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## **Review of Substance Misuse and Testing Regulations**

### **Background:**

Following an internal review in October 2009 ACPO submitted a paper to the Police Advisory Board Meeting requesting that the Substance Misuse and Testing Regulations be reviewed. At its meeting in October 2010 PABEW agreed to recommend widening the list of safety critical posts to include all officers with access to firearms, explosives, Taser (or their supervisors) and to police officer members of air and marine units. The list of substances to be tested for in a “with cause” test will also be extended by one named group of drugs on the basis of intelligence. Three “with-cause” tests may be carried out over a period of 3 months where there is compelling evidence of longer term drug use. It was also agreed that regulations should be amended to make it absolutely clear that an officer may not be recalled to duty for the purposes of a drugs test. Hair testing of police recruits prior to appointment as officers will also be permitted although hair testing will not be permitted for in-service testing of police officers.

### **Current Status:**

Draft regulations were circulated by the Home Office and were approved at the PABEW meeting on January 20<sup>th</sup> 2011. The Minister is now also considering the additional recommendations approved by PABEW including the extension of random testing to all officers. Once a decision has been reached amended draft regulations and guidance will be circulated to PABEW for consideration.

## **Reform of Police Disciplinary Arrangements**

### **Background:**

A working party (now a sub-committee of the PABEW) was formed in October 2005 in order to implement the findings of the Taylor Review. The resulting conduct regulations and guidance came into force on 1 December 2008 (HOC 25/2008 HCC 26/2008). The sub-committee continues to undertake some oversight of the procedures to ensure they are meeting their objectives.

Tom Winsor made the following recommendation in Part I of his report which was referred to the Discipline Sub-Committee by PABEW for consideration:

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## **Recommendation 54**

*The Police (Performance) Regulations 2008 should be amended to provide that if a police officer has had two or more adverse determinations made against him, on substantive (rather than procedural) grounds, in concluded UPP proceedings within the past 5 years, subsequent UPP proceedings should begin at Stage 3.*

## **Current Status:**

- Tom Winsor's Recommendation 54 was not supported by any member of the Sub-Committee. A recent consultation exercise with forces had indicated no problems arising in this area.
- UPPs for chief officers are still under discussion via the chief officers' sub-group.
- Draft Police (Performance and Conduct) (Amendment) Regulations and Police appeals Tribunals (Amendment Rules) are under discussion. They will address the impact of the introduction of PCCs together with issues raised in the recent consultation exercise. A final draft of the regulations is hoped to be presented to PABEW on 26<sup>th</sup> July 2011. A 3 month consultation period will then commence. The guidance on the regulations is also being updated.
- On the issue of holding misconduct hearings in public, the IPCC has decided to make no recommendation to this effect at this stage.

## **Terms and Conditions for Seconded Officers**

### **Background:**

The PABEW Secondment Working Party was tasked with producing a guidance manual to replace the Central Services Guide. There were many difficulties surrounding the legal aspects of secondment. In particular, whether the Chief Constable of the host force should accept responsibility for the actions of all seconded officers? Consensus was reached to amend the Police Act so that Direction and Control passes to the Chief Constable of the receiving force and the draft guidance was approved by PABEW in January 2009. The guidance on secondment is still before the Police Staff Council for comment.

PABEW is considering one recommendation from Part 1 of Tom Winsor's review in relation to secondment:

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## **Recommendation 40**

*The section on officer accommodation in the “Guide to conditions of service for police officers seconded to central services” should be revised. The presumption should be that officers are accommodated in property owned by the relevant organisation or wider police service. Only when no such property is available should private rental property be used and the cost of accommodation should be kept to a reasonable minimum, including an expectation of approximately 30 minutes’ travelling time to work. Officers should only be reimbursed for actual accommodation or purchase of a property in exceptional circumstances.*

## **Current Status:**

The Secondment working party met on Tuesday 21 June. There was not an objection in principle to the recommendation although PFEW pointed out that the existing wording in the latest version of the guidance was already permissive and that any accommodation costs should already be reasonable and approved by the receiving organisation before the start of the secondment. Draft wording is being considered which will ensure officers are housed in a suitable standard of self-contained accommodation. The guidance offers further safeguards that the welfare of the officer must be taken into account in agreeing secondment terms.

