

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

## **EXECUTIVE SUMMARY**

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. Any proposals to alter these arrangements should not be made without due consideration of this fact. Staff Side's normal practice would have been to develop a joint submission to such a consultation. However, the tight deadline involved in this Review has not allowed a joint Staff Side submission on this occasion.

In making this submission to the Review, the PFEW would make the following observations which it believes are fundamental to the way police officers perform their duties and to the way in which their remuneration and conditions of service are determined. Police officers are not employees. The Office of Constable provides police officers with legal powers of arrest and control of the public given to them directly by a sworn oath and warrant: they have not been delegated these powers simply because they have been appointed as officers. There is no choice for police officers; they can be directed to work at any place and at any time at the command of their chief constable.

The primary function of the 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. Even when a police officer is off duty, their failure to carry-out the responsibilities of the Office of Constable would see them facing procedures for misconduct.

Police officers occupy a unique position of trust and responsibility. The Office of Constable, therefore, requires individuals of the highest integrity. This must be reflected in police remuneration and conditions of service.

The PFEW, therefore, supports the following positions:

### **Section One: Entry routes**

1. The PFEW reaffirms its opposition to direct entry above the rank of constable. (**Question 1.5, page 8**)
2. The PFEW believes that any person who undertakes the role of constable or special constable must be, prior to their appointment, subject to the

rigorous assessment of the current SEARCH process for recruitment.  
**(Questions 1.6-1.8, page 9)**

## Section Two: Deployment

3. Existing Regulations and Determinations provide extensive flexibility for the efficient deployment of police officers when they are properly understood and implemented. The PFEW was successful in ensuring the inclusion of Regulations and Determinations in the syllabus for the OSPRE promotion process for constables and sergeants. **(Question 2.2, pages 10-11)**
4. Officers must have conditions of service which are fair. Three-month rosters ensure officers have some level of certainty and advance notice, in order to maintain a work-life balance. **(Question 2.3, pages 11-12)**
5. Overtime enables management to meet unforeseen needs at short notice. The existing premia penalise poor management and compensate officers for disruption. Overtime accounts for approximately five percent of overall police pay bill and has come down significantly in recent years through better deployment. **(Question 2.5, pages 14-16)**
6. The PFEW would concur with the *Understanding overtime in the Police Service* Home Office report, published in February 2010, that forces should collect overtime data to assess whether their current shift arrangements adequately match the demand for resources from the public. **(Question 2.5, page 16)**
7. All officers can be directed to work at any time. The PFEW believes that police basic pay should continue to reflect this requirement. **(Question 2.8, pages 17-18)**
8. The PFEW supports the use of well-managed shift patterns to maximise officers' time on the frontline. **(Question 2.11, pages 19-20).**
9. Police Regulations should continue to stipulate that the normal daily period of duty will be an eight-hour day, unless a Variable Shift Arrangement (VSA) is agreed by the Joint Branch Board (JBB). **(Question 2.13, pages 21-22)**
10. Officers who are unable to return home to sleep, because they have been directed to serve and work away from their normal place of duty and are held in reserve, should continue to be compensated in line with the Hertfordshire Agreement, but after 56 days, secondments may be used. **(Question 2.15, pages 23-24)**
11. Agreements for secondments must continue to be agreed between the secondee and the receiving organisation, they must adhere to Regulations and Determinations and secondees must not be disadvantaged. **(Question 2.16, pages 24-26)**

**Section Three: Performance/post related pay**

12. Until the police service has a consistent system for reviewing performance that is proven to be fit for purpose and able to deal with the concerns set out in this submission, the PFEW will resist a direct link between performance and pay. **(Question 3.1 and 3.2, pages 30-33)**
13. Competency Related Threshold Payments (CRTPs) recognise and reward continued performance by officers at the top of their pay scale and must be retained. **(Question 3.3, pages 33-34)**
14. Pay should not be linked directly to skills acquisition or hard-to-fill posts as officers can be lawfully ordered to perform any role. The PFEW believes that more must be done to support officers wishing to undertake training and professional development. **(Question 3.6, pages 34-35)**
15. The funding for Special Priority Payments should be redistributed into other, less divisive, elements of police pay. **(Questions 3.7 and 3.9, pages 35-37)**
16. Motor vehicle and travelling allowances and provisions for reimbursing officers for the costs of moving house, medical charges, subsistence and accommodation should be retained. **(Question 3.10, pages 37-40)**
17. The value of the South East Allowance should be maintained at the level agreed by the PNB in July 2009, which was £3,000 for forces previously paying £2,000 and £2,000 for those previously paying £1,000. **(Question 3.10, pages 37-40)**
18. The combined value of London Weighting and London Allowance has been eroded over a 10 year period, while labour market pressures have not eased, and should, therefore, be increased by £1,871. **(Question 3.10, pages 37-40)**
19. The PFEW believes that on-call must be voluntary and that there should be a national allowance for performing on-call. This is in line with the finding of the Police Arbitration Tribunal in August 2009. **(Question 3.10, pages 37-40)**
20. Any proposed changes resulting from this Review must have been subject to a full equality impact assessment. **(Question 3.11, pages 40-42)**
21. To address potential equal pay challenges, members of the inspecting ranks who work part-time should receive pensionable pay for any additional hours they work over their agreed hours up to 40 hours, as is currently the position for constables and sergeants. **(Question 3.11, pages 40-42)**

22. To address the inequality of treatment for officers who work part-time, their service in a higher rank when acting-up should be counted in days served rather than hours. **(Question 3.11, pages 40-42)**

#### **Section Four: Pay Progression and Length of Service**

23. Police pay scales and the level of pay for constables help to retain officers within the service and ensure that the high number of applicants alleviates the recruitment problems which have plagued policing in the past. The current pay scales for constables are potentially discriminatory as identified in the PNB Equal Pay Audit. The length of the constables' pay spine should be reduced so that the current top rate can be achieved over a shorter period of time. **(Questions 4.1 and 4.2, pages 43-44)**
24. The PFEW fully supports the recommendations of the PABEW Fitness Working Group in January 2010 to introduce mandatory fitness standards for specialist roles. **(Question 4.5, pages 46-47)**

#### **Section Five: Exit routes and Pensions**

25. For police officers to be able to exercise their duties free from compromise, they must be confident that their actions will not be held against them and mark them out for selection for redundancy in the future. Given the restrictions they face and their unique employment status, a power to make police officers redundant is in direct conflict with the Office of Constable. **(Question 5.1, page 48)**
26. The PFEW will fight to ensure police officers injured whilst performing their duties are not unfairly treated and will challenge any move that is potentially discriminatory on the grounds of disability. **(Question 5.7, pages 50-51)**
27. The PFEW believes that the guidance for managing ill-health which has recently been updated and ratified by the Police Minister remains appropriate. **(Question 5.8, page 51)**

#### **Section Six: Pay machinery**

28. The PFEW believes that a mechanism for annual up-rating is the only fair and transparent method by which to determine police pay awards, and that the up-rating mechanism should link police pay to all employees' pay in the UK rather than prices. **(Question 6.1, pages 53-55)**
29. The PFEW supports the current structure of the PNB and the PABEW. Decisions of the PAT should be made binding on the Home Secretary. **(Question 6.3, pages 55-57)**
30. The PFEW does not believe that police pay should be determined regionally or locally, but nationally through the PNB. **(Question 6.4, pages 57-58)**

31. Regulations currently provide forces with complete flexibility in how they deploy police officers. Many managers within the police service do not adequately understand police regulations and, therefore, fail to utilise this flexibility. They receive no training or development in this area. The PFEW's firm belief is that Regulations work as long as they are understood by managers.



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

## **Section One: Entry routes**

### **Diversifying Skills and Experience**

#### **1.1 How should officers and staff be recruited to the police service?**

Police officers hold a special position in society. On appointment they 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.

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.

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 ethnic minorities into the police; the extension of the initial period of training for police recruits; and the review of policing methods in sensitive areas.

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).

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 the scrutiny of candidates, the SEARCH recruitment process allows the service to analyse the backgrounds of an extremely high volume of applicants, which is an important element in monitoring the recruitment process.

## **1.2 How could the diversity of the police service be improved as part of a new model?**

There are two aspects to encouraging diversity; recruitment is an important element, but so too is retention.

The SEARCH Assessment Centre evaluates the core competencies required of police officers and has a zero tolerance approach to matters of respect for race and diversity. The PFEW considers that the current system of recruitment identifies the right people with the right competencies for the role, and has resulted in a welcome increase in the diversity of people being recruited. Disappointingly though, it is clear that the service continues to operate employment practices that do not support the changing profile of recruits. The police service needs to put at least as much effort into the retention of people from diverse groups as it does into recruitment, and ensure that it maintains a supportive workplace environment. For example, figures from the 2008-09 SEARCH monitoring analysis shows that the average age of recruits was 27 and that 35 percent of recruits were women. Yet the service has not changed occupational maternity provision for officers for over 15 years. Furthermore, only four percent of officers are reported as working reduced hours.

Last year nine percent of recruits were from a black or minority ethnic background, which is in excess of the national average of eight percent. This is consistent with the background of successful candidates recorded in previous years through SEARCH. Although there should be no complacency in regard to the issue of ethnic diversity within policing, this has to be balanced against the fact that not every applicant has the capability to be a police officer, and the police service needs to attract and recruit people who can fulfil the required job competencies. This means that, while the PFEW supports the principle of increasing diversity, it does not support unlawful positive discrimination to achieve that end. The SEARCH Assessment Centre is monitored extensively for any unjustified adverse impact on people from the protected groups. The results are published each year and reviewed by the PABEW National Recruitment Standards Working Group against the requirements of the equality legislation.

However, as well recommending that the SEARCH process is monitored for differential pass rates for candidates from any of the protected characteristics,

as much attention should be paid to the impact of force polices upon officers who share any of those protected characteristics.

### **1.3 What should be the future for graduate entry to the service, and how could it work?**

### **1.4 Should there be a local or national approach to graduate entry?**

The PFEW has taken questions 1.3 and 1.4 together.

Last year the SEARCH assessment centre monitoring data showed that 30 percent of recruits had at least the equivalent of a first degree whilst another 30 percent had the equivalent of 'A' levels. Interest in the High Potential Development Scheme (HPDS), which is designed to fast-track officers into senior ranks, was signalled by 34 percent of candidates. Our concern, therefore, is that while it is clear that the majority of officers will spend their whole career as constables, the service is recruiting people with career expectations that cannot be fulfilled.

Rather than developing an entry scheme specifically for graduates, the service needs to recognise that it is already recruiting significant numbers of people with academic qualifications. Last year graduates made up 30 percent of recruits, another third had 'A' levels, and further third GCSE level qualifications. Graduates had the highest success rate through SEARCH (74.2 percent, 3,504 candidates). Candidates who indicated that they had no formal qualifications had the lowest success rate (50.4 percent, 350 candidates) making up less than 3 percent of recruits.

The service needs to invest in open promotion procedures that enable graduates, and others with the relevant skills and abilities, to become the future leaders of the service and which supports officers from all minority groups to reach senior ranks.

The diversity monitoring data from the SEARCH assessment centre is published each year by the National Policing Improvement Agency (NPIA). It covers age, race, sex, disability, sexual orientation, religion or belief, dependents, academic achievement, previous role and first language information. It complements data the NPIA also publishes on the Objective Structured Performance Related Examination (OSPRE) for sergeants and inspectors. It is clear that this data is not used by forces to understand or plan their workforce needs or any positive action programmes.

It is also clear that other data that could be used to properly plan is absent; the PFEW has repeatedly asked that forces provide data on the average length of service of leavers disaggregated by sex, and for the average length of maternity leave taken by officers. No such data is collected by forces. It would appear, therefore, that decisions regarding diversity in the service are being taken on the basis of selective anecdotes rather than actual evidence.

**1.5 What are the advantages and disadvantages of external candidates being able to join above the rank of constable, and how could this work in practice?**

The PFEW is against any proposal that would allow external candidates to join the police service above the rank of constable. 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:

- major public disorder
- police use of firearms which results in death or injury
- terrorist attack
- action taken by a police officer which results in death or injury
- sieges where life is at risk

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.

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.

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.

Being a manager in industry, business, or other public sector organisation is not comparable. Within the prison service, for example, a direct entry process was abandoned after twelve months on the basis that it did not attract the calibre of individuals and that the existing workforce did not view the process as fair or believe that it delivered the quality of senior managers required in their profession.

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.

## Specials

### **1.6 How can we increase the recruitment of Specials?**

The PFEW makes no comment in respect of how the recruitment of special constables can be increased.

### **1.7 How can we encourage more police staff to volunteer as Specials?**

The PFEW would question the merit of encouraging members of police staff to volunteer as special constables, particularly in situations where police staff are released from their normal roles in order to perform their duty as special constables. Members of police staff may not be able to add capacity as special constables during busy periods for the police service, as their own police staff role may also be in high demand. In addition, in order to meet their commitments as special constables, in some forces members of police staff are released from their normal role and replaced by regular police officers who perform the staff role.

