



A fair way to set pay?

PFEW Submission to the consultation on implementing a police pay review body

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Executive summary

- Police officers are not employees, they hold the Office of Constable. As such they have a unique status in employment. This unique employment status was a significant consideration when the current negotiating machinery, including the system of arbitration, was established for police officers (paragraphs 1-9).
- Under the current machinery, items may be tabled for consideration by either Staff Side or the Official Side. A pay review body will remove this facility (paragraphs 12-15).
- The current proposal for a pay review body for police officers includes no provision for a negotiating mechanism on issues not covered by the pay review body (paragraphs 16-30).
- Many of the issues currently addressed through the Police Negotiating Board (PNB) would not fall within the scope of either the NHS or Armed Forces pay review bodies, the models recommended by Winsor (paragraphs 31-37).
- Currently agreements reached by both parties through negotiation can take years before they are placed into Regulations and Determinations. A pay review body will introduce an unnecessary lengthening of these timescales (paragraphs 38-44).
- The pay review body will have no role in assisting parties in dispute locally. This is an important function of the PNB (paragraph 46).
- Pay review bodies have been subject to an increasing level of central government restriction on the awards they can make (paragraphs 48-52).
- Few of those who participated in the Winsor Review's consultation or seminar discussions supported the introduction of a pay review body (paragraphs 55-57).
- Previous pay up-rating arrangements for police officers delivered fair but not generous pay increases (paragraphs 62-71).
- In times of austerity, The Police Federation of England and Wales believes that the most cost-effective method of determining police officer pay and conditions of service is to retain a streamlined PNB together with a fair and transparent mechanism to up-rate police officers' pay (paragraphs 72-80).

Introduction

1. The Police Federation of England and Wales (PFEW) represents 134,000 police constables, sergeants, inspectors and chief inspectors. The PFEW exists by statute to represent and promote the interests and welfare of our members and the efficiency of the police service. The PFEW is part of the Staff Side of the Police Negotiating Board (PNB). The PNB is a statutory body, established by Act of Parliament in 1980, that exists to negotiate the pay and terms and conditions of all 165,000 police officers in the UK. The PFEW welcomes the opportunity to submit its views to this consultation. The PFEW believes that at this time there is an opportunity to work for the future benefit of our members in any negotiations and have an opportunity to refine the PNB machinery to provide protection for our members.
2. In responding, the PFEW would draw attention to the unique position of its members. Police officers may not refuse a lawful order or undertake any form of industrial action. Section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA) holds that an “employee” or “worker” does not include a person in the police service, which it defines as service as a member of any constabulary or in any other capacity by virtue of which a person has the powers or privileges of a constable. Section 64(1) of the Police Act 1996 holds that a member of a police force shall not be a member of any trade union, or of any association having for its objects, or one of its objects, to control or influence the pay, pensions or conditions of service of any police force.
3. Further, Section 91(1) states that any “person who causes, or attempts to cause, or does any act calculated to cause, disaffection amongst the members of any police force, or induces or attempts to induce, or does any act calculated to induce, any member of a police force to withhold his services, shall be guilty of an offence”. This confers upon police officers a unique status within employment.

Importance of a statutory negotiating mechanism

4. The vast majority of workers covered by pay review bodies have the ability to withdraw their labour. The only exceptions are the armed forces and prison officers. The PFEW understands that, as part of the agreement to enter into a pay review body, Section 127 of the Criminal Justice and Prison Officers Act 1994 prohibiting officers taking strike action was repealed. This was then replaced by a 'no-strike' agreement with employers (the Joint Industrial Relations Procedural Agreement) that required 12 months written notice to withdraw from, before any strike action could be called. Such a change would be a fundamental transformation of the Office of Constable.
5. Regulations also provide for restrictions upon the private lives of police officers so as to "secure the proper exercise of the functions of a constable". These go beyond those restrictions relating to party political involvement, which in itself is a limitation placed upon few other groups of public servants.
6. The PFEW would draw attention to the fact that the uniqueness of police employment in any pay arrangements is given official recognition in the European Union Council of Ministers' Charter on the Police. It states the police "are entitled to a fair remuneration, and special factors are to be taken into account, such as greater risks and responsibilities and more irregular working schedules."
7. Moreover, the UK is a member state of the International Labour Organisation (ILO). The ILO has previously articulated that, in the absence of the ability to take any industrial action of whatever means, there must be a system of arbitration in place to maintain the protection of the workforce:

"If the right to strike is subject to restrictions or a prohibition, workers who are thus deprived of an essential means of defending their socio-economic and occupational interests should be afforded compensatory guarantees, for example conciliation and mediation procedures leading, in the event of deadlock, to arbitration machinery seen to be reliable by the parties concerned. It is essential that the latter be able to

*participate in determining and implementing the procedure, which should furthermore provide sufficient guarantees of impartiality and rapidity; arbitration awards should be binding on both parties and once issued should be implemented rapidly and completely”.*¹

8. A statutory body to negotiate pay and conditions is essential given the restrictions on police officers which prevent them from taking any form of industrial action. It is difficult to see how else police officers could have confidence in such a system. The Edmund-Davies report in 1978 acknowledged the special nature of the police, most notably, the restriction on the right to strike, and asserted that police officers must have confidence in the system that determines their pay and conditions of service. Edmund-Davies recommended both the creation of the PNB and PAT as the appropriate negotiating machinery for police officers and an index-linked uprating mechanism for police pay. Key points to consider include the following:

- The PAT provides formal dispute resolution. It is another essential safeguard given the restrictions on industrial action.
- Agreements in the PNB are reached not imposed. Both Sides, through the process of negotiation and compromise, reach agreements upon which they can both have a sense of ownership, with the PAT providing a final stage where this does not prove possible.
- The police service has a history and expectation of collective bargaining, unlike the armed forces and judges, and the PNB provides a sense of joint responsibility and partnership
- The PNB is a national body and addresses matters of national importance. This enables matters such as pay to be centrally agreed.
- This PNB does allow for a level of flexibility through the various standing committees and working parties, to address more specific matters which require detailed negotiation by smaller groups. The principle negotiators

¹ 1. General Survey of Freedom of Association and Collective Bargaining, ILO, 1994

regularly have ‘behind the chair’ discussions which are off the record and allow for more detailed negotiations to take place

- The Independent Chair and Secretariat provide a neutral, independent voice in the negotiation process which is uncommon in much collective bargaining.

