

CPOSA SUBS AND LEGAL EXPENSES INSURANCE

You will be aware of issues which have recently occurred (and received fairly high profile media attention – see attached) concerning the legal insurance which we all (or at least most of us) pay for ACPO Officers.

These payments are normally made at the beginning of the financial year and the invoice for 2012/13 showed a rise from £1,405 to £2,472 per officer (including £275 subs). I don't know what the CPOSA contract arrangements are but I have no doubt that these costs will rise substantially over the next year or so as to reflect the significant costs which have been incurred by a small number of Chief Officers in the past year (and indeed are currently being incurred).

It is of course no secret that significant legal costs have been incurred by the ex Chief Constable of Cleveland and the DCC defending misconduct cases and related 'conditions of service' matters but this followed closely on others including the N. Yorks Chief and Deputy.

There are a number of concerns which I have with making these payments and I know that there others who share these. I list a few of these below:

1. This insurance is not simply for Chief Officers securing independent legal advice/assistance in matters such as representation at an inquest, corporate manslaughter or where they, for no other reason than the fact that they are the titular head of the organisation is named in an action. This legal insurance is available to cover virtually anything including employment issues, misconduct, personal contract disputes including taking legal against the Authority itself eg. in respect of salary/conditions of service issues etc. The indemnity provided is very significant indeed running into £100k's and in some cases, could be up to £1m. This allows Chief Officers to harness very enormous legal resources which, if launched against the Authority (or PCC) cause the Authority (PCC) to match this with a similar legal resource.
2. No other profession (that I am aware of – and this has been researched by the media) has such insurance cover paid for by the employer.
3. This insurance is the same (& same cost) for all ACPO Officers whether they be the Chief, Deputy, ACC or even civilian ACPO Officers such as the Chief Finance Officer. If indeed there is any risk that needs insuring at all it is inconceivable that such risks can apply similarly to all categories of officer.
4. Civilian members of police staff or indeed, the Police Authority's own staff (included Chief Executive/Chief Finance Officer) do not enjoy such insurance protection and yet, in terms of employment risk it is quite possible that the Chief Executive (as Monitoring Officer) and the Chief

Finance Officer (as Section 151 Officer) is at an equal if not greater risk.

5. It is highly likely that any risks associated with the conduct of an Officer's duties (i.e. corporate manslaughter, health & safety etc) would be covered by the Force's own insurance in any case).
6. Such cover for other ranks (& staff) is provided by staff associations/unions and paid for by the officers themselves out of their (taxed) income.
7. One key consideration in deciding whether to litigate or not is the prospect of costs. In cases funded in the way described here there is no real risk to the individual - the public has to pick up the tab whoever loses. That seems to me to be an unacceptable situation and one that represents a substantial risk to PCCs.
8. I also think that if the PA/PCC is paying the premium, the relationship with the insurer should be with the payer - not, as at present, with the staff association. We get no info from the insurers - how then can we say it represents VfM?
9. There is also a question mark over the lawfulness of the PA/PCC paying what is in effect a personnel benefit to police officers insofar as whether this is a benefit/allowance outwith the restrictive national conditions imposed on chief officer salaries/allowances. Counsel opinion is being sought on this point as part of a wider opinion on the making of additional payments to chief officers.

[REDACTED] (as the REDACTED) has had discussions with CPOSA representatives in the hope that this matter could be resolved at a national level. Whilst CPOSA understand and accept that there will need to be change their view is that this is a matter for each PCC to review and implement as appropriate.

There is a view (which I share) that there is already adequate provision for indemnifying Police Officers and staff through the arrangements under legislation (and our general insurance) then the public would expect highly paid public servants to make their own arrangements in terms of additional (personal) legal insurance as other professions do including civil servants, doctors, and other professions.

It seems therefore that the way forward is for this issue to be a matter for the PCC to consider as part of the terms and conditions of any new appointment although, there is an argument (allied to the argument about the lawfulness of additional pay/benefits for Chief Officers) that paying for such insurance cover could be such a benefit (taxable).

Personally, I would be quite content to pay additional insurance to cover any defined risk which is not otherwise covered by our insurance (or legislation) and which is a risk directly related to the Officers role. It seems however that this is not an option which CPOSA is willing to

explore. I would also be willing to consider a much lesser package of benefits – perhaps with a ceiling of £50k rather than the current (potentially up to £1m) but again it seems that the options will simply be 'take it or leave it'.

CPOSA/ACPO subs

It may also be useful to include the payment of (personal) professional subscriptions in this discussion (eg CPSO, ACPO). Whilst a much lesser issue than the CPOSA legal insurance matter it is still something where a collective position by APACE members would perhaps avoid confusion and complexities. Again I am including this in the Counsel's opinion insofar as whether it is a permitted allowance or a personnel benefit outwith the national conditions imposed on chief officer salaries/allowances.

Whilst this will ultimately be a matter for each PCC it seems to me that if we could achieve some collective thinking through APACE then we would all be better placed to advise our PCC's either in relation to options for terms and conditions for new appointments or when the CPOSA bills land for next year's payments. I have no doubt that if I put to my PCC a proposal not to pay it then their first questions would be "What is everybody else doing". I also think that it would be unfortunate if this were to become something that would complicate appointment procedures by introducing an element of competition which would in effect, cause us all to maintain the status quo.

I have asked [REDACTED] to put this on the agenda for our next meeting but conscious that this is not until 3rd December 2012 I thought it worth raising in advance to give an opportunity for discussion/feedback in preparation for our PCC's arriving and possible discussions about terms and conditions for new appointments.

[REDACTED]
Cleveland Police Authority
15th November 2012