



REVIEW OF THE POLICE ADVISORY BOARD FOR ENGLAND AND WALES

Aims of the review

It is Government policy that a non-departmental public body (NDPB) should only be set up, or remain in existence, where the model can be clearly evidenced as the most appropriate and cost-effective way of delivering the function in question.

In April 2011, Cabinet Office announced that all NDPBs still in existence following the first stage of public bodies reform would have to undergo a substantive review once in a three year cycle. These 'Triennial Reviews' have two principal aims, represented by two stages:

- to provide a robust challenge of the continuing need for individual NDPBs – both their functions and their form; and
- where it is agreed that a body remain as an NDPB, to review:
 - its capacity for delivering more effectively and efficiently, including identifying potential for efficiency savings and its ability to contribute to economic growth; and
 - the control and governance arrangements in place to ensure that the public body and the sponsoring department are complying with recognised principles of good corporate governance. This should also include an assessment of the body's performance.

This review has been carried out in line with Cabinet Office guidance "Guidance on Reviews of Non Departmental Public Bodies", revised in 2014. This guidance states that all reviews should be conducted in line with the principles given below.

Challenge

Reviews must be challenging. They should take a first principles approach to whether the function of a body is still needed, and if it is what the best form for delivery of that function is. Reviews should not just seek to evidence the status quo. They should be robust and rigorous and provide evidence for all recommendations. They must consider issues of efficiency, including the potential for efficiency savings, and make relevant recommendations. They should consider the performance of the body, and whether it could provide better value for money, including in terms of the body's contribution to economic growth¹. A description of how the review will be structured to meet this aim should be set out clearly in the Terms of Reference, which will be agreed between the department and Cabinet Office.

¹ As committed to in the Government's response to the Heseltine Review into economic growth – available at <https://www.gov.uk/government/publications/governments-response-to-the-heseltine-review-into-economic-growth>

Proportionality

Reviews must not be overly bureaucratic and should be appropriate for the size and nature of the NDPB being reviewed. Where appropriate, reviews of similar bodies should be combined or clustered to ensure the maximum benefit in terms of streamlining the review process, identifying synergies across departments and NDPBs, and considering efficiency.

Contextual

Reviews should not be undertaken in silos, but should wherever possible be integrated with other departmental policy initiatives, efficiency reviews, landscape reviews, and seek to look across departmental boundaries to cluster reviews of bodies to further enable informed discussions about potential efficiencies. Departments should consider the potential for integration when building their Triennial Review timetable.

Pace

Reviews must be completed quickly to minimise the disruption to the NDPB's business and reduce uncertainty about its future. Reviews should normally take no more than six months.

Inclusivity

Reviews must be open and inclusive. The NDPB being reviewed must be engaged and consulted at both an Executive and a Non-Executive level². Users and stakeholders must have the opportunity to comment and contribute. Parliament must be informed about the commencement and conclusions of reviews. Departmental Select Committees must be given the opportunity to input.

Transparency

All reviews must be announced formally, both to Parliament and to the public. All review reports must be published once clearance has been given by the Minister for the Cabinet Office. The results of reviews must be announced to Parliament.

² This is, in the main, a requirement for larger NDPBs. Smaller bodies won't necessarily have both Executive and Non-Executive representation.

Background on the body being reviewed

The Police Advisory Board for England and Wales (PABEW) was established by section 46 of the Police Act 1964 and is organised in accordance with its constitution for the purpose of advising the Secretary of State on general questions affecting the police. The PABEW first met in 1965.

The constitution of the PABEW³, the current version of which became effective from 27 January 2015, sets out functions, membership and how meetings of the body will function. Unusually, the constitution sets out the regulations⁴ that will not be considered under section 50 or 52 of the Police Act 1996⁵.

The draft regulations that are considered under these sections are listed below:

- voluntary retirement of police forces;
- the conduct, efficiency and effectiveness of members of police forces and the maintenance of discipline;
- the suspension of members of a police force from membership of that force and from their office as constable;
- the duties which are or are not to be performed by members of police forces; and
- the treatment as occasions of police duty of attendance at meetings of the Police Federations and of any body recognised by the Secretary of State for the purposes of section 64.

The body has an independent Chair, who is appointed by the Home Secretary in accordance with the Code of Practice published by the Commissioner for Public Appointments. The legislation and constitution require the remaining membership to be made up of representatives of:

- the Association of Police and Crime Commissioners;
- the London Mayor's Office for Policing and Crime;
- the Association of Chief Police Officers of England & Wales (to include the Metropolitan Police Commissioner);
- the Chief Police Officers' Staff Association;
- the Police Superintendents' Association of England & Wales;
- the Police Federation of England & Wales;
- the Trade Union Side of the Police Staff Council; and
- the Trade Union Side of the Metropolitan Police Whitley Council.