### **1.8 What would be the advantages and disadvantages of all forces requiring potential candidates to volunteer as Specials to be eligible for recruitment as police officers, PCSOs or other police staff?**

People who were or had been a special constable accounted for nine percent of applicants and 10 percent of recruits to the service last year; whilst those with experience of being a PCSO made up 16 percent of applicants and 18.5 percent 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.

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.

## Section Two: Deployment

### General Deployment

The PFEW would point out that many of the questions in this section are primarily of relevance to constables and sergeants, as members of the inspecting ranks do not receive remuneration for any additional hours or days worked.

#### **2.1 How could we improve the deployment of officers and PCSOs?**

We would seek clarification on what is meant by the term “improve” in the context of this question.

#### **2.2 Are there any elements of police regulations and delegations that inhibit the more efficient deployment of officers?**

Police Regulations provide a framework for the pay of officers to recompense them for the restrictions they face in respect of their working time and place of duty. Regulations and Determinations provide extensive flexibility for the efficient deployment of police officers. However, efficient deployment also requires forward planning. Furthermore, flexibility for chief constables is not the same as flexibility for officers. It appears that the meaning of flexibility here is actually direction. Flexibility has a different connotation for police officers, especially those with particular personal needs. If the police service is to move away from being a monoculture it needs to provide flexible working arrangements to meet the diverse needs of its officers.

A chief officer is already readily able to deploy officers whenever and wherever necessary under the provisions of Police Regulations and Determinations. Police officers do not have employment contracts but are governed by those Regulations, which provide a framework for the effective and efficient deployment of officers without restrictions on time or place or role, save only that officers cannot be deployed beyond the restrictions of the Working Time Regulations. Police Regulations allow for officers to be required to remain on duty after a shift ends, to be recalled to duty between two shifts and to be required to begin a shift earlier than rostered (Regulation 25, Annex G, Police Regulations 2003). They also allow for police officers to be relocated to another place of duty within or without the force boundaries and/or to be placed in another role in response to force exigencies (Regulation 20, Police Regulations 2003).

Additional pay is in direct correlation to the disruption to an officer's private life. For example, if an officer is required to change their hours of work on a rest day with over 14 days notice, they do not receive additional compensation. If however an officer is required to work with 14 or less days' notice, their pay is appropriately compensated within the scope of those same regulations (Regulation 26, Annex H, Police Regulations 2003).

It is clear, therefore, that the deployment of officers to undertake pre-planned work can be done at no extra cost. An unexpected event or, more usually, a lack of planning can result in additional costs to the force.

However, it is also of concern that many managers within the police service do not sufficiently understand Police Regulations. The PFEW was instrumental in ensuring that Regulations and Determinations featured in the OSPRE syllabus. The PFEW's firm belief is that Regulations work as long as they are adequately understood by managers.

### Working Outside Core Hours

#### **2.3 What are the advantages and disadvantages of Chief Officers being required to publish rotas 3 months in advance?**

We would seek clarification on the definition of "core hours" for the purposes of this set of questions. There are no "core hours" within policing and nor should there be. As an emergency service, policing should be able to respond to events at any time of the day or night, on weekdays or on weekends.

In 2002 the PNB agreed that rosters should be published every three months instead of every 12 months. Section Four of the May 2002 Agreement (PNB Circular 02/9) looked at the management of working time generally and hoped to ensure more flexible deployment of officers and more flexible working patterns. The management and reduction of overtime was a key issue here. Recognising that the tactical and contingent uses of overtime are sometimes valuable and necessary, it was thought that there was still room to manage down the total figure against overtime commitments having little tactical or operational value. Furthermore, a force need only provide 28 days' notice of a new three-month roster for an officer (Regulation 22, Annex E).

A service-wide target was agreed for a 15 percent reduction on the overtime bill over the three years starting 2003/4. Guidance on this matter was agreed and produced in the form of PNB Circular 02/18 *Managing Overtime Guidance*. Its main aim was to reduce the overtime bill and provide a better work/life balance for police officers.

The guidance listed a number of initiatives to help forces manage overtime: the change from 12-month to three-month rosters was one of these and was agreed so that managers could more easily take account of forthcoming events, changes to the policing environment and officers' domestic responsibilities, thereby ensuring that rostered rest days were cancelled less frequently.

It was agreed that duty rosters covering at least three months would be drawn up and published locally by force management, after full consultation with the Joint Branch Board (JBB). However, it was recognised that it is good practice to plan annual leave up to a year in advance, in the interests of both officers and managers.

In addition, the eight day threshold for triggering the higher rate of compensation for working on a rostered rest day (double time) was reduced to five days. The fifteen day trigger point was not changed (time and a half). The 16 hour per week minimum for part-time officers was removed and measures to reduce bureaucracy were examined.

Officers must have conditions of service which are fair. Three-month rosters ensure officers have some level of certainty, in order to maintain a work-life balance. Forces should be aware of forthcoming scheduled events within the policing calendar and be able to plan accordingly.

The issue for the PFEW is more to do with whether or not forces are planning rosters with enough accuracy and forethought, every three months. If adequate thought is put into the planning stages then this would reduce the need to make changes at short notice.

It must be remembered that changes *may* still be made to a duty roster due to exigencies of duty. This is detailed in Regulation 22, Annex E paragraph 3(f). Therefore, publishing a three-month roster does not interfere with a force's ability to deal with emergency situations or make changes as situations arise. Indeed the facility to require an officer to undertake overtime or work on a rest day exists for this precise reason. Indeed, any changes made with 15 days' notice or more do not incur any additional cost to the force, despite the difficulties and inconvenience it might present for the officers involved.

### **2.4 What system would be more flexible whilst being fair to officers and staff?**

Many of the questions in this section appear to be predicated on a view that Police Regulations inhibit the proper management of hours of work of officers. This is patently not the case. As detailed above, a three-monthly roster remains flexible. Changes may be made if they are due to an exigency of duty. Police Regulations allow chief officers to direct a totally flexible workforce in terms of time and place; they provide a negotiated framework for pay that recompenses officers for any excessive disruption to their private lives.

Despite comments by some chief constables, the PFEW does not believe that overtime provisions are particularly complex. Overtime for constables and sergeants is payable, or time off in lieu (TOIL) may be taken, when:

- Officers 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

*(Regulation 25 Annex G, Police Regulations 2003)*

The overtime rate of payment is time and one third. It is the member's choice whether to take the payment or time off in lieu.

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.

Officers who work part-time only 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 eight hours on any one day.

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

If an officer is required to work on a rest day with less than five days' notice they are compensated at double time; with five days' or more notice but less than fifteen days' notice they are compensated at time and one half, otherwise another rest day is given in lieu. There is only a cost element when changes are made with less than fifteen days' notice (Regulation 26, Annex H, Police Regulations 2003).

If an officer is required to work on a public holiday they are compensated at double time and no day in lieu is given, and where less than eight days' notice is given compensation is at double time plus a day in lieu (Regulation 26, Annex H, Police Regulations 2003).

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 (Regulation 26, Annex H and Regulation 25, Annex G, Police Regulations 2003). 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. Moreover, if officers work no more than one hour into their rest day, they are only compensated for the number of 15 minute periods actually completed. This is known as the "Golden Hour" and provides managers with the flexibility to make alternative arrangements to relieve the officer before incurring enhanced costs.

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.

There is nothing in Regulations and Determinations that would prevent a chief officer deploying their officers exactly as they saw fit. This can be done by either setting out the shifts officers are required to work on a three-monthly

roster or by making changes to the roster if an exigency of duty arises that needs dealing with.

It has been claimed in the past that the need to agree a Variable Shift Arrangement (VSA) with the JBB is a barrier to forces deploying officers as they are required. In 2004 the Home Office published a study of police rostering produced by Accenture<sup>1</sup> looking at the scope for more effective deployment of police officers through better designed shift rosters. However, the Accenture report found that Regulations were not a barrier to effective deployment and that if the process was undertaken effectively with the full involvement of officers then such problems should not arise.

However, it is also important that officers retain an appropriate work-life balance; they need to be able to predict with a reasonable level of certainty when they will and will not be required to work. Changes made at short notice can cause both inconvenience and cost to officers, particularly if they have dependents. It is also important that officers have sufficient time away from work in order to rest and recuperate.

Changes should be avoided unless they are absolutely necessary and should not arise due to poor planning. If there was no cost element at all to short notice changes to rosters then there would be no deterrent to forces. As detailed in PNB Circular 02/18, acknowledging a proper work/life balance for officers helps improve both performance and morale.

Police Regulations are police officers' terms and conditions of employment. In the outside world employers are required to provide employees with a copy of their terms and conditions of employment within three months of starting work. Not only does this not happen in the police service, but in many forces managers are not provided with a copy or any training on their implementation. In forces where training is given and information readily available to managers, as in Merseyside Police, it is apparent that there are no grievances about their implementation either from officers or managers. The PFEW trains its representatives on Police Regulations so that officers can be treated fairly and appropriately within the rules and has repeatedly called for knowledge of Police Regulations to be a part of the promotion assessment for senior officers and managers.

## **2.5 How can the police service reduce the use and cost of unplanned and planned overtime for police officers and staff?**

Overtime is an effective management tool to meet unforeseen needs at short notice. It represents a small percentage of the overall pay bill. The PFEW firmly believes that the police service should plan for the predictable and expect to pay for the unpredictable.

However, the PFEW would draw attention to previous attempts to reduce overtime working through better planning. The PNB Managing Overtime

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<sup>1</sup> *Police Service Resource Management and Rostering Study*, Home Office Circular 68/2004

Guidance, as set out in PNB Circulars 02/18 and 03/14, was an attempt to encourage forces to better manage their overtime, and set out targets for this purpose. Although recent calculations by the Centre for Crime and Justice Studies paper (CCJS) using Chartered Institute of Public Finance and Accountancy (CIPFA) data showed a 90.7 percent increase in the cost of police officer overtime since 1998/99, this failed to take into account inflation over the same period<sup>2</sup>. The real terms increase, allowing for the cost of living increases in police officer salaries over the last decade, has been 49.7 percent.

More importantly, though, has been the downward trend in the CIPFA overtime figures since 2004/05. The actual cost of overtime increased 89 percent between 1998/99 and 2004/05, but only by one percent between 2004/05 and 2008/09. In real terms, the basis of the above PNB agreement, there is an even greater difference between the two periods. Before 2004/05 overtime expenditure increased by 64 percent in real terms. However, since then there has been a fall in real terms of nine percent. In 2008/09 overtime costs stood at £398 million. Recent CIPFA overtime projections for 2009/10 suggest a further fall in this figure to £320 million<sup>3</sup>. This suggests that the recent downward trend is likely to continue.

Furthermore, as would be expected, there is a statistically significant positive correlation between overtime and force crime rates. The correlation between the percentage of officers undertaking ordinary overtime in a week and the force crime rate per thousand of population is 0.4, significant at the 0.05 level (See Annex A).

In terms of overall overtime costs, ordinary overtime represents over half of the total overtime bill. The actual cost of ordinary overtime increased by 39 percent between 1998/99 and 2008/09 and in real terms the increase was only nine percent. Year-on-year increases point to a distinct difference in trend before and after 2003/04. The increase in actual spend was 53 percent before 2003/04, but a decrease of 14 percent after that year. Likewise, a real terms increase of 37 percent prior to 2003/04 was followed by a 28 percent fall in costs after this date.

Time and a half and double-time each account for just under a quarter of the total overtime bill. The actual cost of overtime at double time rose by 129 percent in the period up to 2003/04, but by only 30 percent afterwards. Likewise, in real terms there was an increase of 104 percent before 2003/04 but a decline of one percent afterwards. In 2003/04 the trigger for double time overtime was changed from less than eight days' notice to less than five days. A fall in the cost of double-time working would, therefore, be expected alongside a corresponding rise in the costs of time and a half working, which grew by 151 percent in real terms in the period up to 2003/04, but rose by 124 percent from 2003/04 to 2008/09.

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<sup>2</sup> *Police expenditure, 1999-2009*, H Mills et al., 2010

<sup>3</sup> *CIPFA Police Statistics, 2009-10 Estimates*

The fact is, therefore, that unplanned overtime has clearly fallen through better deployment and management. However, there is scope to further reduce unplanned overtime through the harmonisation of systems and processes. For example, Jan Berry, the 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. Custody suites properly resourced at peak times with fully trained custody sergeants will lead to better management of this process and to improvements in the efficiency of this process.

However, forces are still failing to provide sufficient notice to officers for planned overtime. This is despite changes which have reduced the relevant notice periods. The PFEW would concur with the *Understanding overtime in the Police Service* Home Office report published in February 2010 which suggested that forces should collect overtime data to assess whether their current shift arrangements adequately match the demand for resources from the public. However, one force in five has no overtime policy and a third of forces provide budget holders with no training to manage overtime costs<sup>4</sup>.

Therefore, when considering what more the police service can do to reduce the use and cost of overtime, it is necessary to place this in the context of work that has already taken place and the conditions within which forces have to operate. However, it is clear that better planning by forces would help to manage the planned overtime bill more effectively.

