

WINSOR INDEPENDENT REVIEW OF POLICE OFFICERS' AND STAFF REMUNERATION AND CONDITIONS: PART 2: INDEPENDENT ADVICE TO THE POLICE FEDERATION ON JOB EVALUATION AND JOB EVALUATED PAY STRUCTURES

Introduction

I am asked to provide independent advice to the Police Federation on the possible recommendation for job evaluation for police officer roles. The specific questions put to me are for my 'thoughts on

- the appropriateness of job evaluation for police officers
- whether a proprietary scheme could capture the unique characteristics of police officers
- what it would mean to have to adopt a bespoke scheme
- the potential equal pay implications.'

I have included some comments on the impact on pay structures of having a job evaluated foundation, as I believe this pertinent to the issues under consideration by the Independent Review group.

Credentials

I have worked in the field of job evaluation for almost 30 years and as an independent adviser on pay and reward since 1995. In this capacity I have been involved in all aspects of design, implementation and review of job evaluation systems and associated pay structures in large and small organisations in both private and public sectors.

For example, I was one of two independent advisers to the joint technical group commissioned by negotiators to develop and oversee implementation of a job evaluation scheme to underpin pay modernisation in the health service (known as NHS Agenda for Change). With a lawyer colleague, in 2006, I undertook a review on behalf of the Police Staff Council (PSC) of its '13 Factor' Job Evaluation Scheme, to ensure that it met with equality requirements and was appropriate to all police staff roles.

I have always had a specific interest in the equality aspects of job evaluation, grading and pay. I was a member of the team which developed and subsequently updated the Equal Pay Review Model (EPRM) currently on the Equality and Human Rights Commission website, including its checklists on the design and implementation of job evaluation. I have carried out a number of equal pay audits and equality impact assessments using the EPRM.

Q1. Is Job Evaluation Appropriate for Police Officers?

1.1 Job evaluation is the generic term for a range of systems designed to compare jobs in the basis of their demands, usually as the basis for determining relative pay within an organisation. Most job evaluation systems involve analysing information about jobs under demand headings, for example, knowledge and skills, responsibilities or accountabilities and effort, required for the job. Predetermined points are allocated to the various levels of demand, incorporating numerical weighting according to their relative importance to the organisation. Following evaluation, jobs are usually grouped into grades or bands according to their total points score, with each group or grade

then paid on a common pay scale and with uniform terms and conditions of employment regardless of the actual number of points scored within the designated grade rangeⁱ.

1.2 On the basis of personal experience of evaluating, or being involved in the evaluation of, a very wide range of jobs, including, for instance, those of:

- Ambulance paramedics and technicians (as part of the NHS Agenda for Change JE exercise);
- Firefighters (in the context of equal pay arguments submitted by fire control officers);
- Doctors and dentists (as part of NHS Agenda for Change, before they were excluded from the scope of the exercise at the request of the relevant unions);
- Academic roles in higher education (in the context of pay reviews carried out by individual HE institutions as part of a nationally agreed Pay Modernisation programme);
- Social workers, environmental health officers and other front line roles in the local government sector (as part of ongoing Single Status reviews by local authorities);
- Police Community Support Officers (in police forces applying the PSC 13 factor JES, and some other schemes, to their staff roles)

I am satisfied that it is *technically feasible to job evaluate the range of police officer ranks and roles*.

1.3 I am also aware that the roles of police officers have been subject to job evaluation in both New Zealand and Australia, in the former case under a scheme designed specifically for themⁱⁱ, in the latter case under a system intended to be appropriate for all public sector employeesⁱⁱⁱ. This confirms my view that it is technically feasible to evaluate police officer roles.

1.4 However, that is not quite the same as saying that job evaluation is 'appropriate' for the roles of police officers in England and Wales. This is a wider question and raises some additional issues for consideration, for example, in relation to working patterns and hours, unique features of police officer roles and flexibility between sets of police officer tasks. Some of these relate to the pay structure emanating from a job evaluation exercise, others to the nature of the scheme.

