

PFEW Supplementary Submission to the Independent Review of Police Officers' and Staff Remuneration and Conditions

December 2010

INTRODUCTION

The Police Federation of England and Wales (PFEW) welcomes this opportunity to provide a supplementary submission to the Independent Review of Police Officers' and Staff Remuneration and Conditions. Having had the opportunity to consider the points made by other stakeholders in their initial submissions to the Review, the PFEW takes the opportunity in this submission to address some of those points, while also providing further evidence in support of the positions set out in its own initial submission.

The PFEW is a body which exists by statute to represent and promote the interests and welfare of our members and the efficiency of the police service. It is incumbent upon the PFEW that it meets these objectives in support of the wider service delivery by police forces themselves. It will no doubt be clear to the Independent Reviewer that, in making our initial submission, the PFEW endeavoured to evidence its positions as far as it could within the challenging timescale provided. Given that the terms of reference for the Review state that recommendations should be costed and of sufficient detail to enable effective implementation, the PFEW was disappointed that many of the submissions from other key stakeholders appear to lack the proper degree of evidence in support of their assertions or costings for their proposals.

The PFEW would also point out that, in developing its initial submission, we undertook a thorough process of consultation despite a necessarily short timeframe. The final submission was endorsed by a full meeting of the PFEW Joint Central Committee, following discussion amongst the constituent parts of the PFEW. Following its publication, the PFEW submission was widely welcomed by our membership. We do not believe that all of the major stakeholder submissions have been through the same process of internal consultation nor command the same degree of support across their respective organisations. In attempting to reach a set of recommendations, the PFEW believes it is vital that those recommendations should command the support of those working throughout the police service if they are to be implemented effectively.

This submission is structured into the following sections:

- Section One attempts to clarify aspects of other submissions where the PFEW believes it has identified misconceptions in relation to the operation of Police Regulations, or other factual inaccuracies.
- Section Two examines the propositions put forward in some of the other submissions and presents the views of the PFEW on those proposals.
- Section Three discusses some of the implications of those proposals for equality and diversity within the police service.

SECTION ONE: CLARIFICATION

There appear to be several misconceptions in some of the other submissions. In this section, the PFEW attempts to clarify some of those points.

Entry routes

The submission from the Metropolitan Police Authority (MPA) states that the prison service benefits from individuals entering the service at a higher level (MPA paragraph 1.5, page 3). In fact, the PFEW understands that the prison service reversed its direct entry experiment. Although the prison service does have a fast-track scheme based on previous experience, all individuals with governor potential must first serve as a prison officer for a period of time.

The MPA submission also states that the Police Advisory Board for England and Wales (PABEW) National Recruitment Standards (NRS) sub-committee endorsed a new method of recruitment from PCSOs and Special constables (MPA paragraph 2.1, page 4). However, this method of recruitment is currently understood by Home Office lawyers to be unlawful. It would require an amendment to Regulations before being used. The PFEW still has serious doubts about its potential affect on minority groups and has not endorsed the proposal. The PFEW raised its concerns at a meeting of the PABEW on 28 October 2010, followed by a letter to the PABEW Independent Chair on 9 November 2010.

Deployment

In its submission, ACPO state that “lead in times to vary established police officer shift patterns are protracted at 56 days” (Paragraph 6, page 14). In fact only 28 days notice must be given to change shifts when publishing the required three-month duty roster (Regulation 22, Annex E, Police Regulations 2003). The 56 days highlighted by ACPO actually relates to a decision to revert from a Variable Shift Arrangement (VSA) to an eight hour shift pattern. Changes to shifts can also be imposed at any time due to exigencies of duty should there be an urgent or pressing need. The PFEW understands that there is no use of the word “exigency” in any statute or statutory instrument other than in Police Regulations and nor is there is any reported case which considers the meaning of “exigency”. The Oxford English Dictionary identifies two definitions of the words “exigency”: “pressing state (of circumstances, etc), stringency (of requirements), urgent want, pressing necessity ... pressing needs, straits”; and “that which is needed or required”. In the view of the PFEW, these definitions present forces with sufficient scope to change shifts should there be a genuine need.

The Local Government Group (LG Group) submission states that the Official Side wishes to move away from the requirement for VSAs to be agreed with Staff Side. Currently VSAs must be agreed between chief constables and their local Joint Branch Board (JBB).

The LG Group states that the agreement of the JBB for the introduction of a VSA is an inconsistency when compared to an eight-hour shift pattern for which, it claims, the chief officer must only consult the JBB. However, this is a

misrepresentation of Regulations. A normal daily period of duty for officers of the rank of constable or sergeant is eight hours, unless they work a VSA. This is the default position. A chief officer may bring into operation VSAs if agreed with the JBB. If a VSA cannot be agreed then the eight-hour shift remains in place. Following on from this, rosters must be published, after full consultation with the JBB, at intervals not exceeding 12 months and not later than one month before the date on which it starts. Each roster must set out, for at least three months, rest days, public holidays when required to do duty, scheduled daily periods of duty and (for part-time officers) free days (except for any part-time officers who have agreed a different period). Changes can be made due to exigencies of duty (Regulation 22, Annex E, Police Regulations 2003). The requirement to consult JBBs is a protection that applies to all rosters whether they are VSAs or eight-hour shift patterns. It is not, therefore, correct to say that one must be consulted on and one must be agreed.

It is also misleading, therefore, for the MPA submission to state that managers should have the right to decide the optimum deployment pattern without the need to obtain the agreement of those being deployed (MPA paragraph 4.1, page 6). Only VSAs need to be agreed with the JBB.

On examining the MPA submission, it appears as though compensation for rest day and public holiday working have been included with overtime to make it seem more laborious to administer (MPA paragraph 4.4, page 7). While it may be a point of detail, rest days and public holidays are covered by a different regulation to overtime, to reflect the significantly greater amount of disruption caused to the officer who has a public holiday or rest day cancelled as opposed to staying on for a couple of hours at the end of a shift (Regulations 25 and 26, Police Regulations 2003). This should not be overlooked.

In looking at the cost of overtime, the APA submission states that Lincolnshire Police Authority reports that average basic pay for police officers in the year to date for 2010/11 is £42,654 million, comprising an overtime element of £2,390 million. These are figures on which the PFEW has not been sighted and would not have access to. The PFEW believes that the word “million” after both sets of figures must be an error. The entire police budget for England and Wales is approximately £12.5 billion, so it seems highly unlikely that the basic or total pay bill in Lincolnshire is nearly three and a half times this amount (APA paragraph 90, page 16). In fact, according to CIPFA figures for 2008/09, the total pay bill for Lincolnshire was £64.7 million, of which £2.68 million was comprised of overtime payments¹. However, if these figures refer to individual payments to officers, it should be noted that the overtime element cannot be said to comprise any part of basic pay.

