

FINAL

POLICE ADVISORY BOARD FOR ENGLAND AND WALES

FOURTEENTH ANNUAL REPORT OF THE INDEPENDENT CHAIR

FEBRUARY 2014 - MARCH 2015

2014-2015

Foreword

The Board was established under the Police Act 1964. Its statutory functions (currently under s.63 of the Police Act 1996 and the Police Reform Act 2002) are to:

- Advise the Secretary of State on general questions affecting the police in England and Wales;
- Consider draft regulations which the Secretary of State proposes to make under section 50 or 52 of the Police Act 1996 with respect to matters other than hours of duty, leave, pay and allowances, or the issue, use and return of police clothing, personal equipment and accoutrements, or the ranks to be held by members of police forces, or the qualifications for appointment and promotion of members of police forces, or periods of service on probation, or the maintenance of personal records of members of police forces and to make such representations to the Secretary of State as it thinks fit;
- Consider draft regulations which the Secretary of State proposes to make under section 37, 39, 81 or 83 of the Police Act 1997, and to make such representations to the Secretary of State as it thinks fit;
- Consider draft regulations which the Secretary of State proposes to make under Part 2 of the Police Reform Act 2002, and to make such representations to the Secretary of State as it thinks fit; and

The Board may also consider any matter relating to conditions of service, and any other matters affecting the police which have been referred to it by the Secretary of State and it will advise the Secretary of State on such matters within any time limit specified by the Secretary of State.

In January 2015, a new constitution was agreed by the board to reflect 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 the following from the Board's remit "*...the ranks to be held by members of police forces, or the qualifications for appointment and promotion of members of police forces, or periods of service on probation, or the maintenance of personal records of members of police forces*";
- It 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

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- 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 section 7 of the Public Service Pensions Act 2013.

The current constitution for the Board can be found at Annex C.

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1. Introduction

- 1.1 This is the fourteenth Annual Report on the work of the Police Advisory Board for England and Wales (PABEW). It covers the work of the Board from the 1st February 2014 to the 31st March 2015. While the Annual Report usually covers the twelve months to the end of March, the retirement of John Randall as Chair on 12th February 2015 led to an agreement that he would present a report for the period 1 April 2013 to 31 January 2014, leaving my first report to cover the period from then.

What we do

- 1.2 The Board was established by statute to advise the Home Secretary on general questions affecting the police in England and Wales. It fulfils a role 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. The Board worked in parallel with the Police Negotiating Board (PNB), dealing with issues that fell outside the PNB remit, but which affected the working lives of police officers.
- 1.3 The PNB was abolished and its remit was taken on by the independent Police Remuneration Review Body (PRRB) and the Senior Salaries Review Body (SSRB) in September 2014. The main impetus for change was Tom Winsor's Independent Review of Police Officer and Staff Remunerations and Conditions, which recommended that the PNB should be replaced with an alternative system. The Government accepted Winsor's proposals, and brought in legislation to abolish the PNB. The relevant legislation can be found in sections 131-134 of the Antisocial Behaviour, Crime and Policing Act 2014.
- 1.4 These changes in responsibility led to changes to constitution of the PABEW.
- 1.5 There is a separate Policing Advisory Group for Northern Ireland and a consultative forum for the police service in Scotland, which has retained its PNB.

2. Changes to the Terms of reference of PABEW

- 2.1 As a result of the Anti-social Behaviour, Crime and Policing Act 2014 there were a number of changes to the terms of reference of PABEW. In short, most of the matters now dealt with by the Recruitment Standards Sub-committee became the responsibility of the College of Policing, and consultation on pensions matters (for England and Wales) passed from PNB to PABEW.

- 2.2 The powers given to the College of Policing cover Regulations relating to the ranks to be held by members of police forces, qualifications for appointment and promotion, probationary service and the maintenance of personal records. All of these matters, with the exception of promotion (currently dealt with by the Police Promotions and Examinations Board) previously fell within the remit of PABEW. Before making such Regulations (or Determinations under them) the Home Secretary had to consult PABEW. These matters made up most, if not all, of the business of the Board's Recruitment Standards Sub-Committee.
- 2.3 After the Act achieved Royal Assent, the PABEW continued the work of the Recruitment Standards Sub-Committee to provide space for transitional arrangements to be made with the College. The last meeting of the Recruitment Standards Sub-Committee took place in January 2015 and the responsibility was formally handed to the College's Consultative Group.
- 2.4 The transfer to PABEW of the consultative role in relation to police pensions regulations took place in the early autumn of 2014, when the legislative provisions to abolish PNB and establish the Police Remuneration Review Body commenced.
- 2.5 Police Pensions Regulations in England and Wales are made by the Home Secretary, under the provisions of the Police Pensions Act 1976 and the Public Service Pensions Act 2013. Police Pensions Regulations in Scotland are made by Scottish Ministers under the same Acts, the powers having been devolved under the provisions of the Scotland Act 1998. Police Pensions Regulations in Northern Ireland are made by the Department of Justice in Northern Ireland under the Police (Northern Ireland) Act 1998 and the Public Service Pensions Act (Northern Ireland) 2014.
- 2.6 Under the Public Service Pensions Act 2013 there is a requirement for a Scheme Advisory Board. The Board established the Scheme Advisory Board for England and Wales.
- 2.7 Changes to the constitution to reflect the Board's evolving role in the policing landscape were agreed by the Board at its full meeting on 27 January.

Working methods

- 2.8 Much of the substantive work of the Board is undertaken through expert working parties, which give detailed consideration to issues, and make recommendations for decision by the full Board. Board meetings deal directly with straightforward issues, refer matters to expert working parties following initial discussion, and receive and consider reports from working parties. This approach to business enables full meetings to be completed within about 90 minutes.

- 2.9 Working parties often include representatives of organisations able to provide specialist knowledge, in addition to representatives of the parties represented on the PABEW. In the period under review, working parties have had the benefit of input from, amongst others, Skills for Justice, the College of Policing and the Disabled Police Association as well as experts drawn from within organisations represented on the PABEW.