1.5 **Working Patterns.** It is technically extremely difficult, if not impossible, to treat shift patterns and other unsocial hours working as a demand factor in a job evaluation system. This is because such a factor would have differential impact in different circumstances – the same working pattern, for instance, would take some roles into a higher grade and thus pay, but not other roles, depending on the scoring system associated with the scheme and the positioning of the grade boundaries. Partly for this reason, and partly on account of equal pay legislation (see below), a job evaluated basic grading and pay system usually excludes remuneration for shift patterns and other forms of unsocial hours working, which, where appropriate, is then separately remunerated, for example, through shift or unsocial hours payments reflecting the arduousness of the working time aspects of the job.

1.6 For these reasons, as a result of NHS Agenda for Change, ambulance paramedics and technicians moved from a pay system incorporating shift payments into basic pay (introduced in the 1980s, like that of police officers and prison officers) to one in which the job is evaluated and graded, with shift allowances being made as percentage payments on top of basic pay^{iv}.

1.7 This issue is likely to be particularly acute if any job evaluation system is to cover police staff as well as officer roles, as police staff are currently evaluated on a range of JE schemes, none of which

includes a factor for unsocial hours working and most of whom are currently paid (nationally agreed) shift and other allowances, depending on their working patterns.

1.8 So, job evaluation is *only likely to be appropriate to police officers in England and Wales if it is agreed that shift patterns and other forms of unsocial hours working should be separately remunerated, through a shift allowance, overtime, standby and on call arrangements, as necessary.*

1.9 Working Hours. There is no problem in evaluating jobs normally carried out by employees working part-time as long as care is taken to evaluate the role as though it were full time, for example, by treating physical effort for all of the part-time hours as relating to 100% of the job.

1.10 Issues in relation to pay arise where those covered by a job evaluation scheme have different normal (full-time) working hours, as with police officers and staff. This would either require a change to common normal working hours (the approach adopted in the health service as part of Agenda for Change), or separate pay scales based on a common hourly rate of pay determined by job evaluation, which might be a more sensible approach in the police service.

1.11 Unique Features of Police Roles. Police officers can be recalled at any time to duty or transferred to other work locations, causing intrusion into family life. They are required to maintain law and order, even when off duty (and it is a disciplinary offence and potential criminal offence not to do so). There are restrictions on political, business and financial activities; officers are subject to security vetting and to police discipline on and off duty and do not have employment rights in the same way as employees in other sectors. In relation to the nature of their work, they have unique powers of arrest and control. They are also subject to risks not found in most other jobs. Together these features are commonly called 'the X factor', from terminology used in relation to the pay of members of the armed forces^v.

1.12 Many of the potential 'X factor' components relate to features which are more akin to potential working hours demands than to inherent job demands. The relevant features are common to all police officers and are not associated with specific police officer roles, so could be difficult to evaluate using a conventional system. On the other hand, the potential 'X factor' components do constitute a distinction from police staff jobs. And at least some of them appear to be encompassed within one of the factors on the New Zealand Police Officer system. The options, therefore, are either to have an 'X factor' job evaluation factor, or, as with the Armed Forces, to remunerate X factor features of police roles through a separate allowance paid to all officers.

1.13 Flexibility between Sets of Tasks. It would obviously be inappropriate and would restrict current levels of flexibility if it were seen as necessary to evaluate separately all current potential combinations of different police tasks. At the extreme this could result in different grading and pay for different but commonly occurring combinations of tasks.

1.14 This can be avoided by *evaluating relatively generic task information using a job evaluation scheme designed to accommodate this.* Under the Agenda for Change JES^{vi}, for instance, separate evaluations were undertaken for jobs at each level of hospital nursing (Nurse, Specialist Nurse, Nurse Manager and so on), but these were each intended to cover the many small variations resulting from different medical specialities and combinations of nursing tasks. Individual roles were 'matched' to the generic evaluations, thus reducing greatly the workload involved in implementing

job evaluation across the health service. Only clearly distinct specialist nursing roles were evaluated separately, for example, theatre nurse jobs. There are similarly generic systems used in the private sector, for instance, in banking and some other financial institutions. The police equivalent of this would be to evaluate a generic role for each current rank, with separate evaluations only for those specialist roles with distinct features, for example, firearms.

