

POLICE ADVISORY BOARD FOR ENGLAND AND WALES
107th Meeting
10.30am, 28 April 2017
Home Office, 2 Marsham Street, London, SW1P 4DF

Present:

Elizabeth France – Independent Chair

Association of Police and Crime Commissioners (APCC)

Andrew Tremayne

The Association of Special Constabulary Chief Officers

Peter Fitzgerald

Police Federation of England and Wales (PFEW)

Alex Duncan

Joan Donnelly

Police Superintendents' Association of England and Wales (PSAEW)

Tim Jackson

Daniel Murphy

Chief Police Officers' Staff Association (CPOSA)

Shabir Hussain

Home Office

Peter Spreadbury

Harriet Mackinlay

National Police Chiefs' Council

Stella Brooks

Metropolitan Police

Mark Pomroy

Metropolitan Police – Trade Union Side

Valerie Harris

PABEW Secretariat

Zahra Torabi

College of Policing

Rachel Tuffin

Observers/ in attendance

Diane Mulligan -- Department of Justice (Northern Ireland)

Elaine Parker – PFEW

Mariam Conway – PFEW

Onyema Agbebi – PFEW

Karen Pinfold - PFEW

Kevin Courtney (NPCC)

Welcome and apologies

1. The Chair welcomed Rachel Tuffin (College of Policing), Onyema Agbebi (PFEW), Peter Fitzgerald (ASCCO), Kevin Courtney (NPCC), Stella Brooks (NPCC) and Zahra Torabi (PABEW Secretariat). Apologies were received from Francis Habgood, Mark Johns, Gareth Wilson, Kathie Cashell, Fiona Taylor and Nigel Green. The Chair also mentioned that it was Tim Jackson's last PABEW meeting and thanked him for his significant contribution.

Home Office statement on the effects of Purdah

2. The Home Office informed members that as the pre-election period (also known as purdah) had started, government officials were restricted in their engagement with the public or stakeholders, especially where they might be expected to respond on questions about future government policy or on matters of public controversy. This was explained in the guidance that was issued on 20 April. Given this, the Home Office were present at the meeting to give factual information but it was understood that it would not be appropriate for them to discuss any future government policy. The Chair agreed to assist with this as necessary during the course of the meeting.

Minutes of the 105th meeting – 30th January 2017

3. Minutes were agreed subject to some minor amendments. Members asked if the clean version of minutes could be circulated further in advance of the next meeting. **Action point: Secretariat.**

Matters arising

4. Members discussed the action log which was updated as shown below.
5. The Home Office explained that the draft capability dismissal regulations had been near to a final draft before purdah started. The position on this policy would be subject to the views of Ministers in the next Government.
6. The Chair had made contact with Rachel Tuffin (College of Policing) drawing attention to the concerns expressed by members about the coordination of policy developments and consultations. This would be dealt with as a substantive agenda item.
7. The Chair had made contact with Mark Pomroy (MPS), following a letter of 3 April from the Federation, about the progress of MPS thinking on streamlining. She explained that she had agreed that this should be considered with a paper which Francis Habgood (NPCC)

had said NPCC would bring to the summer meeting of PABEW on workforce planning.

8. It was agreed that members would provide a list of contacts for the distribution list. The Chair suggested that minutes/papers would be sent to the list of attendees, who could then forward to others if needed.
9. Action 5 from the log was included in the meeting agenda.
10. A meeting about data issues had taken place on 31 March 2017. Alex Duncan (PFEW) explained that this was useful, but was unsure whether minutes had been taken and asked how the agreed actions would be followed up. Harriet Mackinlay (Home Office) explained that an overall decision was reached at this meeting that all partners needed to look at workforce data in the round and form a strategy for the future. Adam Gibson (from the MPS) had offered to help progress this. Harriet Mackinlay to circulate minutes and actions. **Action point: Home Office.**
11. The Chair informed members that she had sent a letter to the Home Office regarding issues raised by constituent members of PABEW in relation to proposed amendment regulations concerning pension commutation. The proposal would provide chief officers with discretion to remove the 2.25x commutation limit in the 1987 scheme. The Police Federation, Superintendents Association and the NPCC had each proposed that a working group should be established to discuss these issues and she had indicated that she would be willing to Chair this. Peter Spreadbury (Home Office) explained that the Home Office could not commit at the present time to attending the group. He noted the content of the Chair's letter, but subsequent action was dependent on the election outcome. The Chair agreed to follow up her letter by suggesting a meeting in the second half of June which the Home Office might like to join. **Action point: Secretariat**

Matters outstanding from previous meetings

12. The Home Office consultation on exit payments had concluded but the Home Office would not be responding during the purdah period. The Home Office are to respond to this consultation when they are in a position to do so after the purdah period. **Action point: Home Office**
13. For similar reasons, there was no further update on capability dismissal.
14. Members noted that at the last meeting, the NPCC had moved to a position where it agreed not to change determinations, if at all possible, but instead to amend the limited duties guidance in order to address the issues raised by forces.