The APA submission states all members of federated ranks, including members of the inspecting ranks, are eligible for overtime pay, but this is not the case (APA paragraph 2, Annex F, page 53). Only constables and

¹ *Police Service Statistics 2008-09 Actuals*, The Chartered Institute of Public Finance and Accountancy, January 2010

sergeants are eligible for the receipt of overtime payments (Regulation 25, Annex G, Police Regulations 2003).

The APA survey of police overtime in other countries consists of 10 comparator forces. However, it appears that sufficient data is only actually available for two countries: New Zealand and, Switzerland; and three regional forces: Toronto, New York and Victoria. Confusingly, the APA claims to have sufficient data from four countries and two regional forces, but it is not clear from the text which is the fourth country (APA paragraph 13, page 55).

The ACPO submission suggests that the current PNB negotiations on the 2012 Olympics have been “protracted” (ACPO paragraph 1, page 16). A similar point is made by the APA submission in respect of Mutual Aid, which reports attempting to renegotiate arrangements within PNB for some time “and quite unsuccessfully” (APA paragraphs 165-167, pages 26-27). The APA claims “recent discussions give the APA little confidence of reaching a deal on mutual aid for the Olympics”. However, the first meeting of Mutual Aid Working Group to specifically discuss an agreement in respect of the Olympics only took place on 31 August 2010. The PFEW hardly believes, therefore, that these discussions can be described as protracted particularly as there has only been one further meeting and others are scheduled.

Performance/post related pay

In its submission, the LG Group makes reference to the “very long” constables’ pay scale. It then cites this as a reason for why eligible women do not apply for Competency Related Threshold Payments (CRTPs) (LG Group page 7). However, in order to be eligible to apply for a CRTP, an officer must have been at the top of his or her pay scale for 12 months. The length of the pay scale would not be a factor in preventing women who were eligible from applying for CRTPs.

The MPA submission states that Staff Side proposed a new rate of pay for advanced constables (MPA paragraph 12.9, page 15). There appears to be an element of confusion here, as it was in fact the Official Side who put forward a paper to the PNB in respect of Advanced Constables in October 2005. This was never endorsed by Staff Side.

The MPA submission states that it wishes to ensure those in the “most challenging roles are less well rewarded” (MPA paragraph 12.10, page 15). The PFEW assumes this is a typographical error rather than an MPA strategy.

Pay Progression and Length of Service

The MPA submission states that the PABEW recently published guidance on Job Related Fitness Testing for Specialist posts (MPA paragraph 17.2, page 18). The PABEW is not in a position to publish guidance; it is promulgated by the Home Office. So far the Police Minister has refused to mandate forces and the PFEW has expressed its disappointment both in writing and at the previous PAB meeting.

Exit routes and Pensions

The APA submission states that the Home Secretary currently has powers afforded under Section 50 of the Police Act 1996 to introduce redundancy provisions for police officers (APA paragraph 176, page 28). In fact Section 50 confers powers upon the Secretary of State to make regulations in respect of the dismissal or requirement to resign of police officers on the grounds of conduct or performance not redundancy.

SECTION TWO: COMMENT AND DISCUSSION

Entry routes

Policing as a profession

ACPO states the police service is “at the tipping point from being a ‘craft’ to becoming a modern profession” (ACPO paragraph 8, page 5). The APA submission also makes reference to what it believes to be the attributes of other professions (APA paragraph 13, page 5). Unfortunately no citation is provided either for these attributes or for the assertion that the “literature recognise that the most appropriate organisational environment for exploiting these attributes is on-bureaucratic, non-hierarchical, innovative, and performance oriented” (APA paragraph 14, page 5). Nor is it clear with whom the police service is being compared when reference is made to other professions.

In 2004, the Secretary of State for Education and Skills invited Sir Alan Langlands to prepare a report examining the gateways to the professions. The report looked at the following categories: accountants, architects, chemists, dentists, engineers, legal professionals, medical practitioners, social workers and teachers. Langlands noted the “very long lead time between fixing on a career preference and actually entering a profession”. According to Langlands, the literature on career choice clearly indicates that for those who enter a “profession”, career choices were being made at a relatively early age, around 14-16 years of age².

However, professions vary in the specifics of their qualification requirements; failure to choose science subjects in Year 10 might preclude a career in medicine, whereas, a degree in a wide range of subjects would qualify a student to take a postgraduate teaching qualification. While most accountants are graduates, not all have studied accountancy at university. Under the Association of Chartered Certified Accountants (ACCA) programme, there is a three year work experience requirement which can be completed before, during or after completion of ACCA examinations.

The qualifying programme for an architect in the UK is five years’ university-based study (or part-time equivalent) and two or more years of professional experience and development governed by the Royal Institute of British Architecture (RIBA). Most solicitors undertake a first degree in law, then the Legal Practice Course (LPC), followed by a two-year traineeship to get practical experience in varied areas of law, whilst receiving a salary. This can be completed in six years. Non-law graduates undertake a one-year conversion course and the Common Professional Exam (CPE), and then qualify in the same way as law graduates. This is the second most common route. Non-graduates first qualify as a Fellow of the Institute of Legal Executives (FILEX) and then undertake the LPC. None of these professions closely examine a person’s political associations nor impose strictures upon their private lives as part of any governing process.

² *The Gateways to the Professions Report*, Sir Alan Langlands, July 2005

The question, therefore, is how would investment by an individual in a “professional policing career” early in life support the concept put forward by ACPO that police officers should be encouraged to leave the service earlier through “a range of short, medium and long term commission which exist in such as the armed forces [sic]” (ACPO paragraph 2, page 34). The importance of this point is reinforced by the fact that, as noted in the PFEW’s initial submission, the average recruit to policing now joins the service in his or her late twenties.

A further point in relation to the discussion of policing as a profession is that an important feature of recognised professions is self-regulation. Social workers are regulated by the General Social Care Council (GSCC) and if found guilty of misconduct can be removed or suspended from the GSCC register. Barristers are regulated by the Bar Standards Board which sets standards of conduct, handles complaints against barristers and takes disciplinary action where necessary. The General Medical Council registers doctors to practise in the UK and has the power to remove a doctor from its approved register or to suspend or place conditions on a doctor's registration. Self-regulation is not open to policing. As Officers of the Crown, police officers are necessarily subject to public scrutiny and accountability and an independent investigative regulatory process through the Independent Police Complaints Commission. Officers are governed by the Conduct Regulations, which allow chief officers to dismiss them either with notice or with immediate effect. The current provisions for accountability and governance, therefore, make it difficult for policing to follow the model of recognised professions.