## **2.6 What evidence is there that police officer and staff overtime rates and use are more, or less, cost-effective in comparison to other public sector employers?**

The PFEW believes that this is difficult to assess accurately given that the public sector figures provided by the Office of National Statistics (ONS) through the Annual Survey of Hours and Earnings (ASHE) are too broad, while more specific groupings such as protective services are too narrow and too incomplete.

However, ASHE data for 2009 suggests that the median overtime pay of police officers is £77.40 a week. This compares to a median across the public sector of £51.40, and in the private sector of £52.90. As a percentage of gross pay, median overtime pay in the police is 10.6 percent, which is broadly in line with both the public sector, at 9.5 percent, as well as the private sector at, 11.4 percent.

Looking at the most comparable group of employees in the protective services is difficult since overtime information is either not applicable or the data

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<sup>4</sup> *Sustaining value for money in the police service, community safety*, Audit Commission, HMIC & Wales Audit Office, July 2010

appears incomplete. The most complete comparable data in this sector is with employees in the “other protective services (not elsewhere classified)” category. The overtime pay for this group, at £72.70, is similar to the median level of police overtime pay. Given the lower gross pay of these employees, overtime pay as a percentage of gross pay is actually higher than that received by police officers at 12.4 percent.

## **2.7 What evidence is there of unfair disparity between officer and staff overtime?**

The PFEW does not believe it is necessarily appropriate to compare the use or cost of overtime between officers and staff, as the demands on each group are different.

### **Shifts**

## **2.8 Should shift working be recognised for officers and/or staff? If so, how?**

Shift working is a particular feature of many aspects of policing and officers’ pay takes into account an element of shift working. As officers will invariably have to work a number of different shift patterns over the course of their career, this removes the administrative burden of recording, remunerating and removing any additional shift premia.

Although, notionally, police pay is set at a level to take account of the requirement to work shifts, the exact element or proportion of police pay which could be said to compensate for the need to work shifts is difficult to determine. The 1960-62 Royal Commission under Sir Henry Willink considered three approaches to determining police pay: “fair comparison”, “supply and demand” and “the rate for the job”. The first was rejected on the grounds that the principle of fair comparison could not be applied to the police “because there are no substantial categories of employment within the service which have exact counterparts outside”<sup>5</sup>. The second was rejected because the law of the market would not lead to the stability in police pay which was considered essential to morale. The Commission concluded that the primary principle which should govern police pay was the rate for the job, which they defined as “a rate which fully recognises the exacting nature of the police way of life”<sup>6</sup>.

The Commission translated this definition into figures by means of a formula. Calculating a base figure for the constable’s maximum based on the average minimum pay for 18 skilled occupations (A), the Commission then added a further 45 percent to compensate for the requirement to work in shifts, at night and at weekends, without extra pay (B). This could be referred to as the shift element. The only explanation of the figure selected was that in the occupations selected for (A) “earnings are substantially in excess of average

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<sup>5</sup> *Interim Report and Minutes of Evidence, Royal Commission on the Police*, HMSO, November 1960

<sup>6</sup> *Ibid.*

industrial earnings; and in present conditions we assess this supplement at 45 per cent of factor A"<sup>7</sup>. A further element of 25 percent of 'A' and 'B' was added in recognition of the constable's duties and responsibilities, way of life, knowledge, professional skills, and physical and personal attributes.

The PFEW strongly believes that police basic pay should reflect the fact that officers can be directed to perform duty at any time.

### **2.9 At what point is it fair to officers, staff and taxpayers to recompense changes in shifts?**

Officers are not normally recompensed for changes in shifts or shift patterns. The only exception to this is where an officer has less than eight hours' notice of changes to their shift (Regulation 25, Annex G, Police Regulations 2003). However, at the point of significant disruption to an officer's off-duty time without reasonable notice, officers should be recompensed for changes to their shifts. If an officer does not have 28 days' notice of changes to their shift patterns, this can cause considerable difficulties for the domestic arrangements of officers, especially those with caring responsibilities.

Moreover, police work is often confrontational and can involve a significant degree of physical exertion. This is exacerbated by factors such as changing shift patterns, being on-call and frequent and often unplanned changes to shifts with a requirement to work additional hours to deal with policing demands.

There is evidence to suggest that older, more experienced police officers tend to tolerate night-shift work less well and take longer to recover from sleep disruption<sup>8</sup>. More recently, survey work carried out for the PFEW highlighted a number of personal costs, with particular impacts upon the well-being of officers who worked 'non-regular' 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. All of these feelings and symptoms can have an obvious impact upon the long-term health and well-being of police officers.

### **2.10 How can equality and diversity issues and the requirement for operational flexibility in the police service best be balanced?**

It is important that shift arrangements are equality impact assessed in line with forces' public sector duty to promote equality. For example, changes in shift arrangements can impact particularly on women, whom the courts have determined through case law, are the primary carers in society. These matters need to be properly considered when designing a shift pattern. It is therefore important to agree shift patterns with the force JBB so that officers' personal

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<sup>7</sup> *Ibid.*

<sup>8</sup> "Improving Shift Schedule and Work-hour policies and practices to increase police officer performance, health and safety," Vila, Morrison and Kenney, *Political Quarterly*, March 2002

needs and their health, safety and welfare can be taken into full and proper consideration.

“Shift working” has different connotations in different circumstances. No member of the police service works “full time” in the sense that they are present 24 hours a day on seven days a week. Every officer works a proportion of a 24-hour, seven-day week. The normal working hours of an officer are 40 hours per week with two rest days a week; this works out at five eight-hour days. Under Police Regulations chief officers are able to set the shift pattern and the start of the force day around which the shift pattern operates. Clearly this pattern may not fit the circumstances of all officers or of all parts of the force and bespoke arrangements can be made to suit other arrangements with the agreement of the JBB.

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

The concept of paying for work at different times is predicated on the idea that some times are “normal working hours” and others are “anti-social”. Essentially this means paying more for work before nine o’clock in the morning or after 5 o’clock in the evening on Monday to Friday. In fact these “anti-social” hours are often more attractive to women workers who need to fit work around childcare commitments, such as school times. Most importantly paying more for certain hours would distort the value of police work and open up the possibility of successful equal pay claims between men and women who were not able to undertake work at the same times.

For example, recently Humberside JBB conducted a survey which found that more than 70 percent of respondents with caring responsibilities stated that working seven consecutive shifts would mean they would need to apply for flexible ways of working. Nearly 40 percent of those with caring responsibilities said that they would consider leaving policing if the force would not grant flexible working.

## 2.11 What would you consider to be an optimum shift arrangement for maximising officers' and PCSOs' time on the front line?

There are certainly predictable times when the police service is likely to be busier, and clearly forces need to be able to identify these times and maximise the number of officer's on-duty at these times.

Although some forces do operate shift patterns that do this, it is apparent that other forces are singularly unable to do so.

The 2004 Accenture report for the Home Office<sup>9</sup> examined in detail rostering and resource management arrangements in a number of sample forces and other public sector organisations. The study found that there was very little consensus in the service around what makes an effective shift pattern mainly because forces believe that each is 'unique' in its policing demands and, therefore, needs a bespoke shift pattern. However, the study clearly showed that, whilst absolute levels of demand vary, the pattern of demand is remarkably similar across the country, regardless of geography. Indeed, 84 percent of basic command units (BCUs) have peaks and troughs of demand at very similar times of the day and week.

The study concluded that a well-designed Variable Shift Arrangement (VSA) can provide up to 70 percent more officers on duty at peak times than a shift pattern with flat supply. They said that "if all forces were to move to a demand-modelled VSA, we estimate that 2,500 officers nationally would be transferred from periods of low demand to duty during the late evening peak periods". They went on to say that "shift patterns that match supply to demand effectively – particularly as part of a wider resource management strategy – have the potential to reduce overtime. In addition, although we have found no definitive relationship between any one type of shift pattern and a particular level of overtime, some shift patterns present real risks of increasing certain types of overtime (e.g. 12-hour shifts can increase the risk of cancelling rest days for court appearances) ... and have the most detrimental effect on external factors such as case-handling continuity".

Although a number of stakeholders have always cited Police Regulations as a barrier to change, the report found that Regulations themselves are not the problem, but rather widespread confusion and sometimes ignorance of the Regulations and their implications for both shift working and overtime. Furthermore, many forces were reported as showing how sophisticated, flexible rosters can be implemented within current Regulations, in partnership with the Federation locally.

Rather, the two key barriers were a lack of guidance and central ownership and expertise on reviewing and implementing shift patterns, and the lack of senior management ownership of resource management within forces. Accenture claimed that better management of shift arrangements would lead to less fatigue and improved officers' health and efficiency. More effective

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<sup>9</sup> Home Office Circular 68/2004

resource management within a framework of flexible working options would produce a better work-life balance for individuals.

The study also found that not all shift patterns complied with the European Working Time Directive; in fact the majority used night shifts in excess of eight hours and some had 'quick changeovers' with fewer than 11 hours between shifts. There were also significant concerns around the health and safety implications of 12-hour shifts (for example driving on duty, driving to and from work, and 12-hour patterns being used in armed response and traffic divisions).

The Accenture report concluded that "all forces need to improve their understanding of demand and resource management if they are to deliver significant service improvement. Only when forces have a more sophisticated understanding of policing demand and their own response to it, will they and others be able to make value-for-money judgements about particular policing functions".

Despite the practical guidance contained in the Accenture report, and despite it being promoted through a Home Office Circular, it is clear that forces did not take up the recommendations in the report. In an attempt to refresh this guidance, which is still as relevant today as it was in 2004, the PNB Gender Equality and Work Life Balance Working Group developed simple guidance on the development of shift patterns that was issued as PNB Circular 10/1, *Guidance on designing Variable Shift Arrangements (VSA)*.

The failure of most forces to take on board the recommendations of the Accenture report shows once again that many of the matters raised in this Review of Remuneration and Conditions of Service are matters of poor management, limited understanding of the requirements of the law as it applies to police officers and an unwillingness to adopt best practice principles in favour of a directive, often short-term approach, to the deployment of officers.

**2.12 What would you consider to be an optimum shift arrangement for reducing the cost of functions supporting officers on operations e.g. call centres, contingency planning and specialists operational support functions?**

The PFEW does not have a view on shift arrangements for these roles.

**2.13 How should shift arrangements be set out in national police regulations?**

Police Regulations stipulate that the normal daily period of duty will be an eight-hour day, unless a VSA is in place (Regulation 22, Annex E, Police Regulations 2003). The PFEW believes that shift arrangements should continue to be set in this way. A VSA can be implemented by a chief officer if it is agreed by the JBB. The PFEW believes that this protection for officers is fundamental and must remain in place.

The PFEW would point out that following concerns from some chief constables about the requirement to have the agreement of the JBB, the PNB has developed guidance for forces, referred to in the answer to section 2.11 above. This guidance addresses the needs of the Official Side to ensure a consistency of approach across all forces in negotiating with JBBs, while highlighting the importance of work-life balance. This guidance has now been approved by the Home Secretary in Home Office Circular 16/2010. The PFEW believes that this guidance reflects the correct approach to setting out shift arrangements in Regulations.

## Mutual Aid

### **2.14 How can the disruption of working with another force be recognised for officers and/or staff in a way that is fair to them and the taxpayer?**

Section 24 of the Police Act 1996, provides that a chief constable of any police force may, on the application of the chief constable 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. As set out in the Home Office *Statutory guidance for police collaboration*, because “a particular force may hold particular expertise or resources, the mutual aid arrangements improve the overall efficiency and effectiveness of policing”. Mutual aid also avoids the problem of maintaining forces of sufficient size to handle every eventuality which could possibly arise in one geographical area.

However, mutual aid is not voluntary and officers are directed to serve or work away 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. The normal place of duty is defined in PNB Circular 88/2, for an officer below the rank of superintendent, as the police station or other police establishment.

Compensation for officers working on a mutual aid operation will vary depending on whether they are obliged to stay in a particular, specified place and not allowed to return home. An officer who travels to a mutual aid operation and is able to return home to sleep or enjoy compensatory rest will be paid for all duty hours including travelling time. The PFEW believes this is appropriate and adequate. However, in the case of an officer who is obliged to stay in a particular, specified location and is unable to return home, all of his or her hours are counted as duty hours except for a period not exceeding eight hours in every 24, provided that in respect to that period:

1. Proper sleeping accommodation is provided;
2. Officers are stood down from immediate operational availability and, according to the particular circumstances, are allowed reasonable freedom of movement while remaining contactable in case an emergency requiring their recall should arise (PNB Circular 83/10)

This is known as 'Held in Reserve'. Held in reserve is not confined to mutual aid operations and is defined in PNB Circular 88/9 as:

1. Officers are serving away from their normal place of duty; and
2. Are obliged to stay in a particular, specified place and not allowed to return home.

Held in reserve provisions provide compensation to officers for not being able to return home. There is a significant difference between direction and volunteering. The 16-hour payment compensates officers for not being practicably able to return home, as well as for the inconvenience, disruption to family life, the impact on child care arrangements or care of a dependent and any additional costs. If mutual aid was voluntary, it would be an officer's choice whether or not they would accept the assignment and they would be able to consider its impact on all of these issues before volunteering. 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.

