



**Submission to the Part Two Call for Evidence  
of the Review of Police Officers' and Staff  
Remuneration and Conditions**

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# **PFEW Submission to the Part Two Call for Evidence of the Review of Police Officers' and Staff Remuneration and Conditions**

## **INTRODUCTION**

The Police Federation of England and Wales (PFEW) represents 140,000 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 provide evidence to the second part of the Winsor Review of Police Officers' and Staff Remuneration and Conditions. In developing our submission, the PFEW has commissioned a number of independent reports from external experts. Their contributions are summarised within this submission and attached as appendices to this document:

- Appendix One: *The requirements of the Equality Act 2010 in respect of employment*, Jayne Monkhouse
- Appendix Two: *An examination of location-based pay, contribution/performance-related pay and comparability of police officers' pay*, Incomes Data Services
- Appendix Three: *Winsor Independent Review of Police Officers' and Staff remuneration and Conditions: Part 2: Independent Advice to the Police Federation on Job Evaluation and Job Evaluated Pay Structures*, Sue Hastings
- Appendix Four: *A discussion of the appropriateness of performance pay and direct entry for the police service in England and Wales*, Roger Seifert
- Appendix Five: *Making the Case: Views from police officers on the ground*, Mike Chatterton

## EXECUTIVE SUMMARY

### 1) BASIC PAY

#### Pay levels

- According to the Part One Report of the Review, the average earnings for police constables and sergeants placed them at the 75th percentile of the earnings distribution. In 1980, following the second stage of the September 1978 Edmund Davies settlement, the earnings of police constables alone were above the 75th percentile. The PFEW judges this initial position appropriate and welcomes any similarly thorough review of police officers' pay and conditions of service.

#### Comparability

- There are few direct or full comparator jobs with police service roles in either the public or private sectors.

#### The X Factor

- The Office of Constable places substantial restrictions on the behaviours and activities of all who hold this office. It also imposes burdens on officers and their families due to the unpredictable nature of the workload and the danger of the job. Police officers are not employees. Each sworn constable is an independent legal official rather than simply an agent of the police. As a consequence of this:
  - Police officers are expected to respond to emergencies at all times. Police Regulations provide for the flexibility of deployment, especially in response to public safety concerns and unforeseen emergencies.
  - Any conduct, whether on or off duty, which brings or is likely to bring discredit to the police service may be the subject of sanction.
  - Police officers may not refuse a lawful order or undertake any form of industrial action. This confers upon police officers a unique status within employment.
  - Police officers and their families face a number of restrictions upon their private lives which do not apply to other groups of workers.

- Police officers face exposure to danger and the risk of serious injury or death. Because of the requirement to respond to emergencies at all times this risk is common to all police officers.

### **Y-factor**

- There is also a Y-factor for police officers based upon a shared commitment and understanding among all officers of the importance of their role for the protection and safety of the public.

### **Regional Pay**

- The current framework for police officers' pay includes four location-based payments: a national pay scale, a London Allowance in addition to London Weighting, and two levels of South East Allowance. This is similar to pay practices operated by many employers in both the public and private sector.

### **Basic Pay Equality**

- Police officers come under the provisions of the Equality Act 2010 including the public sector equality duty. In this regard matters of employment and pay both current and proposed need to be considered during the review and taken into account in any recommendations.

## **2) CONTRIBUTION-RELATED AND ROLE-BASED PAY**

### **Performance-related pay**

- The PFEW would stress its concerns about the dangers of unintended consequences arising from performance-related pay in policing, including:
  - The creation of 'perverse incentives' which could be inimical to teamwork and service delivery
  - The use of performance measures which may tend to favour short-term, visible outcomes.
  - The rewarding of those in roles which allow a clearer and more vivid proof of performance than others.

- Performance must also be objectively assessed to a consistent standard across forces.

### **Pay progression**

- The PFEW believes that pay progression within the rank should be contingent upon satisfactory performance as evidenced by an annual review of performance. In the absence of an annual performance assessment, progression should be automatic.

### **Fitness testing**

- The PFEW has genuine concerns at the suggestion that fitness should be considered in the context of contribution-based pay for police officers. For this reason, the PFEW supports the view of the PABEW in that there is a distinction between fitness tests as a role requirement and for medical or health reasons.
- The PFEW is conscious that any unjustified changes to the current fitness test and standards for recruits and/or officers performing specialist roles could adversely affect the diversity of officers.

### **Skills**

- The PFEW believes that there may be scope to reflect and reward the acquisition of skills through the pay structure. However, this should only take place once a proper job evaluation exercise has been conducted which accurately assesses the requirements of each role.

### **Role based pay**

- The PFEW has concerns about role related pay and its impact on policing as it could restrict current levels of flexibility. However, if pay is to be linked to role, then this would require a robust job evaluation scheme which was relatively generic in nature essentially on a rank basis in order to retain maximum flexibility for the deployment of officers.

## **Overtime**

- Overtime is a cost-effective alternative to the recruitment of additional police officers.
- Actual spend on overtime is generally low across the forces of England and Wales and is reducing.
- Without appropriate protections in place officer's health, safety and welfare would be at risk, with the knock on effect on sickness absence and ill-health retirements.
- The history of overtime in the police service is that where remuneration for this is included within basic pay or a set allowance, chief officers will fail to adequately reward officers for their additional hours.

## **Unsocial hours**

- The PFEW believes that the recommendation for an unsocial hours payment contained in the Part One Report is fundamentally mistaken as it seeks to reward officers for duty at particular times of the day. Although shift working is a particular feature of policing, there is evidence to suggest that it is not the timing of shifts which is most detrimental to officers' health and welfare, but the frequency of changes to those patterns.
- In addition, the Review's initial recommendation for an unsocial hours allowance only represents an additional maximum of 10 per cent of pay for the hours worked, with many officers who work unsocial hours likely to receive significantly less than that amount. This is significantly below the rates applicable in other sectors of the economy.

## **Mutual aid and secondment**

- The PFEW believes that the 'Hertfordshire agreement' represents the best approach to mutual aid and held in reserve.

## **Equality and role-based pay**

- The PFEW would strongly argue that, in the event of some form of contribution-based pay being introduced for the police, there will be a need for equality-proofing of the scheme, transparency of criteria and regular monitoring of

outcomes, to ensure discrimination is not inherent in the system nor in its implementation.

### **3) ENTRY ROUTES**

- The PFEW believes that every officer promoted must have served at every rank below that to which they are promoted and is, therefore, against any proposal that would allow external candidates to join the police service above the rank of constable.
- The Police Service has worked extremely hard over many years to change the way it recruits and the people it recruits in order to ensure that police officers have the support of the communities they serve.
- Setting an “academic qualification” for entry to the Police Service would deny access to people who are demonstrably able to undertake the role and could have a disproportionate adverse impact on people from minority groups.

### **4) OFFICER CAREER LENGTH AND PENSION AGE**

#### **Short-term commissions**

- The PFEW would resist any comparison between the police service and the armed forces. The Office of Constable provides every police officer with a significant degree of autonomy, legal authority and discretionary power. Officers are part of the police service and they police their communities through consent not imposition.
- The break-point provided by military commissions is not only a means by which the armed forces can let personnel go, it is also the only way in which members of the armed forces are actually able to leave the service.
- The PFEW believes that such an approach is neither appropriate nor necessary within policing, since police officers may give 28 days' notice of their intention to leave the service and where officers fail to perform their roles effectively, provision for dealing with this exists within the Unsatisfactory Performance Procedures.

- It is not appropriate or proportional to change the career structure of the police service especially given the structure of New Police Pension Scheme and the current average length of service of officers.
- Short term commissions may adversely affect the culture of the service and the diversity of those people within it.
- Issues relating to the design of public service pensions were the subject of Lord Hutton's review into public service pensions and will shortly be discussed at the Police Negotiating Board (PNB).

### **Pension age**

- The pension age for police officers, along with the other recommendations of the Independent Public Service Pensions Commission will now be remitted to the Police Negotiating Board. We will therefore be responding to any Government proposals within that forum.

### **Ill-health retirement**

- The PFEW believes that the processes and provisions currently in place for ill-health retirement remain appropriate.

### **Officers on restricted duty**

- The PFEW continues to hold the position that if officers are penalised as a result of physical or psychological injury, or wear and tear resulting from performing their everyday duties, this could lead to a more risk-averse culture which would be contrary to the public interest.
- The PFEW continues to believe that Forces should support officers to return to duty and that those who are unable to perform the duties of a Constable should be retired through the fair and appropriate use of the Police Pension Regulations.

### **Implications for officers with protected characteristics**

- The reasons why women leave the service prematurely need to be established and more support provided to women with family commitments to enable them to combine a full career in the service with a family. Although data is limited, the

average length of service is considerably shorter for women than men; for men the average length of service is less than that required to obtain a full pension.

- Figures from the most recent PNB Equal Pay Audit showed that in 2009 around 7,500 officers from Federated ranks worked part time and just 400 of them were men. This will clearly have an impact on the pension entitlements of, particularly, women officers.
- The PFEW believes that removing the distinction between free days and rest days would simplify matters and assist forces to better manage part time and flexible working. This would assist the deployment of resources at peak times and also improve the retention of officers with family and other domestic commitments, the majority of whom are women.

## **5) PAY NEGOTIATING MACHINERY**

### **Strengths of the PNB and PAB structure**

- 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.
- The PAT provides formal dispute resolution. It is another essential safeguard given the unique employment status of police officers.
- The PNB is a national body and addresses matters of national importance. This enables matters such as pay to be centrally agreed.
- It is widely acknowledged that the last thirty years have been a period of unparalleled harmony and co-operation in police industrial relations.
- The Police Advisory Board for England and Wales has generally been able to reach agreement and advise Ministers on recommendations that are satisfactory to all of its members and also enhance police service delivery to the public. The PFEW, therefore, believes that it should remain in its current form.

### **Options for reform**

- The PFEW believes that decisions of the PAT should be made binding upon the Home Secretary.
- Depending upon clarification of where the exact responsibility lies in relation to the employment of police officers, the PFEW would expect that the seats at

present allocated to the Association of Police Authorities should be re-allocated to representatives of whatever new model may be introduced.

- The PFEW believes that the Home Office should take a more strategic role rather than having a seat within the PNB itself. It should retain the right to direct the PNB to discuss certain matters and to ratify PNB agreements.
- 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.
- 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.

### **National and regional pay determination**

- The PFEW recognises that appropriate allowances are currently in place for London and the South East of England, but does not believe that pay should be negotiated or determined locally. National pay determination reduces substantially the number of negotiations required to set pay. Moving away from a national pay system would increase administrative costs and create problems in keeping control of the overall pay bill.
- Regional pay determination would be extremely divisive in a national service such as the police. A national system of pay determination offers major advantages to the police service; it supports and enables collaboration, secondment and mutual aid as well as the transfer of officers. It facilitates interoperability between forces which is central to responding to major incidents and emergencies.
- In common with many organisations in the public and private sector, the police service has actually reduced the number of tiers of location-based pay as a result of the changes made following the 1994 Sheehy report. Prior to that point all officers qualified for housing replacement allowance and before that rent allowance, which varied between forces.

## SECTION ONE: BASIC PAY

- 1.1 In considering the future challenges facing policing, the PFEW would differentiate between the external environment, such as shifting patterns of criminal activity, and those pressures that have come from within such as financial restraint, internal reorganisations and the freeze on recruitment. It appears that the Review is driven by the latter, treating decisions and actions made in response to external conditions as challenges in themselves, and resulting in proposals that respond to short-term contingencies rather than leading to long-term improvement.

### **Length of payscales**

- 1.2 The competencies required to fully meet the demands of the jobs performed by police officers in the each of the Federated ranks are many and varied. They are acquired through exposure to and successful management of many different situations and challenges. Exposure increases with additional years in service.
- 1.3 The pay structures of each of the Federated ranks should therefore provide additional reward contingent on additional years of service. In evidence to Part One of this Review the PFEW argued that constables should be able to reach the current top pay point within a shorter period, by reducing the length of the pay spine.
- 1.4 Evidence from research conducted by Hay Management Consultants, which was commissioned by the Constables Central Committee in 1999, revealed that the competencies required to fully meet the demands of the job of constable were accumulated over a period of 6-8 years. An incremental scale of approximately this length would appear appropriate for this rank.
- 1.5 No similar research has been conducted for the other Federated ranks. These ranks build on the competencies already acquired in the role of constable, therefore acquisition of the additional competencies required in promoted posts is

more rapid and incremental scales are appropriate. The present pay scales for sergeants, inspectors and chief inspectors exhibit this feature.

### **Level of Pay**

- 1.6 Pay must be sufficient to attract, retain and motivate officers with the combination of attributes required to deliver modern policing. It must be set at a level that attracts a pool of applicants of the highest integrity. It must attract applicants with the self-confidence and self-control required to manage difficult situations. It must attract applicants able to exercise judgement, to be effective team players and with a real concern to help the public. This combination of attributes is rare and a large pool of applicants is required if individuals with these attributes are to be distinguished.
- 1.7 In our submission to Part One we argued that “the key is to ensure that the right calibre of candidates are recruited into the service.” This is especially important in policing, since the efforts and actions of officers, especially in independent patrol or other operational roles cannot always be consistently monitored. Police officers have knowledge, power and access to sensitive information. They occupy positions of trust and responsibility. The Office of Constable, therefore, requires individuals of the highest integrity.
- 1.8 It is in the interests of the service and the public it serves to encourage a large pool of applicants in order to ensure that people from minority groups are included in the pool. An unjustified narrowing of the entry requirements would be likely to have an adverse impact on the diversity of the applicant pool.
- 1.9 A large applicant pool is thus required to allow selectors to distinguish those with the required combination of attributes. Pay levels play a central role in determining the size of the applicant pool, the higher the pay the larger the applicant pool and the higher calibre of candidates likely to be attracted.
- 1.10 The current rates of pay will have a considerable impact on recruitment and retention rates. Candidates for the police tend to consider not only starting pay

but their lifetime earnings and as we stated previously “police pay scales and the level of pay for constables helps to retain officers within the service and ensure that the high number of applicants alleviates the recruitment problems which have plagued us in the past”.

- 1.11 Many of these attributes are more likely to be found among mature applicants, applicants with experience gained in other careers. The average age of recruits is currently 27 and has been as high as 29 in recent years<sup>1</sup>. The pay of constables must recognise the need to adequately remunerate those joining the service from another career.
- 1.12 In his report for the Review, *The Remuneration of the Police in the United Kingdom*, Professor Richard Disney found that using the Annual Survey of Hours and Earnings (ASHE) data, the average earnings for police constables and sergeants were at the 75th percentile of the earnings distribution.
- 1.13 The New Earnings Survey (NES) preceded ASHE. Like ASHE, the NES was also based upon a one per cent sample of pay as you earn (PAYE) records. For 1980, following the implementation of pay scales recommended by Edmund-Davies, the NES reported the average gross weekly and hourly earnings for "Policemen below Sergeant (public and private)". The sample numbers for women were too small to report in this detail. The 1980 data included the second stage of the September 1978 settlement. According to the NES, the average gross hourly earnings for policemen below sergeant in April 1980 were recorded as 339.2 pence. Median gross hourly earnings for male police officers below sergeant were 337.7 pence per hour. The upper quartile of the distribution of gross hourly pay for men in all occupations was 335.7 pence. This put the pay of male constables above the upper quartile of the earnings distribution in 1980.
- 1.14 The NES reported that in 1980 71.2 per cent of men earned less than 320 pence per hour and that 79.9 per cent earned less than 360 pence. It appears,

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<sup>1</sup> *Examinations and Assessment Police SEARCH Recruit Assessment Centre Annual Results Report*

therefore, that the earnings of male police constables were above the 75th percentile and probably equal to the 76th.