9. Abolition of the PNB could mean an end to the harmonious industrial relations that have characterised the last thirty years.

10. Should a pay review body be introduced, the review body must have regard to the following considerations:

- the particular frontline role and unique nature of the office of constable in British policing
- the prohibition on police officers being members of a trade union or withdrawing their labour
- the need to recruit, retain and motivate suitably able and qualified officers

11. Another important factor is the risk of any injury to police officers; it was first mentioned in Sir Clive Booth’s *Review of Police Officer Pay Arrangements* under the risk of assault or injury and must be recognised. Officers have lost their lives while protecting others or carrying out day-to-day duties, such as during the Cumbria floods in 2009 or even more recently in Manchester in September this year where two officers lost their lives while attending a call to a burglary; on 11 December a further an officer in Belfast was subjected to a ‘firebomb’ attack while stationed outside the office of a political party. Officers work in a variety of roles, including firearms, public order and roads policing, and all deserve the same protection.

No direct facility to table claims

12. Under the current proposals, the PFEW has concerns that neither it nor other staff associations would have the ability to determine what should be within the remit of the pay review body for consideration. This would be a very substantial detriment from the current position and would leave the PFEW

with only two possible options. Its first option would be to write directly to the Home Secretary asking that the next remit for the pay review body should include consideration of that item. However, if the pay review body is not due to begin its work for six or seven months, this would mean that it could take over a year and half before any outcome. There is also no obligation upon the Home Secretary to include any issue that a staff association might raise.

13. The second option would be for the staff association to raise such matters directly with the pay review body during its evidence-gathering phase. However, the very fact that these issues were not included in the pay review body's remit letter for that year would preclude the pay review body from making any recommendations on that issue, other than to ask the Home Secretary to include it in the remit letter for the following year. Should the Home Secretary be minded to accept such a recommendation, and again there is no obligation on the Home Secretary to do so, this would still mean that there would be no outcome until the publication of the pay review body's next report some two years after the staff association had first raised the issue.
14. Should a pay review body be established, the PFEW would need assurances that it would be consulted by the Home Secretary on items for inclusion in the remit letter and have the right to be consulted on the appointment of members of the pay review body.
15. It has been noted that the Senior Salaries Review Body has also considered issues raised in ad hoc letters outside of its usual annual cycle. However, this was to consider specific issues or sections of its remit group. The same issues in respect of timescales would still apply.

Pay review bodies in other sectors

16. One of the PFEW's major objections to the current proposals for a pay review body is that they include no provision for any negotiating machinery outside of the pay review body. This is a serious flaw in the Winsor Recommendation. All other parts of the public sector which are covered by pay review bodies,

with the exception of the Armed Forces, also have negotiations outside of the review body process.

17. Section 61(1) of the Police Act 1996 lists the functions of the PNB, which are as follows:

- Hours of duty
- Leave
- Pay and allowances
- Issue, use and return of police clothing etc
- Pensions

18. The consultation document incorrectly states that the PNB negotiates on all of the above matters when in fact pensions are non-negotiable.

19. The consultation document states the proposed terms of reference for the pay review body should be modelled on the Armed Forces and NHS pay review bodies. The proposed terms of reference for the police pay review body are:

to provide independent recommendations to the Home Secretary on the remuneration and allowances for police officers in England and Wales

20. These are very similar to the Armed Forces and NHS pay review bodies. A review of the reports from these bodies reveals that their remits are generally limited to making recommendations on the uprating of pay and some allowances only.

21. However, in both sectors there is a mechanism for determining other conditions of service albeit that the two sectors take very different approaches. In addition, it is clear that overall responsibility for the pay system lies outside of these two review bodies. For example, the Armed Forces Pay Review Body (AFPRB) 2002 report states that:

*the pay system is the responsibility of the MOD and the Services . . .
the extent to which it operates effectively and fairly impacts on morale
and retention, which are our concerns under our terms of reference.*

22. In the Armed Forces, in addition to the pay review body, there is an Overarching Personnel Strategy (AFOPS); this is decided on by the Ministry of Defence (MoD) and individual services. Linked to this are single service personnel strategies for the British Army, Royal Air Force and Royal Navy. There are also a series of personnel strategy guidelines (PSGs), which are directional and apply to all service personnel. The PSGs are designed to be robust and to provide top-level statements of policy in each functional area. There are 28 in total built around five key themes of the AFOPS. For example, *PSG 11 – pay and charges* makes it clear that the review body sets the rates of pay, but the responsibility of the MoD and services is:

- to develop and maintain a remuneration package to enable the Armed Forces to recruit and retain sufficient suitable personnel;
- to formulate pay policy and develop pay proposals which are fair, free of bias, take account of charges levied on Service personnel and support the Services' manning policies;
- to develop and maintain a charges package which is fair to the individual and takes account of the circumstances of operational deployment, service at sea and field conditions;
- to submit Departmental and Government evidence to the AFPRB and SSRB which is balanced, in line with the Armed Forces Overarching Personnel Strategy and single Service personnel strategies, and gives due regard to affordability.