While the constitution sets out who will be represented on the board, it does not identify any one person (outside of the Chair) from these bodies that must attend.

³ The latest published version of the constitution took effect on 22 November 2012.

⁴ Principles, rules or laws that are designed to control or govern conduct.

⁵ The Police Act 1964 was repealed by the Police Act 1996.

This enables the Board to be flexible, ensuring representatives from the bodies listed above with relevant expertise and experience attend; depending on the issues that are being discussed. In addition, the Chair may invite others to attend and contribute as appropriate. Since April 2013, there have been observers from the College of Policing, the Department of Justice Northern Ireland, the Northern Ireland Government and the Scottish Government.

Interest groups which may have an interest in some or all of the work of the PABEW, such as organisations that represent civil liberties, public services and issues around public spending and finance, are not represented on the board and have not attended as an observer. Police forces of the Crown Dependencies are not represented on the board and have not attended as observers.

Until December 2014, there was a Chair and Deputy Chair who covered the PABEW and the Police Negotiating Board. Following the closure of the Police Negotiating Board in December 2014, the Home Office decided that there was no need to have a Chair and Deputy Chair due to the considerable reduction in workload. An effect of this is that there are no formal arrangements in place for anyone to act on behalf of the Chair in her absence.

There are normally four meetings per year in addition to working group meetings that meet outside the quarterly board meetings. Additional meetings can be called as required providing suitable notice is given. Board meetings are well attended, with no less than five bodies represented at quarterly meetings since 11 April 2013. There is no minimum number of attendees required for the body to be quorate. This is because the members are not required to vote on regulations (advice to the Home Office is by consensus) and a lot of the work of the body occurs outside the quarterly meetings⁶. The PABEW may establish working groups to address specific issues as it thinks fit. The PABEW currently has two working groups: the Discipline Sub Committee and the Police Pensions Consultative Forum. Both of these bodies report to the wider board at quarterly meetings. In addition, the PABEW is the Scheme Advisory Board for the Police Pension Schemes. There is a statutory requirement for there to be a Scheme Advisory Board but it does not stipulate where the body should sit.

In January 2015, a new constitution was agreed by the board that reflects the changing landscape within which the PABEW sits subsequent to the closure of the Police Negotiating Board, the creation of the College of Policing and the Police and National Crime Agency Remuneration Review Body. The updated constitution made the following changes:

- it removed further regulations that the Board will consider “...*the ranks to be held by members of police forces, or the qualifications for appointment and*

⁶ This has included discussions on with cause testing for alcohol and the role of the police friend.

promotion of members of police forces, or periods of service on probation, or the maintenance of personal records of members of police forces”;

- added that the board will consider draft regulations which the Secretary of State proposes to make under section 1 of the Police Pensions Act 1976; and
- added a requirement for the PABEW to fulfil the role of the Scheme Advisory Board for the Police Pension Schemes, in accordance with the requirements of s7 of the Public Service Pensions Act 2013.

The Home Office provides a small secretariat for the PABEW which sits in the sponsorship and policy team within the Crime and Policing Group. The secretariat is provided by 0.25 of a Higher Executive Officer⁷.

With the exception of the chair’s time/expenses and (occasionally) external meeting room costs (of which there were no costs for room hire in the last financial year), the costs associated with the quarterly meetings are limited to reasonable refreshments only. Other partners fund their own expenses and time to attend these meetings. As the secretariat function is within the Home Office, they have direct and immediate scrutiny of spending on refreshments and meeting rooms to ensure that it is proportionate and reasonable.

The costs for the Chair and Deputy Chair’s fees in the financial year 2013-14 totalled just under £40,000⁸. Following the closure of the Police Negotiating Board, the time commitment for the Chair is likely to be lower than in previous years. This, plus the abolition of the Deputy Chair position, is expected to result in a considerable reduction in costs this financial year.

⁷ The pay range for an HEO is £27,150 - £36,922 per annum. Structure and salary information for the Home Office is published on gov.uk and can be accessed through this link <https://www.gov.uk/government/collections/structure-and-salaries-series>.

⁸ This figure includes fees for their work on the PABEW and PNB. It is not possible to disaggregate the fees for just the PABEW.

Process

This review was announced by the Home Secretary via Written Ministerial Statement on 5 February 2015. Paul Pugh, a Senior Civil Servant in the Home Office who is independent of the PABEW and the sponsor team, led the review and was supported by the Home Office Public Bodies Team.