1.15 It is worth bearing in mind that these figures relate only to constables. The inclusion of sergeants in 1980 would have raised the position of police sergeants and constables, as is now reported in ASHE, in the hourly earnings distribution. The findings of the Edmund-Davies Committee constituted a thorough and detailed review of police pay. The results of that review established a position for constables' pay in the overall distribution of pay that the PFEW judges remains appropriate. We note with concern there has been some erosion of that position in the thirty years following the review.

1.16 The PFEW notes that members of the Inspecting Ranks in the City of London and the Metropolitan Police Service currently receive a higher level of basic salary than members of the Inspecting Ranks in provincial forces. This is known as the London lead and was established in the Desborough Report (1919). This principle has subsequently been reaffirmed by the Oaksey Review (1948), the Royal Commission (1962), the Edmund Davies Report (1978) and the Sheehy Report (1993). The PFEW believes that the London lead continues to be appropriate and that it should remain in place for the reasons set out in paragraph 3.8.5 of the Part One Report of the Review.

### **Comparability**

1.17 According to Incomes Data Services (IDS) there are few direct or full comparator jobs with police service roles in either the public or private sectors. As far as IDS is aware there has never been a systematic review of police pay based on market comparisons. Previous reviews have been based on official earnings data against broad categories of workers. The main source of data for these comparisons has been ASHE and before that the NES. Types of workers are classified by the Office for National Statistics (ONS) Standard Occupational Classification code.

1.18 However, an ONS occupational classification is not in itself any guarantee that jobs are being compared on a like-for-like basis and often many different types of

jobs, being performed at different levels, are included in the same classification. For example, the ONS code for police officers also includes cadet, fingerprint officer, MP (armed forces), detective, sergeant, constable and others (27 in total). ASHE data provides a broad overview of earnings for a particular set of jobs but it cannot be used to benchmark the 'going rate' for a particular job against the 'going rate' for another comparable job.

### **The X Factor**

- 1.19 The Office of Constable places substantial restrictions on the behaviours and activities of all who hold this office. It also imposes burdens on officers and their families due to the unpredictable nature of the workload and the danger of the job.
- 1.20 It is the opinion of the PFEW that using the term 'x-factor' invites too close a comparison with the military. The two situations are analogous, but not identical. The risk to life and limb is significantly higher for the fighting soldier, whereas the police constable carries a greater burden of individual autonomy, responsibility and accountability.
- 1.21 Police officers are not employees. Each sworn constable is an independent legal official rather than simply an agent of the police. The Office of Constable means a police officer has legal powers of arrest and control of the public given to him or her directly by a sworn oath and warrant: they have not been delegated these powers simply because they have been appointed as an officer.
- 1.22 The primary function of the common law Office of Constable is to protect life and property. It is also the duty of a constable to prevent and detect crime and to uphold the Queen's peace.
- 1.23 In setting out to achieve this goal, police officers have a significant degree of legal authority and discretionary power. These powers are inherent in the Office of Constable. They confer authority and require a considerable degree of responsibility, accountability and liability for its use.

- 1.24 Police officers are expected to respond to emergencies at all times. They are expected to go to the aid of the public when confronted by situations which require it, whether or not they are on duty.
- 1.25 Police officers are required to deploy proportionate coercive force, to make discretionary ethical judgements and to put themselves in the way of harm. Failing to carry out these duties, whether on or off duty, leaves an officer open to the charge of misconduct in a public office. Any conduct, whether on or off duty, which brings or is likely to bring discredit to the police service may be the subject of sanction. This means that, even where a police officer is not on duty, their failure to carry-out the responsibilities of the Office of Constable would see them facing conduct procedures.
- 1.26 Pay must also compensate for the intrusion of the job into officers' family and social lives. This intrusion takes the form of the unpredictability of days and hours worked, due to call out at short notice, and uncertainty that officers will be able to take statutory holidays and annual leave. It can also take the form of lost leave.
- 1.27 Moreover, 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. 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.

- 1.28 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. According to one examination of the issue which we have previously cited<sup>2</sup>, fewer than two per cent of local government employees are in politically restricted posts. However, all police officers face such restrictions.
- 1.29 Police officers are expected to behave differently and to discharge their financial affairs in ways that are not required of other members of the public. Schedule One of Police Regulations states that a police officer shall not “wilfully refuse or neglect to discharge any lawful debt”. Moreover, new recruits are not allowed to join the service if they are bankrupt, although if they have been clear of bankruptcy for three years they may be considered.
- 1.30 Furthermore, police officers are also restricted from taking on any employment or business interests outside of policing without the express consent of their chief officer. In certain circumstances, these restrictions can also apply to the partner, spouse or relative of a police officer residing with them. This is a significant imposition upon the personal life of a police officer, but again it seeks to reaffirm the importance of the constable as an office-holder sound in judgement and independent from compromise.
- 1.31 It is also not uncommon for police officers and their families to be forced to move home as a result of serious threats of violence or because of terrorism. This issue has been the subject of discussion at the PNB and an agreement was subsequently reached regarding relocation assistance for officers forced to move home because of serious threats of violence against them or their immediate family arising from their police duty. The details of the agreement were promulgated in PNB Circular 97/12.

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<sup>2</sup> *Political restrictions on council employees*, Scottish Parliament Information Centre, 2001

- 1.32 Police officers' jobs are stressful and officers have to deal with trauma and psychological impact of a wide range of activities and incidents, from child protection to traffic collisions. This intrudes into family and social life.
- 1.33 An additional feature of the jobs performed by police officers is exposure to danger and to the risk of serious injury or death. Because of the requirement to respond to emergencies at all times this risk is common to all police officers.
- 1.34 A common view from focus groups of police officers conducted by Dr Mike Chatterton was that different police officer roles faced different forms of risk and that officers whose roles did not normally lead them into conflict situations could be called upon at any time to perform roles that did. In addition, it was repeatedly emphasised that police officers are required to put themselves 'back on duty' whenever they come across a situation requiring police intervention, thereby exposing themselves to risk<sup>3</sup>.
- 1.35 As the Edmund-Davies Committee noted, together with the armed forces and the judiciary, police officers occupy a "unique role in our society and are essential to its continuation". This unique role is reflected in the "unique restrictions and limitations" to which police officers are subjected. If the police service is to place such restrictions and demands upon officers, then pay levels must compensate for these additional features of the job.

### **Y-factor**

- 1.36 There is also a Y-factor for police officers based upon a shared understanding and commitment among all officers of the importance of their role for the protection and safety of the public. This understanding applies equally to all officers in all roles and reflects the expectation that officers will need to work beyond their regulated hours of duty to complete tasks and that they may need to make themselves available outside of duty hours to the force or to members of the public. Many do so without seeking any financial compensation.

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<sup>3</sup> *Making the Case: Views from police officers on the ground*, Mike Chatterton, September 2011

1.37 Police officers have to take ownership of their work and understand how it relates to policing overall. This implies an understanding that a task has to be completed even if this takes officers beyond their tours of duty. Police officers do this on a regular basis with no thought given to financial gain or reward.

1.38 They understand the importance of being proactive, assessing a situation and anticipating what they need to do both as officers acting individually and as part of a wider policing function or operation. This is the Y-factor for police officers.

### **Basic Pay Equality**

1.39 Police officers come under the provisions of the Equality Act 2010. In this regard matters of employment and pay need to be considered during the review and taken into account in any recommendations.

1.40 The equal work provisions of s65 of the Equality Act 2010 apply to men and women. Indirect discrimination can occur in respect of pay in relation to other protected characteristics. Any disproportionate impact of a pay policy on people from any of the protected groups would need to be justified as being a proportionate means of achieving a legitimate aim. However, in respect of the protected characteristic of sex there are specific provisions which ensure that A's work (where A is of one sex) is equal to that of B (where B is of the other sex) if it is:

#### **1. Like Work**

A's work is like B's work if A's work and B's work are the same or broadly similar, and such differences as there are between their work are not of practical importance in relation to the terms of their work.

#### **2. Work Rated as Equivalent**

A's work is rated as equivalent to B's work if a job evaluation study gives an equal value to A's job and B's job in terms of the demands made on a worker, or

would give an equal value to A's job and B's job in those terms were the evaluation not made on a sex-specific system.

### **3. Work of Equal Value**

A's work is of equal value to B's work if it is neither like B's work nor rated as equivalent to B's work, but nevertheless equal to B's work in terms of the demands made on A by reference to factors such as effort, skill and decision-making.

#### **Material Factor Defence**

S 69 of the Equality Act 2010 provides that unequal pay can be justified if the employer can show that the difference in terms is due to a material factor which is relevant and significant and does not directly or indirectly discriminate against the worker because of his or her sex. If there is evidence that the factor which explains the difference in terms is indirectly discriminatory, the employer must show that it is a proportionate means of meeting a legitimate aim.

In order to understand the impact of any pay proposals on officers from the protected characteristics, and in particular, men and women, there needs to be a proper analysis of the numbers and proportions of men and women who will be affected by the proposals. Such an analysis is generally referred to as an Equal Pay Review.

The analysis also needs to consider the likely impact of any pay proposals against the backdrop of women and men's different work/life experiences. This should identify the potential gender pay gap.

#### **Gender Pay Gap**

1.41 The PNB identified significant gender pay gaps in 2009 when it conducted the last Equal Pay Audit into the pay of police officers in England and Wales. The Equality and Human Rights Commission states that the most common explanations for significant pay gaps found in equal pay reviews tend to be one (or more, working in combination) of the following factors:

- Length of service
- Starting pay, pay protection and progression
- Market factors
- Performance

These factors certainly had a demonstrable impact on the gender pay gap in the Police Service identified in the PNB Equal Pay Audit in 2009.

1.42 It is important therefore that an Equal Pay Review is conducted into any proposals made regarding police officers' pay. The Review needs to take into account the current case law in respect of equal pay and the advice of the Equality and Human Rights Commission based on that case law. In circumstances where there is potentially unlawful discriminatory impact there needs to be a procedure that removes any direct discrimination; reduces or removes any indirect discrimination or, failing that, the indirectly discriminatory impact needs to be justified as being a proportionate means of achieving a legitimate aim.

1.43 Particular cognisance needs to be given to the 2009 Equal Pay Audit, and to how the current pay system impacts differently on men and women.

1.44 The public sector equality duty under s149 of the Equality Act 2010 requires that the listed Authorities in the Police Service eliminate unlawful treatment and advance equality of opportunity. It is important that any proposals seek to reduce the gender pay gaps identified in the 2009 PNB Pay Audit and not increase them by erecting new barriers to the achievement of equal pay.

### **Regional Pay**

1.45 The current framework for police officers' pay includes four location-based payments: a national pay scale, a London Allowance in addition to London Weighting, and two levels of South East Allowance. An examination of this issue

by IDS demonstrates that this is similar to pay practices operated by many employers in both the public and private sector<sup>4</sup>.

1.46 The PFEW is opposed to any regional variations in pay, other than the existing London and South East Allowances and London Weighting, and believes that a national pay scale continues to be appropriate. Furthermore the common national rate underpins effectiveness and morale in situations where officers from several forces police jointly for example, the “riot” situations in August 2011.

1.47 Location pay is not as widespread as might be thought. The majority of multi-site private-sector employers operate national pay scales with additional payments for London and the South East. According to IDS, the most common approach to location-based pay is to operate a national pay scale with some form of premium for London and the surrounding area. This premium might take the form of either a separate allowance or higher London pay scales. Location-based pay started out as a means to compensate for cost pressures on employees, and to restore purchasing power in higher-cost areas. As such, London weighting systems were introduced to reflect the added costs of living and working in the capital, with the level of allowances defined by concentric circles out from Charing Cross. London weighting systems are still widely used, both in the private and public sectors, though payments have held steady.

1.48 When looking at the use of location-based pay in both the private and public sectors, it is possible to group the evidence in three broad categories: those that use national pay scales with London and South East additions, those that use zonal pay structures, and those that use structures which allow for more local variation.

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<sup>4</sup> *An examination of location-based pay, contribution/performance-related pay and comparability of police officers' pay*, Incomes Data Services, August 2011

- 1.49 For large employers with a national reach in either the public or private sector, the approach appears similar insofar as they operate national pay scales with London and South East additions.
- 1.50 Zonal pay systems are the most structured approach to addressing local employment issues. Where zonal pay systems exist, predominantly in retail and banking, these are typically used to address recruitment and retention pressures in London and the South East and other high-cost areas of the country. In terms of levels of payments, these systems tend to mirror the London weighting systems, with the highest premiums being paid at London locations, and zones outside of London paying lower premiums. Locations are categorised into one of the zones and these pay systems offer employers the possibility of upgrading individual stores to higher 'hot spot' zones in case of recruitment and retention problems. The zones reflect groups of locations with similar labour market conditions, rather than geographical boundaries.
- 1.51 Zonal pay systems usually involve no more than four or five pay zones throughout the country with one or two zones covering locations in London and the South East. This is far less than the 10 Government Office Regions or the 41 police force areas in England and Wales outside London.
- 1.52 In schools, there are separate pay scales for London and the 'fringe' around the capital, and there have been changes to these in recent years to reflect recruitment and retention difficulties in London and the South East.
- 1.53 In the prison service, 'locality' payments were introduced in 2001 to replace the previous system of London weighting and London allowances, as there were recruitment and retention difficulties on the fringes surrounding London. The number of zones has been progressively increased from three to four in 2003, and then to six in 2006. However, the Prison Service Pay Review Body (PSPRB)

has for a number of years expressed concerns about the operation of the locality pay scheme<sup>5</sup>.

1.54 At the Department for Work and Pensions (DWP), under a structure introduced in 2001, in addition to the inner and outer London and national pay scales, there is a separate 'specified location pay zone', meaning that there are four zones in total. There are also separate pay scales for specialist roles.

1.55 In 2007 a new structure was introduced at the Ministry of Justice based on five zones: 'inner London'; 'outer London and SE hotspots'; 'hotspots', 'national plus' and 'national'. Under an agreement reached in 2010 the national band was effectively removed and the number of bands was reduced to four.

1.56 There are some parts of the public sector where there are mechanisms in place to allow for local flexibility. Examples include local government and universities, both of which have a nationally negotiated pay spine with grades determined locally. For example, in local government, individual councils make local decisions about the level at which they match their pay scales against the spine. Similarly, in universities the Framework Agreement sets the national pay spine but grading is determined locally on the basis of job evaluation.

1.57 There have been previous attempts to introduce location-based pay more widely in the public sector. For example, trust-level bargaining was introduced in the NHS in the 1990s. The first NHS trusts were set up in 1991, and these were able to employ new staff on locally-determined pay and conditions. The Review Body for Nurses, Midwives, Health Visitors and Professions Allied to Medicine accepted the employers' view that the April 1995 pay award should follow a two-tier approach: a small national across-the-board rise with locally negotiated additions within a range recommended by the Review Body. However, most trusts made offers at the higher end of that range. This was the first year that the Review Body had recommended a generalised move to local pay.

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<sup>5</sup> IDS, August 2011

1.58 Many trusts attached conditions to their offers which led to a breakdown in negotiations and an agreement was reached bringing in 'local pay in a national framework', which set national minimum rates. IDS research shows that most trusts ended up paying the same increase. Since then, Agenda for Change was introduced in 2000 and developments in recent years regarding the NHS means that pay has become more centralised, with more staff covered by the central NHS Pay Review Body.