23. *PSG 12 – allowances* states that some allowances are set by the AFPRB. *PSG 14 – conditions of service (non-financial)* covers matters such as maternity and paternity leave, membership of outside organisations and leave. There is no staff association for Armed Forces personnel, hence the reliance upon a review body visits programme.

24. In the NHS there are two pay review bodies, the NHS Pay Review Body (NHSPRB) and the Doctors and Dentists' Review Body (DDRB). In addition to the NHSPRB, there is the NHS Staff Council. The Staff Council has overall responsibility for the Agenda for Change pay system and has representatives from both employers and trades unions. Its remit includes:

- Maintaining the Agenda for Change pay system
- Negotiating any changes in core conditions for staff on Agenda for Change and reflecting these in the NHS terms and conditions of service handbook
- Providing national support on interpreting the national agreement for employers and trade unions

25. The NHS Staff Council has four sub-groups covering job evaluation, the Key Skills Framework, equality and diversity and the NHS Staff Council Executive, which deals with day to day business.

26. Alongside the DDRB, conditions of service for this remit group, including on-call, pay thresholds, leave and public holidays, expenses, maternity leave and pay and flexible working arrangements are all covered in the consultants' contract. This is negotiated between NHS Employers and the relevant trade unions, the British Dental Association and the British Medical Association.

27. The DDRB and the NHSPRB are not alone in existing alongside established negotiating mechanisms. The prison service continues to have direct negotiations with staff associations about conditions of employment outside of the review body structure, covering wider pay and workforce reform issues as well as all other non-pay issues ranging from working hours to discipline.

28. No major structural change has been achieved through the pay review body process. For workforces covered by pay review bodies, all significant changes have been achieved using separate mechanisms. The example of most pay review bodies suggests that negotiation still takes place between the

employer and employee sides over the many non-pay issues, and even changes to the structure of pay.

29. The PFEW notes that the Winsor Final Report suggests that one of the first actions of a pay review body for police officers should be to undertake a programme of force visits. While the AFPRB conducts visits to forces as part of its evidence-gathering approach, the PFEW would point out that this is not a new concept for the PNB. Following the PAT award in favour of an on-call allowance, the PNB established a working party which was tasked with undertaking a programme of visits to forces to examine their use of on-call.
30. However, the programme of visits by the AFPRB is necessitated by the absence of representative staff associations within the armed forces. This is not the situation within the police service. Police officers have a statutory body to represent them in matters of welfare and efficiency and have an expectation that, given their unique status in employment, their staff association will be able to negotiate on their behalf as part of the process of determining their pay and conditions of service.

Items not covered by the pay review body

31. The lack of a separate negotiating mechanism is a significant concern, given that many of the issues currently addressed through the Police Negotiating Board (PNB) would not fall within the scope of either the NHS or Armed Forces pay review bodies, the models recommended by Winsor.
32. Aside from pensions, it is unclear from the consultation document how the proposed pay review body is intended to deal with the other matters listed in S.61(1) of the Police Act 1996, in particular hours of duty and leave. It is unclear from the consultation document whether it is intended that all business currently dealt with by the PNB, with the exception of pensions, will be dealt with by the pay review body. If that is the case, it is not clear that the proposed terms of reference provide for this. However, should the terms of reference be widened this in itself would present problems. As the Official

Side Secretary said at the Winsor review seminar on 28 July 2011 widening the review body's terms of reference could have a detrimental effect on the speed of decision-making.

33. A review of business dealt with by the PNB over the last five years highlights this uncertainty. It is particularly unclear where items related to employment provisions that do not automatically apply to police officers would be dealt with or where issues or anomalies arising out of the interpretation of Regulations and Determinations would be addressed.
34. The attached table at Appendix A attempts to identify where such issues would be dealt with if either the Armed Forces or NHS models were adopted. It would appear that the vast majority of PNB business would not be dealt with by the pay review body in either the NHS or Armed Forces.
35. Taking, for example, the provisions that do not automatically apply to police officers, for instance keeping in touch (KIT) days, neither review body deals with such matters, perhaps because as employees such provisions automatically apply to those sectors. However, in the case of the police service, they do not and in order that both forces and officers benefit from such provisions the Sides negotiate an agreement and in turn Regulations and Determinations are amended.
36. If such matters were for a pay review body to consider it is the PFEW's understanding that Staff Side would need to raise the matter in its evidence to the pay review body; if the pay review body agreed that the matter should be considered, it would then need to ask for it to be included in the remit for the following year. Should the Home Office agree to this then the matter would be included in the Home Secretary's remit letter to the review body and the review body would make a recommendation. If the review body recommends that police terms and conditions should be amended and if this is accepted the Home Secretary would then implement the change in Regulations and Determinations. This could make decision making very cumbersome and

could even have a detrimental impact on other employees whose partners are serving police officers.

37. For instance, if agreement had not been reached urgently on the application of the additional paternity leave provisions to police officers, then other employees who are not police officers but whose partners are would also not be able to benefit.

Timescale issues

38. Added to this significant concern is the fact that there are elements of the current system that unnecessarily delay the implementation of PNB agreements. These difficulties will still be exacerbated by the introduction of a pay review body with a fixed annual cycle for gathering evidence and making recommendations.

39. Under the current process, once the PNB has reached an agreement, a circular is published by the Independent Secretariat. Following publication of that PNB circular the agreement must be ratified by a Home Office Circular, unless the PNB agreement only details guidance to forces. Following publication of a Home Office Circular, Regulations and Determinations are drafted by the Home Office, provided for consultation and then published. However, significant and substantial delays often occur during this stage and issues can take months or even years to resolve.