Challenge on the report and its recommendations have been provided by Cabinet Office and an official in the Home Office, who is also independent of the PABEW and their sponsor team.

The review consulted members of the PABEW, including the Chair, and wrote to the Chair of the Home Affairs Select Committee.

Delivery Models

A key part of a triennial review is to look at alternative delivery models, including whether the body needs to exist at all. Before looking at the different models, it is important to understand the role and remit of the PABEW.

The role of the PABEW is described in the annual report as “...*comparable to that of consultative bodies found in other fields of employment, and shares with them the objectives of engaging the expertise and experience of managers and staff alike in addressing the challenges of change and reform, and of providing a forum for the resolution of difficulties*”.

To fulfil this function, the Home Office asks the PABEW to consider draft regulations. How this happens is open to the PABEW and varies from case to case but it will either be through discussion at PABEW meetings or a sub-group will be formed to consider the regulation and then report back to the board. The body works by consensus and members are not asked to vote on recommendations.

The remit of the body is deliberately wide to ensure that there is no issue that remains potentially unconsidered for want of a forum. Since 1 April 2013, the PABEW has looked at:

- recommendations outstanding from the Winsor report on police officer and staff remuneration and conditions, including on restricted duty (recommendations 38, 40 and 41);
- police discipline;
- national recruitment standards;
- changes to the terms of reference of the PABEW;

- national police promotions framework;
- the role of the police friend⁹;
- pensions;
- substance misuse (with cause testing for alcohol);
- delegation of authority (regulations that will allow for certain chief officer functions to be delegated); and
- seconded officer guidance.

The minutes of meetings are available on line at Gov.uk. However, at the time of reporting the most recent one published was 16 January 2014, meaning minutes of the last four meetings are not available to the public.

The alternative delivery options are as below.

1) Abolish.

It is clear that having a body to consult on draft regulations is valuable to the Police, the Home Office and the public and ensures that no issue goes unconsidered for want of a forum. This provides assurance to the all interested parties that the regulations affecting the execution of police work have had appropriate scrutiny prior to implementation.

The PABEW also provides the required statutory functions of an advisory board in relation to the police pension scheme.

Abolishing the PABEW would leave a significant gap that would need to be filled elsewhere. It should not therefore, be abolished. The potential for alternative bodies to carry out the PABEW's functions is addressed later in this report.

2) Move out of central government.

Core to the effectiveness of this body is its current constitution which enables it to provide expert and practical advice on draft regulations. Moving it away from central government, such as to the private or third sector, would not provide any practical benefits.

The PABEW needs to remain therefore, in central government.

3) Commercial models.

There are no practical reasons for the body to move to a commercial model of any sort.

4) Bring in-house.

⁹ Police officers have the right to consult with, and be accompanied by, a police friend at any interview during an investigation into misconduct and at all stages of the misconduct or performance proceedings.

Advice to the department benefits from having an independent chair and representatives of the police on the body. This brings experience in operational policing to the table, something that the department does not readily have and would need to bring in to enable it to function as effectively as the PABEW does currently. Operating at arm's length from the department demonstrates a willingness to engage and listen to perspectives outside of Government and the Home Office. This means that the advice given can be objectively seen to have been given in an independent and credible way. Bringing the functions of the PABEW into the department would defeat its purpose and risks losing an important consultative forum.

5) Merge with another body.

No alternative bodies were identified as part of the consultation with stakeholders. There are however, two bodies that have related but distinct functions: the College of Policing and the Police Remuneration Review Body.

While the College of Policing has members appointed from many of the same bodies as the PABEW, they are appointed as individuals rather than representatives. For the College to be able to provide the consultative function of the PABEW, the way members are appointed would need to be changed to add additional members. Creating a sub-committee of the College to perform the same function as the PABEW would still require additional members to be appointed and existing members to act as representatives rather than do so independently. The College already uses the PABEW to consult, so removing the independence of the PABEW from the College could have a potential negative impact on the College.

The Police Remuneration Review Body's (PRRB) role and focus is consistent with other Pay Review Bodies. A key part of this is that it does not include senior ranks. The PABEW and Police Pensions Scheme Advisory Board does look at regulations and pensions issues that do affect senior ranks. Amending the constitution of the PRRB so it can address issues relating to senior ranks would make it inconsistent with other pay review bodies. The PABEW should not therefore, be merged with the PRRB.

6) Less formal structure.

The primary function of the PABEW is to consult with stakeholders. The alternative to a formal structure would be for the Home Office and College of Policing to identify and consult with relevant people from the police as required. With such an informal arrangement, there would be no need for an independent Chair and feedback could be provided directly to policy officials in the Home Office.