Learning and development

Although the LG Group believes there are advantages in allowing external candidates to join above the rank of constable and states that there should be opportunities for senior police officers to go on secondments out of the service (LG Group pages 2-3), the PFEW would argue that there should be more emphasis on developing the skills of those already in the service to ensure they have the necessary skills to progress through the service. Indeed, the Leitch report identified that 70 percent of the 2020 workforce are already of working age and emphasized the importance of employer investment in workforce learning and skills³. This is as relevant to policing as to any other sector.

As a public sector employer, the police service should not seek to place the burden of training and development substantially upon the individual or other employers from which skilled labour might be recruited. The police service should accept its responsibility to invest in individuals of the right calibre to ensure that officers acquire the necessary policing-specific skills which the service and the wider community require.

³ *Prosperity for all in the global economy – world class skills*, Leitch Review of Skills, December 2006

Deployment

Many submissions comment on general deployment, overtime, variable shift arrangements (VSAs) and mutual aid. It is disappointing that ACPO has not fully set out its views on all of its proposals in its initial submission. Without more detail, it is difficult for the PFEW to comment on some of the proposals which are alluded to in the appendix of the ACPO submission. For example, included in its summarised vision of possible total reward packages ACPO refers to fully flexible operational duties. This involves “shift working over 365 and variable days annually. Unplanned additional hours and disruption be remunerated separately for actual hours worked and at plain time rates”. Given that Police Regulations and the current remuneration package for police officers cater for just such arrangements, it is not clear what changes ACPO actually wish to propose.

Furthermore, Police Regulations are statutory instruments and, as such, delegated legislation introduced by governments using powers conferred by an Act of Parliament. The PFEW holds the views that Police Regulations are the appropriate framework that provides the ultimate flexible resource available to chief constables.

General deployment

In its submission, the MPA implies that figure reported by Her Majesty’s Inspectorate of Constabulary (HMIC) of the 11 percent of officers being visible and generally available to the public is the result of constraints imposed upon rostering by Regulations, but the submission does not produce any evidence to support this assertion (MPA paragraphs 3.2 and 3.4, page 5).

In its submission, the LG Group states that the “police service recognises that current arrangements do not enable the most effective deployment of officers to meet ever changing operational challenges and the expectations of the public” (LG Group page 3). As a representative body within the police service, the PFEW does not accept this. Officers can be deployed anywhere and at anytime. Lawful orders and exigencies of duty provide chief officers with considerable scope to deploy officers. With reference to three-month rosters, the LG Group argues for greater flexibility which should be managed in the context of ensuring a healthy work-life balance for police officers (LG Group page 3). It is important to note that three-month duty rosters should be published 28 days ahead, which does allow flexibility and ensures forces should be aware of, and able to factor-in, upcoming events, thereby ensuring reasonable prospects for work-life balance as well as successful operations (Regulation 22, Annex E, Police Regulations 2003).

Furthermore, while the MPA submission states that managers should have the absolute right to deploy officers as they choose, no consideration seems to be given to the health of officers or their right to some sort of work-life balance (MPA paragraph 4.1, page 6).

Overtime

As set out in its initial submission, the PFEW refutes the suggestion made by the LG Group and other stakeholders, that the costs of overtime in the police service are considerable (LG Group page 3). In its submission, ACPO asserts

that the standard working day is restrictive and as a result paying one of a number of enhancements beyond these times is both expensive and bureaucratic in its administration (ACPO paragraph 4, page 13). Recent research confirms that time and a half is the usual premium for additional hours worked beyond normal hours of employment, and yet police officers are only entitled to time and a third (Regulation 25, Annex G, Police Regulations 2003). While most organisations stipulate a minimum qualifying period that staff must work in addition to their normal hours before any overtime payment is triggered, this is typically 15 minutes a day⁴. This compares with Police Regulations which require police officers to disregard 30 minutes overtime on four separate occasions in any week before casual overtime can be claimed (Regulation 25, Annex G, Police Regulations 2003). ACPO particularly highlights public holiday working which “often triggers the payment of overtime which could be avoided with more flexible provision”. Far from being excessive, many organisations typically pay double time as a premium on public holidays⁵.

The LG Group makes reference to “core hours” and notes that some councils now consider hours worked up to 8pm to be “normal working hours”. As such, the LG Group advocates paying plain time for additional working at times when much of the public is at work, such as early in the evening or on Saturdays (LG Group page 4). However, casual overtime compensation at time and a third does not relate to the time of day. Police officers regularly work on Saturday night, on Sunday or overnight as part of their shift patterns and are paid at plain time. Overtime is compensation for being held on at the end of an often long and busy shift, when officers have an expectation that they will be able to go home, collect children from childcare, rest or recuperate, or otherwise for coming in early or in between shifts. The PFEW also believes that this proposal would be extremely complex to administer.

In its submission, the LG Group notes that police staff earning above £25,449 are not paid overtime (LG Group page 4). However, police officers have a much higher expectation than police staff that they may be required to alter their working day with consequent effects on childcare costs or other personal commitments. This should continue to be appropriately compensated.

The PFEW would also take issue with the assertion in the APA submission that overtime rates are a significant barrier to workforce productivity and not in keeping with their conception of officers as professionals. The APA acknowledges that “forces have made great strides recently in driving down overtime costs”, but complain that rates remain generous and open to abuse through lax supervision and manipulation of currently complex rules (APA paragraph 91, page 16). This is an extremely serious allegation and it is disappointing that, with such a sweeping generalisation, no evidence is provided to support this claim.

Moreover, in Annex F of its submission, the APA summarises its research in respect of overtime pay regimes in other countries, but acknowledge that it is

⁴ *Overtime*, IDS HR Studies 931, December 2010

⁵ *ibid*

“limited in scope” (APA page 53). The APA also admits that its study did not “examine overtime in the context of organisational requirements such as operational needs or managing resources”. Its survey of other countries consists of 10 comparator forces, but sufficient data is only available from New Zealand and Switzerland; and two regional forces, Toronto and the Australian State of Victoria. Although New Zealand only provides for TOIL, an overtime component of five hours a week is built into an officer’s salary; Toronto allows officers to choose cash payment or TOIL for court appearances on days off; Switzerland still pays one of two overtime rates depending on whether it is a morning or afternoon shift. Switzerland also pays double time for working on public holidays. Even this brief summary illustrates the extent of information gaps. However, the APA does report that forces in England agree that “the use overtime can be beneficial and cost effective when considering the wider financial impact of employing and training new officers”.