3. Issues and recommendations

3.1 Restricted Duty Working Party

- 3.1.1 This working party was established following the PABEW quarterly meeting of 1 May 2014. The Home Office noted at this meeting that they wished to take forward the work on the non-arbitrable elements of the Winsor recommendations related to restricted duty, building on the work which had already been done in the joint PNB/PABEW Working Party and using this to draft regulations and guidance. The working party met five times during the reporting period.
- 3.1.2 At the first meeting on 2 June, the Home Office presented members with a paper that provided a round-up of the current position noting the outstanding issues. Those recommendations which had implications for police officer pay had been discussed at the Police Negotiating Board and, following a failure to agree, referred to the Police Arbitration Tribunal (PAT). The Home Secretary ratified the PAT's decision in Home Office circular 2-2014. PFEW did not attend the meeting on 2 June, because the Home Office had not provided a draft proposal that had been checked by HO legal advisers ahead of the working party meeting. In light of the discussions of the first meeting, it was agreed the working party needed to consider settling the following issues:
- The definition of the full range of duties;
 - The criteria relation to the appeals process;
 - The criteria relating to the decision to remove the X-factor element;
 - capability exit provision – the name and shape of the process;
 - The re-employment of police officers on police staff terms and conditions; and
 - The re-employment of police officers within a period of five years.
- 3.1.3 It was agreed that guidance should be drafted and reviewed by PABEW.

3.1.4 At the second meeting on 15 August, the Home Office presented a further paper to members. It was explained the paper constituted a set of revised proposals which reflected further discussions with police employers, and the Home Office and which built on PNB discussions prior to the Home Secretary's decision on the PAT award feedback from PNB 'Staff Side' and it took account of further advice from HR professional and legal advisers. The meeting focussed discussions on:

- Section A – Unsatisfactory Performance Procedures (UPP)/Capability exit route
- Section B – Redeployment to police staff roles

3.1.5 *Section A* –the key points were:

- clarity was required on a list of capabilities which needed to be judged against the needs of the role so there was no risk of any misunderstanding;
- the skills and capabilities of each individual on adjusted duty needed to be assessed to see if they could be usefully employed in the organisation; and
- superintending – and other ranks – would not need to disclose restricted ability which had no impact on their role.

3.1.6 The Home Office confirmed that the proposals presented at this meeting would be updated taking account of the need for more a staged process; the criteria to be used; relevant timescales; and the need for one process for all ranks.

3.1.7 *Section B* – It was clear from discussions that members wanted a fair and transparent process for officers who take up the opportunity to resign and then seek a police staff role. The consensus was to suggest that decisions relating to redeployment were better taken based on local conditions, but according to high level points of principle that should be outlined in the proposed guidance. Timescales and capabilities would be clearly defined; the Home Office confirmed they would lend resource to coordinate a draft paper based on those principles on behalf of members, for the Board to comment on.

3.1.8 The question of where issues of equality should sit was also discussed at this meeting – ACPO agreed to discuss this with the College of Policing and it was noted that forces would be responsible for undertaking Equality Impact Assessments locally.

3.1.9 On 23 October a further draft of the guidance was reviewed and discussed by members. The Home Office confirmed that the new paper attempted to put together a skeleton of the capability dismissal procedures. The following points in the guidance were discussed:

- 3.1.10 *Principles* – ACPO said a further principle making it clear that there should be a statement of the requirements of roles should be included in a revised draft. ACPO also said that they did not believe that the process of a review to be undertaken by forces should be set out in the guidance but should instead signpost the need for forces to do this.
- 3.1.11 PSAEW again raised the issue of Superintendents and Chief Superintendents and considered in what circumstances someone would be deemed not capable of performing the role of Superintendent. The importance of ensuring people were not dismissed for the wrong reason was raised.
- 3.1.12 *Recuperation* – Members asked for this section to be fleshed out as it only provided an indication of timescales. The previous report from the PABEW to the Home Secretary in July 2013 contained more detail which has been taken from the work done in relation to the X-factor.
- 3.1.13 *Redeployment* – The Home Office noted they required some further information on how this area fitted in with existing force policies. It was agreed that police officers and staff should not be referred to in the same section due to the differences in the way these postings are considered.
- 3.1.14 The Home Office said they would prepare a revised draft of the guidance, incorporating all relevant comments by the end of October.
- 3.1.15 At the meeting of 19 December, discussions focussed on the revised draft guidance. The consensus was that the tone needed to be adjusted and could be addressed through a strong contextual introduction. There was also discussion around ownership of the guidance in future since it would not be appropriate for the Home Office to publish operational HR guidance. It was suggested that perhaps, when ready, the College of Policing could take this on. It was agreed the guidance would be included as an annual standing item at the full Board meeting to ensure work was brought to a point whereby it is ready to be implemented and that ownership could then be appropriately determined.
- 3.1.16 At this meeting ACPO informed members the process of how to conduct the review of ‘fully deployable’ posts would be covered in a workshop due to take place with forces in January 2015. I noted that it was for forces to take heed of the guidance and the need for the review.
- 3.1.17 On 21 January I received a letter setting out the expectations of the Home Secretary in relation to PABEW’s consideration of these recommendations. I replied on 26 February setting out the Board’s advice in relation to the outstanding Winsor recommendations

regarding Restricted Duty. In March, the Home Secretary wrote accepting the advice of PABEW in relation to those matters, recognising that this varied from the wording of the original Winsor recommendations, and confirming that she would ask officials to take forward implementation on that basis, including the necessary legislative amendments.

- 3.1.18 The working group's final meeting took place on 27 January. It was clear there remained two outstanding issues; two year criterion relating to when a force can commence capability dismissal procedures and redeployment of officers into staff roles. It was agreed that the outstanding work required on the guidance should be taken forward by the National Police Chiefs' Council (NPCC – Formerly ACPO).
- 3.1.19 The Home Office confirmed that they had sent to partners a pre-consultation draft of amendments to secondary legislation with regard to categories of limited duty and the circumstances in which the X-factor element of pay may be deducted. They noted that the formal consultation documents would be sent out following this final meeting and that they would continue to work closely with partners to ensure that guidance for forces was finalised. Following implementation of these elements of the process, work would begin to finalise a process on which new capability dismissal provisions could be based and this would be brought back to PAB.