40. For example, in April 2008 the PNB Federated Ranks Committee agreed, with effect from the 1 May 2008, the introduction of a £450 per annum guaranteed minimum increase in salary on promotion. The PNB circular was published on 26 June 2008 and the Home Office Circular was published on 28 June 2008, noting the implementation date of 1 May 2008. However, it took over a year before a revised determination was provided for comment. When it was supplied in July 2009 there was no commencement date. Staff Side provided comments (including in relation to the commencement date) on 28 July 2009. A reply was not received until December of that year noting the implementation date would be 1 May 2008. The revised Determination was

eventually published this year, four years after the original agreement was reached in PNB, and with an implementation date of 1 February 2012.

41. Staff Side is currently in discussion with the Home Office to rectify this, and the Home Office has now conceded that a further draft determination will be required. However, a draft does not appear to be forthcoming despite several letters and meetings through which Staff Side has sought to resolve this, and other issues, once and for all.

42. Many other examples can be provided of PNB agreements that have taken months and even years to reach Regulations and Determinations:

- PNB 08/4 Temporary Promotion/Temporary Salary – the PNB agreement was published on 26 June 2008. The Home Office Circular ratified only some elements of the agreement from 1 July 2008. The rest remained outstanding until this year when the revised Determinations were published under HOC 5/2012. Again, there are issues which have not been fully addressed and Staff Side remains in correspondence with the Home Office in an attempt to resolve them.
- PNB 08/7 Housing Emoluments – the PNB agreement was reached on 22 October 2008 (Home Office Circular 22/2008) however draft Regulations were not received until January 2010. Final Regulations were made January 2012
- PNB 09/2 Reckoning of Service in SOCA – the PNB agreement was published on 1 April 2009 (Home Office Circular 7/2009) but draft Regulations were not received until January 2010. Final Regulations were made in January 2012.
- On another occasion the Home Secretary decided not to honour a PNB agreement to uprate Motor Vehicle Allowances, further undermining the negotiating process which had included representatives from the Home Office. PNB Circular 10/2 (amended) had been published and the new rates were effective as of 1 April 2010. However, at the PNB Full Board meeting of 28 July 2010, without prior notification, the Home Office

informed Staff Side that the Home Secretary would not be placing the new rates into determinations.

43. In some cases such substantial delays have occurred that only limited time is allowed for consultation resulting in increased pressure on those organisations wishing to provide comment.
44. The introduction of a pay review body will not resolve these issues, since these delays have all occurred once an outcome has been reached by the PNB. Moreover, the fixed timetable for a pay review body to reach its decisions will mean that there will be at least a year after the first time any new item is formally considered in addition to any delays following the pay review body's recommendation. This is an unacceptable lengthening of the process for determining police officers' pay and conditions of service.

Other responsibilities of the PNB

45. A further consideration not covered by the consultation document relates to the way Regulations or Determinations are made following on from a pay review body's recommendation. Currently Regulation 64 of the Police Act 1996 provides that before making any Regulation the Home Secretary shall take into consideration any recommendation by the PNB and shall supply the PNB with a draft of the Regulation. Regulation 46 of the Police Regulations 2003 similarly provides for the PNB to be supplied with a draft of any Determination to be made. The question arises, if the PNB were to be abolished which body would be supplied with a copy of any draft.
46. In addition, the consultation document does not mention another role of PNB, as set out in Annex (i) of the constitution, which is to provide assistance to parties in dispute locally about the interpretation of PNB agreements or the application of Police Regulations. Again, it is unclear as to who would undertake this role in the future. A number of the items on the attached table under the heading 'Matters arising out of interpretation of Regulations and Determinations' were placed on the PNB agenda after, in some cases, years of trying to get the Home Office to rectify an anomaly, amend a Regulation or

Determination and in a few cases after Court action had been taken and the Staff Side's case was supported. Some examples include the off-set of police maternity pay and statutory maternity pay, pay for additional hours worked by part time Inspectors and Chief Inspectors and temporary promotion – reckoning of service.

47. The PNB has also produced guidance on designing variable shift arrangements and maternity provisions; again the question arises of where such discussions would take place in the future. Following an audit of Regulations and Determinations in relation to part time working, discussions are also on-going to simplify the arrangements for the benefit of both forces and officers. Again, it is not clear that the proposed terms of reference for the pay review body would cover this issue.

Restrictions on pay review bodies

48. In The PFEW also has concerns over the extent of restrictions imposed upon current pay review bodies and in particular the control exercised by the Treasury for many years over review body pay awards.

49. In the past Incomes Data Services (IDS) has been highly critical of such restriction and control. Firstly, the review body approach was meant to remove the State from its direct negotiating role as the main employer, but the reality has been very different as “successive governments have been unable to resist the temptation to intervene in the process, frequently going beyond their normal involvement of providing evidence as one of the parties”².

50. Secondly, the rationale for review bodies appears to differ substantially. The system was created in 1971 when three bodies were set up for the armed forces, senior salaries in the civil service, military and judiciary, and doctors and dentists after a clear need was identified for a system for “advising Government on the remuneration of certain groups in the public sector for whom no negotiating machinery is appropriate”.

² *Pay in the public services*, IDS 2008

51. However, subsequently three other groups were given review bodies – nurses and other health professionals (1984), school teachers (1991) and prison staff (2001) – whose background and rationale differed somewhat. In the case of teachers and nurses they were created following long periods of industrial unrest in their sectors, whilst all three had well-established trade unions and long traditions of collective pay bargaining. Finally, some review body remits allow them to include catch-up and comparability elements within their awards, notably senior salaries for the judiciary and more recently MPs, which “is not something that applies to lower-paid public sector groups, such as NHS staff”.

52. Another way of looking at the extent of government involvement is to examine attempts by the Treasury to directly modify final pay review body awards. The attached table in Appendix B from IDS’s *Pay and benefits in the public services 2012* shows how many awards have been staged or only partially implemented since 1991. Of the 115 awards between 1991 and 2012, 29 have been staged or partially paid. This represents 25 percent of all awards. IDS states:

As the main pay determination mechanism for over half of the public sector workforce, the review bodies are particularly affected by Government policy. They are in the unusual position of being simultaneously ‘independent’ while also having to implement the administration’s policy.