The PFEW would argue, however, that the definition of proper accommodation should be updated in the light of officers' recent experiences. For example, the G8 summit was held at Gleneagles in Perthshire in July 2005 and approximately 11,600 police officers were deployed from every mainland force. The quality of the accommodation provided to officers was poor particularly at the Otterburn barracks. Although the accommodation was unsatisfactory, it was argued that it fell within the current PNB definition of proper sleeping accommodation.

This is especially important given changes in workforce profile since 1980s and the increasing number of female officer numbers, single parents and carers within the service. 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>10</sup>.

## **2.15 How could mutual aid use and remuneration for both Officers and Staff be changed to enable more efficient use of resources?**

As set out above, currently a chief constable can direct any officer to serve or work anywhere within his or her force area. If the officer is held in reserve they are paid for every hour of which they are on duty. Under the Hertfordshire Agreement, an officer may be deployed outside of his or her force area and if they are unable to return home they are paid for 24 hours, unless they are provided with suitable accommodation, in which case they are paid for 16 hours. We believe that this is the best approach to ensure the efficient use of resources.

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<sup>10</sup> John Randall – PNB Mutual Aid Joint Working Party meeting, 23 February 2010

During discussions on mutual aid, the PNB Official Side provided only six examples of mutual aid operations in recent years, including Operation Otter (Sussex Police), Operation Oasis (Kent Police) and Operation Glencoe (Essex Police). Estimates suggest that without mutual aid through Operation Oasis, Kent Police would have had to maintain a force of 1,000 extra officers.

Officers who are unable to return home to sleep because they have been directed to serve or work away from their normal place of duty and are held in reserve, whether inside or outside their own force, should be compensated fairly and be paid for up to 24 hours unless proper accommodation is provided, in which case the payment would be for 16 hours. Then after a period of time, for example 56 days, secondments could be used. This was the approach taken during the Operation Sumac investigation into the Suffolk murders, as opposed to the approach taken during Operation Covert which saw officers used on mutual aid arrangements for a period of two years.

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.

Alternatively, collaboration is available to forces, for which pay and terms and conditions would be decided on before the arrangement began and officers would be able to take this into account before deciding to apply.

### **2.16 What rates of allowances and entitlements should Officers and Staff receive when they are on secondment e.g. rental allowances**

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 a 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.

All secondees remain part of the home force's establishment and the secondment should continue to count towards length of service for their pay and pension. All secondments must have an agreement to which the secondee, home force and the receiving organisation must sign up to before the secondment takes place. This must include details of pay and terms and conditions. They should adhere to Police Regulations and Determinations 2003 given the voluntary nature of secondments. Secondees must not be disadvantaged and should continue to receive their entitlements under Police Regulations including, but not restricted to, maternity leave and pay, adoption leave and pay, annual leave and time-off for dependents. Secondees should also be eligible to any pay rises occurring during their secondment.

The secondee, receiving organisation and home force must agree the pay including overtime and time off in lieu of overtime that will be paid during the secondment. Secondees should be entitled to the same overtime payments as they would receive under regulations and determinations in their home force. Secondees should retain their original increment date unless seconded to a post which is graded higher than their substantive rank in which case their date of appointment provides the incremental date. Secondees should enjoy the same pay increases in line with PNB agreements.

All secondments must be time-limited with clear arrangements for termination or extension. All secondment procedures should be drawn up in accordance with principles of fair practice and equality of opportunity including part time working and job sharing. A commitment to fair treatment should be exercised throughout the secondment period. Allowances should be increased in line with PNB agreements.

The higher salaries payable to inspectors and chief inspectors in London should continue to be paid to officers seconded from the MPS or City of London regardless of the location of the receiving organisation. Officers seconded to MPS or City of London should receive the difference between the provincial rate and the London rate of pay.

Officers should continue to receive London Weighting, London or South East Allowances or other allowances if they receive these allowances in their home force irrespective of the location of their secondment. The same principle applies to any other allowances as well as sick pay that secondees may be entitled to in their home force.

As set out in the Central Service guide, secondees who have been designated an essential car user or casual car user by the receiving organisation should be paid in accordance with the PNB agreement.

Dog handlers' allowance should continue to be paid if the police dog continues to be kept and cared for at the member's home. The rate paid should be as set out in the most recent PNB agreement.

Officers who joined the police service prior to 1 September 1994, and who are not provided with rent-free accommodation by their force, should continue to receive a housing emolument.

Compensation for accommodation costs and, where incurred, utility costs, should be based on the reimbursement of actual expenses that have been reasonably incurred by the secondee as per Regulations and Determinations and should be agreed pre-secondment.

If a secondee has not relocated to the place of secondment they should be entitled to claim reimbursement of the costs of their return travel between the receiving organisation and home at weekends or other home to work travel and reimbursement of subsistence expenses that are necessary, reasonable and backed by a receipt.

The receiving organisation should make it clear before the secondment begins what travel and subsistence arrangements will apply.

Secondees should be entitled to claim reimbursement of NHS medical or dental charges incurred because of an injury received in the execution of duty as set out in Regulation 35, Annex V.

If, where commuting, renting or the provision of accommodation is not practical or reasonable and it is agreed that a secondee should relocate and purchase a property nearer to the receiving organisation, the receiving organisation shall either reimburse the reasonable cost of removal or carry out the removal; reimburse expenses incurred in connection with the sale of the member's former home; and reimburse expenses incurred in connection with the acquisition of the new home and incidental to the move as set out in Regulation 35, Annex V.

Officers will need to be compensated for all costs incurred while on duty overseas.

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.

### **2.17 How could regulations be amended to enable greater use of collaboration between forces?**

A key priority identified in the Office of Government Commerce 2006 report to the Prime Minister and Chancellor of the Exchequer was the need to co-ordinate activity and provide a common framework for responding to emergencies and critical incidents. By removing barriers to effective collaboration, Police Regulations also provide effective assistance to attempts to improve interoperability between forces, which has been identified as increasingly important within policing. National Policing Improvement Agency (NPIA) Guidance on Multi-Agency Interoperability, defines it as the capability of organisations or discrete parts of an organisation to exchange operational information and to use it to inform their decision making.

However, the PFEW is not clear what elements of Regulations and Determinations hinder forces' ability to collaborate with each other. Indeed, 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. In fact in their joint report, the Audit Commission, Wales Audit Office and HMIC identified several possible obstacles to the use of collaboration, but Regulations were not cited as a barrier<sup>11</sup>.

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<sup>11</sup> *Sustaining value for money in the police service, community safety*, Audit Commission, HMIC & Wales Audit Office, July 2010

In the PFEW submission to the *Policing in the 21<sup>st</sup> Century* White paper, a number of units were suggested for greater collaboration, including air support units, firearms units, dog sections, underwater search, public order, counter-terrorism, training, collision investigation, traffic management, vehicle fleet procurement, uniforms and equipment, IT Support, human resources/payroll/pensions administration, media and communications and control rooms.

Although it does not relate specifically to Regulations and Determinations, in 2008 the PFEW became aware of an issue with regard to the transfer of direction and control between chief officers in collaborative arrangements. This had arisen from an Employment Tribunal case where an officer was taking part in a collaborative arrangement with another force under Section 23 of the Police Act 1996. The officer had been working in a national unit hosted by the MPS. She complained about discriminatory behaviour on the part of other members of the unit. The Employment Tribunal held that she had no remedy as she remained under the direction and control of the Chief Constable of Gloucestershire Police who could not be held responsible for the conduct of officers who were not members of Gloucestershire Constabulary. This situation was clearly unacceptable and following a recommendation from the Police Advisory Board for England and Wales (PABEW) ministers agreed that the Police Act should be amended so that direction and control passes to the chief officer of the receiving force.

The PABEW agreed guidance published earlier this year to aid collaboration. In discharging their functions, chief officers and police authorities must take the Guidance into account in considering whether or not to enter a collaboration agreement and in planning and making collaboration agreements.

Furthermore, following representation from the PFEW, the Equalities and Human Rights Commission (EHRC) has amended its code of practice in respect of employment to reflect the fact that police officers and cadets are to be treated as employees of the chief officer under whose direction and control they serve.

## **Specials**

### **2.18 What regulations and restrictions hinder Specials undertaking more hours?**

As stated in the answer to Question 1.8, 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. The PFEW believes the combined duty time of a special constable together with any hours of work from his or her other employment should not breach the Working Time Regulations.

### **2.19 What could incentivise Specials to increase their hours, including limited remuneration?**

The PFEW recognises the value of well-trained and motivated special constables, but has no view as to how to increase either their hours or remuneration. There is an existing national mechanism for the payment of allowances to special constables.

### **Business Interests**

### **2.20 How should decisions on officer business interests be taken?**

Police officers are restricted from taking on any employment or business interests outside of policing without the express consent of their chief constable. In certain circumstances, these restrictions can also apply to the partner, spouse or relative of a police officer residing with them (Regulations 7 and 8, Police Regulations 2003). 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. A key issue for the PFEW, however, is the inconsistency of interpretation of these restrictions between forces.

This matter was discussed at the PABEW in 2006 when the Regulations and Determinations were last amended. Although guidance was not subsequently promulgated the PFEW supported the following considerations which should be taken into account by the chief officer in reaching a decision. The PFEW believes those considerations remain relevant today.

The main consideration was whether the activity could lead to a breach of any part of the Standards of Professional Behaviour. In particular:

- Whether the business activity is likely to cause embarrassment or bring discredit to the force or police service
- Whether an officer's fairness or impartiality in their dealings with the public or colleagues might be compromised (or where members of the public could be led to believe that might be the case)
- Whether the activity could lead to the public losing confidence in the honesty and integrity of the officer or the police service
- Where the activity could lead to the officer being improperly beholden to any person or institution
- Whether there is a likelihood of the business activity interfering with the officer's attendance either for rostered duties or for recall to duty
- The potential to use for personal benefit police equipment, information or intellectual copyright; or the potential for being required to work on the business interest during police duty time.

A number of secondary considerations were also discussed. The PFEW is most concerned with those relating to the welfare of the officer. These would include:

## Police Federation of England and Wales

- The number of hours, times of day, frequency and overall commitment required by the business interest
- The risk of injury or increased stress and fatigue which could impact on the officer's ability to perform duties to a satisfactory standard or indeed whether the business interest could promote the health and welfare of the officer, for instance, by relieving stress
- Whether the business interest might improve an officer's skills or role within the force.

In the event that a business interest is refused by the chief constable, reasons should be provided to the officer for that refusal. This should also apply to refusal following reconsideration by a chief constable on the instruction of the appeal panel.

The PFEW would point out its concern that, with the proposed pay freeze, there are likely to be more officers taking-up business interests.

## Section Three: Performance/post related pay

### Incentivising High Performance

**3.1 How should performance by police officers and staff be reflected in remuneration and/or conditions of service?**

**3.2 What do you think would be the features of an effective performance related pay system for officers and staff, including:**

- How and at what level could such a system for officers and staff best be managed and decided?
- How could performance by officers and staff be identified and managed?
- Should different schemes apply at different ranks?

The PFEW has taken this group of questions together.

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<sup>12</sup>. Furthermore, managers may only focus on incremental improvements so as not to deliver more substantial improvements in subsequent years<sup>13</sup>.

For example, key performance indicators for custody sergeants introduced by some forces through the QUEST process include “airlock times”. This indicator refers to how quickly a detainee is booked-in and makes no allowance for foreign nationals who have little or no grasp of English or, where appropriate Welsh, those with learning difficulties or other vulnerable detainees. This potentially creates an incentive for prisoners to be booked-in more quickly rather than ensuring that they have been booked-in properly and where introduced has seen sanctions taken against those failing to meet the target. Issues surrounding deaths in custody mean that this is a high-risk area of policing, particularly with regard to individuals who may need to undergo a mental health assessment. However, directing detainees to such an assessment is a matter of judgement for the custody sergeant and the process of doing so increases the airlock time over and above relatively straightforward bookings where there is no obvious risk to the prisoner. Whether looking after vulnerable individuals in detention or assisting a member of the public changing the wheel of his or her car, performance systems should not crowd-out the desire to protect vulnerable individuals.

The fundamental challenge for any reward-system based on performance in the police service is that it would require performance to be objectively

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<sup>12</sup> ‘Organisations are cakes not cars’: getting the public sector incentive mix right, Fiona Murray, Oxford Policy institute, 2008

<sup>13</sup> ‘What’s measured is what matters: targets and gaming in the English public health care system’, *Public Administration*, 84, 3, Bevan, G. and Hood, C. 2006

assessed to a consistent standard. 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.

In December 2006, the PFEW commissioned the Institute for Employment Studies (IES) to evaluate the implementation of the Performance and Development Review (PDR) system. The IES found that the overlap between the different elements of the PDR created confusion, with sergeants and constables in particular feeling that the competency-based performance criteria used in PDR are overly bureaucratic.