15. Actions 5 and 7 are to go on the agenda for the PABEW quarterly July meeting. **Action point: Secretariat.**

Police Pensions

Scheme Advisory Board and UK Police Pensions Consultative Forum

16. The Chair explained that the Pensions Regulator was about to publish their annual survey of the way public sector pension schemes are administered. The Chair and Kevin Courtney (NPCC) had been shown the survey results. Kevin Courtney explained that there was an indication of lack of engagement between scheme managers and pension boards. There were also concerns raised over who had replied to the survey (10 forces did not respond at all). The Pensions Regulator would be delivering a presentation between PPCF and SAB on the 8th May. They would also stay for the SAB meeting. They were hoping to have published the survey results before the meeting.
17. The Chair told members that an invitation was sent out on 27 April (copied to members of the SAB) regarding a training event on the 31st May. The event is an NPCC/SAB branded event. Kevin Courtney has organised this and members are able to book a place through the website link provided in the invitation letter.
18. Alex Duncan asked whether a letter PFEW had seen in draft, that was meant to be sent to scheme managers from the SAB had gone out. He was assured that it had been but it was agreed that the final version may not have been copied to members; this would now be done.
Action point: Secretariat.
19. There was a brief discussion on the development of a pension calculator by GAD. In this context, Shabir Hussain (CPOSA) declared an interest, as he has created an application that could be used to assist police pension estimates.
20. Shabir Hussain raised the matter of voluntary scheme pays. He explained that the SAB had agreed that there should be voluntary scheme pays for AA tax bills for £1k+ in late 2015, but that Home Office legal advice had meant this was not taken forward. He drew attention to a Home Office letter to a Pension Administrator on the 11th April stating that there was no firm commitment to making any specific changes until they had worked through all the appropriate policy, legal and financial considerations. He was concerned that further action would not be taken in time for individuals to complete their tax returns. The Chair advised that this should be logged until after 8 June.
21. Alex Duncan asked if there was any feedback on the buy-back of unpaid family leave. The Home Office advised that there was no update.

Discipline Sub-Committee meeting

22. The Chair informed members that the Discipline sub-committee meeting that had been due to take place on the 25th April was cancelled due to purdah. The next meeting was scheduled for 7th July. The Chair suggested that a meeting may be needed before this date, depending on the outcome of the election and timescales. The secretariat would discuss this with Rupert Bailey (Home Office) to see when it would be appropriate to hold the next meeting. **Action point: Secretariat.**
23. Given the significant changes emerging out of the Policing and Crime Act 2017, Alex Duncan sought reassurance that future consultation on regulatory changes and guidance would be conducted in a timely manner through the Discipline Sub-Committee/PABEW with realistic timescales to allow for proper consideration of all relevant implications. PFEW were keen to ensure that what was implemented was right otherwise it could be challenged by officers and might result in legal challenge. He referred to recent examples of extremely short timescales, such as one week, to comment on Mandatory Referral Regulations. The Chair stated that the sub-committee had said they would be agile, if members are engaged already they need to be a bit flexible, but the point was noted. Alex Duncan agreed but pointed out that nevertheless, timescales must allow for meaningful consultation.
24. Tim Jackson stated that he remained concerned about police officers still being compelled to remain in service pending conduct investigations. The Chair previously wrote to the Home Secretary about this. The timescales for laying the new regulations, and for withdrawing those which prevented retirement/resignation, had been subject to considerable slippage. This was initially due to have taken place in January - when Royal Assent was granted – but had then been delayed until June. These revised timescales were now unlikely to be met due to the general election having been called. The Chair said that she would write to Rupert Bailey to highlight the importance of implementing the relevant provisions of the Policing and Crime Act 2017, along with the need to allow sub-committee members realistic time to consider implementing regulations. Secretariat to draft a letter from the Chair to Rupert. **Action point: Secretariat/Chair.**

Limited duties update

25. This would be considered at the next meeting.

Voluntary exits

26. Kevin Courtney (NPCC) had suggested that this be dealt with by the group to be set up to look at maximum commutation payments (see paragraph 11) This was agreed. **Action point: Secretariat.**