## **National Recruitment Standards**

### **Background:**

Following agreement at the PABEW meeting in January 2006 a working party was formed to review recruitment standards and make recommendations on procedure and practice relating to the recruitment process. The working party was re-constituted as a sub-committee of PABEW to monitor and review issues relating to recruitment standards over time.

### **Current Status:**

The following issues were discussed at the last meeting:

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SEARCH. The Interim SEARCH results were available for 2009-2010. There has been a 78% reduction in candidates from the previous year. 33% of candidates were women and 6.7% from ethnic minorities. It was agreed that the life of a SEARCH pass would continue to be a maximum of 24 months. Due to the small number of candidates the new suite of exercises will not be rolled out until April 2013.

Equality ACT. Guidance is being prepared to help forces interpret the provisions in the Equality Act which relate to positive action. It is felt that positive action does not fit well with mass recruitment in the police service but that it may be applicable to individual appointments at a more senior level.

Special Constables. A correlation has been found between performance in the assessment centre and performance in the role of a special. Further work is ongoing. BME candidates represented 10% of successful candidates but only 25.9% were women.

Regulation 10. PABEW agreed in January 2010 by majority decision to recommend that Regulation 10 be amended to permit chief officers to set pre-join criteria. PFEW objected to the proposal. A decision is still awaited from the Police Minister.

## **National Police Promotions Framework**

### **Background**

In April 2006 the Police Minister approved the trial of Work-Based Assessment for Promotion within seven forces. The Police Promotion Examinations Board opted in January 2008 for an extension of the trial followed by a phased roll-out of the scheme from 1 April 2009. The Minister deferred his decision to authorise rollout until improvements were made. PFEW and PSAEW later withdrew their support and the rollout did not occur. The original trial was closed and a new 2 year trial, to include 3 additional forces, began in April 2009. While the trial was underway the NPIA College of Police Leadership was tasked to undertake a review to find a holistic approach for the Police Service in the areas of leadership, qualifications, accreditation and promotion.

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## **Current Status:**

The holistic review was not completed by the NPIA but was subsumed into Peter Neyroud's review of Police Leadership and Training. The NPPF evaluation was considered by the PPEB at its meeting on 4 May 2011. The Board was minded to recommend rollout of the scheme to the Minister although PFEW objected strongly to this proposal. The Minister is now considering whether or not to approve the rollout of the scheme. PFEW wrote to him on 31 May 2011 asking that he delay his decision pending the outcome of the consultation on Peter Neyroud's Review of Leadership and Training and the publication of Winsor Part II.

## **Delegation of Functions**

### **Background:**

At the February 2008 PABEW meeting the Home Office put forward a proposal to amend legislation to make functions specifically requiring chief officer decision delegable to less senior police officers and police staff equivalents. Under existing interpretation of the law most but not all functions may already be delegated. A PABEW working party was set up to discuss the issues in more detail. PFEW raised concerns about the need for an appeals process and ongoing scrutiny of delegated decisions in individual forces. At the April 2008 PABEW the proposal to allow delegation to a minimum of Chief Inspector or staff equivalent was approved. Decisions which materially affect the lives of officers will be retained at ACPO equivalent or Chief Constable level. The working party was asked to come up with guidance on the definition of police staff equivalents. The guidance was approved by PABEW on 30<sup>th</sup> October 2008 subject to a review of its effectiveness after 12 months.

### **Current Status:**

No Update. Draft regulations and guidance were circulated in October 2010. The PFEW provided comments in November 2010 and amended regulations are awaited. It is hoped that the matter can then be concluded via correspondence.