The practices used by forces in the number and description of performance ratings and the attribution of overall performance marks varied. Despite this a middle rating seemed to be commonly awarded as standard with no real incentive to award a higher or lower rating given that these would require additional supporting evidence.

Officers particularly disadvantaged by the emphasis on quantitative targets include community policing teams and missing persons investigators, since neither are primarily concerned with day-to-day crime detection. However, the drive towards a performance culture has seen some particularly ridiculous examples of arrests and sanction detections. The following were published by the PFEW to coincide with our 2007 Annual Conference:

- A man from Cheshire who was cautioned for being "found in possession of an egg with intent to throw"
- A child in Kent who was arrested after removing a slice of cucumber from a sandwich and throwing it at another youngster
- A West Midlands woman arrested on her wedding day for criminal damage after her foot slipped on her accelerator pedal and her vehicle damaged a car park barrier
- A child from Kent who was arrested for throwing cream buns at a bus
- A 70-year-old Cheshire pensioner who was arrested for criminal damage after cutting back a neighbour's conifer trees
- Two children from Manchester who were arrested for being in possession of a plastic toy pistol

Officers may well achieve targets if money is attached to them, but blunt targets that do not take account of the need for discretion in policing run the risk of criminalising people unnecessarily.

Performance related pay may also encourage divisiveness among officers, as only one individual can be credited with performing an arrest or issuing a sanction on any one occasion, regardless of the number of colleagues who have attended an incident. Furthermore, an incident may have a satisfactory outcome, such as affecting an arrest, but if there is a scuffle and people are hurt then how will the events be judged leading up to the incident?

A further consideration is the increasing dislocation of supervision within the police service. This can involve supervisors managing officers in a number of different locations with no day to day contact or opportunity to directly monitor their performance.

Given the difficulties in measuring performance within policing, the high monitoring costs and transaction costs must be at least matched by the value of increased performance. However, ensuring that assessment is sufficiently robust could entail a massive increase in bureaucracy with officers being required to produce reams of evidence to substantiate good performance. In its research, IES found that many officers were doubtful about the fairness with which performance related pay would be implemented. They suspected that it would be used primarily as a means of denying extra pay, rather than awarding it, and that subjective assessment, personal bias, and managerial motives would influence outcomes. Importantly, they failed to see that linking performance to pay would ultimately make them better officers. One officer commented that “it will just make us write better reports!”<sup>14</sup>

The NPIA has recognised this as a concern in its ongoing review of the PDR process. To control the level of bureaucracy the NPIA has proposed a system of “assumption of competence” where performance is assumed to be adequate unless it is proven otherwise. However, PFEW understand that this process will take the form of guidance only and forces will be free to adopt their own system of reviewing performance and development.

It is not only on this point that the PFEW has concerns about performance related pay. Police officers have multiple goals, complete complex tasks and have to respond to “the human dimensions of situations”<sup>15</sup>. The current pay structure is designed to take account of the variety of tasks that police officers undertake, whether policing inner cities or rural areas. Many achievements of police officers may be difficult or impossible to measure. For instance, how would pay be determined for a neighbourhood team police officer whose mere presence deters a necessarily unknowable number of incidents of anti-social behaviour and other crimes?

Moreover, there is clearly a need for forces to better support line managers and frontline supervisors in appraising performance. However, the view of the PFEW is that the tools currently exist within policing to manage performance effectively. Nearly two-thirds of sergeants report that they attach a high degree of importance to appraising performance. However, when asked whether their force regarded these activities in the same light, sergeants’ perceptions dropped to just half. Nearly half of the respondents also said that they only sometimes or rarely had time for these activities<sup>16</sup>.

In order to conduct an appraisal effectively, the sergeant needs to carry out a range of specific tasks including collecting evidence by going out on patrol,

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<sup>14</sup> Police Federation PDR Research, IES. 2006

<sup>15</sup> *Street Level Bureaucracy: Dilemmas of the Individual in Public Services*, M Lipsky, , 1980

<sup>16</sup> *How the rank of Sergeant adds value to the police service*, David Weir, Craig Marsh and Wilf Greenwood, 2005

reviewing progress at frequent intervals, sitting in on interviews, assessing officers' competence and action planning. In between these formal tasks, many sergeants maintain a day-book to record daily examples of good and bad practice. In some cases this can be updated by both the sergeant and the officer whose performance is being appraised. Such day books are openly accessible so that, as one sergeant reported, "we're not hiding anything from them"<sup>17</sup>.

These are all important aspects of developing officers and ensuring continual high performance within the police service. Where officers fail to perform their roles effectively, provision for dealing with this exist within the Unsatisfactory Performance Procedures (UPP), which were introduced as part of the new disciplinary regulations and guidance and came into force on 1 December 2008 (Home Office Circular 25/2008). A sub-committee of the Police Advisory Board of England and Wales (PABEW), on which ACPO is fully represented, oversees the procedures to ensure they are meeting their objectives. The UPP mirrors the ACAS Code of Practice.

Finally, but of no less significance, is the impact of the existence of a performance pay regime upon the perception of the criminal justice system itself. The PFEW is alert to the threat to criminal prosecutions of accusations that suspects would only have been arrested in order to meet a pay-related performance target. This suspicion could jeopardise otherwise straightforward prosecutions.

Until the police service has a consistent system for reviewing performance that is proven to be fit for purpose and able to deal with the concerns set out above the PFEW will resist a direct link between performance and pay.

### **3.3 What is your view of the Competency Related Threshold Payment scheme?**

Competency Related Threshold Payments (CRTPs) were introduced as one element of a comprehensive package of pay reform in May 2002, with the first CRTPs being awarded in April 2003. CRTPs are available to federated rank officers who have served for a year at the top of their pay scale and who satisfy the requirements of the scheme to demonstrate high professional competence in respect of:

- Professional competence and results
- Commitment to the job
- Relations with the public and colleagues
- Willingness to learn and adjust to new circumstances.

CRTPs were introduced as a mechanism for continuing to incentivise officers who had reached the top of their pay scale. Approximately one in three federated rank officers receives CRTPs. Of those who are at the top of their

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<sup>17</sup> Weir, Marsh and Greenwood, 2005

pay scale and, therefore, eligible to apply for CRTPs, 99 percent of those who apply are successful. This reflects the fact that, within the context and volume of issues within policing the majority of officers do a good job. Where officers in receipt of a CRTP have failed to continue meeting the requirements of the scheme, they have had their CRTPs removed.

The view of the PFEW is that CRTPs must be retained.

However, a key issue is ensuring that female officers are encouraged to apply for CRTPs. The 2009 PNB Equal Pay Audit identified the CRTP scheme as contributing to the equal pay gap by effectively extending the length of each pay scale.

Although all officers at the top of scale can apply for a CRTP, it is clear that not all those eligible apply. There are significant gender disparities in application rates; however, the success of the application shows no real gender difference.

The biggest gap in favour of male officers at each rank is in respect of the eligibility to apply for a CRTP, because female officers are less likely to be at the top of their pay scale. The average length of service for current male constables is 12 years, while that of female constables is eight years. Most male constables will be on the top of scale and eligible for CRTP whilst most women will not.

However, there is also a tendency for women not to apply for a CRTP even when they are eligible. This tendency is more evident at the inspecting ranks: 15.7 percent fewer eligible women chief inspectors do not apply for a CRTP compared to equivalent men.

### **3.4 What is your view of superintendents' performance related pay?**

### **3.5 What is your view of chief officer performance related pay?**

The PFEW makes no comment in respect of performance related pay for superintendents or chief officers

## **Recognising Skills and Hard-to-fill Posts**

### **3.6 What is the evidence that certain posts require additional remuneration to fill?**

The PFEW believes that pay should not be linked directly to skills acquisition or hard-to-fill posts, especially since the power exists within Police Regulations for officers to be directed to work in any role or part of the force by their chief constable (Regulation 20, Police Regulations 2003). However, if posts were genuinely hard-to-fill, then a premium would be offered for those posts prior to officers applying to take on those roles. The closest form of payment in policing to such a premium is the Special Priority Payment (SPP). Each force decides which roles will receive an SPP during the next 12 months

(Regulation 34, Annex U, police regulations 2003). If an officer has been in a post which is designated as eligible to receive an SPP, they receive an annual payment. If they have been in that post for less than 12 months, they receive a pro-rata payment. Staff Side has now agreed that these payments may be paid on a monthly basis.

The annual amount for an SPP is not less than £500 a year and not usually more than £3,000 a year, although chief constables may vary this up to a limit of £5,000 a year.

Chief constables are also able to award officers bonus payments of between £50 and £500 where that officer has carried out work of an outstandingly demanding, unpleasant or important nature.

It is possible that such payments may have the effect of acting as retention payments within roles. However, there is no guarantee of the amount of the SPP that will be awarded to individuals in that post.

In addition, a significant problem in terms of recognising skills is the lack of support which officers experience in trying to access training. The IES report into PDRs cited earlier found that:

- Around 60 per cent of respondents disagreed or strongly disagreed that they had good access to training when they needed it
- Over half of respondents with line management responsibilities indicated that they were dissatisfied or very dissatisfied with the training available to address the development needs of their supervisees
- Around 40 per cent of inspectors thought that their development needs would be addressed in the coming year, compared to just 15 per cent of both sergeants and constables

Where forces do experience skills shortages or recruitment difficulties the PFEW believes that more must be done to ensure adequate access to training for officers.

### **3.7 What is your view of Special Priority Payments?**

SPPs and bonus payments were introduced as part of a comprehensive package of pay reform and followed specific requests from the Official Side that chief officers be able to reward officers locally. The PFEW was resistant to the introduction of SPPs. In the subsequent years since their introduction, these payments have proved so divisive that the PFEW understands that ACPO no longer supports their use either. In its submission to the 2008 Green Paper ACPO urged the “re-direction of monies which currently support differential payments such as SPPs and bonuses which, in ACPO’s view, are divisive rather than supportive”<sup>18</sup>.

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<sup>18</sup> *From the neighbourhood to the national, ACPO Response to the Policing Green Paper, October 2008*

In February 2009, the Chief Constable of Northumbria Police called for SPPs to be scrapped and that funding for those payments should be equally distributed among all officers<sup>19</sup>. Indeed, this was exactly the approach taken by Grampian Police when determining how SPPs should be allocated for 2009<sup>20</sup>. Each federated officer received an equal payment of approximately £700, which was clearly in breach of PNB Circular 03/16 (Advisory), which stated that no more than 40 percent of the force strength should benefit from SPPs. While these comments and actions are difficult to reconcile with the current Official Side proposal to increase SPPs to £8,000 a year, they do demonstrate the divisiveness of SPPs.

In addition, there are examples of inconsistencies between forces, which have come to light during collaborative working, where officers from one force have been in receipt of SPPs, while officers working with them from other forces have not.

Despite this, the PFEW is concerned that there still appears to be a demand from some chief constables for the power to reward officers locally. The PFEW position is that such an approach has been demonstrated to be divisive and that the SPP pot should be redistributed into other elements of police pay.

### **3.8 Is there any evidence of why allowances (including SPPs, but also those for dog handling etc) have been determined at their current level?**

SPPs were introduced following requests from the Official Side for greater flexibility to pay higher amounts to officers in posts which it claimed were hard to fill or which had particular responsibilities or work patterns. With the introduction of SPPs, a number of allowances and payments were removed, including frozen undermanning allowances, the firearms' users standby allowance, as well as the plain clothes allowance and the refreshment, subsistence and lodgings allowance. Both of the latter allowances were particularly important for detectives and officers in specialist roles who are not provided with uniform and have to incur additional costs. Despite proposals from the Official Side to remove the plain clothes allowance, the Police Arbitration Tribunal (PAT) determined that the allowance should be retained. This allowance alone was worth £258 a year in 2002 and was removed as part of the agreement introducing SPPs.

The dog handlers' allowance, which was first introduced in Police (Amendment) Regulations on 16 August 1974, was set at a rate equivalent to the then current rates of detective duty allowance for constables and sergeants, which was a commuted overtime allowance equivalent to three hours' overtime per week, at the mean of the scale of the rank in question. The current level of the dog handlers' allowance currently is based on a PAT decision from December 1999 which found in favour of proposals from the Official Side. This replaced a previous set of allowances of £1,059 per dog for Constables and £1,443 per dog for all other ranks. These allowances had

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<sup>19</sup> "Qualified cops first in line for priority pay", *Police Review*, 13 February 2009

<sup>20</sup> "Force scotches priority pay for the few", *Police Review*, 8 January 2010

been designed to compensate officers for caring for police dogs on rest days and public holidays. The Official Side proposed that the allowances should be rationalised by a single payment of £1,500 for all ranks for each dog plus 25 percent of that figure for each additional dog. The Official Side had taken advice from the National Canine Defence League and its view was that the time commitment for caring for a dog was one hour a day plus 15 minutes for grooming twice a week. The PAT awarded in favour of the Official Side. The current figure of £2,133 is based on annual up-rating in line with each year's increase in basic pay. This equates to £19 for each rest day and public holiday and represents one hours' pay at time and one third of a constables' average pay.