Edmund-Davies specifically rejected a pay review body

53. It is worth recalling that the Edmund-Davies Committee rejected any version of a pay review body on the grounds that for any system of pay determination to be effective, the goodwill and co-operation of the parties concerned would be required. Even those representing local authorities argued that there was much to be gained by both sides from the close contact between them which pay negotiations ensured. It enabled the Official Side to develop a knowledge of police affairs which helped them to understand police problems and

assisted them in other aspects of their dealings with the police. It also gave the staff associations an opportunity to hear the employers' point of view, and to put forward counter-arguments when necessary.

54. Indeed, Edmund-Davies considered a pay review body, but concluded at that time, that there was no real support for it among stakeholders other than the Defence Police Federation, and that the majority wanted to retain the negotiating process. He felt that to impose such a body against the majority view would make any new system ineffective and endanger the goodwill and co-operation of the parties concerned³.

Few respondents to the Winsor Review supported a pay review body

55. In this respect little has changed since Edmund-Davies. Of those organisations which expressed a view on the machinery for determining pay, the vast majority supported collective-bargaining for police officers through either the current model or a reformed version of the PNB. Only a quarter of respondents expressed any support for move to a pay review body, and within those responses that support was often qualified. For example, Derbyshire and Leicestershire constabularies both supported moves to a pay review body, but indicated that in their view this was only a marginally better option than the current PNB machinery. Northamptonshire Police supported a pay review body, but acknowledged that introducing such a mechanism in the current climate would not be possible. Some even felt that the addition of Police and Crime Commissioners (PCCs) would make a pay review body even less workable because it would exclude from decisions on pay the very people that will be setting local policing budgets in the future.

56. In setting out the background to the consultation the PFEW believes that the Home Office has been disingenuous in describing the Winsor Pay Negotiating Machinery seminar on the 28 July 2011 as solely a discussion of “the weaknesses of the PNB” when the transcript actually shows that discussion

³ *Committee of Inquiry on the Police: Reports on Negotiating Machinery and Pay*, HMSO, July 1978

focused as much on its strengths, and its retention or reform rather than abolition was supported by a clear majority of the participants.

57. The PFEW would argue that if any individual or organisation is to be responsible for policing budgets in the future then it is vitally important that they have some control over determining the pay bill. Therefore, the PFEW would recommend that no change to the current negotiating machinery should be considered until PCCs have had a proper opportunity to consider how pay should be determined for police officers and to provide their views to this consultation.

Effectiveness of the PNB and PAT process

58. The PNB has been criticised as being bureaucratic and slow, but this criticism relies in large part upon the views of only some sections of the Official Side. As can be seen from the issues raised above, it is not clear that a pay review body would improve matters. In some cases it may actually increase the level of delay. In respect of objective evidence Winsor did not go beyond implying that issues take a long time to progress when he quotes the time taken on issues ranging from two months to two years and seven months. In such circumstances a range is misleading since it provides no information about the usual length of time. Winsor suggests his information was contained in PNB Annual Reports but 'time taken' was only recorded up to 2004. Analysis of data readily available up to and including 2004 suggests that a range of 'the same day' to 'two years and four months' produces an average of seven months per agreement. Indeed the May 2002 agreement which introduced substantial reform of pay and allowances took only two months to arrive at Heads of Agreement on a number of issues.

59. Winsor also criticises the PNB as being ineffective and inefficient in achieving its settlements. However, the process of reaching agreements does not appear that protracted, a point Winsor may have conceded by not producing an average time taken for the whole period 2000-01 to 2010-11. It is also claimed to be overly adversarial but evidence as to the number of PAT referrals does not support such a view. Between 1955 and 1999 there have

been 28 hearings, which produced an approximate average of one hearing every two years. Since 2000 there have been seven PAT hearings, excluding those looking at the Winsor Review itself. This is an average of one hearing every one and half years. There does appear to be some confusion over the number of PAT referrals in the period following 2000-01 since Winsor states that there have been 17, but even double counting hearings on the basis of one hearing covering four ranks, and therefore necessitating four separate PNB Circulars, it is difficult to arrive at such a large number.

60. Furthermore, in respect of PAT referrals Winsor argues that resorting to them produces “a prolonged period of uncertainty whilst the matter is arbitrated, and when a matter has been referred to arbitration that involves a loss of control over the determination of the outcome”. Yet this is precisely what is advocated with the introduction of a pay review body, the only difference being this would be a first resort rather than last resort as with the PAT.

61. Winsor also places great emphasis on the fact that “between April 2005 and March 2008, before the recent three-year pay settlement came into effect, the PAT determined an increasing number of questions after PNB had failed to reach agreement on them”. However, this was a period of clear transition from pay indexation to negotiation. The PNB was trying to arrive at its own method of settling pay and it is not surprising that it had difficulties since this was not part of its original remit. As with the National Joint Council for the fire service there was disagreement within the negotiating body over what should replace indexation. The latter finally arrived at a solution and in time so might have the PNB.

The performance of the PNB in comparison to pay review bodies

62. Since the inception of the PNB in 1980 indexation arrangements of one form or another existed until 2007. Initially police pay was linked to movements in the average earnings index for all workers but these arrangements were modified in 1984, when police pay was linked to the underlying index of average earnings. In 1994, following another Committee of Inquiry under Sir

Patrick Sheehy, a new formula was introduced. This up-rated police pay in line with the median of movements in total pay settlements for non-manual employees in the private sector

63. Sir Clive Booth's *Review of Police Officer Pay Arrangements* recommended another form of indexation based on pay awards in selected public sector groups. However, the Sides were unable to reach long-term agreement on the final composition of such an index, and the 2007 pay increase was eventually based on a PAT award using a modified version of the index. In the following year pay was directly negotiated by the Sides, which resulted in a three-year deal until September 2011.