### **Regional pay differentials**

1.59 IDS research has found that differentials in location-based pay systems are often not significant in cash terms, outside London. The latest IDS research on London allowances found that the median supplement in zone 1, which equates broadly to central/inner London, is £3,300 compared to £750 in zone 4 (the fringe, the South East and some other locations – typically large towns or cities. This research also found some differences in payment levels by sector (focusing on finance, retail and the public sector), with the highest payments typically in financial services<sup>6</sup>.

1.60 Outside London, IDS analysis of pay levels in 'hot spot' zones in retail shows a narrow range of pay rates that apply in similar locations. As a proportion of the national rate, outside the London zones the premia paid in many of the additional zones are relatively minor. Among the examples provided, the hot spot premium ranges from 0.3 per cent to 14 per cent, with the most common being around 4 per cent<sup>7</sup>.

1.61 It is clear that the overall trend in the private sector has been towards making schemes less complex, with the number of zones being reduced in some cases.

1.62 Regional pay systems are not necessarily as flexible as proponents might suggest and the general approach of employers appears to be to wait for long-term patterns to emerge before adapting pay structures. This partly explains why,

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<sup>6</sup> IDS, August 2011

<sup>7</sup> *ibid.*

even though unemployment rates increased in most parts of the country during the recession, very few employers have adjusted their zones or premiums as a result.

1.63 There are also issues in respect of the boundaries of the zones and potential 'cliff effects' caused by large pay differentials between nearby towns and cities. This can lead to internal as well as external poaching, which can drive up pay.

According to IDS:

*The evidence on the use of location-based pay, and the issues drawn from these, point towards the potential pitfalls of introducing such a system for the police service. Location-based pay arrangements, if not designed and managed carefully, could lead to forces losing officers to neighbouring higher-paid forces<sup>8</sup>.*

Officers themselves recognised the dangers this would pose to the police service in the focus groups conducted by Dr Chatterton<sup>9</sup>.

1.64 In addition, in circumstances where officers were seconded or working in a collaborative exercise across Force boundaries, any differences in pay would be divisive and could lead to claims of equal pay.

1.65 For the reasons set out above, the PFEW does not believe that there is any merit in, and therefore would not support, moving towards a system of location-based pay within the police service beyond that which already exists.

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<sup>8</sup> IDS, August 2011

<sup>9</sup> Chatterton, September 2011

## SECTION TWO: CONTRIBUTION-RELATED AND ROLE-BASED PAY

### Trends in pay progression systems

- 2.1 In its report for the PFEW, IDS states that increasingly, traditional approaches linked to service have been adapted and now combine length of service with performance or some other measure<sup>10</sup>. This approach has been growing in importance in the civil service: where progression was once based solely on length of service it is now linked in part to performance. Examples include arrangements at the Crown Prosecution Service, where movement through the pay bands is linked to service and individual performance. Staff progress to the next point of the pay band on the anniversary of their start or promotion date as long as their performance has been appraised as 'satisfactory'.
- 2.2 In the private sector, both Ford and Kodak provide examples of this approach. At Ford progression for its main white-collar group is based on service up to the midpoint of the salary scale. Thereafter, progression from the scale midpoint, known as the incremental maximum, to the scale maximum is based on assessments of individual performance. At Kodak, clerical, administrative, secretarial and technical staff, progress through each grade by service-related increments, subject to a minimum performance standard.
- 2.3 Performance-related pay progression or merit pay has been common among private-sector employers for the last 20 years or so and performance appraisals have become a well-established feature of the reward calendar. While there has been something of a shift away from progression based solely on performance, there are still many examples in practice.
- 2.4 In the public sector, progression at the Department of Business, Innovation and Skills (BIS) is linked to performance ratings. Here the number of steps an employee moves up the incremental scale is determined by his or her performance rating. In the August 2010 review, staff rated as 'highly

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<sup>10</sup> IDS, August 2011

successful' or 'successful' progressed by two steps and those rated as 'improvement needed' progressed by one step.

- 2.5 Competency-based pay is linked to dimensions of behaviour that an employee must display in order to capably perform in their role. Examples might include analytical thinking, or communications skills. Some schemes mix behavioural elements with more objective measures of skill level. There are few examples of progression based solely on competency, as more often it is combined with service or performance to form a hybrid approach. This is probably due to the complexities of operating such a scheme. Examples of organisations that operate competency-based progression from IDS research include Muir Group Housing Association and Plymouth City Council, both of whom manage progression for call centre staff via competency-based increments.
- 2.6 In some cases (although strictly a hybrid approach), an element of competency has been added to service-based progression schemes, with the concept of 'bars' through which staff must move in order to obtain higher increments, such as in the NHS. The 'Agenda for Change' pay structure in the NHS entails a progression system with two competency-based 'gateways' in each band, one near the bottom of each grade and one near the top. The expectation is that while most staff would pass through the lower gateway, the higher one is designed to be comparatively narrower, or more difficult to pass through, thereby limiting progression to the highest increment(s) in each band.
- 2.7 The Knowledge for Skills Framework (KSF) was designed to provide an outline of the knowledge and skills necessary for each post and annual reviews for all staff so that they could compare their skills to the outline. This was intended to form the basis of personal development plans to help staff plug any gaps in their knowledge and to help them in their career progression.
- 2.8 Another hybrid approach is one that combines performance with competency or skills acquisition, providing employers with the flexibility to accelerate or withhold progression on the basis of performance but also skills acquisition.

This approach is common among call centres. For example, at Loop Customer Management progression through the pay scale for call centre agents is based on skills development, competence, contribution and displaying and demonstrating required behaviours. Rises are every three months and most employees reach the top of the scale within two years. There are 16 increments between entry level and scale maximum, with increments typically worth between £250 and £500. Progression for more senior staff is based on individual performance and competency-linked increments. Staff are eligible for progression rises approximately every six months.

2.9 According to IDS, contribution pay is a relatively new concept which attempts to measure employee achievement against both objectives and competencies. In higher education, for example, the Framework Agreement<sup>11</sup> contains three incremental 'contribution' pay points at the top of each grade in the academic model career path. The Joint Negotiation Committee for Higher Education Staff (JNCHES) provided guidance to identify the criteria and draw up procedures for contribution pay progression and states that 'the purpose of contribution-related pay is to reward individuals whose contribution, on a sustained basis, exceeds that normally expected in their role in terms of high levels of outcomes and of competence'. So far, plans for the introduction of this sort of approach mainly involve senior roles (academics), and while there are institutions that plan to extend the approach to other staff, these plans are mostly at a very early stage.

2.10 In addition, some local authorities in England are experimenting with a contribution-based approach whereby the award of an annual increment is dependent upon an employee's achievement of both performance targets and competency objectives. This sort of approach is aimed at overcoming the deficiencies associated with performance and competency-based pay on their own. However, IDS suggests that existing schemes appear to reproduce some of the methods associated with 'traditional' performance-related pay, such as scoring of individual employees in respect of how well they have met their

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<sup>11</sup> *The Framework Agreement for the Modernisation of Pay Structures in Higher Education*, 2004.

objectives, and the use of 'matrices' to determine individual pay rises. As such, the criticism that these approaches are aimed at paybill control, as opposed to employee development and motivation, seems difficult to overcome<sup>12</sup>.

2.11 Recent evidence from the Chartered Institute of Personnel and Development (CIPD) shows that in the public service sector, over half of respondents link pay progression to length of service<sup>13</sup>.

### **Issues in designing pay progression systems**

2.12 There are three central issues in applying contribution or performance-related pay to the police service:

- a) To what extent does policing create results which can be measured?
- b) Is the police service able to devise an effective and consistent method of appraisal?
- c) Will any such system ever be fair and non-discriminatory?

#### **a) Measuring results in policing**

2.13 In our submission to Part One, the PFEW highlighted the dangers of unintended consequences arising from performance-related pay in policing: blunt targets that do not take account of the need for discretion in policing run the risk of criminalising people inappropriately and unnecessarily. Both IDS and Professor Roger Seifert discuss similar concerns. As Professor Seifert points out, although many companies use forms of performance-related pay, none do so without problems. In the public sector it has caused problems in the civil service and teaching. In no part of the public sector has the evidence shown that it improves performance, but there are studies that show that performance overall has worsened<sup>14</sup>.

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<sup>12</sup> IDS, August 2011

<sup>13</sup> *Reward Management Survey*, CIPD, 2011

<sup>14</sup> *A discussion of the appropriateness of performance pay and direct entry for the police service in England and Wales*, Roger Seifert, July 2011

2.14 Officers taking part in Dr Chatterton's focus groups said their experience of the 'performance culture' in the police service, which developed through the use of crude performance indicators, led them to question whether forces could capture and measure performance accurately. They feared that the introduction of performance related pay would herald the return of target setting and performance indicators. This had led in the past to the devaluing of aspects of policing that were more difficult to measure. It had also encouraged dubious practices, many unethical, which made the targets more easily achievable, did not constitute good policing and often failed to produce the results members of the public were entitled to expect<sup>15</sup>.

2.15 In addition, an individualised approach to pay and performance could provide 'perverse incentives', which would be inimical to teamwork. This is an important consideration in the light of the importance of team-working to the police service. As stated in our submission to the Part One consultation, the PFEW would be particularly concerned about the "crowding out" effects of any performance incentive systems, especially where police forces felt the need to promote targets which create undesirable outcomes. Incentive systems, however, may result in more difficult crimes receiving a lower priority in order to increase output. Dr Chatterton found that officers in his focus groups appreciated some tasks were more likely to produce 'ticks in the boxes' than others. They suggested performance related pay would lead to officers "cherry picking' the easier jobs, leaving to undesirable competition between officers. Performance related pay could in this way lead to unhealthy competition between officers and consequently be divisive<sup>16</sup>. Furthermore, managers may only focus on incremental improvements so as not to deliver more substantial improvements in subsequent years.

2.16 Studies also show that individual, team and force performance need to be carefully monitored but are not easy to measure and may contradict one another. Where performance is based on measures such as 'effectiveness'

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<sup>15</sup> Chatterton, September 2011

<sup>16</sup> *Ibid.*

(closeness to target achievement), there are problems with target-setting and specification, especially where they come in the form of performance indicators. Workers subject to such regimes tend to chase the indicator rather than the substantive professionally-defined outcome. Where performance is measured through some notion of 'efficiency' then this tends to be based on an evaluation of the worker's input and output, and the evidence shows that there is a substantive reduction in actual output and outcome<sup>17</sup>. In addition, performance measures tend to favour short-term, visible, and local outcomes and this mitigates against any planning strategy to reduce crime and discriminates against those doing less visible but equally important work. It can increase gender job segregation and raise issues of equal pay. Seifert et al have found that the use of performance indicators in the NHS and civil service show that they distort management decisions, frustrate staff activity and professionalism, and create the conditions for serious medium-term failure of the system of service delivery<sup>18</sup>.

2.17 Some jobs allow a clearer and more vivid proof of performance than others. For example, domestic violence unit personnel may find it harder to demonstrate performance achievement against more complex targets than response officers meeting 999 calls within certain time limits. Targets are not themselves easy to set and the performance achievement of such targets may distort other activities as officers chase the indicator rather than focusing on service-delivery to the public, and again pits officer against officer, thereby undermining team work and force-wide and inter-force co-operation. Officers attending Dr Chatterton's focus groups illustrated the potential difficulties of performance related pay in a wide range of policing situations<sup>19</sup>.

2.18 As the PFEW pointed out in its Part One submission, a further consideration is the increasing dislocation of supervision within the police service. This can

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<sup>17</sup> Seifert, July 2011

<sup>18</sup> *ibid*

<sup>19</sup> Chatterton, September 2011

involve supervisors managing officers in a number of different locations with no day to day contact or opportunity to directly monitor their performance.

### **b) Devising an effective and consistent method of appraisal**

2.19 A fundamental challenge for any reward-system based on performance in the police service is that it would require performance to be objectively assessed to a consistent standard. In its submission to Part One of this review, the PFEW argued that until the police service had a consistent system for reviewing performance that was proven to be fit for purpose and able to deal with the concerns set out in this submission, there should be no direct link between performance and pay. It would be unfair for an officer in one force to be judged against different standards to an officer in another force. Similarly it would be unacceptable for inconsistency to occur within a force as the result of the quality of an officer's line manager or reviewer.

2.20 Although the PDR system would appear to be the appropriate vehicle for delivering performance related pay, Dr Chatterton points out that officers themselves have no confidence in the present system of performance review<sup>20</sup>.

2.21 The PFEW is aware of a national PDR model agreed by all stakeholders, which would go some way to addressing the concerns outlined in the Part One Report that the police service is far from ready for these reforms to pay, both structurally and culturally<sup>21</sup>.

### **c) Fairness**

2.22 IDS points out that there is a clear difference of opinion between advocates of contribution or performance based pay among HR commentators and the wealth of critical studies within the academic literature<sup>22</sup>. One of the key issues among critics of such pay systems has been the link between pay and appraisal outcomes. As Professor Seifert points out payment by results

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<sup>20</sup> Chatterton, September 2011

<sup>21</sup> *ibid.*

<sup>22</sup> IDS, August 2011

performance systems, which were the subject of much contention, were largely abandoned by the 1980s. The alternatives, however, are expensive and time consuming and often give rise to grievances and disputes. They also require the award of the bonus to be worthwhile and in sectors, such as banking and finance, appraisals can be thorough and testing but the associated bonuses are very large. There are also questions as to whether the type of scheme being considered is appropriate to the type of work carried out by police officers, especially given the experience of such systems for other groups of 'knowledge workers'<sup>23</sup>.

2.23 A central problem with performance-based pay systems, as IDS highlights, is the fact that although pay increases are supposed to be differentiated by performance, in most cases the pot for pay increases is set by the budget available<sup>24</sup>. This budget tends to be in line with that for across-the-board increases elsewhere and determined by the same factors, including inflation and affordability. As a result, the majority of employees end up receiving the same award. This problem is reinforced by the use in many organisations of 'forced distributions' or guidelines to managers on how to distribute merit pots, since large numbers of staff receive the same basic increase. Since control of the paybill is paramount such schemes fail in their stated aim of motivating or developing employees. There may, therefore, be a difficulty around the size of budgets required to provide meaningful progression, and in the event of smaller budgets, this approach will leave itself open to the charge that it is simply an exercise in controlling costs rather than staff development.

2.24 If contribution or performance is to be measured on an individual basis, then one question is the extent to which solo or independent work figures routinely in policing. This will have a bearing on how easy or otherwise it will be to measure individual accomplishments. As IDS points out, John Makinson's report *Incentives for change: Rewarding performance in national government networks*, published in 2000 was extremely critical of performance

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<sup>23</sup> Seifert, July 2011

<sup>24</sup> IDS, August 2011

management systems in the civil service and the operation of performance-related pay. The review found that performance-related progression in the civil service was “seen as divisive and unfair” and far from it motivating staff, it was regarded as demotivating. A particular problem was that the focus on individual performance objectives led to “individuals not working to support their team or help other colleagues”. Makinson argued that:

*A central weakness of the present performance pay system is the subjectivity of performance assessment, which gives rise to accusations of favouritism, and the inadequacy of existing performance management systems when they try to identify objectively the achievement of an individual. This is hardly surprising. Almost all individuals in the national office networks of the four agencies work as integrated team members and their individual contribution is difficult to distinguish from that of the team as a whole<sup>25</sup>.*

2.25 As a result of the Makinson review early experiments in performance-related progression in the civil service were ended in favour of rewarding performance through bonuses. However, in recent years changes in government policy have led to attempts, in some cases, to link progression once more to performance or competencies<sup>26</sup>.