### **3.9 How could allowances be amended to reflect any recent changes or recruitment/retention in the post?**

The two percent of the police pay bill which funds the SPP scheme (PNB Circular 02/9 Advisory) should be redistributed into other elements of police pay.

### **Other Allowances and Entitlements**

#### **3.10 What other allowances and entitlements should Officers and Staff receive as part of their post e.g. London Weighting, London/South East allowances, allowances for skills, and (for Chief Officer ranks) cars, drivers?**

##### **1) On-call Allowance**

The PFEW believes that there should be a national allowance for being on-call. This is in line with the finding of the Police Arbitration Tribunal in August 2009. At present some forces compensate officers at varying levels for being on-call, while others do not compensate officers at all.

Being on-call must be voluntary because it places severe restrictions on the personal lives of officers. These restrictions include being:

- contactable by mobile phone/pager
- immediately available to return within a reasonable time
- fit for duty, including no consumption of alcohol
- able to access their own transport

In many forces officers are expected to be on-call during public holidays and rest days, while some forces require officers to be on-call during free days a minority of forces even expect officers to be on-call while on annual leave.

The use of on-call on a routine basis restricts the opportunities for officers with caring responsibilities. As women are generally recognised as the primary carers in a family unit, the restrictions will particularly impact on women officers. Where a requirement to be on-call is associated with a specific role, this acts as a barrier to officers with caring responsibilities moving into those areas of policing.

The disruption to the lives of officers' families should not be underestimated. For example, the need for an officer to have access to their own transport can prevent other members of the household from being able to engage in family, work or leisure activities while the officer is on-call if they have access to only one car. According to figures published by the Office of National Statistics, nearly half of households have access to only one car<sup>21</sup>.

Evidence jointly gathered by the Official and Staff Sides of the PNB from a sample of forces found that on average officers in on-call roles were placed on-call on 50 to 60 occasions during the course of the year, but in some forces the average was as high as 130 occasions.

## **2) Motor vehicle and travelling allowances**

Regulation 34, Annex U, provides that a chief constable may authorise a police officer to use his or her own motor vehicle where the officer's duties require it. Traditionally rates for motor vehicle allowance (MVA) have been set at the level agreed for local authority workers based on a technical advisors' report to local government employers. Earlier this year both Sides of the PNB agreed to the up-rating of motor vehicle allowances and, as has been the normal practice, a PNB circular was issued to forces informing them of the new rates. However, several months later the Home Secretary refused to ratify the up-rating into Determinations and instructed forces to return to paying the rates approved for the previous year. This situation underlines the degree to which police officers have little control over the way their terms and conditions are determined, even after a negotiated agreement has been reached. The PFEW believes it is essential that officers required to use their own cars for police duties should continue to receive a MVA which reflects the costs to officers of using their own vehicles.

Police officers must also be reimbursed relevant travelling expenses if they are required to perform their normal daily period of duty in more than one tour of duty, or are recalled to duty between two tours of duty.

## **3) Moving house**

If a police officer is required to move house as a result of their duties, the police authority should continue to reimburse any necessary expenditure on a reasonable and receipted basis as set out in Regulation 35, Annex V.

## **4) Medical charges**

Regulation 35, Annex V also stipulates that, where officers incur NHS charges incurred as a result of injury on duty they should be reimbursed accordingly for those charges. This is an important provision which the PFEW believes must be maintained for police officers given the high likelihood of injury in the line of duty.

## **5) Subsistence and accommodation**

Police officers who are prevented in the course of a tour of duty or shift from obtaining a meal in their usual way should continue to be reimbursed for the

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<sup>21</sup> *Social Trends 39*, Office of National Statistics, 2009

difference between the meal obtained and the meal they would usually take in the course of that tour. Officers retained on duty beyond their normal daily period of duty or shift should be reimbursed for the cost of any meal necessarily obtained on a reasonable and receipted basis. The same provision should continue to apply to any accommodation expenses that are incurred in connection with duty away from an officer's usual place of duty or because they have been retained on duty beyond their normal daily period of duty or shift.

## **6) London and South East Allowances**

Prior to 1994, a police officer who was not provided with police accommodation received a housing allowance. However, this was removed for all officers joining after 1 September 1994, who were no longer entitled to this provision.

Such were judged to be the difference in living costs, recruitment difficulties and differences in the pay distribution, that in February 2001 the PNB agreed an allowance of £2,000 or £1,000, depending on the county, for officers appointed on or after 1 September 1994 in Bedfordshire, Essex, Hampshire, Hertfordshire, Kent, Surrey, Sussex and Thames Valley.

In addition, officers in London have traditionally been entitled to an uplift consisting of two parts: London Weighting which theoretically compensates for the higher cost of living 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. While London Weighting has increased in line with the annual pay award, and currently stands at £2,277, the London Allowance has not been up-rated since a PAT decision in 2000 and its current value is £4,338.

Officers who joined the police service after 1994 receive the entire London or South East Allowance, while those who joined the service prior to September 1994 and who are still in receipt of replacement housing or rent allowance receive a proportion of the London or South East Allowance, together with a transitional supplement to make-up the difference.

The PFEW believes that the value of the South East Allowance should be maintained at the level agreed by the PNB in July 2009, which was for the five forces currently paying £2,000 to all post-1994 officers to be given the flexibility to pay some of their officers up to £3,000, while for the three forces currently paying £1,000 there should be the flexibility to pay some of their officers up to £2,000.

Looking at London, the difference between pay levels in the capital and the rest of the UK is exemplified through ASHE data for October 2009, which gives an annual median pay figure in London of £30,000 compared to £21,320 for the UK as a whole. The London median pay figure is some 41 percent higher than that for the rest of the UK. The difference between the mean pay figures is even starker, with annual average earnings for London at

£40,686 compared to £26,470 for the UK as a whole. This represents a premium of more than 50 percent.

In addition, housing costs, which are a significant element of the additional costs felt by those who work in London, are demonstrated in the most recent Nationwide House Price Index. House prices have fallen in nine out of 13 UK regions, but although the London market is cooling it is still outperforming other regions and remains the most expensive region in the country. The average house price in the UK is £167,354 but in London it stands at £293,582<sup>22</sup>.

The PFEW would, therefore, propose an increase in the level of London Weighting of £1,871.

## Equality

### **3.11 How could remuneration and conditions of service be amended to reflect equality and diversity issues?**

The PFEW welcomes the fact that the police service is covered by the public sector duty to eliminate discrimination and promote equality. No provision, criterion or practice should be employed in policing if it has a disproportionately negative effect on officers who share any of the protected characteristics as set out in the Equality Act 2010, unless it can be shown to be a proportionate means of achieving a legitimate aim. Any proposed changes resulting from of this review, therefore, must have been subject to a full equality impact assessment. In the context of this review into remuneration and conditions of service, there are a number of issues which are of particular relevance to female officers.

The police service has seen a welcome increase in the diversity of its officers in England and Wales. However, there is still a long way to go before the service can be described as other than a white male monoculture.

Women have made up 35 percent of successful candidates through the SEARCH assessment centre in recent years; some forces are reported to have recruited up to 58 percent women last year<sup>23</sup>. The average age of recruits has been between 26 and 29 during the last few years. It is therefore clear that significant numbers of women officers either have or will have children during the first few years of their service. Not only will significant numbers of women officers be taking maternity leave (a maximum of 15 months in an 18 month period), many of them will be requesting part time or flexible working when they return to work. Although women may be recalled to duty during their maternity leave, it is the only form of leave that is not subject to exigencies of duty.

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<sup>22</sup> Nationwide House Price Index, September 2010

<sup>23</sup> Assessment of Women in the Police Service Home Office 2010

Although Police Regulations are flexible enough to accommodate part-time and flexible working arrangements, it is clear that there is still a reliance on traditional working arrangements, a prevalence of rotating shift patterns, and a reluctance to move away from a rigid approach to shift arrangements.

Police Regulations allow for personal shift arrangements to be made to match individual requirements so long as they meet the exigencies of the force. Although in some circumstances the refusal to allow flexible working could constitute unlawful indirect sex discrimination (and there are several successful cases that have been taken by women officers in these circumstances<sup>24</sup>), the service has not recognised the benefits of individual flexible working arrangements on any significant scale. The last available statistics (2006) show that only four percent of police officers were working reduced hours. There are no national statistics on the length of service of men and women leavers to the service.

The PFEW was represented on the Ministerial Women in Policing Steering Group. As part of the launch of the Gender Equality Duty in the police service, that group published the *Flexible working in the Police Service* guidance which contained examples of good practice in managing and supporting flexible working arrangements<sup>25</sup>. Regrettably it is clear that forces have not adopted the principles in the guidance.

Other 24/7 organisations, such as the National Health Service, provide a service to the public with a predominantly female workforce, and do so by using a variety of shift arrangements that better meet the needs of their women employees. Yet the PFEW is aware that some chief officers have instituted programmes to reduce the number of different shift patterns simply on the grounds that there are “too many”.

In 1992 Police Regulations were amended to enable officers to work reduced hours. This had not been possible before that date. In 2008 Staff Side proposed a Gender Equality and Work Life Balance Working Group to consider amending Police Regulations to clarify and better facilitate the operation of reduced hours working by police officers. The PFEW considers that this is the key to enabling more women officers to work flexibly and would help forces to use flexible arrangements to fill periods of particular need.

In December 2008 Staff Side undertook an audit of the Regulations that applied to part time officers and suggested a number of changes to make their application easier for managers. The Official Side has yet to discuss these proposals in any meaningful way. These proposals included some that ensured that forces were not unlawfully discriminating against part time officers; for example:

- Paying part time inspectors for any additional hours they work over their agreed hours up to full time hours (when, like full time inspectors,

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<sup>24</sup> Chew v Avon & Somerset Constabulary 2001; Sweeney v Sussex Police 2005

<sup>25</sup> *Flexible Working in the Police Service*, Home Office, April 2007

they are not eligible for overtime payments). This is currently being taken to the High Court by the PFEW on behalf of a woman member;

- Counting part time officers' service in a higher rank when acting-up in days served (10 days) rather than time (80 hours).

The Official Side has appeared unwilling to agree any changes that would enable the system to operate more effectively for those working or seeking to work part-time or flexibly. In addition, these changes would also support managers and force administrators to deliver a better service to the public by using these officers at times of need.

Nationally women make up around 30 percent of the constable rank. Constables generally provide the front facing service to the public. Officers who joined in the late 1980s were predominantly men and, as they retire over the next few years, the proportion of women constables will increase even if there is a block on recruitment.

The issues of gender equality in the service will not go away. They need to be dealt with positively if women are to enjoy a full career in the service and if forces are to benefit from their skills and experience in the future.

## Section Four: Pay Progression and Length of Service

### Officer and Staff Pay Progression

#### 4.1 What are the advantages and disadvantages of the current progression scales for officers and staff?

#### 4.2 Should progression be linked to length of service, performance, skills or any other factors?

The PFEW has taken questions 4.1 and 4.2 together.

The majority of officers will spend all or most of their policing careers as constables. As stated in the answer to question 3.10, the average age of recruits is currently 26 and has been as high as 29 in recent years. Therefore, the pay scales for constables must recognise the need to adequately remunerate those joining the service as a second career, and also retain experience within that rank and ensure that constables remain motivated. Pay rates for constables must continue to compensate officers after 10 years' service or 25 years' service in the same way as it does when officers are first recruited into policing.

Police pay scales and the level of pay for constables help to retain officers within the service and ensure that the high number of applicants alleviates the recruitment problems which have plagued policing in the past. However, 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 frontline 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.

Fortunately for society, instances of corruption within policing are much rarer than at times in the past. However, where police officers actually aid criminals in their activities, this can have lasting consequences not just for the victims, but for the reputation of the service and for the confidence of the community as a whole. This is illustrated by the case of Colin Gunn, who ordered the murder of Joan and John Stirland in a revenge attack and paid a police officer to report on the progress of the subsequent police investigation.

The Office of Constable requires absolute integrity at all times. For this reason, Schedule One of Police Regulation 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.

If the police service, and rightly so in the view of the PFEW, is to place such restrictions upon officers, then pay and progression arrangements must provide adequate compensation.

However, the current pay scale for constables consists of a 10-point pay spine. In 2009 the PNB undertook an Audit of Equal Pay in the Police Service as part of the responsibilities under the public sector duty to promote gender equality. The Equality and Human Rights Commission (EHRC) has built up a body of expertise based on UK and European case law under Equal Pay legislation and has identified certain pay practices that can contribute to the causes of unlawful unequal pay, including:

- Long pay scales: shorter pay scales can more accurately reflect the time needed to become fully competent at a job<sup>26</sup>.
- Local managerial discretion: the more discretion allowed to line managers, the greater is the risk of anomalies which may turn out to be indirectly discriminatory.
- Bonus payments: performance payments should relate to objective criteria and be subject to regular monitoring.
- Access to work-related premiums: restricting premium payments to certain roles which excludes proportionately more female roles<sup>27</sup>, or where overtime is restricted to certain grades or jobs, or allocated on a discretionary basis.