64. The PFEW notes that pay review bodies look at a range of indicators in setting awards, including recruitment and retention, pay and earnings and morale and motivation. The PFEW would not disagree that these are all important factors. However, Winsor appears to have confused the debate over the basis of indexation by arguing that this was in some ways an inefficient way of proceeding. At paragraph 10.1.94 he says it was based on Annual Survey of Hours and Earnings (ASHE) data which "is retrospective" and "by the time that a pay agreement is implemented, the data upon which it is based could be significantly out of date". This is clearly a reference to the average earnings index used under Edmund-Davies up to 1994, and picks up on discussion of Disney's argument for a similar index in the context of possible regional pay⁴. It totally ignores the post-Sheehy index which relied on pay settlements not average earnings. This in fact was very timely and was based on representative survey data on settlements in the three-month period prior to July each year, when the PNB agreed the uprating for September.

65. Despite the recent move away from indexation, the PFEW believes that, given all of the restrictions placed upon police officers, a mechanism for annual up-rating is the only fair and transparent method by which to determine police pay awards, and that the up-rating mechanism should link police pay to all

⁴ Winsor Final Report, paragraph 7.6.80

employees' pay in the UK rather than prices. Whilst both the circumstances and policing itself have changed over the last 30 years, it is very important to note that the circumstances which first gave rise to the principle of indexation have in fact not changed in the intervening years. The arguments that underpin the principle of indexation relate to the conditions and restrictions placed on police officers, and these are as relevant today as they were 30 years ago.

66. To demonstrate the fairness of the previous indexation arrangements for police pay, it is worth considering the evidence from five other major groups of public sector employees between 1998 and the end of indexation in 2006.

Table 1: Ranking of police pay awards

Police ranking	Year
1998	3rd
1999	2nd
2000	Tied last
2001	Tied last
2002	Last
2003	5th
2004	Tied 3rd
2005	Tied last
2006	Tied 1st
2007	Tied 1st
2008	2nd
2009	Tied 1st
2010	2nd

67. Second, when these basic pay awards are cumulated over the same period, they result in the increases in basic pay shown in Table 2 below.

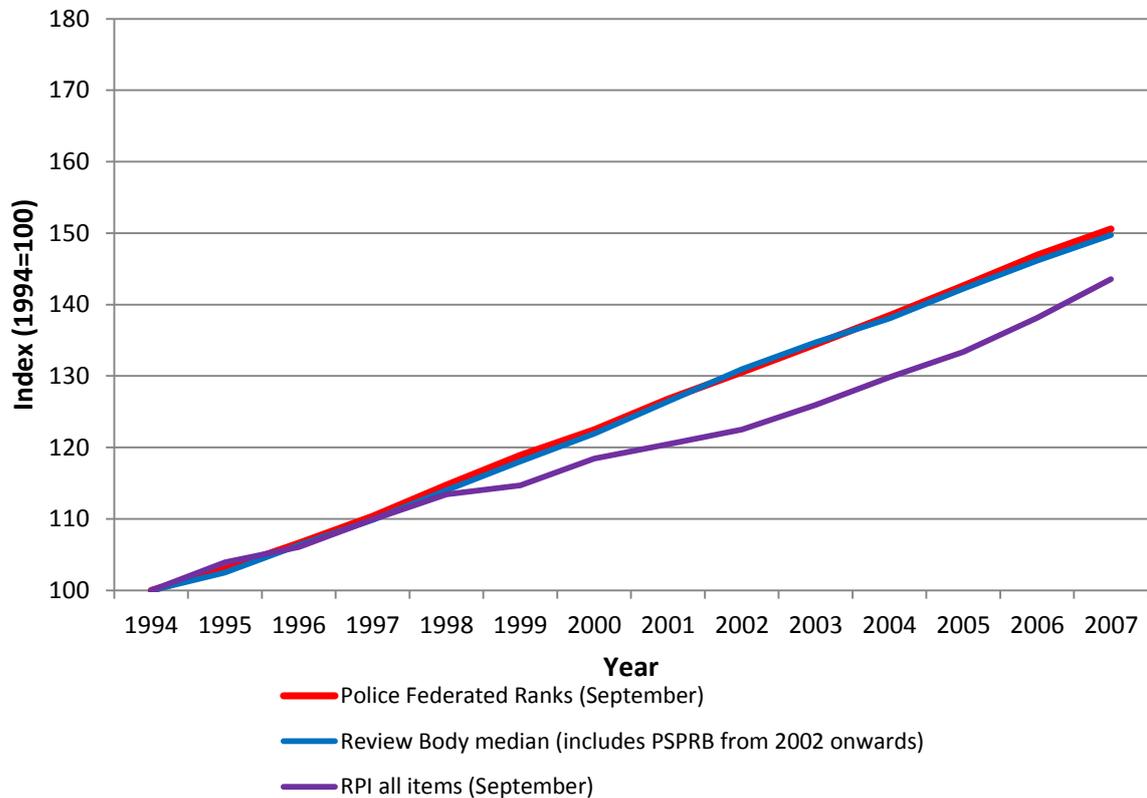
Table 2: Cumulative increases in basic pay 1998-2006

Increase in basic pay 1998-2006 %	
Nurses	36.1
Police Support Staff	33.7
Police	33.2
Teachers (E&W)	33.2
Firefighters	37.3
Hospital doctors	34.1

68. The figures show that increases in basic pay for police officers have been similar to, but less than, those awarded to teachers and hospital doctors, and considerably less than those awarded to nurses and fire-fighters.