2.26 IDS states that it “has never come across any system that reduces basic pay for poor performance”<sup>27</sup>. The PFEW would concur with the sentiment that consistent under-performers should be subject to measures to improve their performance as opposed to a payment penalty. As we discuss elsewhere in this submission and previous submissions to the Review, where officers fail to perform their roles effectively, provision for dealing with this exists within the Unsatisfactory Performance Procedures (UPP). These were introduced as part

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<sup>25</sup> Quoted in IDS, August 2011

<sup>26</sup> IDS, August 2011

<sup>27</sup> *ibid.*

of the new disciplinary regulations and guidance and came into force on 1 December 2008<sup>28</sup>.

- 2.27 The proposal for a percentage of basic pay to be 'at risk', similar to that made by Will Hutton for senior executives, is very unusual and there are clear differences between senior executives who are expected to drive overall organisational performance and workers who can have little comparable impact upon organisational performance. IDS also indicates that there are possible legal difficulties with such an approach and states that "in ordinary employment law circumstances, the introduction of such an uncommon pay structure would be problematic almost to the point of impracticality."<sup>29</sup>
- 2.28 In 2004 the then Home Secretary commissioned a review of the arrangements for dealing with police misconduct and unsatisfactory performance. The review looked into the effectiveness of the disciplinary arrangements for police officers. The Taylor Review found that the system for dealing with police misconduct was overly bureaucratic and legalistic with little or no encouragement for managers to swiftly and proportionately deal with low level misconduct matters. As a result, changes have been made under Sections 126 and 127 of the Criminal Justice and Immigration Act 2008 and the Police (Conduct) Regulations 2008. These provide new misconduct procedures for police officers of all ranks and special constables. The revised procedures make it easier for individuals and the police service generally to learn lessons and improve the services that they provide. The PFEW fears that placing the emphasis on pay being 'at risk' for poor performance will return the police service to the culture which prevailed prior to the Taylor Review.

### **PFEW position in respect of pay progression for police officers**

- 2.29 Given the experience and trends in other sectors, the PFEW supports an approach to pay progression which is based upon a combination of service and competence. In February 1994 Staff Side proposed an integrated salary

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<sup>28</sup> Home Office Circular 25/2008

<sup>29</sup> IDS, August 2011

structure which recognised experience, skill development and the increased responsibilities. Each scale would contain a discretionary element of four additional increments on top of the non-discretionary maximum which would only be accessed by performance. The discretionary element in the pay scales recognised the importance the Home Secretary attaches to relating pay to an appraisal-based measure of performance. Staff Side also agreed that an officer might remain on the same pay point following a less than satisfactory appraisal marking, but that this should also automatically trigger the Unsatisfactory Performance Procedure.

- 2.30 At that meeting the Home Office confirmed that a steering group was in the process of developing an appraisal system and intended starting a pilot scheme from September 1994, with full implementation from September 1995 and appraisal related pay from September 1996.
- 2.31 As a result the PNB agreed to pay scales for the Federated Ranks in which progression would be dependent upon satisfactory performance. The PNB Independent Chair acknowledged that an appraisal system had yet to be developed, but said he had envisaged a three-tier system in which officers were marked as unsatisfactory, satisfactory or exceptional/outstanding.
- 2.32 At a meeting of the Police Advisory Board of England and Wales in December 1995 the Police Minister, David Maclean MP, explained that during the preceding two years an appraisal system had been developed for use by all forces to relate police officers' pay to their performance in line with the 1994 PNB agreement. The model system had been piloted earlier in 13 forces and NCIS. The new appraisal system was to be introduced on the basis that the link with pay would only be considered when forces were used to the system and were satisfied that it was working properly. The pay link would only be developed once the system was well-established.

2.33 PNB Circular 96/8 setting out the pay arrangements for Federated Ranks as of September 1996, the due date for the implementation of payments linked to outstanding performance, contained the following wording:

*Payments linked to outstanding performance will be introduced when the appraisal system has been developed.*

This wording was replicated in every PNB Circular on the pay of Federated Ranks between 1996 and 2002. In the absence of an agreed appraisal system it was not legally possible for forces to make single performance payments and no officer ever received such a payment.

2.34 The provision for pay progression and additional payments to be linked to performance were removed as part of the May 2002 agreement on reform of police pay which saw changes to the overtime arrangements and the introduction of CRTPs and SPPs.

2.35 During the 2005-06 discussions on pay modernisation, the then Staff Side Secretary, John Francis, wrote to the Official Side Secretary, Sarah Messenger on 16 March 2006. The letter included the following statement:

*Staff Side fully supports a robust, transparent and fair PDR system – underpinned by external quality assurance and thorough, accredited training for line managers.*

*Staff Side believes such a system should be in place before any pay decisions are linked to PDRs. Once such a system is bedded-in, Staff Side would consider the possibility that incremental progression could be linked to a satisfactory PDR – based on the presumption of 'competent' performance and any 'not yet competent' conclusions being fully evidenced by line managers.*

2.36 The PFEW believes that this approach is still the correct one, that progression should recognise and reward the experience of police officers in combination with a system which also takes account of performance. The PFEW believes that pay progression within the rank should be contingent upon satisfactory performance as evidenced by an annual review that is robust, transparent and fair and is perceived by officers to be so. In the absence of such an annual performance assessment, progression should be automatic.

### **Fitness testing**

2.37 The PFEW has genuine concerns at the suggestion that fitness should be considered in the context of contribution-based pay for police officers. As the Review will be aware, in 2003 the PABEW considered the equality outcomes of fitness testing for recruits. As these tests gave access to employment opportunities they came under the employment provisions of the then Sex Discrimination Act 1975 (now the Equality Act 2010). It was clear that some Forces were using so-called "gender fair" tests, which set different and lower standards for women. This constituted direct discrimination against men. Direct discrimination cannot be justified. Other Forces were using tests which were deemed to be "gender neutral" in that they had the same standard for men and women. There was considerable variation in outcome between forces using these tests, with an average pass rate for women 50 percentage points lower than for men. This constituted indirect discrimination against women applicants to the service. Indirect discrimination can be justified if it is a proportionate means of achieving a legitimate aim. The PABEW, therefore, tasked the Fitness Working Group made up of its members to consider developing appropriate and non-discriminatory fitness standards for recruits and specialist posts and to consider in-service fitness tests for officers.

2.38 To meet the requirements of the equality legislation fitness tests for employment must meet the real needs on the part of the employer. The PFEW therefore supports the view of the PABEW in that fitness tests for police officers should reflect the requirements of the role. There is a distinction between fitness tests as a role requirement and for medical or health reasons.

The two are mutually exclusive. One demonstrates the aptitude and capability of performing a job while the other is related to a person's personal and physical well-being. The PFEW supports the conclusions of the PABEW regarding fitness tests for recruits and officers in specialist roles and rejects the idea that in-service fitness tests are appropriate or necessary for access to, or retention in, all police roles.

## Skills

2.39 The PFEW believes that there may be scope to reflect and reward the acquisition of skills through the pay structure. However, this should only take place once a robust job evaluation exercise has been conducted which accurately assesses the requirements of each role. The PFEW is also concerned, though, that any system of skill-based pay should not inhibit the flexibility of deployment of police officers. Particular concerns include that:

- The number of separate allowances and the system for accrediting and administering them may become very complex and burdensome
- Systems typically end up rewarding the acquisition of the qualification *per se* rather than the relevant practical skills that go with it
- Without some sort of test of 'continuing relevance', which could introduce yet another layer of complexity, allowances may continue to be paid long after the qualification has ceased to be relevant to particular roles.
- It may not necessarily provide equality of opportunity and equal pay.

2.40 As Seifert indicates, skill is a vague concept with little possibility of accurate measurement and assessment<sup>30</sup>. Some skills may be easier to appreciate than others and may be more visible to senior officers, and may be more in the public eye or prioritised than others. Qualifications are not in and of themselves skills but indicators of a possible range of some particular skills, and therefore not appropriate for pay linked achievement. A skills ladder similar to that in the NHS and for teaching assistants to become teachers have had limited and mixed success. In practice they have been overtaken by operational need and management control over budgets. A skills ladder, however devised, is usually

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<sup>30</sup> Seifert, July 2011

an excuse for senior managers to hide behind qualifications in place of judgement. Indeed, as many writers on economics have commented, the contribution of education to economic growth is sometimes simply seen as a selection device for employers. This is often referred to as the screening hypothesis or theory of credentialism<sup>31</sup>.

2.41 Seifert indicates that where systems exist of pay linked to qualification, these are usually based upon a solid basic pay structure with additional payments for qualifications<sup>32</sup>.

2.42 As IDS points out, progression based on the acquisition and application of skills is mainly used for manual workers and is less common for white-collar staff. Growing out of more traditional apprenticeship and training schemes, modern skills-based approaches are often aimed at equipping manual workers with the additional skills needed to operate or maintain high-tech equipment or processes, and rewarding them accordingly. The approach here is normally modular, with extra pay for completing each skills module in a sequence of four or five modules. Most examples of skills-based pay relate to manufacturing and some systems combine measurement of individual performance with skills, especially in parts of high-spec manufacturing.

2.43 The PFEW believes that to improve the current development of skills within the Police Service, whichever body replaces the NPIA should be charged with devising a "cradle to grave" system of training, providing officers with clear career pathways. That body must have the ability to mandate forces to use nationally standardised training programmes. Much training is currently implemented inconsistently by forces leading to variable standards around the country. Any training necessary for an officer to fulfil an operational policing role or for personal development relevant to their role in the police service should always be funded by the officer's force and not the individual. It is the duty of Government to protect the public and hence to ensure officers are

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<sup>31</sup> *The methodology of economics* (second edition), Mark Blaug, 1992

<sup>32</sup> Seifert, July 2011

properly trained. In our view it would be unethical to expect individual officers to pay for any training necessary to make them into a fully rounded police officer. There should also be a commitment from forces that time will be given to officers to attend training during duty time. The completion of on-going training must not add unnecessary bureaucracy to officers' work schedules.

2.44 The PFEW believes that core training, coaching and mentoring is best delivered by experienced practitioners from within the Police Service. Any move towards the outsourcing of core training needs should be approached with extreme caution, and not adopted until there is adequate evidence to show that further education colleges can provide a high quality of appropriate training in a professional manner to all officers. Furthermore, the quality of training provision in forces should be subject to independent scrutiny.

2.45 An important consideration in the discussion over linking pay to the acquisition and use of skills is the fact that the power exists within Police Regulations for officers to be directed to work in any role or part of the force by their chief officer (Regulation 20, Police Regulations 2003).

### **Role based pay**

2.46 As with skills, the PFEW has concerns that any pay structure which was linked to role would require a detailed job evaluation that would need to be highly customised due to the unique nature of the police service. Doing this properly would be an extremely complex and lengthy process. It would require substantial investment, both financial and in terms of time and personnel from staff associations and forces who would need to negotiate role profiles for all key roles in the service mapped to nationally agreed factors. Experience in other sectors shows that this may take some time if it is to be done properly, as the PFEW would expect it to be.

2.47 A further consideration, as stated above, is that police officers can be ordered to undertake any role in the police service by their chief officer. There would have to be safeguards in respect of the pay of officers who, for example, were

trained in firearms and public order but who were subsequently posted, through no choice of their own to a role not requiring these skills. The PFEW would insist that its members were not disadvantaged as a result of such an involuntary transfer.

- 2.48 It is worth noting that most officers who participated in Dr Chatterton's focus groups disagreed with the concept of role-based pay. Of the minority of officers who agreed with some form of role-related payment, the assumption of most was that any roles would receive an additional allowance on top of the basic incremental salary scale. In relation to basic salary levels, no officer challenged the value or contribution of any particular role identified by participants or suggested that it was any less valuable than that of other officers. Those who had argued in favour of paying an allowance for a specified role did not argue that basic salaries should be role-related<sup>33</sup>.
- 2.49 Furthermore, among police officers there were no commonly accepted criteria for differentiating between roles and no consensus on which roles should receive additional payments, with the exception of officers in 24/7 Response. Participants stressed the importance of maintaining a culture in policing which encouraged cooperation, while role-related pay was seen as divisive<sup>34</sup>.
- 2.50 In addition, many officers stated that their current job descriptions failed to adequately recognise everything that they did. This would, therefore, lead to resentment if they were used as the baseline for any subsequent job evaluation<sup>35</sup>.
- 2.51 In respect of job evaluation, the PFEW approached Sue Hastings, whose extensive experience includes developing and overseeing implementation of the NHS Agenda for Change job evaluation process and reviewing the Police Staff Council '13 Factor' Job Evaluation Scheme. As Sue Hastings observes,

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<sup>33</sup> Chatterton, September 2011

<sup>34</sup> *ibid.*

<sup>35</sup> *ibid.*

while it is technically feasible to job evaluate the range of police officer ranks and roles this “is not quite the same as saying that job evaluation is ‘appropriate’ for the roles of police officers”. Sue Hastings notes that it would be inappropriate and would restrict current levels of flexibility if all current potential combinations were to be evaluated separately. This could potentially result in different grading and pay for different but commonly occurring combinations of tasks<sup>36</sup>.

2.52 The PFEW believes that this situation can be avoided by job evaluating relatively generic task information. According to Sue Hastings, under the Agenda for Change job evaluation scheme separate evaluations were undertaken for jobs at each level of hospital nursing, such as Nurse, Specialist Nurse and Nurse Manager, but these were each intended to cover the many small variations resulting from different medical specialities and combinations of nursing tasks. Individual roles were ‘matched’ to the generic evaluations. This greatly reduced the workload involved in implementing job evaluation across the NHS. There are also similarly generic systems used in the private sector, for instance, in banking and some other financial institutions. The police equivalent of this would be to evaluate a generic role for each current rank, with separate evaluations only for those specialist roles with particularly distinct features. As Sue Hastings states:

*In my opinion, a job evaluation scheme would only be appropriate to the ranks and roles of police officers if it was a relatively generic scheme applied to generic job information, essentially on a rank basis in order to retain maximum flexibility, possibly with some type of matching system to assimilate individual roles to the generic evaluations. However, the generic roles for evaluation would need to be clearly defined (usually by means of a clearly specified job or role description), as it is not possible to job evaluate undefined roles.*

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<sup>36</sup> Winsor Independent Review of Police Officers' and Staff Remuneration and Conditions: Part 2: Independent Advice to the Police Federation on Job Evaluation and Job Evaluated Pay Structures, Sue Hastings, August 2011

2.53 There are limits on the extent to which detailed job evaluation could be applied to police officers, as it could restrict current levels of flexibility and result in different grading and pay for different but commonly occurring combinations of tasks. Despite this, the PFEW believes that a relatively generic scheme applied to generic job information, essentially on a rank basis in order to retain maximum flexibility and avoid the potential divisiveness among police officers identified in Mike Chatterton's focus group work, could be appropriate.