The PFEW would concur with the Northern Ireland Policing Board (NIPB) that unplanned disruption to the work-life balance of officers should be recognised by the payment of compensation in the form of overtime premiums (NIPB page 5). The very nature of policing requires officers to work unsocial hours and this is reflected in the total employment package. Any significant changes to this package in the present economic climate would have “a significant negative impact”. For the consequences of altering or removing overtime rates for constables and sergeants, the PFEW would highlight the experience of members of the inspecting ranks. Since 1994, inspectors and chief inspectors have not been eligible to receive payment for overtime. This has resulted in a significant increase in the hours worked and the requirement to be ‘on call’ for members of the inspecting ranks clearly because there is no financial penalty on forces for calling on inspectors and extending their working hours or weekly working patterns. One of the key issues highlighted by members of the inspecting ranks was the need to work long hours simply to get the basics of the job done, with many examples of inspectors and chief inspectors working in excess of 65-hour weeks on a regular basis⁶.

The police service will never have the number of officers required for every policing eventuality. Therefore, overtime is a necessary managerial tool to deploy resources in the most cost-effective way at times of operational demand. Although actual police numbers have risen in the last decade, the number of officers per 100,000 of population has fallen steadily since 2006. The relative number of officers has reduced from 260 to 254, while the number of constables has fallen from 204 to 198 per 100,000 of the population. The fall has been especially noticeable among frontline officers such as constables. The relative number of police officers is now barely above the level of the early 1990s⁷.

⁶ *‘Well-being at work’ Membership Census 2007*, Inspectors’ Central Committee, Police Federation of England and Wales, 2007

⁷ *Crime and the Economy*, Police Federation of England and Wales, May 2009

Variable Shift Arrangements

The PFEW takes issue with the view expressed by ACPO and the APA that VSAs should be subject only to consultation rather than joint agreement with JBBs. The provision for VSAs to be agreed is the only protection given to officers and is vitally important to protect work-life balance and health and welfare of officers. Prior to 2002 (and the introduction of three-monthly rosters) Regulations did not require consultation on duty rosters. The only requirement for agreement with JBBs is in relation to the introduction of VSAs. The LG Group states that the requirement to agree VSAs unnecessarily limits the operational flexibility which chief officers require (LG Group page 3). However, hundreds of VSAs exist and the Official Side has consistently failed to provide any examples of situations where JBBs have not agreed a VSA. In addition, the force can always revert to the eight-hour shift pattern which gives all of the flexibility required. As the LG Group states, the right of any employer to deploy resources in the most effective way must have reasonable parameters (LG Group page 3). This provision is the only parameter in existence for police officers who can be required to work anytime of the day or night.

While ACPO calls for a specific shift allowance (ACPO page 9), the LG Group suggests that a move towards a more flexible pay system is a better way of rewarding contribution than shift payments (LG Group page 5). The PFEW restates its view that police basic pay should continue to be set at a rate which reflects the fact that officers can be directed to work at any time.

Mutual Aid

On the Hertfordshire Agreement, the ACPO submission states that it “‘compensates’ officers in a very unequal matter i.e. the longer you work, the less compensation you earn” (ACPO paragraph 2, page 16). As a result officers receive payment for hours they do not work and forces incur unreasonable levels of expense. ACPO claims that individual officers “gross £60-£70 on average in payment for hours that they have not worked”, but provides no reference or evidence to support this. The APA states officers should only be paid for the hours actually worked. However, as an exception to their overtime policy, premium overtime rates (to be determined) should be paid for each hour worked over an 8 hour shift. Whilst they see no justification for premium rates on grounds of working location and/or sleeping away from home for short periods, “exclusions do seem reasonable for longer periods of unplanned, involuntary mutual aid duty” (APA paragraphs 165 and 169, pages 26-27).

If an officer on duty in their own force at their normal place of duty is prevented from retiring from duty and returning home by their chief constable due to a policing requirement they are paid for every hour. If they are directed by their chief constable to be deployed out of the force not at their normal place of duty then currently the ‘Hertfordshire Agreement’ provides that the officer will be paid for 24 hours unless accommodation of an appropriate standard is provided, in which case they are paid for 16 hours. The restriction on the officer being prevented from returning home to engage in a normal off

duty family life due to a direction given by their chief constable should continue to be compensated under the existing arrangements.

At a meeting of the PNB Mutual Aid Working Party on 8 April 2010 (currently suspended pending this review), the Official Side provided figures for the cost of mutual aid operations as supplied by ACPO. In four out of the six operations cited by ACPO, officers routinely worked shifts of 14-16 hours for up to eight days at a time. One particular group of officers worked 18 hours during one of those operations for which they were paid. It is clear that on operations where officers are held in reserve, they are in the main being asked to work extended hours in addition to being unable to return home. For this reason, the PFEW stands by its view that the Hertfordshire Agreement remains the appropriate mechanism for remunerating those officers who are held in reserve.

Performance/post related pay

It was widely accepted that the three-year pay deal agreed by the PNB in October 2008 would provide the opportunity for both Sides of the PNB to engage in constructive discussions over pay reform during the lifetime of that pay agreement. With the last instalment of that agreement having been implemented in September 2010, it is disappointing that the PFEW has only become aware at this time of the policy positions of some of the major stakeholders within the Official Side. This disappointment is reinforced by the fact that the PFEW, through Staff Side, has requested that the Official Side bring forward its proposals for pay reform on several occasions informally and at least twice at formal meetings of the PNB Federated Ranks Committee within the last 18 months (PNB Federated Ranks Committee Minutes, 23 July 2009 and 28 October 2009).

According to its submission, there is no strong consensus within ACPO on whether the current rank structure should be changed. ACPO states that the service should “move to a system where greater recognition is given to expertise and quality of contribution rather than just rank and length of service” (ACPO paragraph 1, page 22), but provides no details as to how this would operate. The MPA, Metropolitan Police Service (MPS) and the APA submissions are specific in their recommendations that there should be a reduction in the number of ranks, particularly through the removal of the ranks of chief inspector and chief superintendent (APA page 21; MPS paragraph 4.4, page 5; MPA paragraph 18.7, page 20). The PFEW does not feel that any case has been made effectively for this proposal.

In fact, the rank of chief inspector was removed following the recommendations of the Sheehy report in 1994. It soon became apparent that the police service could not function adequately without that rank and it was subsequently re-introduced. Whereas the inspector and superintendent ranks have four and five pay points respectively, the manner of the reintroduction of the chief inspector rank resulted in the current three incremental pay points that fail to recognise the level of responsibility of the rank, The PFEW would strongly recommend that the Review resists any call for there to be a

reduction in ranks given the supervisory and operational requirements of the service.