3.2 PABEW National Recruitment Standards Sub-Committee

- 3.2.1 The Sub-Committee established to keep under review national recruitment standards and related matters has continued its work. The work of the Sub-Committee was handed over to the College of Policing following its final meeting on 7 January.

Direct Entry at higher rank and accelerated promotion

- 3.2.2 On 14 May, the Home Office informed members that the College of Policing had provided them with a number of proposed regulation changes but Home Office lawyers had not yet been able to draft the regulations. The proposed changes went beyond the recommendation which had been made by Tom Winsor and included proposals relating to entry and probation requirements. The changes would encompass a mixture of regulations and determinations which would be sent to the Sub-Committee when ready.
- 3.2.3 The Home Office updated members at the 11 September meeting that following consideration by the College's new consultative group the College's deputy CEO, Rob Buckley, had written to the Minister approving draft amendments to the Police Regulations 2003 and the Police (Promotion) Regulations 1996. The amendments ensure that those participating in the schemes will:

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- Pass the assessment centre approved by the College of Policing to start the scheme;
- Be subject to a probationary period as determined by the Secretary of State;
- Be subject to dismissal in the probationary period if he or she is not fit, physically or mentally, to perform the duties of his office, or that he or she is not likely to become an efficient or well conducted constable;
- Be able, in the case of those on fast track scheme, to take the part 1 of the inspectors' promotion exam during his or her probation, to take part 11B (a 12 month period of work-based assessment) if he or she has passed part 1 and be qualified to be promoted to sergeant if they have passed the qualifying assessment for sergeant.

3.2.4 Determinations in relation to changes to the eyesight requirements for superintendents (removal of the uncorrected vision standard) and probation periods (18 months for superintendents and until promoted to sergeant for fast trackers when the standard sergeant one year probation will kick in) was made after the regulation amendments took effect from 1 October.

3.2.5 Fast track to inspector officers were able to start before the amendments took place because they satisfy the existing entry requirements for joining a force, including meeting the required levels of literacy and numeracy which is currently set out in the SEARCH assessment centre.

3.2.6 The College also has the responsibility to make recommendations on the overseas police forces and ranks that would be eligible to be considered for chief constable posts in England and Wales, as set out in the Anti-Social Behaviour, Crime and Policing Act 2014. They made their recommendation which includes forces from Australia, Canada, New Zealand and the USA. Regulations to implement the list were also been approved and laid in Parliament and also took effect on 1 October.

3.2.7 In July, the assessment centre for the fast track inspector scheme took place. There had been 105 candidates. 43 candidates had passed the assessment centre - 41% of candidates had been female and 14.3% were of BME origin. With regard to the Direct Entry Scheme at superintendent rank, there had been 867 applicants. Of these, 41 had been selected to attend the assessment centre and 13 had been recommended for appointment.

Police SEARCH 2014 Design Process

- 3.2.8 The College of Policing informed the Sub-Committee at its 14 May meeting that they wished to make changes to the SEARCH exercise suite. He confirmed their intention to conduct a validation exercise but experienced difficulty in finding a sufficient number of forces, with enough officers, willing to take part.
- 3.2.9 At the 11 September meeting the College of Policing informed members that the Metropolitan Police Service and West Midlands Police had agreed to take part in the validation process. A consultation exercise was conducted in relation to standards.
- 3.2.10 At the final meeting on 7 January, the College of Policing presented members with a paper setting out two new written skills exercises that will replace existing written exercises. The exercises – a statement taking exercise and an incident summary exercise – were more closely aligned than previous tests to what would be required in the role of an officer. The College confirmed they were in the process of standard setting. The Sub-Committee was content with the paper presented.

Police SEARCH Written Assessment Options

- 3.2.11 The College of Policing presented a paper on 7n January setting out the new proposed approach following the consultation in which forces had indicated that their preferred approach would be for assessment to occur prior to probation. The College confirmed there would be an agreed minimum standard but forces would still be afforded the maximum degree of flexibility. Regarding the position of transferees mid process, the College said that it would be for forces to accept transferees regardless but they were open to listening to members' views. The decision on whether to retest a candidate who entered the process having pre-qualified was for forces to make. The College confirmed that forces were keen to retain the SEARCH exercise.

Proposal to change the SEARCH previous application policy

- 3.2.12 On 14 May, the Metropolitan Police Service (MPS) said the proposal to remove the six month previous application policy for candidates seeking to join the police had been amended since the last meeting to remove the limitation to BME and female candidates so that any candidate can reapply.
- 3.2.13 Further, 'near misses' was redefined as candidates scoring 45% to 49%. Candidates who failed SEARCH would receive a letter explaining the re-application requirements. PFEW raised concerns that positive action initiatives should only be used for BME candidates as female candidates were not under represented in the MPS – the MPS countered that females were indeed underrepresented.

- 3.2.14 The point raised by PFEW underlined the importance of each forcer confirming whether there was under-representation before employing any positive action initiatives. The Sub-Committee approved the proposal to amend the SEARCH previous application policy.
- 3.2.15 Following the implementation of these proposals the College of Policing informed members that a framework was being developed which would allow the MPS to monitor the progress of individuals.