The advice provided by the PABEW to the Home Office is well regarded and benefits from the formal arrangement that exists now, which includes having an independent Chair, who is an accepted arbiter that the members of the PABEW are content will provide balanced, accurate advice to the Home Office. A less formal arrangement

risks lengthening consultations and loses the assurances that a statutory body gives to the police and public in that the Home Office will consult with the police. The PABEW should not therefore, move to a less formal structure.

7) Delivery via a new Executive Agency.

The PABEW provides advice to the Home Office; it does not have any executive functions. Delivery of this by an Executive Agency is clearly not an appropriate delivery model.

8) Continued delivery by an NDPB.

The PABEW is currently classified as an Advisory NDPB, a key feature of which is that members are appointed in an individual capacity.

The strength of the PABEW is that that membership is made up of representatives of organisations rather than individuals. These representatives have the credibility and authority to be able to feed back to their respective organisations on the findings of the body.

This is clearly at odds with the characteristics of an Advisory NDPB where members are appointed as individuals. Consequently, the PABEW should no longer be classified as an NDPB and be reclassified as a stakeholder group¹⁰.

This change in status is an administrative change that better reflects the constitution of the board. It will not affect the constitution of the PABEW, how appointments are made nor how it works with the Home Office.

Efficiencies

The PABEW has no resources of its own. Any research or evidence-gathering which is required to support its deliberations is currently provided by member organisations from their own resources. Although this has not been a significant issue to date, there may be circumstances in which it would be beneficial for the PABEW to commission some independent evidence-gathering.

Efficiency should be looked at more widely than just cost. It is important to assess whether the body is working efficiently and not causing delays in the implementation of regulations that could save the tax payer money.

¹⁰ The characteristics of a Stakeholder Group are set out in the Cabinet Office document '[Categories of public bodies: a guide for departments](#)'.

With costs of the body limited to the Chair's remuneration and expenses, travel costs for members (that are met by the organisation they represent) and reasonable refreshments for the quarterly meetings, the potential to make cost savings are limited.

Telephone and video conferencing is an effective way of reducing travelling expenses and removing the need for members spending time travelling to and from meetings. In the event that not all members have ready access to video conferencing facilities, there is potential to buy or hire equipment, which may involve travelling to somewhere that has suitable facilities available. Both of these options will have a cost and will not reduce the cost of the Chair, who is the only person remunerated for their time on the board. There is also potential for meeting virtually to have a significant effect on the dynamic and, consequently the effectiveness of the board, which has a culture of co-operation and consensus.

The flexibility of the PABEW means that progress on live issues is made outside of the quarterly meetings, which act as milestones to report on progress. A considerable amount of the work of the board is done outside of the meetings through correspondence on draft regulations, guidance and policy proposals. Sub-group meetings are often co-ordinated with the quarterly meetings to maximize efficiency. The Home Office is content that this approach has not caused delays to the implementation of reforms.

As formal meetings take place only once a quarter, and members meet their own travel costs, meetings costs are minimal and it is sensible and practical for meetings to take place with members there in person rather than participating remotely. However, consideration needs to be given by the Home Office and PABEW to whether there is scope for meetings to be held virtually, through telephone and video conferences, that will not damage the good dynamic of the meetings.

Conclusions of Stage One

The PABEW is an effective forum that helps ensure that effective and appropriate policies and regulations are adopted. There are no other bodies that could provide the same advice as the PABEW and closing the body would create a large gap that would need to be filled. With costs of the body limited to the Chair's remuneration and expenses, and reasonable refreshments for the quarterly meetings, the potential to make cost savings is limited. However, the Home Office and PABEW should consider whether the use of teleconferencing and/or video conferencing could be introduced for some or all quarterly board meetings.

That the body has members appointed as representatives of organisations rather than as individuals, means that it should not be classified as an NDPB.

This report makes six recommendations for the PABEW:

- it should be reclassified as a Stakeholder Group;
- consideration should be given by the Home Office and PABEW to formalising arrangements which would enable PABEW to conduct business in the temporary absence of the Chair. Any decision on who will act on behalf of the Chair in her absence must be set out in the published constitution;
- the Home Office should consider how funding could be made available to the PABEW to allow it to commission independent research;
- the sponsor team should explore whether there is potential to use telephone or video conferencing at quarterly board meetings;
- the secretariat should ensure that minutes of board meetings are published within five days of their approval at the subsequent meeting; and
- consideration should be given to establishing a quorum for each full board meeting. Any quorum must specify the number of bodies that are represented rather than the number of people that must attend.

These recommendations should be implemented within six months of the publication of this report.

As the outcome of this report is for the PABEW not to remain an NDPB, stage two, which looks at governance arrangements of the body, will not take place.

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