Rank structure

ACPO states that “most successful organisations have reduced the number of levels of hierarchy and “flattened” their structures” (ACPO paragraph 2, page 21). If this is indeed the case, then those organisations must have been seeking to emulate a model which the police service appears to have achieved from its creation. Police service strength at March 2010 in England and Wales was 143,511 excluding members of ACPO. These officers were spread over only six ranks, the vast majority of whom were constables. This in itself represents a much flatter structure than much of the public sector⁸:

- The armed forces consist of 173,000 personnel spread over 12 ranks below the most senior officers
- The prison service of has 36,000 employees on eight grades below prison governor
- The 53,000 fire-fighters and control staff across the UK are placed on seven grades below chief fire officer
- Doctors in the NHS below the level of consultant have to progress through eight grades
- In the Ministry of Defence, the 56,000 administrative, executive and managerial staff are placed on seven grades up to and including Grade 6
- Similarly, the 90,000 tax inspectors, administrative and professional staff at HM Revenue and Customs are also placed on seven grades up to and including Grade 6 ‘large business team leader’
- Over 110,000 clerical staff through to managers at the Department of Work and pensions are also on seven grades up to and including Grade 6

Civil service Grade 6 would in the past have been referred to as ‘senior principal’ and in government departments would today include titles such as deputy director, assistant director, team leader or policy manager. In most departments there are at least four grades above this.

It is not clear which examples from the private sector have been examined either:

- Imperial Tobacco employs 1,580 in a variety of roles spread over 11 grades below supervisory level⁹
- BT has parallel structures for its 60,000 engineering and sales staff, which are eight and 10 grades in length¹⁰
- Nissan has 5,300 engineering, manufacturing and administrative staff spread over nine grades¹¹

⁸ *Pay in the public services 2010*, Incomes Data Services, March 2010

⁹ IDS Pay Report 1056, September 2010

¹⁰ *ibid*

¹¹ IDS Pay Report 1054, August 2010

- The 5,000 members of staff operatives at Scottish and Southern Energy are placed on one of 11 grades below managerial level¹²
- At Hitachi Automotive Systems Europe some 124 employees below managerial level are placed on seven grades within the company's pay structure¹³

In each of these cases, pay ranges exist for each grade. It is difficult to reconcile these examples of grading structures with the notion that the police service has too many ranks.

CRTPs, SPPs and bonus payments

ACPO calls for CRTPs and SPPs to be removed and, in the short term, resources should be re-invested into pay for advanced skills, continuous professional development, and later for possession of a 'certificate to practice' (ACPO paragraphs 2 and 5, pages 24-25). NPIA takes no stance as there is insufficient evidence to show whether skills are absent from the police service or are not being developed sufficiently. Unlike ACPO, the APA does not support additional payment in return for the acquisition of new skills (APA paragraph 102, page 17).

ACPO suggests that its proposals could be funded from the existing pay bill by redistributing monies spent on CRTPs, SPPs, senior police and chief officer bonuses, although it makes no comment in respect of the costs of introducing and administering such a pay system. ACPO estimates that this equates to approximately £200 million annually. The PFEW is not sighted on these figures, although we would agree that the SPP pot alone is worth some £97 million annually. In addition, ACPO asserts its belief that the overhead cost in administering SPPs together with all other enhancements is high in relation to overall pay administration, but no concrete evidence is provided to support this claim. As such it is difficult to verify the level of savings or potential costs from these proposals. Moreover, the ACPO submission appears to contradict these proposals when it later suggests that senior officer and chief officer bonuses should be incorporated into total pay so as to endorse the current pay relativities (ACPO paragraph 5, page 27). This position appears inconsistent with their removal as part of a £200 million saving set out above.

Local flexibility

ACPO calls for local flexibility to determine pay for hard-to-fill posts (ACPO paragraph 6, page 28). Whilst advocating national prescription of pay bands, the APA believes there should be local discretion for forces on job sizing and pay. The PFEW welcomes the fact that the LG Group is in favour of retaining CRTPs and SPPs (LG Group page 7). The LG Group submission includes a focus on keeping payments such as CRTPs or SPPs rather than taking a role-based approach. However, the response does highlight the difficulties that arise when schemes are left to local discretion. The LG Group states that it is aware that "the discretion available to forces in applying the SPP scheme at local level has led to some forces introducing length of service as a local

¹² IDS Pay Report 1048, May 2010

¹³ IDS Pay Report 1047, April 2010

criterion” (LG Group page 8). As the LG Group correctly identifies, this can contribute to the continuing gender pay gap within the police service. Furthermore, as identified in the PFEW initial submission to the Review, nationally determined conditions of service remove barriers to effective collaboration, thereby improving interoperability between forces, which has been identified as increasingly important within policing. Any attempt to vary terms and conditions locally would undermine this.

Pay progression

Both the APA and ACPO propose what appear to be significant changes to the current structure of police pay. In its submission, ACPO states that there should be no automatic incremental pay increase (especially after attaining competence, for example after one or two years for a sergeant), but rather the possibility that pay could go up, down or stay the same depending on performance (ACPO paragraph 3, page 24). Central to the APA submission are new proposals on reform of the pay structure. The APA envisages the current vertical pay spine being replaced by a vertical/horizontal pay band structure organised principally by role but with a continuing rank element. Rank would become embedded within specific roles. In the diagrammatic flow chart attached to the submission specific roles are not spelt out but after initial training (pay bands 1 and 2) and the attainment of full competence on completion of IPLDP (pay band 3), 16 roles seem to be envisaged for pay band 4, 8 each for pay bands 5 and 6, and 4 each for bands 7 and 8. As with the ACPO proposals, the APA submission claims that it would be possible for officers to move up and down through pay bands as well as up and down the rank structure (APA pages 24-25). The proposals put forward by the APA appear extremely complex and occupational examples elsewhere are not readily apparent, nor have any been alluded to in the submission.

The ACPO and APA proposals take no account of the significant costs of introducing such a bureaucratic pay structure or of the fact that the police service has been singularly unable to introduce an effective process for assessing the performance of officers. Given the recent Home Office decision that Performance and Development Reviews (PDRs) will not be mandatory across police forces, it is difficult to understand how pay can be linked to performance. Nor do the ACPO or APA proposals address the significant additional equal pay issues that would inevitably arise (see also Section Three).