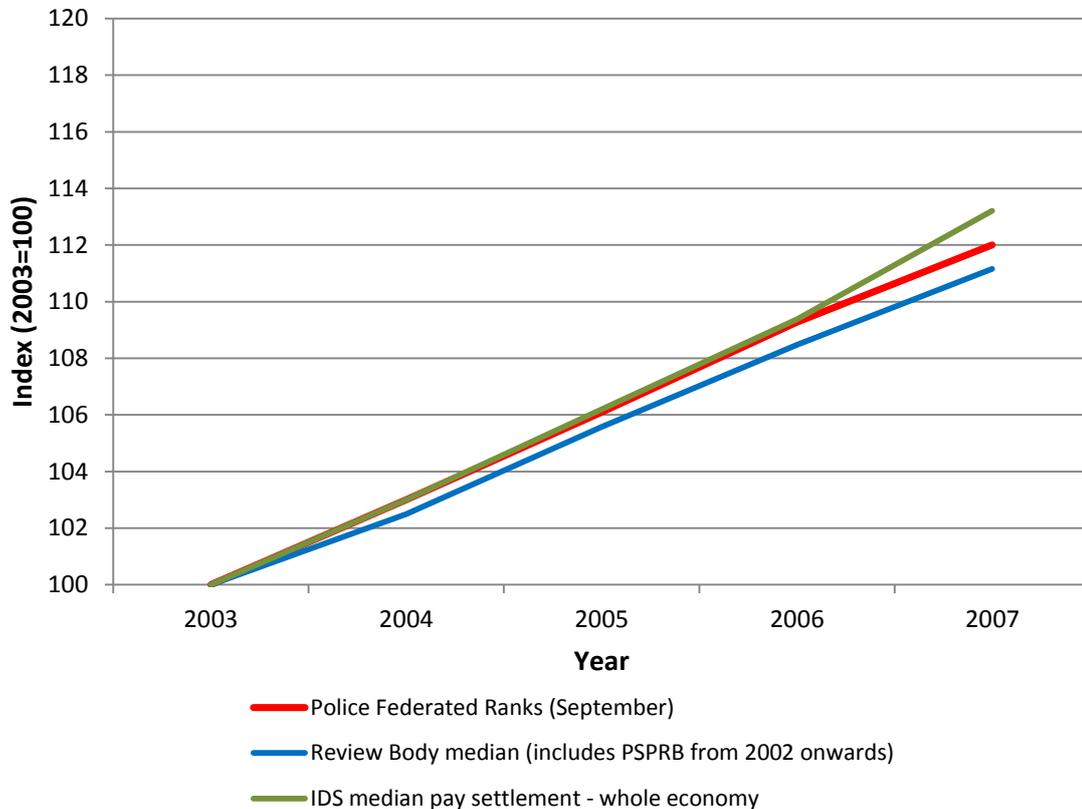
69. Likewise, comparison of police settlements up to the end of indexation with median average pay awards by the pay review bodies shows police pay kept in line with that of other key public sector groups (Table 3). Settlements were mostly above Retail Price Index (RPI) inflation, but this was the case for most review body awards too. The picture continued in 2007 when police pay was determined by an index constructed by the PAT and based on a merging of the Official Side's and Staff Side's proposed indexes at that time. The median of these 17 settlements was used by the PAT to arrive at its 2.5 percent award in that year. If the same index had been used in 2008 instead of the three-year pay deal for the police it would have yielded an award of 2.5 percent compared to 2.65 percent the first year figure of the three-year deal.

Table 3: Index of police pay awards compared with median average settlements for Pay Review Body Groups and RPI inflation (September) 1994-2007



70. Using the IDS index of whole economy awards as the comparator would have produced very similar results to those in Table 3. Prior to the Booth Report and the later PAT index, an IDS index based on private sector non-manual settlements was suggested by the OME as an alternative index to the non-manual pay settlement index. Since the IDS non-manual index would have to be constructed for the Sides by IDS the whole economy figure is used here for illustrative purposes. Since the figure is only readily available from 2003 we have compared the index in each year (three-months to July) with actual police settlements. As one might expect it mirrors very closely the actual police settlements. Indeed the old formula was also based on settlements over a three-month period to July.

Table 4: Index of police pay awards compared with median average settlements for Pay Review Body Groups and IDS Median Pay Settlements (whole economy, July) 2003-07



71. It can be concluded from this evidence that recent indexation arrangements delivered fair but not generous pay increases to police officers. Any of these arrangements would at least have the advantage of being inexpensive, non-disputatious, fair and transparent.

Options for reform

72. The PFEW would concur with the sentiments expressed by the Official Side Secretary at the pay negotiating machinery seminar on 28 July 2011 that the Home Office should take a more strategic role, setting the parameters for the negotiations. The Home Office need not sit on the PNB, but it would retain the right to direct the PNB to discuss certain matters and then to ratify PNB agreements. The PFEW would support such a proposal.

73. The PNB Full Board has 22 members on each Side, but much of the actual negotiation is conducted in “behind the chair” meetings between the chief negotiators for both Sides. Agreements are then formally noted at the Full Board. The PFEW believes that it may be possible to reduce the numbers represented on both Sides of the PNB and, in doing so, to allow more extensive and productive discussion within meetings of the Full Board. This would also reduce the travel and accommodations costs associated with the work of the PNB and would be saving directly to elements of local and central government.
74. According to Winsor’s own figures there is little apparent difference in cost between a pay review body at £0.3 million and the PNB at £0.4 million. However, it is likely that the estimate of pay review body costs is on the low side based on the actual costs of the current pay review bodies. Moreover, Winsor’s costs also appear not to include start-up costs since the Winsor Final report cites the same cost figure for the first year as for subsequent years.
75. There is a further hidden cost of PNB according to Winsor in respect of ‘hypothetical’ lost people-hours resulting from the large number of attendees abstracted from their day jobs. However, the Official Side and Staff Side would still have meetings under any overarching pay review body structure and would probably meet just as frequently as now.
76. It is also disingenuous to imply that PNB representation is somehow not part of the jobs of those who participate, since it is surely a role within their job description. More importantly, though, this hidden cost could be reduced substantially if the size of PNB meetings, including observers, were reduced from 60 to 20 on the day. The people-hours ‘on the day’ would reduce from 1,450 to 483 at a stroke, as would the cost.
77. Given the recent creation of a Scottish Standing Committee of the PNB to deal with matters in Scotland, the PFEW is willing to consider a streamlined PNB which considers England and Wales and which could also include Northern Ireland.