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

1.16 Although not specifically asked, I think it appropriate to also consider how a job evaluation scheme might link to the current Policing Professional Framework (PPF). Many organisations operate distinct job evaluation and competence or performance frameworks, with no link between the two. This is feasible and is usually consistent with equality legislation requirements so is one option for the police service.

1.17 There have been attempts to directly link a competence framework to a job evaluation or vice versa, but few have been successful, generally because the two frameworks have different origins and cannot be made compatible. More commonly, job evaluation schemes have been designed to include greater emphasis on competence features of roles – the Higher Education Role Analysis (HERA) system^{vii} is an example of this approach.

1.18 Having reviewed the PPF competences, I am of the view that it would be possible, if required by stakeholders, to develop a job evaluation factor framework which directly related to the PPF, for example, by using at least some of the personal qualities (e.g. Decision Making, Leadership, Working with Others) as well as professional skills, and their levels, as the basis for job evaluation factors, although additional job evaluation factors might be needed to reflect the full range of police officer job demands.

Q2. Could a proprietary scheme measure the unique features of police officer roles?

2.1 I have experience of working with and commenting on a wide range of proprietary job evaluation schemes, including the Hay Guide Chart profile method of evaluation and the proprietary systems of, among others, the PwC, Towers Perrin, Inbucon, PE and Pilat consultancies.

2.2 In order to comply with equality legislation, a job evaluation scheme should measure all significant features of all the jobs it is intended to cover. In order for it and the pay structure based on it to be acceptable to the relevant workforce, a JE scheme also needs to be acknowledged by all stakeholders to be capable of measuring all relevant job features.

2.3 I am therefore doubtful as to whether any currently available proprietary job evaluation system, or indeed any of the recently developed public sector schemes (such as the NHS AfC JES, the Local Government Services NJC JES, HERA in higher education, or even the PSC 13 factor JES), would be

accepted without modification as measuring all the unique features of police officer roles, even if X factor features were remunerated through a separate allowance, as described above.

2.4 The purveyors of proprietary schemes might suggest that the unique features of police officer roles would be captured through the development of local conventions and/or guidance developed for the purpose. This would need to be convincingly demonstrated.

2.5 A number of consultancies, including Towers Perrin and Pilat of those listed above, have fully computerised web-based job evaluation systems, some of which can be tailored to a greater or lesser extent to suit the needs of user organisations. While it should be more efficient to adopt a fully or semi- computerised job evaluation system, there are risks in the system appearing remote to police officers. Otherwise the same comments apply as for manual versions of proprietary job evaluation systems.

Q3. What would it involve to adopt a bespoke scheme?

3.1 A 'bespoke' job evaluation scheme could either be one developed from scratch or an existing scheme modified to ensure coverage of all significant features of police officer roles.

3.2 Designing a draft job evaluation system from scratch is not unduly time consuming. Producing a first draft of the NHS Agenda for Change scheme, if I remember correctly, took a small joint group 2 two day sessions, using their combined knowledge of health service jobs and job evaluation techniques. A draft scheme for a narrower group of jobs might take less time than this.

3.3 What takes the time and resource in developing a JE system from scratch is testing, amending and re-testing the first draft to achieve a scheme fit for piloting on a benchmark sample of jobs. For the AfC scheme, this stage, which included two re-testing rounds, took more than a year and it would be difficult to compress into less time, because of the sequential nature of the process.

3.4 Starting from an initial job evaluation framework would avoid the initial drafting step, but the scheme would still require testing, modifying and re-testing before any wider application. This stage might be a little shorter than when starting from scratch, but there would need to be at least one round of amendment and re-testing taking at minimum several months, realistically.

3.5 The design and/or development stages can be undertaken by nominees of the parties, perhaps with some external facilitation, as with Agenda for Change, or they can be carried out on behalf of the parties by *external consultants*. The former has the advantages of 'buy-in' from the parties and usually of being cheaper than use of external consultants, but the potential disadvantage of requiring considerable commitment from all sides. The latter requires somewhat less internal time and resource, but is generally more costly and runs the risk of being less acceptable to the parties at the end of the day. Various half-way-house situations are possible, for instance, with external consultants working closely with representatives of the parties. However, experience of this approach suggests that the roles of the various parties would need to be clearly established at the outset of the exercise.