## **PABEW Fitness Working Group**

### **Background**

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The National Recruitment Standards sub-committee endorsed the suggestion from the Fitness Working Group that external consultants research the physical requirements for officers in all specialist roles. The report was presented to PABEW on 22 January 2010 for approval of its recommendations. The new fitness standards were approved by the PABEW in April 2010. The Police Minister chose not to mandate the guidelines as he feels it is an operational policing matter lying within the remit of ACPO. PFEW wrote to the Minister expressing concern that the government was ignoring its responsibility to promote equality of opportunity. In his response the Minister stood by his initial decision. On 7 January 2011 RJW wrote to the Minister requesting more detail about his deliberations in reaching a decision not to mandate the tests. There is a possibility that the Minister has failed in his duty to eliminate inequality on the grounds of sex. If so it is possible a judicial review of the decision could be sought.

## **Current Status**

The Minister withdrew the decision contained within his letter of 25<sup>th</sup> November 2010 and is still reconsidering whether or not to mandate the standards. A recent finding against GMP for its continued use of the “shield run” has made the decision even more urgent. We wrote to the Minister again on 1 June 2011 reiterating the need for national direction. In the interests of circulating the standards as soon as possible ACPO will publish the standards directly to forces.

## **Biometric Vetting**

### **Background**

The PABEW recommended, at its meeting on 19 July 2007, that additional vetting checks should be made on applicants' suitability for joining the police service. Subsequently, ministers accepted the Board's recommendation. At the October 2008 PABEW meeting a technical working group was set up to support the drafting of relevant guidance. The PFEW supports the necessary changes in legislation but we have stated that any changes in procedure should apply to police staff as well as officers. Draft regulations were approved by the PFEW in March 2010. However, the progress of the technical working group stalled over whether it is legal to take DNA samples from potential recruits and cross-match them with the police national computer if the samples are not collected under PACE. The Information Commissioner has

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clarified this is acceptable provided the candidate is fully informed, preferably in writing. The Information Commissioner also stated the DNA sample should not be taken before a “firm” job offer is made. ACPO sought further clarification on this from the Information Commissioner as it could be impossible to put into practice.

## **Current Status**

The biometric vetting working party met on 25 May 2011. A revised statutory instrument was produced by the Home Office which gives chief officers discretion over whether or not to take samples from candidates for appointment. This was not the intention of the working party which felt it must be mandatory. The Home Office has been asked to clarify why this change was made. There was agreement at the working party that the same procedures should apply to police staff. Confusion remains over what the Information Commissioner means by a “firm” job offer and clarification is still being sought on this issue.

## **Business Interests**

### **Background**

Tom Winsor put forward 2 recommendations in Part I of his report in relation to Business Interests.

### ***Recommendation 14***

*The Police Advisory Board should establish and publish improved guidance as to the types of outside jobs and business interests which are likely to lead to the rejection of applications in this respect. This should be done after consultation with potentially affected parties or their representatives.*

### ***Recommendation 15***

*Regulation 7(5) of the Police Regulations 2003 should be amended to remove the Secretary of State from the appeals process.*

## **Current Status**

The first meeting of the Business Interests working party was held on 25 May 2011. All members were in agreement that improved guidance should be published. However,

# PABEW UPDATE



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there was no appetite to adhere to Tom Winsor's specific recommendation which implied a detailed list of roles should be included in the guidance. It was felt important that each situation should be considered on its merits. The working party has also asked the Home Office for clarification on whether or not the guidance will be statutory as this may have a bearing on the content. Amended draft guidance will be considered at the next meeting on 7<sup>th</sup> July 2011.

The Federation is reluctant to remove the right of appeal to the Home Secretary as some decisions by police authorities have been overturned on appeal in recent years. This matter is still under discussion by the working party.

**Date of next PABEW meeting – 26 July 2011**

**General Secretary**  
**29 June 2011**