### **Overtime**

2.54 The PFEW believes that overtime is a necessary consequence of the nature of policing work. Indeed utilising existing officers in this way helps reduce the need to recruit more officers. In fact actual spend on overtime is generally low across the forces of England and Wales and is reducing. The PNB has previously looked at ways in which overtime could be better managed and the costs reduced<sup>37</sup>. The PFEW would point out that:

- If management cannot operate effectively within current levels of flexibility then by itself greater flexibility is unlikely to assist
- Without appropriate protections in place officers' health, safety and welfare would be at risk, with the knock on effect on sickness absence, ill-health retirements.
- Police officers have a legitimate expectation that they will only be required to perform duty during their rostered hours of work. As participants in Dr Chatterton's focus groups identified, working overtime often involves significant personal cost to officers<sup>38</sup>. It is a matter of basic fairness that police officers should be entitled to a reasonable work-life balance.

2.55 The *High Level Working Group Report on Police Value for Money* published last year asserted that while overtime should come down, there must not be a reduction in either the level or the quality of the service the public receive;

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<sup>37</sup> PNB Circulars 02/9 and 02/18

<sup>38</sup> Chatterton, September 2011

indeed, both must rise<sup>39</sup>. It proposed a three-pronged approach to reducing overtime:

- Increased management control
- Process improvement to reduce the demand for policing services
- Effective deployment

2.56 Increased management control includes training, particularly those at supervisory grades, developing and distributing user-friendly guidance, clear direction from senior leaders on the importance of following these processes to their workforce. There is also a need to increase accountability among budget holders and to improve the financial management skills of supervisors.

2.57 In relation to process improvement, Jan Berry, Independent Reducing Bureaucracy Advocate found that the booking-in process caused the longest delays in custody owing to insufficient levels of staff working during periods of high demand. Better management of this process should lead to improvements in the efficiency of this process. Evidence from QUEST has shown that reducing custody waiting times by only 30 minutes could deliver £1.39 million of productivity gains.

2.58 Effective deployment requires matching the use of police to demand for policing, which includes the visible demand at busy times, the public's local priorities and the sometimes less-visible demands of dealing with risk, threat and harm to the public. Effective deployment would also assist with bearing down on the overtime spend. Home Office research on overtime found that teams with the highest overtime spend are often those teams whose shift patterns have not been amended to match better the demand for policing services. Decisions about deployment and shift patterns should apply right across the force and not be restricted to neighbourhood and response functions.

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<sup>39</sup> *High Level Working Group Report on Police Value for Money*, ACPO, APA, HMIC, NPIA, Home Office, February 2010

2.59 The Home Office report *Understanding overtime in the Police Service*, February 2010<sup>40</sup>, found that police forces could reduce their overtime spend. To do this required the collection and analysis of overtime data. This could help identify high spending teams and units as well as identifying 'peak' days and times, allowing forces to be more proactive in developing strategies to reduce or manage overtime more effectively. Forces should make an assessment of whether their current shift arrangements adequately match the demand for resources from the public. Force managers should see these deployment issues as being at the heart of their role.

2.60 Clarification of overtime processes and procedures (including authorisation, payment rates, use of time off in lieu (TOIL) and the 'half hour rule') is crucial. The survey drew attention to some potential actions which forces could consider if they were aiming to reduce overtime spend:

- Developing a formal overtime policy and ensuring that officers (particularly those in supervisory grades) are trained in monitoring and managing overtime;
- Monitoring planned overtime to identify scope for introducing/adapting shift patterns across all teams/departments, to better reflect demand for resources. This could also reduce the need for 'predictable' overtime (eg, bank holidays, summer holidays, Christmas); and
- More proactive workforce planning to minimise the impact of vacancies and absences

Additional areas of good practice also identified were:

- Increasing accountability (through devolving budgets and ensuring that financial management is included in officers' PDRs);
- Investing in improved IT systems;

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<sup>40</sup> *Understanding overtime in the Police Service*, Laura Brasnett, Mahlon Evans-Sinclair and Eva Gottschalk, Home Office Police Productivity Unit, February 2010

- Simplifying overtime regulations and procedures and clarifying the 'half-hour rule'; and
- Improving communication between all ranks and departments to raise awareness of how overtime should be managed.

2.61 Police forces will always need the flexibility of overtime: it is a cost effective alternative to employing more officers. The bill for overtime, approximately 5 per cent of the officer salary bill, could be reduced through better management. Too much unplanned overtime results from poor management, misaligned shifts and a lack of management training.

2.62 One force in five has no overtime policy and one in three provides budget holders with no training to manage overtime costs. These are barriers to reducing costs. Forces can learn from each other to develop overtime policies and manage overtime costs.

2.63 The PFEW does not believe that the current overtime provisions are overly complex. For example, overtime for constables and sergeants is payable (or TOIL may be taken) when:

- Members remain on duty after their tour of duty ends
- They are recalled between two tours of duty, or
- They are required to begin earlier than the rostered time without due notice and on a day when they have already completed their normal daily period of duty

2.64 The overtime rate of payment is time and one third ( $T+\frac{1}{3}$ ). It is the member's choice whether to take the allowance or time off in lieu.

2.65 Casual overtime occurs where members are not informed at the commencement of their tour of duty that they will be required to remain on duty after the tour ends. On each of the first four occasions in any week where this applies, the first 30 minutes of such overtime is disregarded in calculating the

overtime allowance. In addition higher rates of payment for rest days and public holidays are often also referred to as overtime.

- 2.66 Part-time constables and sergeants receive overtime payments when they have been on duty for more than 40 hours in any period of seven days and have completed more than 8 hours on any one day.
- 2.67 If an officer is required to work on a rest day with less than five days' notice they are compensated at double time (2T); with five days or more notice but less than fifteen days' notice they are compensated at time and one half ( $T+\frac{1}{2}$ ) otherwise another rest day is given in lieu.
- 2.68 If an officer is required to work on a public holiday they are compensated at double time (2T) [NB, there is no day in lieu given here] and where less than eight days' notice is given compensation is double time plus a day in lieu.
- 2.69 If a period of duty carried out on a rest day or public holiday is less than four hours, or an officer is recalled to duty between two rostered tours of duty for less than four hours, the officer will be paid for a minimum of four hours. This is often quoted as being an unnecessary compensation. However, it was agreed in order to encourage forces to utilise officers in the most effective way in order to minimise disruption to officers' private lives. It is in the interests of both forces and officers that resources are used most effectively. Officers are entitled to a reasonable work/life balance and calling them in for a short period of time on one of two rest days per week causes substantial disruption and potential financial loss.
- 2.70 The PFEW believes that increasing part time and flexible working opportunities in the police service would assist forces to reduce overtime costs by providing additional resources at peak times. This will also improve the retention of officers with family and other domestic commitments, the majority of whom are women who have been recruited during recent years. To reduce the unnecessary bureaucracy associated with part time working, Staff Side has

tabled a claim for “free days” to operate in the same way as “rest days”. Police Regulations currently define “free days” as “not a duty day, rest day or a public holiday”. No such concept exists for full time officers. Removing the distinction between free days and rest days would simplify matters and assist forces to better manage the deployment of these officers.

2.71 Staff Side proposals in 2002 in advance of the May agreement detailed concerns on reducing overtime rates/increased flexibility:

- If management cannot operate effectively within current levels of flexibility then by itself greater flexibility is unlikely to assist
- Reducing overtime rates would demoralise officers, such premia represent recompense for working additional hours and also act as a protection for members.
- Without appropriate protections in place officer’s health, safety and welfare would be at risk, with the knock on effect on sickness absence, ill-health retirements.

#### **A fixed allowance in lieu of overtime**

2.72 The history of overtime in the police service is that where remuneration for this is included within basic pay or a set allowance, chief officers will fail to adequately reward officers for their additional hours. The 1949 Oaksey Report recommended compensation through TOIL for working overtime at time and one-third on duty days. The Oaksey Report recorded that members of CID were already in receipt of a Detective Allowance as compensation for their duties. Detectives were not entitled to claim overtime and Oaksey recommended that should remain the case. Oaksey recommended a Detective Duty Allowance to compensate them for the higher number of hours of overtime worked by CID. They were also to be entitled to a separate Detectives’ Expenses Allowance.

2.73 The 1960 Willink Commission noted that, while TOIL was still common practice, where forces were under-strength and time off could not be given,

officers were paid at time and one-third for ordinary overtime. Willink had the stated aim of lifting “the uniformed constable out of the ‘overtime class’ of worker altogether.” The Willink Commission’s view was that Constables’ pay provided adequate compensation for unforeseen incidents which took officers beyond their tour of duty. However, management was also supposed to adjust their working times as compensation.

2.74 Willink recommended the end of payment for overtime, with TOIL remaining the method of compensation. The Willink report also made clear that its recommendations were supposed to reduce the necessity for overtime as police strength increased. The fact that this situation failed to materialise is evidenced by the 1972 decision in which uniformed officers became entitled to payment in respect of overtime. In most cases, though, detectives remained excluded on the basis of their existing allowances.

2.75 Detective Duty Allowance remained at the equivalent of three hour’s overtime a week. However, Staff Side remained of the view that the blanket payment did not adequately compensate detectives for the overtime they worked. Staff Side continued to press for detectives to receive overtime on the same basis as uniformed colleagues. In 1964 a Supplementary Detective Allowance was introduced to meet these objections. This granted one of two additional payments to detectives if all members of that rank on average worked between either eight and 12 hours or more than 12 hours in the previous quarter. However, this still failed to adequately compensate detectives for the overtime they worked. Many detectives felt that this put them at a disadvantage and that they continued to be insufficiently remunerated in respect of their overtime. In June 1975 Committee C of the Police Council abolished detective duty allowance and members of CID became eligible for overtime on the same basis as uniformed officers.

### **Unsocial hours**

2.76 The PFEW believes that the recommendation for an unsocial hours payment contained in the Part One Report is fundamentally mistaken. This is because it

seeks to reward officers for duty at particular times of the day. Although shift working is a particular feature of policing, there is evidence to suggest that it is not the timing of shifts which is most detrimental to officers' health and welfare, but the frequency of changes to those patterns. Survey work carried out for the PFEW highlighted a number of personal costs, with particular impacts upon the well-being of officers who worked rotating shift patterns. Many reported difficulty maintaining concentration or alertness, finding it hard to relax and suffering from worry and anxiety. Many also reported suffering from fatigue or exhaustion, insomnia or disturbed sleep and loss of appetite, over-eating or poor diet<sup>41</sup>. All of these feelings and symptoms can have an obvious impact upon the long-term health and well-being of police officers. The original recommendation, although its rationale is the detrimental effect upon officers' health, does not compensate officers for frequent changes to their shift patterns. As such, it does not address the most concerning aspect of shift-working.

2.77 Paragraph 2.1.32 of the Part One Report stated that the Review's "terms of reference require it to have regard to 'a strong desire from the public to see more police officers and operational staff out on the frontline of local policing.'" If that is indeed the aim of the unsocial hours payment, it appears unlikely to meet this objective as simply rewarding officers working night shifts will not increase their contact with members of the public – or at least not those who profess to want to see more police officers "on the frontline of local policing".

2.78 The PFEW also has concerns as to the practicality of implementing an unsocial hours allowance into the police service. In his evidence to the Home Affairs Committee, the Reviewer stated that:

*There is going to be some additional administrative burden, such as with the unsocial hours payment that we have recommended whereby there will be a 10 per cent increase in the hourly rate of pay for officers in the federated rank-that is up to and including chief inspectors-for the*

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<sup>41</sup> Internal, unpublished PFEW research, 2009

*hours worked between 8.00 pm and 6.00 am. Now, in order to operate that system, it is necessary for the police force to know who is working that shift and what rank he or she holds. Some police forces do not know that and they are going to have to find out. Now, if a factory can have a system whereby it knows when their workers are working and who they are, so can the police.*

- 2.79 The PFEW considers this analogy to be wholly inappropriate to policing. The requirement to be able to deploy officers flexibly and, as recent events have shown, at very short notice, is incompatible with a rigid system of shift payments.
- 2.80 This recommendation flies in the face of the hours of most value to the public and to forces; it appears to recompense officers for working hours that are the least popular. To recompense particular shift patterns differently fails to recognise that:
- Police officers can be required to work at any time
  - The “perfect” shift pattern does not exist; it is an accommodation between the expected needs of the force and the number of available officers
  - Traditionally officers have worked rotating shifts, taking a turn of working hours around the clock rather than working fixed shifts that might better suit their domestic circumstances or personal preferences
  - Some officers have domestic commitments that restrict the hours they are able to work
  - It should be possible to match the needs of the force with the needs of individual officers
- 2.81 Although the EAT, subsequently confirmed by the Court of Appeal, stated that in the case of Manley and Blackburn “it was a legitimate aim to reward night work”, it only considered that West Midlands Police had justified the level of indirect discrimination in those particular circumstances. At the time of the application in 2003 it was estimated that the payment discriminated against

fewer than 30 women officers in West Midlands Police. While the Part One Report justified the payment of night work through the unsociable hours allowance because without any evidential justification the Reviewer believes that the hours between 8pm and 6am “are the hardest hours”, the resulting gender discrimination has also not been identified. If there is no discrimination then no justification is necessary. If there is a significant difference between the eligible men and women then this has to have proportionally greater justification.

2.82 The Equality Impact Assessment should give an idea of what will happen as a result of this different payment structure and should include how it will impact on both men and women. For example, the PFEW believes it will mean that officers who want to work regular nights because in some circumstances it may suit their childcare needs, would not be allowed to do so because of this additional cost to forces. This will reduce the opportunity for flexible working and lead to a danger of shift patterns which are based upon financial constraints rather than meeting the force's demand profile.

2.83 The Review's initial recommendation for an unsocial hours allowance only represents an additional maximum of 10 per cent for officers, with many officers who work unsocial hours likely to receive significantly less than that amount. The average unsocial hours payment and the fixed interim payment equate to just four per cent of basic pay.

2.84 The PFEW recognises that in setting the maximum figure of 10 per cent of the basic pay of the hours worked, the Review was also taking account of a notional nine per cent of basic pay originally termed 'supplementary pay'. It is important to put the introduction of supplementary pay into context. In 1972, police pay increased by 6.5 per cent, while inflation was running at over 7 per cent and average earnings had risen by 13 per cent. Although police officers received a significant pay increase in 1973, the 1974 pay increase for police officers had to take place within the limits of Stage 3 of the Government's Pay

Code. This allowed for a pay increase of 7 per cent, but with exceptions to that limit for those working “unsocial” hours.

2.85 Given the rate of inflation, which was already in excess of the pay limit by the time of the 1974 negotiations on police officer’s pay, the Official Side was content to use the “unsocial hours” aspect of the Code to increase pay for officers. In July 1974, Committee C of the Police Council agreed that the pay of federated ranks should be increased in accordance with Stage 3 of the Heath Government’s Pay Code. This allowed for a maximum increase of 7 per cent and the introduction of “supplementary pay”, supposedly in respect of unsocial hours. The value of supplementary pay as a proportion of basic pay varied between 6 and 9 per cent. Inflation reached 17 per cent in the third quarter of 1974, as the new pay scales were implemented for federated ranks.

2.86 As a separate allowance which was not consolidated into basic salary, supplementary pay did not count toward overtime, therefore reducing its value as an element of the 1974 pay award. The consolidation of supplementary pay into basic pay, as recommended by Edmund-Davies, belatedly rectified this situation.

2.87 In addition to the concerns outlined above, the PFEW also believes that the current proposal for an unsocial hours allowance significantly undervalues the level of the unsocial hours payment when compared to those payments made to other groups of workers. Looking at wider labour market surveys, Industrial Relations Services reported that, out of 65 organisations making additional payments for unsocial hours<sup>42</sup>:

- The average premium for two-shift, alternating early/late patterns (usually 6am to 2pm, 2pm to 10pm) ranged from 10 per cent to 22 per cent
- The premia for workers on continental shift patterns varied from 28 per cent to 38 per cent
- The premia for working nights was 33 per cent on average, with payments ranging from 25 per cent to 45 per cent.