Relationships with the College of Policing and NPCC

28. In a letter of 3 April headed: 'Terms of Reference' The PFEW had expressed concerns that many College and NPCC workforce projects had significant implications both for officers' terms and conditions and wider implications for the service. As such, PFEW had asked the College and the NPCC to provide a list of all projects to this meeting and identify where changes to officers' terms and conditions are proposed that may need to be considered by the PABEW and/or its' working groups. This would enable the PABEW to plan its workload and to fulfil its' statutory duty to provide advice to the Secretary of State.
27. The College, the NPCC and the Met accepted that there may be room at times for issues to be drawn to the attention of the PABEW, but that consultation rightly took place through other fora on business that was not the responsibility of the PABEW. Often the same stakeholders that sit on PABEW were represented in those fora.
30. The Chair pointed out that PABEW was in a position to take a broad view and provide constructive advice if it was made aware of developing issues. It should be seen as adding value, not blocking progress.
31. Stella Brooks (NPCC) explained that she was looking at pay and conditions. The College and NPCC would be meeting to look at co-ordination. They were aware of all the points that had been raised and were looking at pay/conditions as a whole so that they could consider various force requirements.
32. By way of example, Tim Jackson said that the MPS was already part way through its recruitment process for special constables as direct entry detectives and that a date has been set for recruiting others by this route. This had happened when regulatory implications had not, in his view, been sufficiently considered. Mark Pomroy (MPS) stated that there was a scheme for special constables at the moment and a date has been set for an external recruitment campaign for direct entry. He pointed out that this was a huge task so it made sense for MPS to start early, but he accepted that there was only so far they could go without regulatory change.
33. Rachel Tuffin explained that there was an opportunity to look at things in the round. She agreed it would be good to be able to refer and ask PABEW to look at implications of changes proposed by the College, where they are the appropriate body. She said the College had members of staff associations in project working groups and programme boards, but also recognised the desire of those with regulatory expertise to be sighted early to provide input on potential implications. Their next College consultative group meeting was in July. They would deliver an update at the next PABEW quarterly meeting.

34. Valerie Harris (MPS TUS) pointed out that police staff representatives need to also be involved in this. Tim Jackson stressed that any involvement was intended to be helpful rather than obstructive and if PABEW members are involved early, that may be helpful.
35. Alex Duncan highlighted the statutory responsibility of the PABEW and the importance of identifying early where changes would have ramifications across England and Wales. The PABEW needed to have sight of this work and to know early what was proposed so that it could consider matters that fall within its terms of reference, including any unintended consequences. Members agreed that the College and NPCC needed to be more engaged with this.
36. Alex Duncan stated that the PABEW and the staff associations separately had asked for a copy of the MPS business case to remove the ranks of chief inspector and chief superintendent. This would help the PABEW to understand the policy intention of the proposal. The Chair suggested that the NPCC and College paper to the next meeting needed to consider how the PABEW would be sighted on proposals. An example of a change which had not been drawn to the attention of PABEW included the recently issued College guidance on business secondments. Matters relating to secondment fell within the PABEW's terms of reference. The guidance produced by the College had raised a number of concerns to the PFEW, which should have been considered by the PABEW and if possible, addressed in the guidance. For example, this included for instance a potential clash between duties of a police officer and duties while on secondment. This is because neither a police officer nor a police force can be bound by a duty of confidentiality. Joan Donnelly (PFEW) explained that these related to external secondments and conduct matters, and the duty of confidentiality. If an officer had become aware of activities they would normally have a duty to report that to the force. Guidance on external secondments might suggest that an officer would sign a confidentiality agreement to the effect that this would not apply to external secondments. PFEW suggested that guidance should have been brought to PABEW for consideration.
37. Second, Dan Murphy (PSAEW) raised another concern about the guidance concerning insurance. If the guidance had come to the PABEW this would have been checked and problems picked up.
38. Rachel Tuffin explained that people who sit on the workforce oversight group had the opportunity to review the guidance and pick up these issues. If there were concerns they would expect them to be raised. The PFEW reiterated their view that this was an example of the sort of issue which should come to the PABEW. Members of the College oversight group may not know the process or have a broad enough view of the likely effects of any change.

39. The Chair concluded the discussion by making clear that this matter would be a substantive issue on the July agenda for which the College and NPCC would provide input, which took account of the concerns which had been expressed by members. **Action point: Secretariat.**

Horizon scanning

40. The Chair asked the Home Office to help PABEW identify what was coming in the longer term. She acknowledged that this would be difficult until priorities of incoming Ministers were clear. Therefore, the focus for the July meeting would be on the College and NPCC. The Chair would be looking for something substantive from the Home Office for the October meeting. Peter Spreadbury agreed that a horizon scanning discussion would be useful but could not say, at present, whether this would be possible for October. **Action point: Home Office.**

Any other business

41. Shabir Hussain noted that the website for the PABEW was light on detail and that there was nothing for the SAB. The Chair informed members that minutes for PABEW and SAB would be uploaded but she had discussed with Kevin Courtney the possibility of alternatives to the Home Office pages of the gov.uk website for creating a police pensions web presence. The Chair suggested that this might be discussed at the 8th May meeting. Secretariat to add this to the agenda under AOB. **Action point: Secretariat.**