While pay ranges are used by 80 percent of employers in manufacturing and 56 percent of private services employers, only one in three public sector organisations use such a reward system. Incremental scales are used by 67 percent of respondents from the public sector. While pay ranges offer employers greater flexibility to direct more money towards particular individuals they also involve greater risk. Under such pay systems, there is more scope for employees doing similar jobs to find themselves being paid widely differing amounts for no discernible reason. Moreover, employees may perceive such pay ranges as lacking transparency if the conditions for achieving pay progression are not clearly communicated¹⁴.

¹⁴ *Pay progression*, IDS HR Studies 929, November 2010

Progression through a salary range may be based on a measure of performance, competency or skills acquisition, for example. In practice, employers take a number of factors into account rather than basing progression on a single criterion. Performance is the most significant factor for 71 percent of organisations which use salary ranges and, for over 90 percent of such organisations, individual targets at appraisal are used to measure performance. The next most important factor is contribution, which is typically defined as a combination of performance and competency, or performance and 'demonstrated behaviours'. As such, it is a more subjective measure than performance alone. Only 14 percent of organisations state that skills acquisition is the most important factor in determining pay progression¹⁵. It is, therefore, difficult to understand why the police service should move away from a system which is transparent and readily understood by police officers to a system that rewards skills acquisition as set out by ACPO (ACPO paragraph 2, page 24).

Allowances

In its submission, the APA proposes the abolition of Rent and Housing Allowances, London Weighting and London Allowance and South East Allowance, but not dog handler's allowance and motor vehicle allowance (APA paragraph 137, page 22). Although the APA states that these allowances are "inefficient and crude" mechanisms for rewarding additional responsibilities or correcting for recruitment and retention difficulties, no evidence is provided to support this assertion (APA paragraph 138, page 23). The proposal by the APA to abolish the South East Allowance is at variance with the recent Official Side claim agreed at PNB to provide forces with the flexibility to increase this allowance to address recruitment and retention problems.

In particular, the APA calls for the London Allowance to be abolished and for London Weighting to be re-examined for "continued relevance" (APA page 24). The LG Group also suggests a phased reduction of the London Allowance (LG Group page 8). The PFEW welcomes the views of the NIPB that, though not impacting upon the Police Service of Northern Ireland, the evidence suggests that cost of living in London and the impact of MPS recruitment on surrounding forces requires some measure to balance payments and benefits. Similarly, ACPO notes that the London and South East Allowances are essential recruitment and retention tools (ACPO paragraph 1, page 26). A further point which the PFEW would reiterate is that that London Allowance has not been up-rated since 2000 and has, therefore, significantly fallen in value over the last 10 years.

Pay reform in other sectors: Agenda for Change

More generally, the PFEW would point to some of the problems experienced by one of the most significant public sector pay reform agendas of the last decade, Agenda for Change. In December 2004, following a long period of negotiation and a piloting process, the Agenda for Change Final Agreement in the NHS was published. This agreement introduced two new pay spines: one for staff covered by the remit of the Review Body for Nursing and Other

¹⁵ *ibid*

Health Professions and one for other directly employed NHS staff. These two pay spines replaced a number of existing occupational salary scales that had existed under the Whitley Council system, different NHS staff groups were covered by different Whitley councils, and were employed on different terms and conditions, including different working hours.

Agenda for Change 'bought out' many of the supplementary payments and additional allowances previously paid under the Whitley system in order to harmonise pay. London weighting and fringe allowances were replaced by a new category of 'high cost area' pay supplement, and recruitment and retention premiums were introduced to provide an additional pay elements for specific posts or groups deemed hard to fill.

The new pay system was underpinned by a job evaluation scheme, based on 16 factors. The new pay spines were divided into nine pay bands, and staff were assimilated on to one of these pay bands on the basis of job weight, as measured by the job evaluation scheme. However, according to research undertaken on behalf of the Royal College of Nursing (RCN), few respondents viewed Agenda for Change positively. Only one in five thought that the pay system was fairer as a result of Agenda for Change, whereas 55 percent disagreed with that statement.¹⁶ In focus group research conducted by Ipsos MORI many employees felt that this has not been universally applied. Some felt that colleagues in the same department have been matched into different bands and hence been assimilated into different pay scales. There were also perceived differences in job matching between hospitals in different areas¹⁷.

A Knowledge and Skills Framework (KSF) was introduced as part of Agenda for Change to define the knowledge and skills required for NHS staff to work effectively in their jobs and to provide a framework for the review and development of each staff member. The KSF is the basis for determining individual employee pay and career progression within Agenda for Change. Each job has a KSF post outline that sets out the dimensions, levels and indicators required for the post holder to undertake it effectively. The KSF process is based on an annual developmental review between each staff member and their line manager, which should produce a personal development plan. However, there are mixed views about the potential of the Knowledge and Skills Framework. Although some staff feel it has the potential to provide a clearer career structure, there is uncertainty about its operation in practice. In the RCN survey, nearly four in ten respondents did not have a completed KSF outline for their post and 11 percent did not know if they had one¹⁸.

Delays in negotiation and implementation meant that the new pay system began to function just as the NHS in England had moved from a period of relative funding growth to one of fiscal constraint. In the first 12 months of

¹⁶ *Impact of Agenda for Change: Results from a survey of RCN members working in the NHS/GP practices*, Jane Ball and Geoff Pike, Employment Research Ltd, September 2006

¹⁷ *Agenda for Change Research Study Conducted for the NHS Trade Unions*, Ipsos Mori, October 2006

¹⁸ RCN 2006

implementation, from October 2004 to September 2005, direct earnings costs exceeded those originally estimated by 0.5 per cent of the Agenda for Change pay bill, or around £120 million a year in cash terms. Over the same period, the indirect earnings costs of replacing additional hours and leave arising from Agenda for Change exceeded those originally estimated by at least £100 million a year¹⁹. In April 2006, the Minister of State for Health reported that “The funding envelope for Agenda for Change is £1.4 billion in 2006–07 and £1.8 billion in 2007–08, an increase of £440 million and £380 million respectively over 2005–06.”²⁰

Although there was general support in the focus group research for Agenda for Change, its implementation is perceived by many to have created a great deal of uncertainty and to have contributed to the lowering of staff morale²¹. According to the RCN survey less than one in ten respondents felt that Agenda for Change had improved the quality of care where they worked²².

Exit routes and Pensions

In its initial submission, the PFEW set out its view that redundancy for police officers was incompatible with the Office of Constable. The PFEW remains of this view.

The PFEW notes the ACPO assertion that “police staff are being disproportionately affected by redundancies arising specifically from the Comprehensive Spending Review (CSR) announcement” (ACPO paragraph 1, page 31). The PFEW accepts that this may well be the case. In the year 2000 the average ratio of police officers to police staff was 2.3 to 1. By 2009 the average was 1.4 to 1. In every force in England and Wales since 2000 the growth in police staff numbers has outstripped the growth in police officer numbers. Nationally there has been a 16 percent increase in police officers but an 80 percent increase in police staff²³.