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<sup>42</sup> *IRS Employment Review*, September 2009

2.88 In September 2010, Incomes Data Services reported that in 22 organisations the average premium was 22 per cent across all types of shifts. The average payment for night shifts was 33 per cent<sup>43</sup>.

2.89 The PFEW would, therefore, suggest that any premia for working shifts should be in the region of an additional 25 per cent of basic salary in line with rates applicable in other sectors of the economy.

### **Mutual aid and secondment**

2.90 Mutual aid and secondment are two distinct provisions. Mutual aid is provided for by Section 24 of the Police Act 1996 which provides that a chief officer of any police force may, on the application of the chief officer of any other police force, provide constables or other assistance for the purpose of enabling the other force to meet any special demand on its resources. Section 97 of the Police Act 1996 provides the framework for police officer secondments, primarily with other policing bodies. The term 'secondments' can also be used to cover collaborative arrangements involving police officers under Section 23 of the Police Act 1996 (Policing and Crime Act 2009) where the nature of the collaboration involves the officer working away from their force for significant period of time for example on attachment to a national unit hosted by another police force or loans of police officers to outside organisations.

### **Mutual aid**

2.91 Mutual aid enables an efficient use of shared resources. Mutual aid enables forces to utilise existing resources in neighbouring forces without needing to maintain such a large workforce to handle every eventuality which could possibly arise within a force area. The Home Office document "Statutory Guidance for Police Collaboration" (March 2010) detailed that because "a particular force may hold particular expertise or resources, the mutual aid arrangements improve the overall efficiency and effectiveness of policing".

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<sup>43</sup> *IDS HR Study 925*, September 2010

- 2.92 The ACPO paper on charging for mutual aid states that mutual aid is usually provided in response to, or in anticipation of a major incident or event<sup>44</sup>. Mutual aid activity ranges from small scale, inter-force support, through to reacting to a significant or serious incident to, in some cases supporting a force or government department in a large scale pre-planned event. It provides an overall resilience to the provision of effective policing of the incident and force area in question. By its very nature mutual aid is incident based and therefore likely to be extraordinary to the normal policing arrangements in the area.
- 2.93 The PFEW would point out that Staff Side engaged fully in the PNB Working Party to consider Mutual Aid and Held in Reserve arrangements, but the most significant obstacles to reaching an agreement was the failure of the Official Side to understand the difference between mutual aid and held in reserve. The Official Side also failed to recognise the restrictions and imposition placed upon officers when they are removed from their normal place of duty and required to sleep in a specified location.
- 2.94 Mutual aid can be undertaken at any point in time; officers are directed to serve outside of their force and this can be done with little or no notice. Officers can be held for any length of time (although some operations do, by mutual agreement, become secondments to cover the longer-term) and there are therefore no barriers to mutual aid being used to quickly deal with any kind of incident or emergency.
- 2.95 However, it is important to remember that there must be a balance between having an efficient system in place and ensuring those officers who may be utilised are treated appropriately. The PFEW would concur with the PNB Independent Chair when he stated that there is a balance to be struck between forces having resources available at short notice and the price paid for the disruption and inconvenience caused to officers' private lives<sup>45</sup>. To be clear, mutual aid is not voluntary and officers can be directed to serve or work away

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<sup>44</sup> Mutual Aid Arrangements, ACPO Finance and Resources Business Area, September 2008

<sup>45</sup> PNB Mutual Aid Joint Working Party meeting, 23 February 2010

from their normal place of duty when providing aid to another force. This is in contrast to secondments and collaboration arrangement, both of which are voluntary.

- 2.96 The PFEW believes that the 'Hertfordshire agreement' as detailed in PNB Circulars 83/10, 86/15, 88/9 and 95/8, represents the best approach to mutual aid and held in reserve, as set out in our submission to Part One of the Review and that these arrangements should be incorporated into the Regulations and Determinations.
- 2.97 The PFEW would agree with the definition of proper accommodation as set out in Recommendation 12 of the Part One Report.
- 2.98 The current arrangements have stood the test of time and provide a cost-effective way of moving specialist skills around the country. It is widely acknowledged that the arrangements deliver officers where they are needed and that they are significantly cheaper than employing extra officers on a 'just in case' basis. For example in the case of Operation Oasis, estimates suggest that Kent Police would have had to maintain a force of 1,000 extra officers.
- 2.99 During the negotiations in PNB on mutual aid and held in reserve Staff Side consistently advocated that the use of mutual aid should be reviewed after a defined period, specifically 56 days. In terms of officers' welfare, it was Staff Side's view that no officer should be unable to return home for more than 56 days. Thereafter, Staff Side suggested that either a voluntary secondment be agreed between the officer and the force concerned or the assignment for such duty should be terminated and not restarted until after a period of 28 days.
- 2.100 In addition, it should be borne in mind that, for pre-planned events, such as party political conferences, forces should be able to plan their resource needs and to seek secondments accordingly, in which case officers would be paid for the hours worked. When asked why secondments were not used for party political conferences the Official Side said that such events required specific

skills and that the current arrangements for mutual aid provided Chief Officers with certainty as to the number of officers available to them and their particular skills<sup>46</sup>.

2.101 In the case of officers within the Inspecting Ranks, the PFEW believes that for every 24 hours of a policing operation during which they are not practicably able to return home to sleep, they should be paid an additional allowance equivalent to eight hours pay or, if either proper sleeping accommodation is not provided or they are held in reserve, they should be entitled to an additional allowance equivalent to a total of 16 hours pay in respect of each 24-hour period.

### **Secondment**

2.102 Section 23 of the Police Act 1996 provides for joint working between two or more forces and/or two or more police authorities where in the opinion of the chief officer or police authority the collaboration delivers greater efficiency or effectiveness to at least one of the participating forces or authorities.

2.103 Statutory guidance and the associated Toolkit for police collaboration was issued in March 2010 by the Home Office following agreement reached in PABEW. The purpose of the Guidance and Toolkit is to enable police forces and authorities to collaborate more easily and effectively. The document provides clarification of the legislation that supports collaboration in the police service and guidance on key aspects of planning and implementation. The Toolkit further identifies a range of potential barriers to collaboration and provides potential mitigating strategies to help users overcome them.

2.104 In addition, the PABEW has produced draft guidance to forces on secondments; this is currently sitting in the Police Staff Council. The draft guidance states that all secondments must be time limited with clear arrangements for termination or extension. The guidance specifically states

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<sup>46</sup> PNB Mutual Aid Joint Working Party, 3 December 2009

that secondments should cover a minimum period of 6 months and a maximum period of two years.

2.105 Pay and terms and conditions should be decided on before a secondment or collaboration arrangement begins so that officers would be able to take this into account before deciding to apply or volunteer. This is especially important given the changes in the workforce profile since the 1980s and the increasing number of female officer numbers, single parents and carers within the service. Secondees should be entitled to be paid compensation for working long hours, domestic disruption or in recognition of particular skills required for certain relevant posts. This is referred to as a Central Service allowance. The rate should be agreed between the secondee and the receiving organisation but should reflect the demands on the secondees time including working long hours and expected domestic disruption.

2.106 The efficiency of both Mutual Aid and collaboration or secondments is aided by the fact that all police officers' terms and conditions are provided for by national agreements and are detailed in Police Regulations and determinations. Police Regulations provide effective assistance to attempts to improve interoperability between forces, which has been identified as increasingly important within policing. The standardisation of police officer terms and conditions at a national level supports collaboration by alleviating many of the difficulties that could arise if officers from different forces were in receipt of different locally agreed levels of remuneration.

### **Equality and role-based pay**

2.107 Although the question about the equality implications of role based pay in the Review's Part Two Call for Evidence comes under the general heading of Overtime and Unsocial Hours, these are completely different issues. However, there is a need to test each and every recommendation concerning pay against the requirements of the equality legislation.

2.108 For example, in respect of role related pay consideration needs to be given to the potential for gender job segregation to return to the Police Service after years of work to make segregated roles more accessible to members of the opposite sex. Traditionally there has been a predominance of men in roles such as traffic and firearms and a predominance of women in roles concerning child protection, domestic violence etc. Not only do these roles confirm the stereotypical perceptions of women's work and men's work, they also have different time commitments that reinforce those traditional perceptions. Roles that have a more definite time parameters are clearly easier for officers with family commitments to manage. These officers will be more likely to be women.

2.109 Gender job segregation becomes an issue of equal pay if pay policies reward posts held predominantly by men in preference to posts held predominantly by women. This was clearly an issue identified in respect of the payment particularly of SPPs in the PNB Equal Pay Audit in 2009 and highlights the discriminatory impact of local discretion.

2.110 Similarly, in respect of overtime and "unsocial" hours there needs to be consideration of the impact of rewarding officers who work such hours. Overtime in the Police Service is directed. Officers who are unable, for example because of domestic commitments, to work overtime will seek to move out of the roles which have that commitment, or even be forced to leave the Service. These officers will be more likely to be women.

2.111 Additionally there needs to be a recognition that the concept of "unsocial" hours is a traditional reference to work outside of 9-5, Monday to Friday; i.e. hours that are free for social activity. This concept is more readily understood by men who tend not to have primary responsibility for children and other domestic commitments. For many women who work in the retail or health sector for example, their working hours are frequently within these so-called "unsocial" hours. For women with caring responsibilities their time outside of work is dictated by the availability of childcare, be they single parents, in a

household with another worker or with a partner who does not work outside the home. Bought childcare is rarely available overnight. Women officers therefore will be more likely to have domestic commitments that prevent them from working so-called “unsocial” hours rather than simply preferring not to work those hours.

2.112 The concept of paying additional money for hours worked at “unsocial” times flies in the face of the value of those hours to the public, to the Force or to all officers irrespective of their family commitments.

2.113 It is important therefore that the equality implications of any change to the payment structure around overtime, unsocial hours and role-related pay are identified, particularly in respect of women. These issues will have a knock-on effect on women’s access to work opportunities and the gender pay gap. This needs to be factored into a proper equality impact assessment to show the full impact that such a pay system is likely to have on the employment profile of the Service.

2.114 IDS argues that any questions of discrimination and inequality arising under the performance-based or ‘at risk’ pay systems could be pursued under the Equality Act 2010. The most likely way in which the scheme may be discriminatory is if it takes account of performance indicators that work to the disadvantage of groups sharing a protected characteristic. For example, where credit is given for flexibility or the ability to work night shifts, those with caring responsibilities (predominantly women) may lose out. Similarly, if performance depends on showing evidence of arrests or crowd control, those restricted to the office by disability may be adversely affected.

2.115 Furthermore, in any system where performance and pay are so intrinsically linked, any subconscious discriminatory or stereotypical attitudes among those operating the system risk feeding into pay. The system would need to be very carefully monitored to see if any particular ethnic group, or any other group

linked by a protected characteristic was disproportionately represented among those losing their 'at risk' pay.

2.116 The EHRC, in its report on pay discrimination in the finance sector<sup>47</sup>, found evidence of gender bias in the distribution of performance-related pay and bonuses, with a gender gap of 80 per cent for performance-related pay (based on the 42 cases providing complete data under this study). In terms of how this might have arisen, women reported adverse impacts from taking maternity leave, including less favourable performance assessments. Lack of transparency around performance criteria was a factor here. The PFEW would strongly argue that, in the event of some form of contribution-based pay being introduced for the police, there is a real need for equality-proofing of the scheme, transparency of criteria and regular monitoring of outcomes, to ensure discrimination is not taking place.

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<sup>47</sup> *Financial Services Enquiry: Sex discrimination and gender pay gap report of the Equality and Human Rights Commission, 2009.*

## SECTION THREE: ENTRY ROUTES FOR OFFICERS

3.1 As the PFEW and other stakeholders have reiterated on a number of occasions, police officers hold a special position in society. Indeed, it was in the words of Lord Denning, in his judgement in the case of R v. Metropolitan Police Commissioner ex parte Blackburn in 1968, that the doctrine of police independence found its most expansive and most often quoted modern expression:

*I have no hesitation ... in holding that, like every constable in the land, the Commissioner should be, and is, independent of the executive. He is not subject to the orders of the Secretary of State, save that under the Police Act 1964 the Secretary of State can call on him to give a report, or to retire in the interests of inefficiency. I hold it to be the duty of the Commissioner of Police, as it is of every chief constable, to enforce the law of the land. He must take steps so as to post his men that crimes may be detected; and that honest citizens may go about their affairs in peace. He must decide whether or not suspected persons are to be prosecuted; and, if need be, bring the prosecution or see that it is brought; but in all these things he is not the servant of anyone, save the law itself. No Minister of the Crown can tell him that he must, or must not, keep observation on this place or that; or that he must, or must not, prosecute this man or that one. Nor can any police authority tell him so. The responsibility for law enforcement lies on him. He is answerable to the law and to the law alone.*

3.2 On appointment police officers promise to serve the Queen in the Office of Constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all people; to cause the peace to be kept and preserved and prevent all offences against people and property; and discharge all the duties of their office faithfully according to law. The Office of Constable requires special people to fulfil that role.

## Direct Entry

3.3 The PFEW believes that each rank within the police hierarchy carries its own level of responsibility and accountability which is a key element of resource learning to equip a candidate for the next rank/role. There are risks associated with flattening the rank structure, which we believe are greater than the benefits accrued from rationalisation. We believe that every officer promoted must have served at every rank below that to which they are promoted. In this way the officer, through on the job experience develops life skills, personality and competence before being allowed to progress to the next rank. Anything less than this could put the individual officer, as well as the local community, at risk, and accordingly we do not recognise any changes to the upwards promotion process, beginning with life experience gained as an operational constable.

3.4 For this reason the PFEW is against any proposal that would allow external candidates to join the police service above the rank of constable. As we said in our submission to Part One, attempting to direct officers in a context of “information asymmetry” may have particularly acute consequences within the context of an emergency service such as policing. To command a policing operation an officer must have significant and relevant experience of policing in an operational role in order to successfully manage major incidents, including:

- public disorder
- police use of firearms
- terrorism
- action taken by a police officer which results in death or injury
- suicide intervention
- civil contingency/major disasters

3.5 Responding to such incidents requires familiarity with procedures, grounded in knowledge of the likely challenges of the situation. This is particularly important for leaders in the early stages of a major incident. The consequences of choosing the wrong leaders to manage these situations are potentially highly dangerous to the public and damaging to the service.

- 3.6 Senior police leaders are required to make operational policing decisions, not just to manage budgets or to oversee policy and personnel matters. It is on the basis of the operational element of the role that the PFEW believes there must be a requirement to demonstrate, through the ranks, professional operational competence. As Lord Justice Taylor identified, the “skill, experience and special knowledge” of police commanders is extremely important in operational situations<sup>48</sup>.
- 3.7 The PFEW believes that better delegation of tasks will be made by senior officers who possess both leadership skills and the practical knowledge of what it means to perform the tasks they are delegating. This practical knowledge cannot be taught, it can only be realistically acquired in the field.
- 3.8 As Professor Seifert suggests, even with the current discussion about the changing status of the police officer there is still an expectation that entry to the service would remain at the rank of constable<sup>49</sup>. The PFEW agrees with the view that, for a profession to have credibility at any level, it must recognise the value of accumulated experience and that, for the public need to have confidence in senior officers, this implies a level of experience at all levels of activity.
- 3.9 In order to attract potential leaders into the service the PFEW supports the use of the HPDS, a scheme that acknowledges the fast tracking of officers with recognised experience and leadership skills. However, entry to the service must remain at the rank of constable, with experience gained in each rank necessary before progression to the next. The PFEW does not stipulate a specific period of time in each rank, rather the need to demonstrate the skills required in an operational policing environment.