3.6 Whether or not external consultants are used for some or all aspects of the design of the scheme, the practical steps necessary for either developing a scheme from scratch or modifying an existing framework include:

- In-depth training in job evaluation techniques and in equality issues and the avoidance of bias for all those who are likely to be actively involved in the development and testing of the scheme;
- Awareness training/ briefing for those who may contribute to the development of the system through, for example, providing job information or commenting on draft versions of the system;
- Collection of job information, usually by means of a detailed questionnaire, from a sufficiently large sample of officers to allow for development and testing of the scheme. This is the most time consuming part of any JE exercise.
- Nurturing of a problem solving, rather than traditional negotiating, approach to the exercise. The significance of this point should not be underestimated. While the principle of introducing a job evaluation system, including who is to be covered by it and the involvement of external assistance, is clearly subject to negotiation, the details of the scheme cannot be the subject of traditional negotiation and must be arrived at by consensus, that is, through problem solving techniques.

Q4. What are the potential equal pay implications?

4.1 I am not a qualified lawyer, but I do have considerable experience of dealing with the equality aspects of job evaluation, grading and pay structures. The apparently simple principle underlying equal pay legislation^{viii} is that there should be equal pay as between men and women for equal work – defined as:

- ‘like work’ (the same or very similar work);
- ‘work rated as equivalent’ (under a fair and non-discriminatory job evaluation scheme);
- ‘work of equal value’ (as determined by an Employment Tribunal usually with the assistance of a report from a member of the ACAS Panel of Independent Experts).

4.2 EHRC advice^{ix}, which is widely acknowledged, is that job evaluation is the best available mechanism for determining who is doing equal work. Once implemented, a job evaluation scheme also provides a first line defence to equal pay claims – as long as the scheme is fair and non-discriminatory and has been implemented in a fair and non-discriminatory manner. The key feature of design is that the scheme should measure all significant features of all jobs covered by it.

4.3 Key features of fair and non-discriminatory implementation include:

- Ensuring all distinct jobs are covered by an evaluation, either through being evaluated or by being matched on an analytical basis to an evaluated job;
- High quality job information as the basis for evaluation and matching;
- Involvement of jobholders through completion of job questionnaires, or signing off job descriptions for matching;
- Good record keeping providing audit trails for all outcomes.

Any job evaluation scheme for police officer roles would obviously need to comply with recommendations in all of the above respects.

4.4 There are also implications of equal pay legislation in terms of ‘pay’. Equal pay legislation applies to each contractual term and the Code of Practice on Equal Pay^x states that pay systems should be ‘transparent’. A pay structure where individual contractual terms are separately remunerated (basic

pay for the job; separate working pattern allowances for shift/ unsocial hours working; London allowances and any other geographical market payments; market supplements for hard to recruit posts; and so on) can more easily be seen to be fair and non-discriminatory.

4.5 While historic pay structures are often not 'transparent' in the sense described above, they are relatively rarely challenged because it is difficult for employees to work out which jobs constitute 'equal work' as the basis for an equal pay claim. Once jobs are evaluated, then identification of equal work is much easier and experience shows that this can result in challenge to more opaque aspects of the structure. The thousands of 'work rated as equivalent' claims in relation to bonus payments in the local government sector are evidence of this. Thus transparency becomes a more crucial feature of pay structures in practice following job evaluation than before it. This is as likely to apply in the police service as elsewhere.

4.6 There are a number of potential 'material factor' defences to equal pay claims. It has been considered that the different employment status of police officers and police staff might provide such a defence to claims between, for example, female staff and male officers, although this point has not been tested in law. This potential defence might be somewhat weaker if both officers and staff were covered by the same job evaluation scheme, with the common terms and conditions of employment implicit in an evaluated pay structure. On the other hand, a common job evaluation system should reduce the scope for equal pay claims – as long as the scheme was implemented in a fair and non-discriminatory manner and once pay and other terms and conditions had been brought into line. Legal advice would be necessary on this area.