The PFEW welcomes the APA’s cautionary note to forces “against perceiving A19 as a simple ‘stop-gap’ to control costs” (APA paragraph 179, page 28) and its recognition that officers with 30 years’ pensionable service “bring a significant amount of experience to any role” (paragraph 180, page 28). The PFEW recognises the significant contribution that these officers add to the service, particularly in the development of new officers. Furthermore, the knowledge, experience and expertise of these police officers will be especially important in the lead-up to and during the Olympic Games in 2012.

ACPO suggests that the Unsatisfactory Performance Procedures (UPP) are not widely understood, but again provides no evidence to support this claim (ACPO paragraph 4, page 32). Nor is it clear from the ACPO submission

¹⁹ *Realising the Benefits? Assessing the Implementation of Agenda for Change*, James Buchan and David Evans, King’s Fund, 2007

²⁰ *Hansard (House of Commons Debates 2006-07)* 24 April 2006

²¹ Ipsos MORI 2006

²² RCN 2006

²³ *Building a police workforce for the future*, Police Federation of England and Wales, May 2010

which members of the force should be required to understand UPP, and what degree of training and support forces have offered them.

The LG Group submission response advocates introducing a redundancy scheme for police officers (LG Group page 10). The reasons given are the current financial challenges and the need to be more flexible locally. However, the LG Group itself acknowledges that PNB agreements with local discretion have been used by some forces in a way that is potentially discriminatory such as the introduction of length of service criteria into local SPP schemes (LG Group page 8); conversely, where forces have specifically been given the power to use local discretion, for example in relation to the South East Allowance, they have not been willing to take it up.

Pay Machinery

The PFEW understands that the second part of the Review will examine in more detail the structure of police pay machinery. The PFEW looks forward to the opportunity to comment in more detail on this issue following the delivery of the Review's interim report.

With regard to matters of pay, the PFEW would like to draw attention to the disparate and often conflicting proposals put forward to the Review by the different members of the Official Side of the Police Negotiating Board. Staff Side come to the PNB with a desire to negotiate, yet it seems that the Official Side are either unwilling or unable to enter into a bargaining process that can deliver a modern, robust pay system for police officers. There has been a reliance on the PAT to deliver settlements in matters that could and should have been negotiated. Even then, as can be seen by the APA proposals regarding on-call allowances, there is a reluctance to accept the decision of an independent arbitrator (APA page 4). Several members of the Official Side appear to be hoping or expecting the Review to impose changes to the pay structure without producing the necessary evidence, entering into a bargaining process, or considering improvements in other areas as part of any deal. They seem hell-bent on developing industrial unrest within the Service. This is not how pay should be set in the 21st century.

Staff Side is similarly made up of several different organisations, sometimes with conflicting views, however, whilst we are not suggesting this is always easy, by a process of consultation and leadership towards a common goal we generally come to the PNB with an agreed view. It is clear that before any new negotiating structure is considered for the Police Service, the Official Side needs fundamental reform to be able to contribute in a clear and consistent manner in negotiations, to understand the ramifications of its proposals and to operate in the negotiating forum in a professional manner.

SECTION THREE: DIVERSITY

Few, if any, of the submissions address the issue of diversity with a clear understanding of the issues.

There have been significant numbers of people from minority groups joining the service each year, as can be seen from the results of the SEARCH assessment process. As the PFEW pointed out in its submission, there are no published figures for length of service of people from each of the protected groups, yet it is clear that they are leaving the service earlier than their white male counterparts. The reasons for the disproportionate retention of officers need to be established and, if possible, rectified, if the service is to develop into a diverse organisation outside of the constable rank.

Recruitment

The LG Group submission shows an alarming lack of understanding of the current process of recruitment asserting that “it would also seem appropriate to move to recruitment through discreet time limited processes, rather than having a waiting list and the costs associated with maintaining that (sic)”. In fact mismanaged waiting lists have been shown by the Commission for Racial Equality to increase the potential for unlawful race discrimination²⁴ and the PABEW working group on National Recruitment Standards has counselled against the use of lengthy waiting lists. The APA seem to consider that waiting lists are a Regulatory function of the recruitment process which is certainly not the case. The issue of waiting lists is a matter of procedure rather than policy or Regulation.

Direct entry above constable rank

A number of submissions, including those from the NBPA, the NAMP, the ACPO and ACPOS Women’s Forum, and the LG Group, assert that using direct entry to senior ranks will solve the problems the service has in relation to diversity. The PFEW believes that this focus on equality of outcomes rather than equality of opportunity is a potentially unlawfully discriminatory, short term and ultimately counter-productive proposition that would set individuals up to fail and result in a culture which does not see the benefits of equality for everyone nor provides proper support for diversity.

The MPA is also supportive of direct entry above the rank of constable. Citing the possibility, in exceptional circumstances, that a chief constable can be appointed who is not already a police officer, the MPA states that it is, therefore, unrealistic that officers cannot be directly appointed at lower ranks (MPA paragraph 1.4, pages 2-3). While the PFEW is aware that the Civil Nuclear Constabulary appointed a former senior officer from the security industry to be its chief constable, it has a very different remit to a Home Office force. The PFEW is not aware that this power has ever been invoked for a Home Office force, certainly not in the era of modern policing. Furthermore, it is interesting to note that APA submission does not support the use of direct entry in the appointment of chief constables (APA paragraphs 45-46, page 9).

²⁴ CRE Formal Investigation into the recruitment practices employed by Massey Ferguson

As the PFEW stated in its initial submission, commanding a policing operation requires significant experience of policing in an operational role, particularly in relation to the management of major incidents. The consequences of choosing the wrong leaders to manage these situations are potentially highly dangerous to the public and damaging to the service. Senior police leaders are required to make operational policing decisions, not just to manage budgets or to oversee policy and personnel matters. Lord Justice Taylor identified the importance of the “skill, experience and special knowledge” of police commanders in operational situations²⁵. Directly recruiting individuals above the rank of constable, with no operational policing experience, is tantamount to setting-up those individuals to fail. This would be in nobody’s interests.

Entry through the Special Constabulary/PCSO grades

In its submission the LG Group argues for a range of routes into the police service and states that using PCSOs and special constables as a source of applicants increases diversity, but it also notes that this could affect the diversity of recruits as it tends to exclude those from less well-off backgrounds (LG Group page 2). The PFEW shares this concern. In fact, the PFEW considers that the MPS equality impact assessment of its proposals shows exactly why the scheme would be an absolute disaster for diversity in the service.