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<sup>48</sup> *The Hillsborough Stadium Disaster 15 April 1989: Inquiry by the Rt Hon Lord Justice Taylor*, January 1990

<sup>49</sup> Seifert, July 2011

## **SEARCH Process**

3.10 The recruitment and training of the right people to be police officers has been the subject of several inquiries over recent years; regrettably these inquiries have been because of perceived failings in the performance of some officers.

3.11 In 1981 Lord Scarman was asked to undertake an investigation into the causes of riots in Brixton. He identified a number of social, political, and economic factors that “created a predisposition toward violent protest”, but said that a major cause of the hostility was loss of confidence in the police, caused by ‘hard’ policing methods and racially prejudiced conduct by some police officers. Lord Scarman advanced a number of proposals and recommendations for improving the quality of policing in modern multiracial societies. In particular, he recommended the study of methods of enhancing the recruitment of people from black and minority ethnic communities into the police; the extension of the initial period of training for police recruits; and the review of policing methods in sensitive areas.

3.12 The SEARCH assessment centre for recruits to the police service has been developed from a base of these recommendations and further refined as a result of recommendations made about recruitment and training in subsequent inquiries into allegations of unlawful discrimination by the police including:

- the inquiry into the death of Stephen Lawrence undertaken by Sir William McPherson (1998)
- the Morris inquiry into professional standards and employment matters in the Metropolitan Police Service (2004), and
- the formal investigation into racism in the police service by the Commission for Racial Equality (2004).

3.13 As these lengthy and learned reviews of police practices indicated, the immense responsibilities of the Office of Constable are redundant if constables cannot police with the consent of the whole community. It is inconceivable that an all-white, male cadre of police officers could effectively police the diverse

communities across England and Wales. It is clear that for many years the recruitment and employment procedures operated by the (then) Police Forces had produced just that. The Police Service has worked hard to change the way it recruits and the people it recruits in order to ensure that police officers have the support of the communities they serve.

- 3.14 In addition the skills required to be a police officer range from having the verbal and written competence to manage within the criminal justice system to the physical competence to arrest and detain wrongdoers. At the same time they need the sensitivity to deal with relatives in sudden death situations and victims of violent crime.
- 3.15 The Police Recruit Assessment Centre, SEARCH, was introduced in order to create a system that identified people with the full range of competencies to undertake the Office of Constable. The primary purpose of the process is to identify those candidates who have the potential to perform effectively as a police constable.
- 3.16 A team at Centrex, now the NPIA, were commissioned by the Home Office to design a suite of exercises which included interactive exercises, written exercises and a competency based structured interview. There is zero tolerance for candidates who do not show respect for race and diversity. SEARCH was endorsed by the CRE during its investigation into racism in the Police Service in 2004. The work of the NPIA is evaluated and supported by all constituent members of the PABEW through the National Recruitment Standards Working Group.
- 3.17 The principles that have directed the selection of the right people to fulfil the Office of Constable must not be lost. Since the recruitment of police officers to the police service is the responsibility of the chief officer of each force the SEARCH Recruit Assessment Centre was introduced in order to give a greater degree of consistency in the way police officers are recruited throughout England and Wales. In particular, from a perspective of encouraging diversity in

the recruitment of candidates, the SEARCH process allows the service to analyse the backgrounds of a high volume of applicants, which is an important element in monitoring the recruitment process and planning positive action initiatives to encourage a greater diversity of applicants to the service.

### **Requiring service as a special constable**

3.18 As the PFEW stated in our submission to Part One, people who were or had been a special constable accounted for nine per cent of applicants and 10 per cent of recruits to the service last year; whilst those with experience of being a PCSO made up 16 per cent of applicants and 18.5 per cent of recruits. The PFEW recognises that being a special constable or a police community support officer gives police recruits valuable skills and experience that equip them for the Office of Constable. However, the PFEW considers that there are real dangers in recruiting special constables to perform regular policing duties without the rigorous assessment of SEARCH. It should be remembered that the special constabulary reinforces the police service, but can never replace it, and that serving the public in both roles should require the completion of the SEARCH assessment.

3.19 Furthermore, the opportunity to work as a police officer on a voluntary basis for at least 16 hours a month is clearly not open to everyone; particularly those with domestic or other job commitments. In addition, there are some categories of employee which are specifically restricted from being able to volunteer as special constables. Clearly, reducing or restricting the pool of potential applicants will have a negative impact upon the diversity of the police service.

3.20 Below is the latest data provided to National Recruitment Standards on 6 June 2011:

- Over 3,000 candidates have been assessed so far in the Specials assessment process. 81.6 per cent of candidates have been successful. BME candidates represented 10 per cent of the successful candidates and 25.9 per cent were female. Female candidates outperformed male candidates and

white candidates outperformed BME candidates. In total there were over 2,500 successful candidates and 16,500 special constables nationwide.

- This compares unfavourably with the interim SEARCH results for 2009/10 where 35 per cent of successful candidates were women. However a higher number of BME candidates were successful, in the specials assessment compared to 6 per cent in the interim SEARCH figures.
- These are only the first set of figures and it is difficult to draw conclusions, however, there is clearly potential for the breakdown of recruits via the specials route to be significantly different and it is important that we understand the reasons for this before using this as a method of recruitment.

### **Implications for officers with protected characteristics**

3.21 There needs to be a clear understanding of the diversity profile of recent recruits to the Police Service and the recruitment procedures that have produced that profile. The current recruitment procedure has been informed by several equality related investigations and enquiries into the behaviour of police officers.

3.22 The equality outcomes of SEARCH have been extensively monitored and show a consistent improvement in the numbers of people from minority groups applying to and being recruited to the Service. In 2008/9, the last year when significant numbers of people were recruited, the intake to the Service comprised around 34 per cent women, around 10 per cent people from black and minority ethnic backgrounds, and all with an average age of nearly 27. Around four per cent of people felt confident enough about the culture of the Service to be able to declare that they were gay, lesbian or bisexual; and around 2.5 per cent declared that they had a disability.

3.23 An analysis of the academic attainment of candidates and their relative success rates shows that similar proportions of people were successful at SEARCH in 2008/9 irrespective of their academic attainment. Less than a third (30 per cent) of successful candidates were graduates.

	<b>Candidates</b>	<b>%</b>	<b>Successful</b>	<b>%</b>
Postgraduate	446	2%	315	2%
Graduate/NVQ Level 5	4720	24%	3504	28%
A-level/NVQ Level 3	7104	37%	4720	37%
O-level/GCSE/CSE 6	6125	31%	3528	28%
No Formal Qualifications	695	4%	350	3%
Not stated	342	2%	215	2%

3.24 The SEARCH assessment identifies people with the personal attributes to be police officers. It is clear that academic qualifications have no real bearing on whether someone has the personal attributes required. Setting the pre-entry qualification at level four (a degree) would exclude at least 72 per cent of the people who currently join the police service, and is clearly unjustifiable.

3.25 The government's recent strategy for social mobility *Opening Doors Breaking Barriers* shows that there are huge differences in people's ability to achieve academic success:

- Only 20 per cent of young people from the poorest families achieve five good GCSEs (a pre-requisite for university) compared with 75 per cent from the richest families.
- Children from the most disadvantaged areas are only a third as likely to enter higher education as children from the most advantaged areas, and are less likely to attend the most selective higher education institutions.

3.26 The Equality and Human Rights Commission recently published its first *Triennial Review: How Fair is Britain*. It shows that there has been an increase in the proportion of young people entering higher education and graduating since the mid-1990s.

- The proportion of university places taken by ethnic minority students increased, from 13 per cent of students in 1994/95 to 23 per cent in 2008/09, a figure broadly proportionate to their size in the young population. However, there is a large difference in the percentage of pupils achieving 5 or more GCSEs between ethnic minority groups: the highest success rates were achieved by Chinese (72 per cent) and Indian (67 per cent) students compared to Black Caribbean (39 per cent) and Pakistani students (43 per cent).
- Girls accounted for 57 per cent of all students in 2009. They outperformed boys in all ethnic minority groups. The largest differences were seen in Other Asian and Chinese pupils where there was a gender gap of 14 percentage points and in Black Caribbean pupils where there was a gender gap of 13 percentage points
- In 2008/09 41 per cent of students in the first year of their first undergraduate degree were 18 years and under. Almost the same number were 19-24-years-old (38 per cent), 7 per cent were aged 25-29 and the remainder (14 per cent) were over 30.

3.27 This gives some idea of the pool of candidates that the police service would be recruiting from if a minimum level of academic qualification was set, particularly given the recent discussions in relation the Neyroud Review.

3.28 Other factors that should be considered include the fact that requiring degree level qualifications would tend to favour younger people entering the service. There needs to be an analysis of how this would affect the recruitment of mature candidates with life skills as highlighted by Scarman and Macpherson. There is no reference to the equality impact of the Government's decision to charge up to £9,000 tuition fees for university courses. This has been recognised as having the potential to discriminate against people from poorer families, who are predominantly from black and minority ethnic backgrounds, and women with children.

3.29 Setting an “academic qualification” for entry to the police service would deny access to people who through SEARCH are able to demonstrate that they are able to undertake the role. It could also have a disproportionate adverse impact on people from minority groups and radically alter the employment profile of the service, and risk alienation from the wider community.

3.30 These matters are equally applicable to entry routes at senior levels to the police service. The role related requirements for entry at senior levels are very likely to indirectly discriminate, in particular against women and people from black and minority ethnic backgrounds as they are likely to be under represented in the employment sectors that would give the skills required to perform at senior levels in the service.

## SECTION FOUR: OFFICER CAREER LENGTH AND PENSION AGE

### Short-term commissions

- 4.1 The PFEW does not believe that there is any value in encouraging officers whom the service has invested in, and who have accumulated experience over a number of years, to leave at an early stage. Such a development could potentially undermine the vocational public service ethos of policing.
- 4.2 The Part One Report stated that “an appreciable proportion” of officers were in favour of a system of short term commissions and quoted an officer who suggested the introduction of length of service contracts because there are officers “who would like the opportunity to leave, but feel restrained to stay due to pension arrangements.” It is not appropriate or proportional to change the career structure of the police service simply because the Police Pension Scheme (PPS) 1987 encourages retention through its double accrual feature. In particular, the New Police Pension Scheme (NPPS), which replaced the PPS for new entrants in April 2006, does not have a double accrual provision.
- 4.3 Further, the Review will be aware that issues relating to the design of public service pensions were the subject of Lord Hutton’s review into public service pensions and will shortly be discussed at the Police Negotiating Board (PNB). The proposed introduction of a career-average pension scheme will impact upon the decisions which officers will make about leaving the service.
- 4.4 The PFEW would resist any comparison between the police service and the armed forces. Officers are part of the police service and they police their communities through consent not imposition. The police service differs from the armed forces in its purpose, the way it is organised and its infrastructure. In particular the command structure of the armed forces is not comparable with that of the police service. The Office of Constable provides every police officer with a significant degree of autonomy, legal authority and discretionary power. Armed forces personnel on the other hand, especially at the lower ranks, are

very much directed by their senior officers. This point is evident from Sir Robert Peel's nine principles of policing that are just as relevant today:

- The basic mission for which the police exist is to prevent crime and disorder
- The ability of the police to perform their duties is dependent upon public approval of police actions
- Police must secure the willing co-operation of the public in voluntary observance of the law to be able to secure and maintain the respect of the public
- The degree of co-operation of the public that can be secured diminishes proportionately to the necessity of the use of physical force
- Police seek and preserve public favour not by catering to public opinion but by constantly demonstrating absolute impartial service to the law.
- Police use physical force to the extent necessary to secure observance of the law or to restore order only when the exercise of persuasion, advice and warning is found to be insufficient
- Police, at all times, should maintain a relationship with the public that gives reality to the historic tradition that the police are the public and the public are the police; the police being only members of the public who are paid to give full-time attention to duties which are incumbent on every citizen in the interests of community welfare and existence
- Police should always direct their action strictly towards their functions and never appear to usurp the powers of the judiciary
- The test of police efficiency is the absence of crime and disorder, not the visible evidence of police action in dealing with it.

4.5 The concept of a career structure for the police akin to that in the armed forces was put forward by a representative from KPMG, Mr Mick Williams, at a seminar held during the evidence-gathering phase of the first part of the Winsor Review. The premise was that short-term commissions allow the forces to assess candidates it would want to keep for the long-term, while allowing the

forces to let personnel who were not judged as fit for a long-term armed forces career “to go with dignity”<sup>50</sup>. The PFEW notes that Mr Williams has now been seconded to work on the Review and expects that this will exclude KPMG from tendering for any work resulting from the recommendations of the Review. The PFEW believes that performance management within the police service can be achieved without resorting to such a drastic and unnecessary change.

4.6 Under the British Army’s Terms of Service, the Versatile Engagement consists of three stages; the Short, Full and Long Career. Soldiers initially enlist on a Short Career for 12 years’ service. During that time, they will be considered for conversion to a Full Career and service to a total of 24 years. Selection for a Long Career will extend the soldier’s service to 30 years initially, and thereafter in 6 year blocks as required by the Army and up to the Normal Retirement Age (NRA) of 55 years. However, soldiers who enter the Army the Versatile Engagement - Short Career may not resign without giving 12 months’ notice to the Army after the completion of at least 3 years’ service from the date of enlistment.

4.7 Thus, the break-point provided by such commissions is not only a means by which the armed forces can let personnel go, it is also the only way in which members of the armed forces are actually able to leave the service.

4.8 The PFEW believes that such an approach is neither appropriate nor necessary within policing. Notwithstanding the issues in relation to pension provision, there is no legal barrier to police officers giving 28 days’ notice of their intention to leave the service with the exception of those suspended under the Conduct Regulations. Similarly, as stated earlier, where officers fail to perform their roles effectively provision for dealing with this exists within the Unsatisfactory Performance Procedures (UPP).

4.9 A sub-committee of the Police Advisory Board of England and Wales (PABEW), on which ACPO is fully represented, oversees these procedures to ensure they

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<sup>50</sup> Seminar on exit routes and pensions, Globe House, 10 November 2010

are meeting their objectives. The UPP mirrors the ACAS Code of Practice. The Review's Part One Report identified that poor management of the UPP was the result of a lack of development and support for managers. The PFEW would strongly suggest that the system can work, but that this situation in terms of management support and development must be rectified.

### **Pension age**

4.10 As the Review will be aware, in March this year Lord Hutton recommended age 60 as the normal pension age for the uniformed services. The Chief Secretary to HM Treasury subsequently announced that the Government had accepted Lord Hutton's recommendation "that 60 should be the benchmark Normal Pension Age for the uniformed services". This issue, along with the other recommendations of the Independent Public Service Pensions Commission will now be remitted to the Police Negotiating Board. We will therefore be responding to any Government proposals within that forum.

### **Ill-health retirement**

4.11 As articulated in our submission of November 2010, Guidance on managing ill-health has recently been updated and agreed by the PNB and ratified by the Police Minister. The PFEW therefore believes that the processes and provisions currently in place for ill-health retirement remain appropriate. This is particularly so given that the guidance on the management of ill-health actually supports a drive by the Home Office to reduce the number of ill-health retirements in accordance with earlier Service Delivery Agreements. The National Policing Plan for 2003-2006 confirmed a target of 6.5 ill-health retirements per 1,000 officers by 2005-06.