4.7 A related issue is whether a job evaluation scheme, for police officers or both officers and staff, should be mandatory implying national pay scales and terms and conditions (as in NHS Agenda for Change) or recommended but not obligatory (as with the PSC 13 factor JES and the Local Government Services NJC JES). And if it were recommended but not mandatory, would the job evaluation scheme be a mechanism for determining local grading and position on a nationally agreed spine with other terms and conditions subject to national agreement (as with the PSC 13 Factor JES) or would it be allowed to precipitate local renegotiation of other terms and conditions (as with the Local Government Services NJC Single Status Agreement)?

4.8 Having been actively involved in all 3 of the exercises referred to in the previous paragraph, my strong preference, if it is agreed that police officer roles should be subject to job evaluation, would be for a nationally agreed mandatory system along the lines of NHS Agenda for Change, for the following reasons:

- Lower overall costs and less disruption than with multiple evaluations of very similar jobs in different Forces;
- Provides a common basis for grading for jobs subject to internal or external re-structuring and related developments such as shared services;
- Facilitates mobility for individuals between Forces (because grading, pay and other terms and conditions remain common and nationally agreed);
- Facilitates career development within and between Forces (because officers can see what moves would enhance their career prospects);
- Helps ensure equal pay for work of equal value within and between Forces.

4.9 In order to ensure that the design and implementation of any job evaluation system and the grading and pay structures based on it do comply with equality legislation generally and equal pay provisions specifically, it would be necessary to carry out an Equality Impact Assessment on the proposed package as the various stages of the exercise are carried out and before implementation. Detailed instructions for this are provided on the EHRC website^{xi}.

4.10 The purpose of any equality impact assessment is to ensure that proposals for change represent a move towards equal pay or other equality goals and to identify what further actions are needed to reach the relevant goals. Crucially, if an equality impact assessment reveals disparate impact in relation to a 'protected characteristic' (gender, ethnicity, age and so on), then either the proposed change must be objectively justified without reference to the characteristic in question or the proposal should be changed to eliminate the disparate impact.

Summary

Q1. Is job evaluation appropriate to the roles of police officers?

In my view, it is *technically feasible* to evaluate the ranks and roles of police officers. It would only be *appropriate* in practice to do so if the scheme used was *sufficiently generic to allow for flexibility* between commonly occurring tasks, for example, on a rank basis, and individual roles could be matched or assimilated to the generic evaluations, thus also reducing substantially the workload in implementing job evaluation.

Especially if the roles of police staff as well as officers are to be covered by the same job evaluation scheme, then, in developing a job evaluated pay structure, it would also be necessary to take into account:

- The different systems currently in operation for remunerating *shift and unsocial hours working* - probably by moving to a system of separate working pattern payments;
- The different *normal basic hours* - either by moving to uniform normal working hours or by having different pay scales based on common hourly rates.
- The unique features of being a police officer, as identified above – either through a JE factor or possibly through a separate '*X factor*' allowance.

Q2. Could a proprietary scheme measure the unique features of police officer roles?

I am doubtful as to whether any currently available proprietary job evaluation system, either computerised or manual, without modification, would both measure all significant features of police officer roles, as required by equality legislation, and, just as importantly, be seen by those to be covered by the scheme to do so.

Q3. What would it involve to adopt a bespoke scheme?

Whether a bespoke scheme is developed from scratch or through modification of an existing job evaluation framework, the major resource requirement is the time taken for testing, modifying and re-testing the draft scheme. This requires training of participants and collection of job information, usually by means of a detailed questionnaire from a sufficiently large sample of officers to allow for adequate testing.

It would be necessary to decide whether external consultants should undertake some or all of the design and development steps.

Q4. What are the potential equal pay implications?

Job evaluation is a recommended mechanism for determining equal work and thus delivering equal pay for work of equal value. It also provides a defence to equal pay claims – as long as the scheme used is fair and non-discriminatory and implemented in a fair and non-discriminatory manner. This has implications for the way in which job evaluation would need to be applied to police officer roles.

More broadly, a job evaluated pay structure in the context of equal pay legislation and transparency requirements implies an evaluated basic grading and pay structure with additional systems of payment for features such as shift/unsocial hours working; London allowances and any other geographical market supplements.