The current highest pay point for constables should reflect a fair level of remuneration for those who have reached the top of scale. The PFEW believes that constables should be able to reach that pay point within a shorter period, by reducing the length of the pay spine. This would also help to address one of the factors contributing to a gender pay gap among the constable rank, as identified in the PNB Equal Pay Audit.

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<sup>26</sup> In two cases taken against the Health and Safety Executive (HSE) it has been established that employers cannot rely on a blanket justification of length of service to determine pay levels. The case of *Cadman v HSE* (ECJ 2006) established that it may be justifiable in cases where experience and performance are linked. However, where the applicant can show evidence that raises “serious doubts” as to whether length of service does, in the circumstances, equate to experience, the employer must prove that length of service goes hand in hand with experience and that experience enables the worker to perform the job better. The Court of Appeal clarified the meaning of “serious doubts” in the case of *Wilson v HSE* (CA 2009). They said that the test is one designed to weed out frivolous claims; although employers do not generally have to justify schemes linking length of service to pay they will have to do so if there is evidence that such a scheme is having a disproportionate impact on women.

<sup>27</sup> In a case taken by two part time women Constables, *Manley & Blackburn v West Midlands Police* (CA 2008), the requirement to work a rotating shift pattern that included a 4 hour bandwidth between midnight and 6am in order to receive an SPP was found to discriminate against part time women officers with childcare commitments, although the difference in pay was found to be justifiable.

## Length of Service

### **4.3 Should there be more flexibility for officers to leave the police service before the end of the 30/35 years required to receive a full pension?**

The New Police Pension Scheme (NPPS) 2006 is now the only scheme open to new entrants in policing. The introduction of this new scheme included less generous accrual rates for police officers. Although its predecessor scheme had an accrual rate of 1/60 for the first 20 years and 2/60 for the final 10 years, the NPPS 2006 has a uniform accrual rate of 1/70 over a 35-year period. The NPPS 2006 also has a higher normal retirement age and, according to a recent report of the Public Sector Pensions Commission, is six percent cheaper than the Police Pensions Scheme (PPS) 1987 based on the Government accounting discount rate.<sup>28</sup> In addition, the Commission noted that, with the introduction of the NPPS 2006, accrual rates became less generous as the commutation provision was replaced by lump sum accrual.<sup>29</sup>

When the new scheme was initially proposed by the Home Office, it was done on the belief that pensions accrual “on a uniform basis and over 35 years would also make some officers more willing to consider leaving the service if they would ideally prefer not to make policing their life’s career.”<sup>30</sup> The Government also noted that having a longer period of service during which officers could accrue a pension would help the service retain skills and experience.

However, under the PPS 1987 where an officer has 25 years’ pensionable service, he or she may retire with an ordinary pension paid immediately on retirement if they are aged 50 or over. If they have 30 years’ pensionable service, they may retire with an immediate pension before the age of 50. A deferred pension is payable to an officer who leaves the service prior to receiving a full pension entitlement, which becomes payable at age 60. However, if an officer has at least 25 years’ service and leaves before the age of 50, his or her deferred pension is paid to them at age 50.

### **4.4 How do you think such a system could work?**

Given that both police pension schemes are subject to the current review of public sector pensions by Lord Hutton, the PFEW would make no comment on changes to police pensions at this stage. The PFEW has submitted evidence separately to the Hutton Review. In addition, a full actuarial valuation of both schemes is required every three years. The Government

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<sup>28</sup> *Reforming Public Sector Pensions: Solutions to a Growing Challenge*, Public Sector Pensions Commission (London: Institute of Directors) 2010

<sup>29</sup> *Ibid.*

<sup>30</sup> *Government proposals for a New Police Pension Scheme for Future Entrants*, Home Office, December 2003

Actuary's Department (GAD) is currently undertaking this valuation, which will take effect from April 2011<sup>31</sup>.

#### **4.5 Should routine fitness testing be introduced throughout officers'/ PCSOs' careers? If so, how? What would be the consequences for deployment and exit routes?**

The matter of fitness tests for recruits to the service and for specialist posts has been considered by a working group of the PABEW. The working group has made a distinction between "medical" fitness and testing for the physical ability to undertake a role. We consider that medical fitness is the role and remit of force occupational health departments.

A fitness test that is a pre-requisite for employment needs to comply with the provisions of the Equality Act 2010 to ensure that the standard is appropriate and necessary for the performance of that job. For example, a lower pass mark for women than for men would result in unlawful direct sex discrimination against men who are denied a job if they passed the women's pass mark, but not the man's<sup>32</sup>. Direct sex discrimination cannot be justified in law. A fitness test which has the same pass mark for men and women but which fewer women than men are able to pass, could indirectly discriminate against women if it does not accurately reflect the requirements of the role<sup>33</sup>.

The PABEW working group has developed standards that are appropriate and necessary for the proper function of officer safety training and for recruits and for each specialist role (see Table 1).

The PFEW has been an active participant in the working group and believes that the standards ensure the health, safety and welfare of officers working in these roles, their colleagues and the public; they reduce the potential for unlawful discrimination, and open up opportunities for a wider diversity of officers to work in the service; they also allow forces to undertake collaborative exercises with a level of certainty that all officers can perform at the required standard.

Testing must reflect the nature of the officer's role and standards should be consistent across forces, be equality impact assessed and any adverse impact should be objectively justified. In addition, forces have a duty of care to have the officers undertake an occupational health assessment before undertaking any test that could have an impact on their health and well being.

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<sup>31</sup> Police Pensions Review Working Party Report to PNB, October 2008

<sup>32</sup> In the case of *Allcock v Hampshire Police*, PC Allcock applied to be a dog handler. He passed the standard for women, but not for men (which was higher) and was denied a job. The Tribunal found that he had been unlawfully directly discriminated against on the ground of his sex.

<sup>33</sup> In the case of *Dougan v RUC*, Ms Dougan alleged that the recruit fitness test indirectly discriminated against women because fewer women than men could pass. The Tribunal found that one element of the test (the "grappler") was justified against the requirements of the legislation, but the timings to pass the other element (the circuit run) were not justified against the requirements of the role.

**Table 1: PABEW Recommended Fitness Standards**

	Recommended Endurance Standard (Level : Shuttle)	Dynamic Strength	
		Push	Pull
Recruit	5 : 4	34kg	35kg
Marine Police Unit	5 : 4	34kg	35kg
CBRN	5 : 4	34kg	35kg
Method of Entry	5 : 4	34kg	35kg
Dog Handler	5 : 7	34kg	35kg
Mounted Branch	5 : 7	34kg	35kg
Police Cyclist	5 : 8	34kg	35kg
Police Support Unit	6 : 3	34kg	35kg
Air Support	6 : 4	34kg	35kg
Police Divers	6 : 8	34kg	35kg
Marine Police (Tactical Skills)	7 : 2	34kg	35kg
Authorised Firearms Officer	7 : 6	34kg	35kg
Armed Response Vehicle	9 : 4	34kg	35kg
Dynamic Intervention AFO	10 : 5	34kg	35kg

The PFEW fully supports the recommendations of the PABEW Fitness Working Group in January 2010 to introduce mandatory fitness standards for selecting officers for the specified specialist roles and for any subsequent in-post testing. The PABEW did not support the introduction of routine in-service fitness tests and the PFEW would support the position of the PABEW.

Disappointingly, although the recruit standard of fitness is mandatory, the PFEW understands that the Police Minister has decided not to make the standards mandatory for specialist posts.

## Section Five: Exit routes and Pensions

### Redundancy

#### 5.1 Should a power to make officers redundant be introduced?

A power to make police officers redundant would appear to be in direct conflict with the Office of Constable. 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.

The primary function of that office 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.

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.

The PFEW would concur with the sentiments of the President of ACPO, Sir Hugh Orde, who stated at a fringe meeting at the 2010 Conservative Party Conference that "redundancy has no place in policing, that it conflicts with the Office of Constable and that it would change the face of British policing as we know it."

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.<sup>34</sup>

There are a number of restrictions upon police officers which are accepted as necessary in upholding the Office of Constable. Protecting officers from the threat of redundancy is a complementary feature of such restrictions. As office-holders, police officers are empowered to resist unlawful orders as well as any undue political pressure. The power already exists within Police Regulations to dismiss officers for unsatisfactory conduct or performance.

However, if an officer is to exercise his or her duties for the benefit of society and free from compromise, they must be confident that their actions will not be held against them and mark them out for selection for redundancy in the future. Given the restrictions they face and their unique employment status, it does not seem appropriate that police officers should be subject to a power to make them redundant.

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<sup>34</sup> *Committee of Inquiry on the Police: Reports on Negotiating Machinery and Pay*, HMSO, July 1978

**5.2 What issues would need to be considered in developing such a power and scheme?**

This question is not relevant given that the PFEW does not believe that such a power should exist.

**5.3 Are the regulations to make staff redundant as simple and fair to the taxpayer, as well as staff, as they could be?**

The PFEW makes no comment in relation to staff redundancy arrangements.

**5.4 How could it be ensured that staff and officer terms are fair in relation to each other?**

This question is not relevant as police officers hold the Office of Constable and, therefore, should not be subject to redundancy.

**Health Related Issues**

**5.6 What issues are preventing more officers returning to full time duties?**

Officers need to be fully fit to undertake a full range of operational policing duties. However, policing is a dangerous occupation. According to our 2006 membership survey over 40 percent of officers were assaulted whilst arresting suspects in the previous two years; nationally this equated to 56,000 police officers. The latest data from the Home Office indicates an officer is assaulted every 33 minutes<sup>35</sup>. It is hard to assess the accuracy of these figures as many police forces do not seem to keep accurate records. What is clear is that officers are confronted by many dangerous situations while on duty. 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. This is bound to take its toll on officers' physical and mental wellbeing.

The police convalescent homes report many officers presenting to them suffer from lumbar or neck problems. In addition officers often present with psychological problems including stress, anxiety and depression.<sup>36</sup> Inevitably, such injuries may sometimes prevent an officer from performing the full range of operational duties. Police convalescent homes are funded through the voluntary contributions of officers and charitable donations. Forces do not fund these facilities for recovering officers. In addition, there are clear

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<sup>35</sup> Home Office Statistical Bulletin: Crime in England and Wales 2002-2010

<sup>36</sup> [www.thepolicetreatmentcentres.org](http://www.thepolicetreatmentcentres.org)

inconsistencies between forces in terms of the support they provide for officers who require treatment as a result of illness or injury.

### **5.7 How could regulations be amended to help officers on restricted duties be assisted back to full time duties or helped to leave the service?**

Restricted duties officers are more likely to come under the legal definition of disabled set out in the Equality Act 2010<sup>37</sup>. The disability provisions of the Equality Act apply to police officers and they are also covered by European legislation in this area. This means, in particular, that forces have a duty to make reasonable adjustments where working arrangements or physical conditions put disabled officers at a particular disadvantage.

Disabled officers have taken a number of successful cases against forces, in particular when forces have sought to fast track officers on medical retirement<sup>38</sup>. The law does not require employers to continue to employ people, including disabled people, who are not able to fulfil their role and for whom a reasonable adjustment cannot be made. It is clear that forces do not understand and are not able to manage the requirements of the disability discrimination legislation properly and fairly. However, this is not a reason to take officers out of the protection of the law in this area (even if that were possible under European legislation) but rather to provide managers with the knowledge and understanding to administer the law appropriately and fairly. The PFEW will fight to ensure police officers who become ill or injured are not unfairly treated and will challenge any move that is potentially discriminatory on the grounds of disability.

The provision to help officers back to fully operational duty already exists through the use of recuperative duties. According to the Home Office Guidance on Attendance Management dated December 2008, which was fully supported by the PABEW, “a phased return to work using recuperative duty arrangements can aid an early return to work. Recuperative duties should be used when there is the expectation that an officer will return to full duties upon his or her recovery. They are appropriate as a time-limited measure based on individual circumstances to enable officers to re-integrate into the workforce following a period of sick leave or injury. Any change to tasks should be temporary and a measured increase to return to normal hours and tasks should be actively managed and achieved in the shortest possible time.”<sup>39</sup>

Only if recuperative duties have failed to enable the officer to return to full operational duty, or if the officer is determined from the outset to be suffering from a condition that is likely to permanently prevent their return to full operational duty, should restricted duties be considered. Restricted duties are used in order to retain the skills and expertise of police officers and prevent unnecessary early retirement. In response to the specific question regarding

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<sup>37</sup> Someone with a mental or physical impairment that has a long term adverse impact on their ability to carry out normal day to day activities; (s6 Equality Act 2010).

<sup>38</sup> James v Norfolk Constabulary 2008; Jelic v South Yorkshire Police 2009

<sup>39</sup> Home Office Guidance on Attendance. December 2008

the return to full time duty, officers performing restricted duties would normally be expected to be capable of working full time. The restriction should be based predominantly upon the type of work an officer can perform rather than the hours worked.

The second part of the question relates to helping officers on restricted duties to leave the service. 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. Police officers are required to deploy 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.