Police SEARCH Interim Results and Analysis Report 2012-13

- 3.2.16 The College of Policing presented the findings to the Sub-Committee as its meeting on 11 September. The interim results report covered the period from November 2012 to October 2013. During the period 7,996 candidates completed the SEARCH assessment. This was double the number who undertook the assessment during the period November 2011 to October 2012. There was a slight reduction in the proportion of female candidates compared to the 2009-2012 Police SEARCH Recruitment Assessment Centre. The average age of candidates was 27.3 years. There was a slight decrease in the proportion of BME attendees compared to the 2009-2012 Police SEARCH Recruitment Assessment Centre. 78.8% of candidates were educated to A level or above. 40% of candidates were currently serving or had previously served as Special Constables. The number of successful candidates was 7053 (88.5%). Females had a higher success rate than males (90.2% compared to 87.7%). The success rate among candidates who had English as a first language was 89.4% compared to 67.5% for those who had identified English as their second language.
- 3.2.17 The period November 2013 to June 2014 a further 8,000 candidates had completed the SEARCH Assessment Centre. This brought the total up to 16,000 since November 2012. The proportion of female candidates had dropped. 67% of BME candidates were successful. There was a high failure rate among BME candidates on the written communication element of the SEARCH Assessment Centre. It was noted that the work which the MPS was leading on in relation to functional skills would go some way to address this.
- 3.2.18 PSAEW noted that the band widths of the age categories identified in the report were not consistent and were therefore, not comparable. Referring to paragraph 1.22 of the report she commented that serving as a PCSO appeared to make little difference to the success rate of candidates. Those who were serving or who had served as a PCSO had a success rate of 89.6% whereas those who were not serving or who had never served as a PCSO had a success rate of 88.2%.
- 3.2.19 CPOSA said that West Midlands Police had been doing a lot of recruitment. 18% were of BME origin. It was agreed that it would be interesting to know if there were regional differences in the recruitment data.

Functional Skills

3.2.20 On 14 May, the College of Policing, referring to the equality update paper, said that at the previous meeting (in the previous reporting year) the sub-committee had requested that a more comprehensive equality impact assessment (EIA) be undertaken. This work was underway with further consultation was being undertaken with representative groups. They had spoken to the President of the National Association of Muslim Police who had been supportive of the proposal to introduce a requirement for Functional Skills English Level 2 (FSEL2) qualification as part of the minimum entry requirements for the police service.

3.2.21 PFEW raised concerns that there were some areas where some groups would be discriminated against. They said they would like to see the risks identified and whether the proposals were a proportionate means of achieving a legitimate aim. It was also important to have flexibility for forces. The College of Policing confirmed that the EIA needed further refinement.

3.2.22 With respect to the Certificate in Knowledge of Policing both PFEW and the MPS said the acquisition of the Certificate in Knowledge of Policing being the only route into the police service as it had a disproportionate impact on BME candidates; forces need more than one entry route.

3.2.23 In relation to the proposals from the MPS the Sub-Committee was asked to consider:

- Do PAB NRS members support the principle of the proposed pilot? Members confirmed their support for the pilot.
- Would PAB NRS members endorse the implementation of the pilot for a 12 month entry period? This was endorsed by members.
- Would PAB NRS members endorse the principle of retrospective application of the pilot to those who have recently been through the Police SEARCH Assessment Centre? (i.e. those who have attended since August 2013). This was supported by the sub-committee
- Would PAB NRS members support the principle that those within the pilot group who already holding an appropriate Level 2 proxy qualification should still be assessed to confirm reaching the Functional Skills Level 2 standard, but would not necessarily be required to complete a full Functional skills English Level 2 learning programme? This was also endorsed by the sub-committee

3.2.24 On 11 September the Sub-Committee were presented with a revised paper. The College of Policing had launched a consultation exercise in the interim period since the Sub-Committee had last met. Forces were

asked to provide their views on the following three options for entry level standards:

- A certificated Functional Skills English Level 2 (FSEL2) (or equivalent) qualification becomes a minimum, mandatory requirement at point of application for entry as a police constable
- A certificated FSEL2 (or equivalent) qualification becomes a minimum, mandatory requirement, to be achieved either at the point of application, or (if the force chooses) by the end of initial training
- Applicants are required to either hold a certificated FSEL2 (or equivalent) qualification, or pass an updated set of written assessments within the Police SEARCH Recruitment Assessment Centre. The force would determine whether to apply one or both of these requirements.

3.2.25 Although only 8 forces had responded to the consultation, some helpful insight had been provided. Some forces supported the introduction of a mandatory qualification requirement. In supporting this approach it was highlighted that comprehensive guidance on equivalent qualifications would be required prior to implementation. Some forces did not however, support the introduction of an entry level qualification requirement. Differing views were expressed in relation to the post-recruitment development of functional skills. The question was whether the Sub-Committee wished to continue with the approach of having a mandatory minimum qualification or whether a more modular approach would be more suitable. The College of Policing said that the pros and cons of this approach had been outlined in the report.

3.2.26 The issue was discussed in detail. The consensus was that members wanted all police officers to achieve FSEL2 if at all possible. There should be flexibility in relation to the application of the SEARCH written standard in that there should be local discretion to waive the requirement for candidates to complete the written communication section of SEARCH. There was agreement that the three options should be sufficient to ensure that all recruits had the requisite level of competence that the evidence suggested was needed to fully perform the duties of a police officer.

3.2.27 The Home Office reported that replacement for the National Police Improvement Agency circular would need to be drafted. This work, undertaken by the College of Policing, remained incomplete by the end of the reporting year.

Chief Constable Fixed Term Appointments

3.2.28 This issue was incorporated into the Leadership Review undertaken by the College of Policing. An interim report was published on 20 March with a full report expected in June 2015.

Positive Action Initiatives

3.2.29 The Home Office informed the Sub-Committee on 14 May that they had now received the first draft of the advice which had been shared with the College of Policing. The legal advice would not be published, the College would instead develop guidance for forces. PFEW said the advice was supposed to be brought to the sub-committee. They added that it would be interesting to see the advice, particularly in relation to the issues of direct entry at a higher rank and fast-track promotion. I concurred with the view that while it was not normal practice to share legal advice it was usual practice to share guidance.

