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## **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.

### **Current Status:**

The following matters have been discussed since the last update:

- **Proposed amendment to the Performance and Conduct Regulations from Cleveland Police.** The sub-committee rejected the request for an amendment to Regulations to allow an external organisation to provide Human Resources support and guidance throughout the various stages of the Performance Procedures. Upon further discussion it emerged that only one isolated incident had arisen which had led to any difficulty with the existing procedures.
- **Police (Complaints and Misconduct) Regulations.** A stakeholder consultation exercise will shortly take place, the responses to which will be considered by the sub-committee and put before PABEW for approval in the usual way. It is envisaged the new Regulations will come into force in November 2012.
- **Police (Performance and Conduct) Amendment Regulations and Statutory Guidance.** Drafts are currently the subject of stakeholder consultation. The amendment Regulations and accompanying guidance will come into force in November 2012 following the usual prior approval by PABEW.
- **Interim amendment provisions for the MPS.** To enable the MPS to transfer to a PCC model in January 2012 interim amendment Regulations will be laid at the end of November 2011.
- **UPPs for Chief Officers.** The Home Office has issued an amended draft of regulations which addresses many of the concerns raised by the chief officer sub-group.

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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. The PABEW considered draft Regulations and Determinations at its meeting in January 2011. However, promulgation was delayed as the Minister also decided to consider the additional recommendations approved by PABEW including the extension of random routine testing to all officers.

### **Current Status:**

The Minister accepted the PABEW’s recommendation to extend the routine random testing regime to all officers. However, the draft Regulations and Determinations produced by the Home office did not reflect what was agreed by the working party or PABEW. They did not retain a clear separation of the requirements for “with cause” and “routine” testing. The Substance Misuse working party met on 3<sup>rd</sup> October to discuss the matter and the Home Office has agreed to revisit the drafting of the Regulations and Determinations to accurately reflect the agreement of PABEW. Amended regulations, Determinations and Protocols are awaited.

## **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

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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.

**Current Status:**

No update. The guidance on secondment remains before the Police Staff Council.

**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.

**Current Status:**

The following topics have been discussed since the last update.

**Pre-join:** the NPIA guidance was discussed and the concept of common standards was broadly supported. However, concern was expressed that there has still not been an adequate EIA produced by the Central Authority. Further work is now being undertaken.

**Equality Act:** the latest draft of the guidance on Positive Action was endorsed by the sub-committee on 10 October 2011.

**Specials:** Members supported the request from the NPIA that the sub-committee should assume responsibility for oversight of recruitment standards for Specials.

**Sifting of applicants:** The NPIA has been working on a number of methods of screening bulk application numbers, including a statement taking exercise, online test administration and psychometric testing.

**BME numbers.** The number of BME candidates going through the SEARCH process fell significantly during 2009-10. Further analysis has shown this is a result of very little recruitment occurring to the MPS.

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## **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. 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 2.

### **Current Status:**

We have heard verbally from the Minister that he has chosen not to roll out the Scheme. However, we await formal confirmation.

## **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. 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.

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The working party may need to be reconvened to discuss the impact of other recent changes agreed by PABEW.

## **PABEW Fitness Working Group**

### **Background**

External consultants were appointed by PABEW to 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 standards 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 he 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. The Minister then withdrew his decision of 25<sup>th</sup> November and is reconsidering the matter.

PABEW submitted a response to Tom Winsor's Call for Evidence for part 2 of his review, reflecting the PABEW decision in April 2010 not to pursue routine testing for all officers.

### **Current Status**

A response on mandating the standards is still awaited. The standards have been published as PABEW recommended standards on the NPIA website. ACPO is currently considering recommending the standards to all forces in England and Wales. ACPO leads, representing 12 of the 13 roles affected, have approved the guidance (public order being the standard still in question). PABEW agreed ACPO should proceed in publishing fitness standards in relation to the 12 agreed areas but also urged that the public order standards be published now with a caveat that they may be further reviewed.

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## **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 provided similar provisions are introduced for police staff.

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 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**

A solution has been reached with the Information Commissioner. Taking of samples must not be done until a conditional offer has been made to the candidate. Changes to Regulations have been agreed in principle but amended Regulations are still awaited from the Home Office. Brief guidance has been prepared by the NPIA. The matter is now awaiting the resolution of a number of technical difficulties associated with the database searches before being presented to PABEW for final approval.

**Date of next PABEW meeting – 19 January 2012**

**Ian Rennie**

**31 October 2011**