78. The PFEW would suggest that representation for each Side could be reduced substantially. Currently the PFEW is entitled to have seven representatives on the PNB. Traditionally the Staff Side Chair and Secretary have also been members of the PFEW. The PFEW is willing to reduce its representation from nine to six, which would include the Chair and General Secretary together with two constables, one sergeant and one member of the inspecting ranks.
79. As part of this reform, the PFEW would argue that decisions of the PAT should be made binding upon the Home Secretary. At present they become PNB agreements binding upon both Sides of PNB but require ratification by the Home Secretary, who currently has no legal duty to ratify them. As we have previously explained, the 2007 PAT pay award was not implemented in full in England and Wales, but instead the then Home Secretary chose to stage it and reduce it in value by not backdating it to September
80. Most importantly, the PFEW calls for the restoration of an annual up-rating mechanism for police officers' pay. This is the only fair and transparent method by which to determine police pay awards. Such an up-rating mechanism should link police pay to all employees' pay in the UK rather than prices. The arguments that underpin the principle of indexation relate to the conditions and restrictions placed on police officers, and these are as relevant today as they were 30 years ago.

Appendix A: PNB comparison with other pay review bodies

PNB	NHS	Armed Forces
Payment of allowances on sick leave	Staff Council	MOD
Hourly pay	Staff Council	MOD
South East and London allowances	PRB	PRB
Housing emoluments – when shared anomaly	Staff Council	MOD
Housing emoluments – SOCA and returning medical retirees	Staff Council	MOD
Maternity pay	Staff Council	MOD
Adoption leave and pay	Staff Council/local	MOD
Part-time Regulations and Determinations audit	Staff Council	MOD
Variable Shift Arrangements	Staff Council	MOD
Special Priority Payments – increase/monthly payment	PRB	PRB
Pay on promotion	Staff Council	PRB
Temporary salary/temporary promotion	Staff Council	PRB
Motor vehicle allowances	Staff Council	PRB
Salary sacrifice	Staff Council	MOD
Professional dependency care costs	Staff Council	MOD
Fertility treatment	Local	MOD
On call	Staff Council/local	PRB
Mutual aid	Staff Council	PRB
Compensation for weekly rest day/free days in period of annual leave	Staff Council	MOD

Free days to be treated as rest days	Staff Council	MOD
Equal pay audit	Staff Council/Local	MOD
Data requirements	NHS Information Centre	MOD
Maternity guidance	Staff Council	MOD
Northern Ireland Transitional Allowance	PRB	PRB
Statutory leave guidance	Staff Council	MOD
<i>Matters arising out of interpretation of Regulations and Determinations</i>		
Definition of unpaid/paid maternity leave	Staff Council	MOD
Wade	Staff Council	MOD
Part time inspectors and chief inspectors – pay for additional hours worked	Staff Council	MOD
Temporary promotion – reckoning of service	Staff Council	MOD
Payment of allowances while on maternity leave	Staff Council	MOD
Probationers pay	Staff Council	MOD
<i>Provisions that do not apply automatically to police officers</i>		
KIT days	Staff Council	MOD
Maternity leave reckoning of service	Staff Council	MOD
Additional Paternity leave	Staff Council	MOD
Carryover of annual leave	Staff Council	MOD

Appendix B: Government's response to review body recommendations

Year	Armed Forces' Pay Review Body	Review Body on Doctors' and Dentists' Remuneration	NHS Pay Review body	Prison Service Pay Review Body	School Teachers' Review Body	Senior Salaries Review Body
2011	Accepted	Accepted	Accepted	Accepted	Accepted	Accepted
2010	Paid in full	Partial payment	Paid in full	Paid in full	Paid in full	Partial payment
2009	Paid in full	Paid in full	Collectively bargained award	Paid in full	Paid in full	Capped at 1.5%
2008	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full
2007	Paid in full	Paid in full	Staged	Staged	Paid in full	Staged
2006	Paid in full	Staged	Paid in full	Paid in full	Paid in full	Staged
2005	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full
2004	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full
2003	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full	Paid in full
2002	Paid in full	Paid in full	Paid in full	Staged	Paid in full	Staged
2001	Paid in full	Paid in full	Paid in full		Paid in full	Paid in full
2000	Paid in full	Paid in full	Paid in full		Paid in full	Paid in full
1999	Paid in full	Paid in full	Paid in full		Paid in full	Paid in full
1998	Staged	Staged	Staged		Staged	Staged
1997	Staged	Staged	Staged		Staged	Staged
1996	Staged	Staged	Paid in full		Staged	Staged
1995	Paid in full	Paid in full	Paid in full		Paid in full	Paid in full
1994	Staged	Paid in full	Paid in full		Paid in full	Paid in full
1993	Public sector pay limit 1.5%	Public sector pay limit 1.5%	Public sector pay limit 1.5%		Public sector pay limit 1.5%	No increase except 3% deferred from 1991
1992	Paid in full	Paid in full	Paid in full		Paid in full	Staged
1991	Paid in full	Staged	Staged		Staged	Staged

Source: Incomes Data Services