3.2.30 Following a consultation exercise on the guidance, it was published on 5 November.

3.3 PABEW Discipline Sub-Committee

3.3.1 The PABEW Sub-Committee on Police Disciplinary Arrangements has continued its work.

Role of Police Friend

3.3.2 PSAEW circulated a paper to members for the first meeting of the reporting period on 9 April highlighting concerns with the Home Office guidance. The wording which caused concern was the second sentence in the following paragraph:

“A Police Friend should not be asked to provide an account relating to any matter connected with their role as a Police Friend. It is for Police Friends to be mindful of their role as a police officer and to disclose any information which would reasonably be their duty to disclose.”

3.3.3 The consensus was the role of the police friend should be reviewed to ensure it is protected but also accountable. It was suggested the issues could be addressed through a protocol between the staff associations, APCC and ACPO. PSAEW confirmed they would lead on the rewording of the Home Office guidance and present this with a draft protocol ahead of the next meeting in July.

3.3.4 On 30 May the Sub-Committee discussed the revised wording supplied by PSAEW which stated that communications between the Police Friend and the officer to whom he was acting as a friend should be treated as confidential and placed on an equal footing as the relationship between a lawyer and his or her client. This view was endorsed by PFEW and ACPO. The Home Office said that although the role of the Police Friend was recognised as important the opinion of Ministers could not be taken for granted. They would not wish to see a situation whereby a Police Friend was aware another officer had committed a criminal offence and this was not brought to light. The Home Office committed to submitting options to Ministers to consider.

- 3.3.5 There was further discussion on the role of Police Friend on 7 July. It was agreed that the wording should be revised to include a cross reference to the new Code of Ethics.

Independent Police Complaints Commission (IPCC)

- 3.3.6 The draft regulations (Anti Social, Behaviour, Crime and Policing Act 2014), which had been circulated to members, relating to the introduction of additional IPCC powers was discussed at the meeting on 30 May:
- 3.3.7 *Independent Police Complaints Commission (Investigation of Offences) Order 2014* – members did not have any comments to make on the draft amendment regulations.
- 3.3.8 *Police (Performance) (Amendment) Regulations 2014* – members did not have any comments to make on the draft amendment regulations.
- 3.3.9 *Police (Complaints and Misconduct) (Amendment) Regulations 2014* – members did not have any comments to make on the draft amendment regulations.
- 3.3.10 *Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2014* – members discussed the categories of people who needed to be provided for. PSAEW raised concerns that the scope was too wide and could include contractors that were not relevant. The APCC echoed this view saying that they believed the purpose of the regulations was to capture those contractors who undertook some policing functions. The IPCC at this time had not commented on the draft regulations. On 7 July the Home Office informed members that the IPCC had indicated that they would prefer to keep the scope of the regulations regarding contractors wide – members expressed their view that this would not be helpful.
- 3.3.11 I was pleased to be able to meet the IPCC on 10 July and we agreed that it would be helpful for them to be represented on the Sub-Committee.
- 3.3.12 *IPCC Transition Programme* – the Home Office informed members on 9 April that the aim was for the IPCC to start taking on new cases by the end of the year but recognised that there were resources issues for Professional Standards Departments (PSDs). ACPO said the heads of PSDs had met with the IPCC and that PA Consulting had been appointed to look at how capacity might be built.
- 3.3.13 During the course of the reporting year, the IPCC and the Home Office had hosted two meeting of the forum. The IPCC also aimed to expand and develop a new organisational structure.

College of Policing and Integrity - Code of Ethics

- 3.3.14 On 9 April, the College of Policing informed members that the Code of Ethics had passed through the College Board and was nearing completion. PFEW said it would be sensible to ensure that any changes which were made to the Home Office guidance were identical to what was in the Code of Practice as even minor wording difference may cause great difficulties. Members endorsed this view and agreed that anything which clarified the status of the Code of Ethics in relation to guidance and reduced ambiguity was helpful.
- 3.3.15 PFEW noted that the Code of Ethics was applicable to anyone employed in the police service whereas the statutory regulations and Home Office guidance were only applicable to police officers. ACPO said they were not aware of anything in the Code of Ethics that was contrary to what was in the guidance. The Home Office agreed to circulate a revised draft of the guidance.
- 3.3.16 ACPO provided an update regarding the Disapproved Register; it had been in place for four months and there were currently 79 officers on the register - an equal number had been dismissed or had left the service prior to a misconduct hearing. They advised it would be some months before reliable data would be available.
- 3.3.17 On 30 May, members confirmed they were content with the revised version of Chapter 1 of Home Office guidance which had been amended to take into account the Code of Ethics.

Changes to Disciplinary System

- 3.3.18 The Home Office first circulated proposals and draft regulations to the Sub-Committee ahead of the first meeting of the review period on 9 April. At this meeting the principles of the proposed changes to regulations were discussed.
- 3.3.19 The Sub-Committee agreed to the principle to hold misconduct hearings, special case hearings and police appeals tribunal (PAT) hearings in public. The importance of considering at an early stage how chairs would be appointed was noted. The Home Office confirmed that recruitment would have to be done in a fair, open and transparent way but the exact details would be finalised at a later stage.
- 3.3.20 The proposal to provide misconduct hearings for senior officers with the ability to remove compensation payments for the contract of appointment to which the chief officer is currently subject if they are found to have breached the standards of professional behaviour was also discussed. CPOSA indicated they would provide further feedback following the meeting.