#### **5.8 Should ill-health retirement pensions be amended? If so, how, bearing in mind future fiscal constraints?**

Guidance on managing ill-health has recently been updated and agreed by the PNB and ratified by the Police Minister. The PFEW believes that process and provisions currently in place for ill-health retirement, therefore, 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.

### **Pensions**

#### **5.9 Is it fair to the taxpayer that officers who retire should be able to be re-employed as a) staff or b) in non-territorial forces, while drawing their pension?**

The PFEW believes that the issue of fairness in this context principally applies with regard to whether or not it is fair to treat a retired police officer in a different way to any other member of the public. The PFEW believes that there should be open and transparent processes in place for the advertisement of police staff vacancies. A member of the public in receipt of an occupational or personal pension would not be prevented from applying for the staff role and there is no reason why the retired officer should be treated any differently. If, in those circumstances, retired police officers are successful in their application, this must surely be in the public interest so as not to lose the valuable skills and experience given the cost of training others to fill those roles.

Furthermore, the PFEW believes that the current arrangement is actually cost-neutral to the taxpayer. Once a police officer retires, he or she becomes an ordinary member of the public. A police officer will receive his or her pension whether or not they continued to work as a member of police staff. The staff role would have to be filled by another employee on the same salary if the retired officer was not performing it.

**5.10 If it is not fair, what changes do you think should be made to the existing system?**

This question is not relevant given the PFEW answer to question 5.9.

**5.11 How important is the use of retired officers in staff posts or non-territorial forces?**

This is not a question which the PFEW is in a position to comment on.

## Section Six: Pay machinery

### 6.1 How could officers' remuneration be determined in the future?

The PFEW would draw attention to the fact that the uniqueness of police employment in any pay arrangements is given official recognition in the European Union Council of Ministers' Charter on the Police. It states the police "are entitled to a fair remuneration, and special factors are to be taken into account, such as greater risks and responsibilities and more irregular working schedules." To this the PFEW would also add the restrictions on industrial action in the UK, which is not universal throughout Europe.

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.

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, fewer than two percent of local government employees were in politically restricted posts<sup>40</sup>. However, all police officers face such restrictions.

Also it is worth recalling that the Edmund-Davies Committee rejected any version of a pay review body on the grounds that for any system of pay determination to be effective, the goodwill and co-operation of the parties concerned would be required.

Even those representing local authorities argued that there was much to be gained by both sides from the close contact between them which pay negotiations ensured. It enabled the Official Side to develop a knowledge of police affairs which helped them to understand police problems and assisted them in other aspects of their dealings with the police. It also gave the staff associations an opportunity to hear the employers' point of view, and to put forward counter-arguments when necessary.

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<sup>40</sup> *Political restrictions on council employees*, Scottish Parliament Information Centre, 2001

The possible ramification for employer-employee relations in the police service of a change to a pay review body is highlighted by the post-2001 experience of the Prison Service Pay Review Body. In 2007 prison officers became the first review body group to take industrial action. Even though uniquely among review bodies, the prison service continues to have direct negotiations with staff associations about conditions of employment outside of the review body structure, notably wider pay and workforce reform, this did not prevent a breakdown in relations that year. Moreover, no major structural change has been achieved through the pay review body process. For workforces covered by pay review bodies, all significant changes have been realised using separate mechanisms.

The PFEW understands that, as part of the agreement to enter into a pay review body, Section 127 of the Criminal Justice and Prison Officers Act 1994 prohibiting officers taking strike action was repealed. This was then replaced by a 'no-strike' agreement with employers (the Joint Industrial Relations Procedural Agreement) that required 12 months written notice to withdraw from, before any strike action could be called. Such a change would be a fundamental transformation of the Office of Constable.

Since the inception of the PNB in 1980 indexation arrangements of one form or another existed until 2007. Initially police pay was linked to movements in the average earnings index (for all workers) but these arrangements were modified in 1984, when police pay was linked to the underlying index of average earnings. In 1994, following another Committee of Inquiry under Sir Patrick Sheehy, a new formula was introduced. This up-rated police pay in line with the median of movements in total pay settlements for non-manual employees in the private sector.

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

Despite the recent move away from indexation, the PFEW believes that, given all of the restrictions placed upon police officers, a mechanism for annual up-rating is the only fair and transparent method by which to determine police pay awards, and that the up-rating mechanism should link police pay to all employees' pay in the UK rather than prices. Whilst both the circumstances and policing itself have changed over the last 30 years, it is very important to note that the circumstances which first gave rise to the principle of indexation have in fact *not* changed in the intervening years. The arguments that underpin the principle of indexation relate to the conditions and restrictions placed on police officers, and these are as relevant today as they were 30 years ago.

## Police Federation of England and Wales

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

First, a 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 2: Ranking of police pay awards**

	1998	1999	2000	2001	2002	2003	2004	2005	2006
Police ranking	3 <sup>rd</sup>	2 <sup>nd</sup>	Tied last	Tied last	Last	5 <sup>th</sup>	Tied 3 <sup>rd</sup>	Tied last	Tied 1 <sup>st</sup>

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

**Table 3: Cumulative increases in basic pay 1998-2006**

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

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

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

### 6.2 How could police staff remuneration be determined in the future?

The PFEW makes no comment on the determination of police staff pay, other than that the current pay structures for staff and officers must remain separate. Police officers face different restrictions to members of police staff. For that reason, they should remain on a different pay structure.

### 6.3 How could conditions of service and related matters be determined in the future?

The current police negotiating machinery comprises of the Police Negotiating Board (PNB) and the Police Arbitration Tribunal (PAT). The PNB is both

rightly and crucially a UK-wide body. Whereas the Secretaries of State for the three respective home departments are obliged by statute to consider recommendations of the PNB and PAT, it is the case that they are not obliged to accept them. It is also the case that the Secretaries of State may direct the PNB to consider specific proposals relevant to its remit, and to reach agreement on the proposals within set time limits.

Notwithstanding these Secretary of State powers, together these two bodies provide police officers with the most suitable bargaining arrangements possible given their employment status as officers of the Crown rather than employees. The PNB provides a forum for negotiating proposals for change from both the Official and Staff Sides, and the PAT provides a mechanism designed to compensate for the statutory prohibition on police officers' right to take industrial action of any kind. The Official Side also includes representation from ACPO, providing chief constables with direct input into the negotiation of pay and conditions of service.

Both Sides, through the process of negotiation and compromise, reach consensual agreements. In addition, the Independent Chair and Secretariat provide a neutral, independent voice in the negotiation process which is uncommon in much collective bargaining. In order to provide the necessary level of protection to police officers given their employment status, agreements reached in PNB that are ratified by the Secretaries of State are transposed into Police Regulations and/or Secretary of State Determinations.

In addition, currently workforce modernisation is advanced through the Police Advisory Boards (PABs) of England and Wales, Scotland and Northern Ireland. 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.

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 any other matter affecting the police which the Home Secretary has referred to it (recent examples include a new Central Services Guide for all parties involved in officer secondment, new Police (Conduct) Regulations and Police (Performance) Regulations following on from the 2005 Taylor Report, new guidance on Attendance Management in 2008, and in 2008 setting out the details of how far chief officer decisions can be delegated.

Many of the same representatives from both the Official and Staff Sides of the PNB also sit on each of these boards, but in a co-operative forum to work through the detail of important matters which affect the nature of policing.

Key issues discussed at PAB level include:

- Fitness testing for police roles
- Workforce modernisation
- Collaboration between forces
- Delegation of functions by chief officers
- The production of new Police (Conduct) Regulations and Police (Performance) Regulations arising from the Taylor Report
- Maximising recruitment opportunities
- Substance misuse guidance

Only when agreement has been reached in the PABEW should negotiable issues of pay and conditions of service be remitted to the PNB. The PFEW supports the current structure of the PNB and the PABEW.

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. For example, 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.

### **6.4 What are the advantages and disadvantages of local, regional, and national pay determination?**

National pay determination helps to ensure that smaller forces do not suffer retention problems as officers are recruited by larger neighbouring forces which are able to offer higher rates of pay. This is crucial in ensuring a cohesive police service in England and Wales based on 43 individual forces.

It is clear that moving away from a national pay system would increase administrative costs and create problems in keeping control of the overall pay bill. This has been a major reason why such attempts have failed in the past. Indeed, the administrative and other costs of setting up local pay bargaining structures for the police would be exceptionally prohibitive at a time of public finance retrenchment in the police service. Furthermore, it would add to back room staff and run counter to current trends. The whole thrust of HMIC/Audit Commission report *Sustaining value for money in the police service* (July 2010) has been to reduce back room costs further still. HMIC identified scope to make savings of £137 million “by moving lower performing forces to current median spending”. It was felt finance and Personnel/HR alone could save an additional £31 million, equivalent to 23 percent of the total saving. The ratio of Personnel/HR alone to the total workforce is 1:69 across the whole of England and Wales. Moving salary negotiations to the local level as advocated by some would clearly impede such attempts to save on back room functions, and hinder efforts to direct resources to the frontline.

Regional pay determination would be extremely divisive in a national service such as the police. If the idea of high-cost/low-cost areas was applied at a sub-regional level as in a number of large private sector enterprises, such as

retail and banking, this would lead to even greater divisiveness within forces themselves, given that with only 43 forces in England and Wales they span such diverse areas economically. As with the other emergency services there is a greater commonality of role in terms of risk than in many public sector jobs. It should be noted the police already have an element of regional pay which covers the main divide between London, the south east, and elsewhere, but these are currently, and should continue to be, determined nationally.

As set out in Section Two, the nationally determined pay arrangements represent a major advantage to the police service in respect of collaboration, secondment and mutual aid as well as the transfer of officers. This advantage facilitates greater interoperability between forces, which has been identified as an important factor in responding to major incidents and emergencies.

Therefore, the PFEW does not believe that police pay should be determined regionally or locally, but nationally through the PNB.

**6.5 What evidence is there of different local pay ranges for police staff in similar posts?**

The PFEW makes no comment on local pay ranges for police staff.

## Annex A

**Table 4: Number of crimes per thousand population in 2009-10, and officers undertaking ordinary overtime in a week as a percentage of all officers in force, 2009**

<b>Force</b>	<b>Crime per thousand population 2009</b>	<b>Percent officers on ordinary overtime in a week, 2009</b>
Avon and Somerset	87	Not known
Bedfordshire	77	38
Cambridgeshire	85	48
Cheshire	75	28
Cleveland	98	30
Cumbria	62	26
Derbyshire	74	31
Devon and Cornwall	62	27
Dorset	72	42
Durham	75	30
Essex	67	41
Gloucestershire	76	11
Greater Manchester	110	44
Hampshire	86	33
Hertfordshire	71	48
Humberside	99	19
Kent	73	42
Lancashire	81	43
Leicestershire	89	57
Lincolnshire	72	42
City of London	not known	10
Merseyside	87	69
Metropolitan Police	112	55
Norfolk	58	17
Northamptonshire	75	48
Northumbria	62	24
North Yorkshire	91	24
Nottinghamshire	109	44
South Yorkshire	100	57
Staffordshire	80	46
Suffolk	66	34
Surrey	59	51
Sussex	70	24
Thames Valley	90	37
Warwickshire	71	19
West Mercia	65	40
West Midlands	87	36
West Yorkshire	100	52
Wiltshire	65	15
Dyfed-Powys	48	26
Gwent	88	35
North Wales	68	16
South Wales	95	29

Sources: *Crime in England and Wales, 2009*; *PNB Earnings and Hours Survey, 2009*

## Annex B

## Annual pay settlements in the public sector

The following table shows that the previous indexing arrangements (as operated between 1994 and 2006) did not benefit the federated ranks over and above other major public sector groups. The table compares annual increases in the basic pay of police officers with increases in the basic pay of other public sector workers over a number of years. The increases shown relate purely to annual up-rating, or revalorisation of pay points, and do not reflect increases stemming from any pay modernisation agreements which may have been agreed for these groups.

**Table 5: Annual settlements in basic pay in the public sector 1998-2006 (percent)**

Group	1998	1999	2000	2001	2002	2003	2004	2005	2006
Nurses	3.8 <sup>1</sup>	4.7	3.4	3.7	3.6	3.225 <sup>2</sup>	3.225 <sup>2</sup>	3.225 <sup>2</sup>	2.5
Hospital doctors	4.2 <sup>3</sup>	3.5	3.3	3.9	3.6	3.225	2.7	3.0	2.4
Teachers (E&W)	3.8 <sup>1</sup>	3.5	3.3	3.7	3.7	2.9	2.5	3.25 <sup>4</sup>	2.5
Police support staff	3.75	3.4	3.2	3.5	3.4	3.25	3.0	3.0	3.0
Fire-fighters	5.6	2.0	3.0	3.9	4.0	3.5	4.2	3.4	2.7
Police	4.0	3.6	3.0	3.5	3.0	3.0	3.0	3.0	3.0

## Notes:

<sup>1</sup> Staged: 2 percent April, 1.8 percent December

<sup>2</sup> Agenda for Change

<sup>3</sup> Staged: 2.35 percent April, 1.85 percent December

<sup>4</sup> Staged: 2.5 percent April, 0.75 percent September