarding Targeted Variable Payments ahead of formal consultation. Dan Murphy (PSA) welcomed this but asked about the position for those in forces who had already made payments and expressed his concern about potential inequalities and the lack of clear central guidance on how to manage the extension of the regulation from the NPCC. David Paul (NPCC) responded that they did advise forces about the extension and that there was no need for formal re-application.

28. A six week consultation with the PCF had begun on a draft determination to provide for parental bereavement leave and was due to end on 07 December.

29. Kevin Courtney (NPCC) questioned about progress in extending the payment of honoraria to members of the federated ranks in lieu of pensionable pay when on temporary promotion. Emma Plummer (HO) said the Home Office needed information and robust data from the NPCC about the ranks and likely numbers affected to progress this. Kevin Courtney (NPCC) pointed out that the matter had initially been raised by PFEW but had been supported by NPCC. Information had been provided indicating where breaches in AA might occur and so where an honorarium might be a helpful option. David Paul (NPCC) said that forces would be asked in an NPCC consultation, which was due to go out shortly, what use they would make of this option. In addition, if the data could be provided by staff associations, it would be welcome.

### **Any other business**

30. Alex Duncan (PFEW) drew attention to on-going litigation regarding a Metropolitan Police firearms case. There had been a challenge in court as to whether the civil or criminal standard of proof was appropriate for conduct proceedings. However, the issue of concern was the decision of the Court of Appeal to judge behaviour against the Code of Ethics (in particular paragraph 4), rather than the Code of Conduct. The Code of Ethics had not been drafted as the basis for legal action and indeed PABEW, through extensive discussion in the Discipline subcommittee, had been assured that it was not intended as a substitute for the Code of Conduct in formal proceedings. It was agreed that, whatever the outcome of the appeal being made in this case, the use of the Code of Ethics in this way had potentially serious ramifications. **Action Point 5: Nicole Higgins (CoP) to take the matter in relation to litigation of Met Police firearms case back to the CoP.** [The Chair will also make reference to this matter in the letter to the CoP referred to at paragraph 21]

#### **Date of next meeting**

31. The next meeting was scheduled on 27 January 2021.

PABEW Secretariat

02 November 2020

	<b>Actions</b>	<b>Date of the Meeting</b>	<b>Who/date to be completed by:</b>	<b>Status – to be updated and re-circulated before the next meeting</b>
1	Secretariat to publish finalised minutes of 16 July on webpage.	29 October 2020	Secretariat	<b>Completed</b>  <a href="https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/934321/20200716_Final_PABEW_Minutes.pdf">https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/934321/20200716_Final_PABEW_Minutes.pdf</a>
2	HO to arrange an ad-hoc meeting to discuss revising the PABEW Secondments	29 October 2020	Home Office	<b>Completed</b>  A Secondments' Working Group meeting was held on 2 December.

	Guidance by the next quarterly meeting.			
3	NPCC to produce a roadmap of the work expected in relation to pay and pensions up until 2022.	29 October 2020	NPCC	<b>Ongoing</b>
4	Chair to write to CoP outlining concerns raised at DSC in relation to the Misconduct Outcomes Guidance.	29 October 2020	Chair	<b>Completed</b>  The Chair wrote to CoP about the Guidance and litigation of Met Police firearms case. A response was received on 13 November.
5	Nicole Higgins (CoP) to take the matter in relation to litigation of Met Police firearms case back to the CoP.	29 October 2020	Nicole Higgins, College of Policing	<b>Completed</b>
	<b>Outstanding action points from previous meetings</b>	<b>Date of the Meeting</b>	<b>To be completed by</b>	<b>Status</b>
2	Frances Clark (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	Frances Clark, Home Office by 27 January.	<b>Completed</b>
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.	<b>Ongoing</b>  It is currently being kept under review.