- 3.3.21 The Home Office did not at that time know when they would launch the stakeholder consultation on the proposed changes.
- 3.3.22 On 29 September, the Home Office informed members that Major General Chapman was carrying out Part 1 of the triennial review of the Police Appeals Tribunal as well as completing a review of the disciplinary system. They confirmed that members would have the opportunity to view the draft consultation document ahead of the public launch. The Home Office indicated that some changes to the police discipline system may be implemented before the end of the Parliament.
- 3.3.23 On 5 November the Home Office did not provide papers to the Sub-Committee as promised previously. They confirmed however that there would now be two consultation documents. The main one would focus on the proposed changes to the disciplinary system arising from the review undertaken by Major General Chapman and the second would cover proposals relating to whistle blowing and Winsor recommendation 51. In a change to the previous position, the Home Office said the Sub-Committee may not be able to consider the consultation documents ahead of publication. Members raised concerns about the way the consultation was being dealt with – they felt that there would be an attendant risk to considering issues in isolation without looking at them in the context of the wider changes to the disciplinary system. I asked Home Office officials to ensure that these concerns were drawn to Ministers' attention.
- 3.3.24 The Sub-Committee considered the review of police disciplinary arrangements by Major General Chapman had not been well timed in terms of ensuring full engagement. The review covered August and September and gave little opportunity for meetings to be arranged. There had been bilateral discussions with stakeholders and the opportunity for a group of PABEW members to meet Major General Chapman on 15 August, but the invitation to share emerging finding with the Sub-Committee at this meeting was declined as the period for review had ended.
- 3.3.25 *The Police (Conduct) (Amendment) Regulations 2015* were laid in Parliament on 12 March, implementing the proposals in the *Consultation on Changes to the Police Disciplinary System* on disciplinary hearings in public, legally qualified chairs, chief officer compensation and protections for whistleblowers.
- 3.3.26 *The Government Response to the Consultation on Changes to the Police Disciplinary System* was also published on 12 March and sets out the responses received to the consultation and how the Government has addressed the key issues raised.

Section 38 of the Police Reform and Social Responsibility Act – Protocol

3.3.27 During the reporting year, the text of a draft protocol had been agreed in the Chief Officers Sub-Group. Previously the intention had been to consult PCCs on the protocol. Ian Johnston, the PCC for Gwent, had reviewed this and after having consulted with CPOSA said he would present the protocol to PCCs as a useful document to provide guidance on Section 38. Signing up to the protocol would be a matter for individual PCCs.

Police Corruption

3.3.28 On 7 July the Sub-Committee discussed the Home Office's paper on the new offence of police corruption. CPOSA asked why this offence only applied to officers – the Home Office confirmed that this had been a policy decision made by Ministers. The office of constables is unique and carried a whole range of powers. Members were concerned with the scope and definitions used in the draft provisions and asked whether guidance would be issued. The Home Office said they had not yet considered the issue of guidance however the College of Policing said they would issue this once the offence was on the statute books. Members also expressed a concern that the wording could have unintended consequences.

3.3.29 I wrote to the Home Secretary outlining the concerns which members had expressed. The Minister for Policing, Crime, Criminal Justice and Victims responded indicating that, nevertheless, no amendments would be made.

3.3.30 On 29 September members again raised concerns that the policy proposals being developed piecemeal and that consultation had come too late to have an appropriate impact.

Amendments to regulations – resign/retire

3.3.31 On 29 September the Sub-Committee consider draft regulations which had been provided. The proposed amendments would put a duty on the appropriate authority to refuse an offer of resignation or retirement where an officer is subject to a misconduct investigation. These changes would deliver a commitment made by the Home Secretary in February 2013 and reiterated in July 2014.

3.3.32 Members raised several concerns. PFEW had significant concerns about the legality and implications of these proposals, they questioned whether they were proportionate and would place a restriction on the private lives of police officers. It would be in no one's interest to retain under performing, demoralised officers on full pay, citing it as an unnecessary cost to the public purse. PFEW also questioned the relationship between these regulations and police pension provisions.

PFEW said this was not something which should be looked at in isolation and dealt with in a piecemeal way.

- 3.3.33 PSAEW said there was no reference in the proposals to any need to speed up the process noting that some misconduct cases lasted for years. They said they would be interested to see the results of the impact assessment in relation to costs.
- 3.3.34 The College of Policing endorsed PFEW's views. They said that implementation of the proposals would likely be accompanied by Freedom of Information requests regarding the cost.
- 3.3.35 CPOSA endorsed others' views and said clarity was needed about the problem that the Home Office were seeking to fix. They also highlighted a specific concern about the effect of the regulation would meet those connected to fixed term contracts for chief officers; it would appear that a chief officer subject to investigation could have their contract reach the end date, with no requirement on a Police and Crime Commissioner to extend it, yet have no ability to draw their pension as retirement is prevented through this regulation. This would be grossly disproportionate.
- 3.3.36 Following this meeting, I wrote to the Home Secretary making it clear that while the Sub-Committee shared the intent the staff associations all considered the proposals drafted presented a number of significant risks.
- 3.3.37 On 5 November, the Sub-Committee discussed a revised draft of the regulations. The Home Office said the main change was that the definition of detriment had been tightened.
- 3.3.38 I noted that this version of the regulations looked significantly different from the previous one. In addition to the changes to the definition of detriment, I noted that there seemed to be an increased burden of discretion place on the Appropriate Authority which could possibly lead to inconsistency across forces. CPOSA also noted the changes now included misconduct – I reminded members that the Home Office had, at the last meeting, provided reassurances that the proposals would only relate to matter of gross misconduct. The Home Office said that the proposals would apply to any matters which could be referred to a hearing; the intention is that they should apply to any case which could lead to dismissal.
- 3.3.39 PSAEW noted that the changes would push the disciplinary arrangements for police staff and officers further apart as it is not possible to prevent police staff from resigning/retiring in the same way that officers would be. It was also noted that officers could still be dismissed under the provisions of the police Performance Regulations, which may frustrate the process. They also noted there would be

attendant cost implications for forces in having police officers who were not deployable.

3.3.40 PSAEW maintained that the regulations, as drafted, posed a significant risk to policing:

- They could affect force's ability to attract high calibre recruits;
- They did not include a timescale for investigations;
- They would prevent officers from retiring/resigning simply on the basis on a allegation;
- The case against an officer may collapse due to victims refusing to give evidence, meaning that the force retains a person who perhaps should have been allowed to exit the police.

3.3.41 PFEW said that there was no reference to the Public Interest requiring someone to remain in the service and there was no requirement on the Appropriate Authority to make an application in light of changing circumstance. He was disappointed that the Home Office had not responded to other concerns that had been raised with them. PFEW said there was a need to take time to develop a system that is fit for purpose.