There are also issues for consideration and legal advice in relation to the equal pay implications of a scheme covering both police officers and staff, and whether a scheme should be mandatory or recommended.

It would be necessary to carry out an *Equality Impact Assessment* on the proposed package as the various stages of the exercise are carried out and before implementation. Crucially, if an equality impact assessment reveals disparate impact in relation to a 'protected characteristic' (gender, ethnicity, age and so on), then either the proposed change must be objectively justified without reference to the characteristic in question or the proposal should be changed to eliminate the disparate impact.

Overall then, it is technically feasible to develop a job evaluation scheme for police roles, and a scheme could accommodate a number of features of police work, for example, generic roles probably commensurate with current ranks for the vast majority of officer roles, the Policing Professional Framework (PPF) and the unique 'X factor' aspects of officer work. It could provide the foundation for a more transparent pay system than currently exists and thus ensure that the new structure is compliant with equality legislation. However, in practice there are a number of cautions:-

- Even adapting an existing job evaluation system to ensure that it measures all agreed features of police officer roles would be a significant effort requiring substantial investment of time and expenditure to develop and implement in an acceptable manner;
- The use of job evaluation techniques and the implications for pay of a job evaluated structure pose substantial cultural changes for all police service stakeholders, which should not be underestimated;
- To comply with equality legislation, there would need to be equality impact assessments for each major stage of the exercise to ensure that the proposed changes represented moves towards equality and that any disparate impact could be objectively justified;
- If the proposed job evaluated system were to cover police staff as well as officers, as logic dictates that it should, it would necessitate harmonisation of terms and conditions which apply to both groups, in order to comply with equal pay legislation. The comparative exercise required for this would, I believe, show that police officers are not as well paid relative to other public sector groups as they are commonly believed to be (on account of

their longer hours and the historic incorporation of remuneration for shift and unsocial hours working (into basic pay).

In conclusion, in my opinion, a job evaluated pay structure is feasible but would involve a substantial financial investment, first in terms of costs of development and possibly computerisation of the underpinning job evaluation scheme, although the latter could substantially reduce the implementation costs, but secondly in relation to the introduction of a different type of pay structure to that which currently prevails. This would especially be the case if the new structure were to cover staff as well as officer roles.

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REFERENCES:

ⁱ For further detail, see standard textbooks on job evaluation, for example: Michael Armstrong, Ann Cummins, Sue Hastings, Willie Wood: *Job Evaluation, A Guide to Achieving Equal Pay*: Kogan Page, 2003

ⁱⁱ <http://smtp.mcbridehr.co.nz/survey/MHRRemPapers/Police%20CaseStudy.pdf>

ⁱⁱⁱ http://www.ocpe.nt.gov.au/_data/assets/pdf_file/0019/33805/JES_info_book.pdf

^{iv} NHS Staff Council: *NHS terms and conditions of service handbook*: Amendment number 24 (Pay Circular (AforC) 2/2011: section 2 and Annex E [available on NHS Employers website: www.nhsemployers.org]

^v *Armed Forces' Pay Review Body: Thirty Seventh Report 2008*: Cm7315, February 2008@ section 4 – contains report of a review of the Armed Forces' X factor payment, with a history of its development.

^{vi} NHS Staff Council: *NHS Job evaluation handbook*: 3rd edition, February 2010 [available on NHS Employers website: www.nhsemployers.org]

^{vii} <http://www.hera.ac.uk/gfx/media/home/abouthera/thehistoryofhera.pdf>

^{viii} Originally set out in the Equal Pay Act, 1970, as amended by the Equal Value Amendment regulations of 1983; now incorporated as chapter 4 of the *Equality Act, 2010*, Equality of Terms.

^{ix} EHRC: *Equal Pay Audit Toolkit: section 2.1, Job Evaluation Check* [available on EHRC website: www.equalityhumanrights.com]

^x EHRC: *Equality Act 2010 Codes of Practice: Equal Pay*, Statutory Code of Practice, 2011: para. 102.

^{xi} <http://www.equalityhumanrights.com/advice-and-guidance/guidance-for-employers/tools-equal-pay/equality-impact-assessments/>