### **Officers on restricted duty**

4.12 The PFEW continues to hold the position it adopted in its submission to Part One of this review, which is that police officers undertake a job that is physically and psychologically challenging. At worst it could result in injury or even death. The fear that they may be penalised as a result of physical or psychological injury, or wear and tear resulting from performing their everyday

duties, could potentially lead to a more risk-averse culture among officers. This would certainly be contrary to public interest. This is as true for the threat of being moved on to staff terms and conditions as it is to being “helped to leave the service”.

### **Implications for officers with protected characteristics**

4.13 There needs to be a clear understanding of the average length of service of officers from all protected groups in the police service currently in order to identify the impact of any proposals on people from those groups.

### **Issues of Gender Equality**

4.14 A brief data analysis provided in quick time by the Official Side of PNB in respect of issues raised at the PNB Gender Equality and Work Life Balance working group show that the average length of service in years of officers who left the Service 2009/10 in four Forces was:

	Men	Women
Greater Manchester	23.8	16.5
Lancashire	23.9	13.0
Kent	21.1	17.4
Devon & Cornwall	24.1	17.0

4.15 Whilst this data is limited, it shows that the average length of service is considerably less for women than men and that for men the average length of service is less than that required to obtain a full pension.

4.16 Figures from the most recent PNB Equal Pay Audit showed that in 2009 around 7,500 officers from Federated ranks worked part time. Just 400 of them were men. Twenty per cent of women constables, 24 per cent of women sergeants and 13 per cent of women Inspectors worked part time. This will clearly have an impact on the pension entitlements of, particularly, women officers.

### **Issues of Race Equality**

4.17 The CRE's *Formal Investigation Report into Racism in the Police Service* published in 2005 states at paragraph 4.5 that "The (Home Office) target for retention was simply parity between the white and ethnic minority wastage rates. By 2002/03 these were the same or very similar for white and ethnic minority officers with more than six months' service, but (though they are not given) 'Figures for the under six months' band for 2002/03 show higher proportions of minority ethnic than white officers leaving the service'."

4.18 Clearly, this data needs to be updated to ensure that any proposals do not exacerbate the ability of the Service to retain officers from ethnic minority backgrounds who, at least in 2002/3, were leaving the Service very quickly after joining.

### **Issues of Age Equality**

4.19 Police Officers do not come under the retirement provisions of The Equality Act 2010 and are the only group of workers who retain a Compulsory Retirement Age of 60 for Federated officers and 65 for superintendents and above.

4.20 The average age of officer recruits is 27. This means that men will be around 51 when they leave the service; women will be around 41.

4.21 These are just a few examples of the sort of data requirements needed to undertake a proper assessment of the equality impact of any proposals in respect of career length and pension provision.

## SECTION FIVE – PAY NEGOTIATING MACHINERY

### Police Negotiating Board

- 5.1 The Police Negotiating Board (PNB) was established by Act of Parliament in 1980. It is a statutory body that exists to negotiate the pay and terms and conditions of all 175,000 UK police officers. More specifically it addresses questions relating to hours of duty, leave, pay and allowances, the issue, use and return of police clothing, personal equipment and accoutrements; and pensions. Negotiated agreements (in the form of PNB circulars) are recommended to the Secretaries of State and to Scottish Ministers.
- 5.2 Police officers' terms and conditions are detailed in statutory regulations and determinations. Once a PNB agreement is ratified by the Home Secretary (in England and Wales) revised regulations are submitted for the approval of Parliament, following which they come into force and are legally binding. Revised determinations are issued by the Home Office.
- 5.3 The Board consists of an Official Side and a Staff Side. The Official Side is tripartite: consisting of representatives of the Secretaries of State, police authorities and chief police officers. The Staff Side consists of the staff associations representing Federated ranks, superintendents and chief officers. Either Side can introduce an issue for discussion, usually in the form of a Staff Side claim or an Official Side proposal.
- 5.4 The Board meets as appropriate, but usually on a quarterly basis, to consider matters affecting all ranks. Its three standing committees, the Chief Officers' Committee, the Superintendents' Committee and the Federated Ranks' Committee, consider matters affecting each respective rank.
- 5.5 The PNB has an Independent Chair and Deputy Chair appointed by the Prime Minister and is serviced by an Independent Secretariat provided by the Office of Manpower Economics. The Independent Secretariat, in addition to servicing the Board and committees, is responsible for researching and assessing data on

pay and all other matters of concern to the Board and its committees. The PNB can also provide assistance to parties in dispute locally either in the form of agreed guidance and/or local conciliation.

5.6 Should a failure to agree be registered by either Side of the PNB then the matter can be referred to conciliation and, save for pensions, arbitration. The Police Arbitration Tribunal (PAT) consists of three arbitrators appointed by the Prime Minister and its Secretariat is provided by ACAS. A decision of the PAT is treated as an agreement of the PNB.

5.7 The Home Secretary, the Secretary of State for Northern Ireland and Scottish Ministers each have the power to direct the PNB to consider and reach agreement on such matters as they may specify within a timeframe of their choosing for matters of serious national importance to the police service. Where agreement cannot be reached by a set deadline the matter can be referred to the PAT for arbitration.

### **The Police Advisory Board of England and Wales**

5.8 Although the PNB is a UK-wide body, this section looks at the Police Advisory Board for England and Wales (PABEW) only. Separate PABs exist for Scotland and Northern Ireland and are administered by the relevant Government Departments.

5.9 The PABEW was established in 1965. Its purpose is to:

- (i) advise the Home Secretary on general questions affecting the police in England and Wales, and
- (ii) 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, police clothing and equipment, and makes such representations as it thinks fit.

5.10 It may also consider any matter relating to non-negotiable conditions of service (as defined in sections 50 and 52 of the Police Act 1996 and excluding those matters listed in (ii) above), and any other matter affecting the police which the Home Secretary has referred to it.

5.11 The PABEW consists of:

- a Chair and Deputy Chair appointed by the Secretary of State
- members nominated by the Secretary of State;
- four representatives of the Association of Police Authorities;
- two representatives of the Association of Chief Police Officers of England and 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 and Wales;
- five representatives of the Police Federation of England & Wales.
- one representative of the Trade Union Side of the Metropolitan Police Whitley Council (seat added in 2008)
- one representative of the Police Staff Council

5.12 In addition to the official members, the NPIA attends the PAB's quarterly meetings but is not a full member. It is able to provide input on relevant issues where this would assist the PAB in its discussions.

## **Strengths of the PNB and PABEW structure**

### **Police Negotiating Board**

5.13 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. An index is no longer used to uprate pay and the abolition of the PNB could mean an end to the harmonious industrial relations that have characterised the last thirty years.

5.14 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 regularly have 'behind the chair' discussions which are off the record and allow for more intimate/productive 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.
- It is widely acknowledged that the last thirty years have been a period of unparalleled harmony and co-operation in police industrial relations. In its response to Booth 2, Staff Side drew attention, in particular, to the successful negotiation within the three rank negotiating committees of extensive pay modernisation going back to 1994 and more recently in 2002, 2003 and 2004.
- A failure to agree in respect of pay was only registered, firstly in 2006 when the Official Side failed to honour the existing uprating mechanism. The PAT

supported the Staff Side claim that in the absence of the Official Side putting forward an alternative index the existing uprating mechanism should continue. Secondly, in 2007 when both sides were unable to agree the groups of workers to be included within the index mechanism recommended by the Booth Part 1 report. These were determined by the PAT, but the full increase to police pay was not implemented by the Home Secretary. Although the PAT had to determine these two pay increases, it should be remembered that the following year, 2008, saw the successful negotiation of a three-year pay agreement which has since restored stability to industrial relations in respect of police officers.

### **Police Advisory Board of England and Wales**

5.15 The PABEW has many members in common with the Police Negotiating Board. However, the PABEW does not have Official and Staff "sides". The PABEW has generally been able to reach agreement on recommendations that are satisfactory to all of its members. The PFEW, therefore, believes that it should remain in its current form.

5.16 Much of the work of the PABEW is conducted through working parties, technical working groups and sub-committees. Below are some notable examples of topics that have been addressed over the last two years:

- The PABEW Secondment Working Party was tasked with producing a guidance manual to replace the outdated Central Services Guide for all parties involved in officer secondment in England and Wales. The working party encountered a number of difficult issues surrounding the legal aspects of secondment, in particular which Chief Officer held the power of direction and control over officers on secondment. This led to a change in primary legislation being introduced to allow direction and control to pass to the Chief Officer of the receiving force.
- In July 2005 the PAB agreed that work arising from the Taylor Report should be taken forward to a working group. The group produced new Police

(Conduct) Regulations and Police (Performance) Regulations which came into effect on 1 December 2008.

- The topic of Attendance Management was revisited by the PAB in July 2006. A technical working group made up of specialists and members of other relevant working parties was created. New guidance on Attendance Management came into effect at the same time as the Police (Performance) Regulations in 2008.
- In February 2008 the Home Office put forward a proposal to amend legislation to make functions specifically requiring Chief Officer decision delegable to less senior officer and police staff equivalents. The existing legislation enables most decisions to be delegated but with no formal requirements for seniority of the person taking the decision. A working party was created and in April 2008 the PAB approved the working party's recommendation that delegation should be allowed to a minimum of Chief Inspector level or police staff equivalent. Certain decisions which materially affect the lives of officers were retained at ACPO/police staff equivalent level. A small number of decisions were considered so important that they must be made by the Chief Officer in person. The working party was then asked to produce guidance on the definition of the police staff equivalents.
- The PAB Fitness Test working group has made recommendations in respect of both fitness testing for specialist posts and in-service testing that have been agreed by all stakeholders.
- The PFEW notes that at the 28 July 2011 seminar on pay negotiating machinery, a representative of Her Majesty's Inspectorate of Constabulary (HIMC) commented that the PABEW had taken four years to agree whether additional vetting checks should be made on applicants' suitability to join the police service<sup>51</sup>. In fact the length of time taken in dealing with this issue was a result of the need to seek clarification over whether it was legal for DNA samples to be taken from potential recruits and cross-matched against the police national database. Guidance had to be sought from the Information Commissioner and this was a major contribution to the delay. In addition, once the Information Commissioner eventually delivered his advice there

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<sup>51</sup> Discussion on pay negotiating machinery, Offices of White and Case LLP, 28 July 2011

were yet more delays as ACPO sought further clarification on this from the Information Commissioner since it felt that the guidance would be extremely difficult to put into practice. This was not typical of the length of time spent on matters at the PABEW. For the most part, the PABEW has operated effectively in advising Ministers.

### **Options for reform**

- 5.17 As the PFEW indicated in our submission to Part One, we believe 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.
- 5.18 The PFEW is aware that the Home Office has yet to clarify where all of the responsibilities for the employment of police officers will lie once police authorities are abolished. However, the PFEW would argue that the seats at present allocated to the Association of Police Authorities should be re-allocated to representatives of whichever new model may be introduced in their place. Clearly, 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 they are in post and can be involved in this important consultation.
- 5.19 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<sup>52</sup>. The Home Office need not sit on the PNB, but it would retain the

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<sup>52</sup> *ibid*

right to direct the PNB to discuss certain matters and then to ratify PNB agreements. The PFEW would support such a proposal.

5.20 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.

5.21 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.

5.22 As we demonstrated in our submission to Part One of the Review, the fairness of the previous indexation arrangements for police pay is evident from the fact 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.

5.23 Looking at the ranking of pay increases each year shows that, among the six groups, police officers have received pay settlements which have resulted in the following:

**Table 1: Ranking of police pay awards**

<b>Year</b>	<b>Police ranking</b>
1998	Third
1999	Second
2000	Tied last
2001	Tied last
2002	Last
2003	Fifth
2004	Tied third
2005	Tied last
2006	Tied first

In addition, 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**

<b>Workforce Group</b>	<b>Percentage increase in basic pay 1998-2006</b>
Fire-fighters	37.3
Nurses	36.1
Hospital doctors	34.1
Police Support Staff	33.7
Teachers (E&W)	33.2
Police	33.2

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

## National and regional pay determination

- 5.25 The PFEW recognises that appropriate allowances are currently in place for London and the South East of England, but does not believe that pay should be negotiated or determined locally. The argument for regional pay is that the cost-of-living and therefore the real pay of police officers differs between regions; such pay differences should be determined within a national framework.
- 5.26 Any system of regional differences in pay must be underpinned by a system of national pay determination. National pay determination reduces substantially the number of negotiations required to set pay. Moving away from a national pay system would increase administrative costs and create problems in keeping control of the overall pay bill. It would add to back room staff and run counter to current policy. The thrust of HMIC/Audit Commission report *Sustaining value for money in the police service* has been to reduce back room costs further still<sup>53</sup>.
- 5.27 Regional pay determination would be extremely divisive in a national service such as the police. A national system of pay determination offers major advantages to the police service; it supports and enables collaboration, secondment and mutual aid as well as the transfer of officers. It facilitates interoperability between forces which is central to responding to major incidents and emergencies.
- 5.28 In common with many organisations in the public and private sector, the police service has actually reduced the number of tiers of location-based pay as a result of the changes made following the 1994 Sheehy report. Prior to that point all officers qualified for housing replacement allowance and before that rent allowance, which varied between forces. Housing costs account for a large part of the differences between regions in the cost of living.
- 5.29 Officers in London have traditionally received an uplift consisting of two parts: London Weighting which theoretically compensates for the higher cost of living

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<sup>53</sup> *Sustaining value for money in the police service*, HMIC/Audit Commission, July 2010

in London, and London Allowance which attempts to address recruitment difficulties in the capital by recognising the higher pay premium enjoyed by most occupations in London. The emergence of recruitment difficulties led to the introduction in February 2001 of the South East Allowance.

5.30 Rent Allowance and Compensatory grant produced the greatest granularity in total compensation through pay and allowances. However housing is only one source of differences between areas in the local cost of living and while there may be finely graded differences between areas and regions in the cost-of-living a balance must be struck between fine tuning pay to reflect local labour market conditions, as might be done with a large number of regional or local pay bands, and the costs of operating such a highly refined system. A highly granular system would be a high cost system; it would not be optimal because the transaction costs of operating the system would be too high. The service has neither the management expertise, nor the evidence base to operate a highly granular system.

5.31 As IDS observes, a further consideration in respect of pay determination is the level at which decisions are made. IDS research confirms that there is still a large measure of central control in the operation of pay systems which allow for a degree of local variation. In very few cases has location-based pay actually led devolution of all decision-making to the local level. In local government and the higher education sector, the uprating of the spine is done at national level. In the majority of large retailers and banks which use zonal pay structures, final decisions about the locations covered by a zone and the value of zonal differentials are made centrally. Moreover, such decisions are often negotiated with trade unions or staff associations<sup>54</sup>.

5.32 The PFEW, therefore, believes that the pay of police officers should continue to be determined nationally through the PNB. This would enable any necessary location-based payments, such as the London and South East Allowances, to be agreed at a national level.

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<sup>54</sup> IDS, August 2011

5.33 The considerations which led to the creation of the PNB, based upon the unique employment status of police officers and the restrictions which they face, are as relevant today as they were in 1978. Police officers must continue to enjoy the right to free collective bargaining to determine their conditions of service, underpinned by an annual uprating mechanism in respect of their remuneration. This must operate at a national level.