3.3.42 The Home Office were not able to provide an update to the issue of Chief Constables at the end of the Fixed Term Appointments as they did not have the Home Secretary's view. On behalf of members I asked that the Home Secretary be advised of the potentially very difficult scenarios which they considered could arise from this.

3.3.43 The revised regulations on preventing resignation and retirement when officers are subject to an allegation about their conduct that could lead to their dismissal came into force on 12 March. The amended regulations make clear that the changes, originally set out in the police (Conduct) (Amendment) Regulations 2014 that came into force on 12 January 2015, only apply to allegations that came to the attention of the Appropriate Authority on or after 12 January 2015.

3.4 **Scheme Advisory Board**

3.4.1 The Police Pensions Scheme Advisory Board (SAB) is part of the required governance structure for the reformed public service pension schemes under section 7 of the Public Service Pensions Act 2013. Schedule 2 of the Act provides that the Home Secretary is the responsible authority who can make and amend the scheme regulations. Under section 7 of the Act there must be a scheme advisory board to advise the responsible authority, at the responsible authority's request, on the desirability of changes to the scheme. The

governance arrangements also cover the Police Pension Scheme 1987 and the Police Pension Scheme 2006.

- 3.4.2 During the reporting year, the SAB met in shadow form twice. The meetings provided the opportunity for the Board to discuss its Terms of Reference.
- 3.4.3 On 13 January KPMG provided a teach-in session to the SAB on what is required of the SAB and their role.
- 3.4.4 Although after the end of the reporting year, I record here that I began the formal work of the SAB by writing an introductory letter to the Police Pension Authorities on 22 April. As well as setting out the role of the SAB, the following information was requested from the Police Pension Authorities to aid the Board in its work:
- Details of the Police Pension Board the scheme manager has established, or (in relation to those listed at 13 (3) of the regulations), the established Police Pension Board identified to assist the scheme manager.
 - Details of the Chair, Deputy Chair and members of the relevant Pension Board.
 - Information about the format for collecting cost data including administration costs and police medical appeal board costs.
 - Information about when, and in what form, members' forecast statements would be issued.
- 3.4.5 ACPO (now the National Police Chiefs' Council, NPCC) coordinated a training day for Police Pension Boards on 27 March 2015. Eleven forces attended the day and presentation slides from all speakers were shared around all forces.
- 3.4.6 The first meeting of the SAB will take place on 8 July 2015 when responses to my letter of 22 April will be considered.

3.5 **UK Police Pensions Consultative Forum**

- 3.5.1 At its meeting in July 2013 the Board agreed to consult the organisations previously represented on PNB on a proposal to establish a UK wide consultative forum on Police Pensions Working Party. The intention was to provide a replacement forum for that previously provided through the pensions working group of the PNB. This UK wide successor body to the PNB's Pensions Working Party met twice during the reporting year.
- 3.5.2 The Police Pensions Regulations 2015, establishing the Police Pension Scheme 2015, came into force on 1 April 2015. These regulations were

the main focus of discussions at both meetings. Other matters discussed included:

- 3.5.3 *Long term reform* - There was discussion about a range of issues concerning long term pensions reform. Specifically PFEW raised ill-health retirement issues and transfer in of service as matters of concern.
- 3.5.4 *Changes to 1987 Pension Regulations and consolidation* – This related to outstanding changes to the 1987 (and also 2006) Police Pensions Regulations and the exercise to consolidate the older England & Wales, Scotland and Northern Ireland Police Pension Schemes into a single UK-wide pension scheme. The Home Office confirmed they intended to complete this work ahead of the introduction of the new Police Pension Scheme on 1 April 2015.
- 3.5.5 *Injury Awards Review* – the Home Office confirmed their intention to complete the new police injury benefit regulations by 1 April 2015.
- 3.5.6 *Public Service Pensions Act (Northern Ireland) 2014* – PFEW noted their disappointment that the proposal which the staff associations had put forward in relation to rationalising the consultation period had not been taken up by the Home office. The Department of Justice Northern Ireland (DoJ NI) said the deadline in Northern Ireland was extremely challenging.
- 3.5.7 *Buy back of unpaid leave* – The Home Office agreed the previous PNB Staff Side proposal that officers should be able to buy-back periods of all types of unpaid family-related leave for pension purposes. The effective date of this change is still to be confirmed.

4. Triennial Review

- 4.1 A Triennial Review of the PABEW was announced by the Home Secretary via Written Ministerial Statement on 5 February 2015. We await its outcome.

5. Conclusion

- 5.1 This has been a year of transition. I took over as Chair as the new structures were being established and the landscape in which the advisory board was to operate was still coming in to focus. There were, as have been described, a number of key issues on which policy change had been proposed where conclusions were needed. The pressure of the end of the Parliament focused our minds on delivering clear and timely advice on these. In other areas, notably the establishment of the Police Pensions Scheme Advisory Board, we are finding our way, having held only shadow meetings during the period of this report.

- 5.2 In all the work we have done this year I have been impressed by the constructive nature of the debate and the determination of all to provide sound advice which reflects the experience of those who would manage or be impacted by proposed changes.

Elizabeth France
Independent Chair
Police Advisory Board of England and Wales

July 2015

Annex A - Members of the Board, 2014-15

Independent Chair

Elizabeth France

Association of Chief Police Officers of England and Wales (ACPO)

Francis Habgood

Metropolitan Police Service (MPS)

Clare Davies

Fiona Taylor (from January 2015)

Association of Police and Crime Commissioners (APCC)

Ian Johnston

Martyn Underhill

Mayor's Office for Policing and Crime (MOPAC)

Mike Wadham

Chief Police Officers' Staff Association (CPOSA)

Dave Jones

Rob Price (from January 2015)

Home Office

Peter Spreadbury

Police Federation of England and Wales (PFEW)

Andy Fittes

Andy Ward

Geoff Stuttford

Calum Macleod

Police Superintendents' Association of England and Wales (PSAEW)

Tim Jackson

Metropolitan Police Service – Trade Union Side

Valerie Harris

Police Staff Council – Trade Union Side

Ben Priestley

Secretariat

Bill Blase (until Oct 2014 secretariat provided by the Office of Manpower Economics)

FINAL

Selina Pechereau (From Nov 2014 secretariat provided by the Home Office)

Annex B – Attendance at Board Meetings, 2014-15

Four quarterly Board meetings were held over the period covered by this Report. No extraordinary meetings of the Board were called. As well as the members listed in Annex A, meetings were attended by Home Office officials, advisers to constituent organisations, members of the secretariat and observers.