Comparison with staff roles

The PFEW would also challenge the NPIA assertion that the greater representation of women in police staff roles means that the police service provides a more accurate reflection of the diverse communities it serves. The NPIA clearly fail to recognise that there is a significant difference between the roles and that there is different gender/job segregation pattern in each. Police staff roles are clearly more accessible for women. The Police Service needs to remove the barriers to women’s employment as police officers so as to ensure that, wherever possible, they are open and accessible. The PFEW’s particular concern in this area is in respect of flexible working options and fitness tests (see below). Only then will it be possible to assert that the greater representation of women in police staff roles means “that the police service provides a more accurate reflection of the diverse communities we serve” (NPIA page 26).

In fact it is much more likely that increasing the numbers of staff roles will mean that police officers become less representative of society as the more flexible roles are “civilianised” and gender/job segregation increases.

A reduction in numbers of frontline police officers will make duty times more uncertain and increase the need for overtime. This will inhibit women with childcare responsibilities from undertaking the role. A greater emphasis on “frontline policing” rather than issues such as domestic violence²⁶ implies a

²⁵ *The Hillsborough Stadium Disaster 15 April 1989: Inquiry by the Rt Hon Lord Justice Taylor*, January 1990

²⁶ Interview with Police Minister, *Police Review*, 26 November 2010

more confrontational role for police officers which will again discourage women from undertaking the role.

Flexible Working

Worryingly, no submission, other than that of the PFEW, argues for greater use of reduced hours or flexible working by police officers as a means of increasing diversity, whilst potentially improving efficiency and reducing costs. In times of stretched resources forces need to work differently. This means the full range of flexible working opportunities needs to be employed in order to match change and increase diversity whilst also importantly ensuring that police resources match policing demand. According to a recent report by the Fatherhood Institute, the UK ranks 18 out of 21 in the Fairness in Families Index, which rates countries on 10 indicators of gender equality, including the gender pay gap, the ratio of men's to women's time spent caring for children and the percentage of women in management positions²⁷. Although the report aims to influence the legislative framework, the policies and attitudes of employers are just as important.

Fitness Tests

Mandatory fitness test standards for specialist posts would ensure increased opportunities, particularly for women and older officers and improve diversity within the Service. It is worth noting that all constituent parts of the PABEW have urged the Police Minister to make the proposed specialist post fitness standards developed by the PABEW mandatory. We are therefore particularly disappointed that the Police Minister has recently (letter dated 25th November) decided not to make the standards mandatory and furthermore, has not provided an equality impact assessment of his policy decision.

Equal pay

The PFEW is pleased that most organisations represented on PNB have made mention of the equality issues raised by the PNB Equal Pay Audit conducted by the PFEW on behalf of PNB in 2009. Disappointingly, however, equal pay and the PNB Equal Pay Audit is the only reference that many of them make to matters of equality and diversity.

Although the Official Side has accepted the Equal Pay Audit as a robust analysis, the APA describes it as "fragile" without any justification whatsoever. They go on to suggest that the removal of all allowances will solve the problem of equal pay. This shows how ignorance and complacency can lead to unwitting inequality in pay systems.

The APA submission asserts that "there can be problems with regard to placing restricted duties officers in police staff posts, as it may give rise to claims regarding equal pay" (APA paragraph 185, page 29). This shows a worrying lack of understanding of the equal pay legislation which allows employers to show that any difference in pay is because of a material factor

²⁷ *The Fatherhood Report 2010-11: the Fairness in Families Index*, Fatherhood Institute, December 2010

unrelated to sex. Being on restricted duties would constitute a material factor defence unrelated to sex²⁸.

It is clear that the APA is not alone in its misunderstanding of matters of equality and diversity. The ACPO submission indicates that “heed should be paid to equal pay legislation since this now covers police officers as a result of the new Equality Act” (ACPO paragraph 3, page 25). Police officers have been covered by the equal pay legislation, both domestic and European, since their inception.

The ACPO submission also makes the same mistake as the APA regarding the employment of officers in police staff roles, asserting that “the provisions of the Disability Discrimination Act (sic) promote greater retention of officers with disabilities which, in turn, imposes restrictions on full operational deployment. ... This also affects police staff and roles where these are sometimes used to accommodate restricted officers, who then retain their full police officer pay whilst working alongside police staff on lesser salaries appropriate to the actual job. This obviously poses equality and Value for Money challenges” (ACPO paragraph 8, page 31). Not only is this a distortion of the law in respect of equal pay and disability discrimination, it clearly shows that ACPO is unable to operate the current Regulations in respect of ill health, retirement, attendance and performance.

The ACPO submission also shows its lack of understanding of the indirect discrimination provisions of the Equality Act (and its predecessor legislation) by indicating that “A number of forces are introducing schemes which will require future recruits to the regular force to have served as Specials. This should be subject to equality impact assessment going forward to ensure no disproportionality or adverse impact on composition” (ACPO paragraph 1, page 20).

First, this shows that ACPO believes, contrary to the public sector equality duty, that a policy can be introduced before an equality impact assessment is conducted; and secondly, ACPO also believes that the objective is to assure “no disproportionality or adverse impact” rather than seeking to amend or remove policies before seeking to justify their implementation as being a proportionate means of achieving a legitimate aim as required by the law. ACPO appears to be confusing monitoring a policy after implementation with assessing the implications that a policy will have on equality and diversity as a precursor to making a decision on its implementation.

The submissions produced by the Official Side bodies give the PFEW real concerns as to how the police service will be able to comply with its statutory duty to eliminate discrimination and advance equality either under the existing, or proposed extended statutory public sector equality duty due to be implemented in 2011.

²⁸ See also **Smith v Her Majesty's Prison Service ET 2010** where this argument was rejected by the Employment Tribunal in a case of disability discrimination

CONCLUSION

In responding to some of the other submissions to the Review, the PFEW is mindful that many other stakeholders appear to propose varying degrees of change to the current structure of pay and conditions of service for police officers in England and Wales. The PFEW is always willing to discuss potential changes and, as should be clear from this supplementary submission, is still seeking improvements to those conditions and structure, particularly where it would improve the diversity of the service. The current conditions of service, as set out in Police Regulations and Determinations and PNB Circulars, have been arrived at through a process of negotiation and arbitration. The PFEW has fully engaged in that process. For that reason, the PFEW is strongly of the view that any departure from those conditions of service must be based on a rigorous assessment of the available evidence. The PFEW reiterates its position set out in Executive Summary paragraph 20 and the answers to Question 3.11 in its initial submission, that any proposed changes resulting from this Review must have been subject to a full equality impact assessment.