Representation at meetings was as follows:

1 May 2014

Chair

Deputy Chair

Association of Chief Police Officers of England and Wales – 2

Metropolitan Police Service - 1

Association of Police and Crime Commissioners – 3

Mayor's Office for Policing and Crime – 0

Police Federation of England and Wales – 5

Police Superintendents' Association of England and Wales – 2

Chief Police Officers' Staff Association – 1

Police Staff Council Trade Union Side – 1

Metropolitan Police Service Trade Union Side – 1

Home Office – 3

Secretariat – 1

Observers/in attendance – 11

TOTAL - 33

23 July 2014

Chair

Deputy Chair

Association of Chief Police Officers of England and Wales – 2

Metropolitan Police Service – 1

Association of Police and Crime Commissioners – 1

Mayor's Office for Policing and Crime – 0

Police Federation of England and Wales – 5

Police Superintendents' Association of England and Wales – 1

Chief Police Officers' Staff Association – 1

Police Staff Council Trade Union Side – 1

Metropolitan Police Service Trade Union Side – 1

Home Office – 2

Secretariat – 1

Observers/in attendance – 7

TOTAL – 25

23 October 2014

Chair

Association of Chief Police Officers of England and Wales – 1

Metropolitan Police Service – 0

Association of Police and Crime Commissioners – 2

Mayor's Office for Policing and Crime – 0

Police Federation of England and Wales – 3

Police Superintendents' Association of England and Wales – 2

Chief Police Officers' Staff Association – 1

Police Staff Council Trade Union Side – 0

Metropolitan Police Service Trade Union Side – 1

Home Office – 4

Secretariat – 1

Observers/in attendance – 12

TOTAL – 28

27 January 2015

Chair

Association of Chief Police Officers in England and Wales - 1

Metropolitan Police Service - 1

Association of Police and Crime Commissioners - 1

Mayor's Office for Policing and Crime - 0

Police Federation of England and Wales – 4

Police Superintendents' Association of England and Wales - 1

Chief Police Officers' Staff Association – 1

Home Office - 2

Police Staff Council Trade Union Side - 0

Metropolitan Police – Trade Union Side - 1

Secretariat – 1

Observers/in attendance – 6

TOTAL - 20

Annex C – Constitution

1. The Police Advisory Board for England and Wales ("the Board") will be established in accordance with this constitution. This constitution takes effect from 27 January 2015 all previous constitutions are revoked from that date.

Functions

2. In accordance with section 63 of the Police Act 1996, the Board will: -
 - advise the Secretary of State on general questions affecting the police in England and Wales, and
 - consider draft regulations which the Secretary of State proposes to make under section 50 or section 52 of the Police Act 1996 with respect to matters other than hours of duty, leave, pay and allowances, or the issue, use and return of police clothing, personal equipment and accoutrements, or the ranks to be held by members of police forces, or the qualifications for appointment and promotion of members of police forces, or periods of service on probation, or the maintenance of personal records of members of police forces and to make such representations to the Secretary of State as it thinks fit;
 - consider draft regulations which the Secretary of State proposes to make under section 37, 39, 81 or 83 of the Police Act 1997, and to make such representations to the Secretary of State as it thinks fit;
 - consider draft regulations which the Secretary of State proposes to make under Part 2 of the Police Reform Act 2002, and to make such representations to the Secretary of State as it thinks fit;
 - consider draft regulations which the Secretary of State proposes to make under section 1 of the Police Pensions Act 1976.
3. The Board will establish the Scheme Advisory Board for the Police Pension Schemes, in accordance with the requirements of s7 of the Public Service Pensions Act 2013.
4. The Board may also consider any matter relating to conditions of service (excluding those matters listed in section 2b above), and any other matter affecting the police which has been referred to it by the Secretary of State, and it will advise the Secretary of State on such matters within any time limit specified by the Secretary of State.

The Secretary of State

5. The Secretary of State may attend any meetings of the Board.

6. The Secretary of State may in a matter of serious national importance to the police service direct the Board to consider and seek to reach agreement on such matters as he or she may specify.
7. The Secretary of State may in a matter of serious national importance to the police service set a deadline for the Board to complete consideration of such matters as he or she may specify
8. The Chair of the Board will submit an annual report on the work of the Board to the Secretary of State. Before doing so the Chair will consult the constituent parts of the Board about the proposed report.

Membership

9. The Board will consist of: -
 - A Chair appointed by the Secretary of State;
 - Members nominated by the Secretary of State;
 - Three representatives of the Association of Police and Crime Commissioners;
 - One representative of the London Mayor's Office for Policing and Crime;
 - Two representatives of the Association of Chief Police Officers of England & Wales (to include the Metropolitan Police Commissioner);
 - One representative of the Chief Police Officers' Staff Association;
 - Two representatives of the Police Superintendents' Association of England & Wales;
 - Five representatives of the Police Federation of England & Wales;
 - One representative from the Trade Union Side of the Police Staff Council;
 - One representative from the Trade Union Side of the Metropolitan Police Whitley Council.

Others may be invited to attend and contribute as appropriate.

Meetings

10. All meetings of the Board will be called by the Chair with appropriate notice to the members concerned.
11. The Board will normally meet four times a year.
12. The Board may establish working parties to address specific issues as it thinks fit.
13. A member of the Board may request the consideration by a meeting of the Board of any matter specified by them and may submit to the Chair papers relating to that or any other matter covered by the remit of the Board as defined in paragraphs 2 and 3.