

JCC 29 JUNE 2011 – PNB BRIEF

LAST JOINT PNB MEETING: 14 April 2011
NEXT JOINT PNB MEETING: 26 July 2011

PNB FULL BOARD

Regulations and Determinations

Regulations

- SOCA- reckonable service (PNB 09/2 & HOC 5/2009) – Staff Side provided comments on draft revised regulations produced by the Home Office. These were sent on 19 January 2010. At the last PNB meeting it was noted that the Home Office were still reviewing the draft in light of comments received.
- Housing emoluments for police officers who rejoin the police service following a medical retirement (PNB 08/07 & HOC 22/2008) – Staff Side provided comments on draft revised regulations produced by the Home Office. These were sent on 19 January 2010. At the last PNB meeting it was noted that the Home Office were still reviewing the draft in light of comments received.
- Maternity leave – reckonability of service for pay and leave purposes (PNB 10/14 and HOC 2/2011) – Draft amendment regulations have now been received from the Home Office and Staff Side is in the process of providing comments.

Determinations

- Temporary promotion and temporary salary (PNB 08/4 & HOC 18/2008) and Pay on promotion (PNB 08/3 & HOC 15/2008) - Staff Side provided comments on draft determinations to put these two circulars into effect in July 2009 and a response from the Home Office was received on 7 December 2009. Staff Side sent a further letter to the HO on 15 December 2009 setting out significant concerns regarding the qualification period for officers who work part time to receive temporary salary as set out in the original PNB agreement 08/4. Staff Side suggested that PNB 08/4 should be amended so that officers who work part time should qualify when they have worked 10 complete days at their normal working hours, not 80 complete hours.

Agreement has now been reached on an amendment to PNB 08/4 and PNB circular 11/3 has been issued. A Home Office circular is now awaited to ratify this circular along with an amended determination so that the two agreements PNB 08/4 and 08/3 can be put into effect.

- Adoption leave - Staff Side has previously provided comments on a draft determination to implement in full the provisions of PNB Circular 06/5 and Home Office Circular 1/2007. A further draft determination has now been received from the Home Office and Staff Side is in the process of providing comments.
- KIT days (PNB 10/15 and HOC 1/2011) – A draft determination has now been received from the Home office and Staff Side is in the process of providing comments.

Independent Review of Pay and Conditions of Service

Part 1

The first report of the Winsor review was published on 8 March 2011. It recommends wide-ranging changes to the pay and conditions of officers, including shift pay, ending the role of JBBs to agree VSAs, reductions in overtime and rest day rates, changes to public holiday provisions, amending mutual aid arrangements, the removal of CRTP and SPP, an on-call allowance of £15, increased maternity pay and changes to A19.

The PNB agreed to establish a working party to discuss the Winsor report in advance of the next PNB meeting on 26 July 2011. The meeting dates for the working party are:

6 April 2011
 25 May 2011
 2 June 2011
 8 June 2011
 16 June 2011
 20 June 2011
 6 July 2011
 14 July 2011
 19 July 2011

Part 2

Tom Winsor has now issued a call for evidence for part two of his review. The deadline for responses is 12 September 2011.

The review is being led by Tom Winsor supported by professional advice from former Chief Constable Sir Edward Crew and a labour market economist Professor Richard Disney. Tom Winsor has a wide remit to consider all aspects of police pay and conditions. The review will report to the Home Secretary in two parts, the first on short term matters and the second on matters of longer-term reform, which is expected in June 2011.

Pay and earnings census

At the last PNB meeting, Staff Side agreed to fund half the cost of the survey in 2011, which would cover the final year of the three-year pay deal. However, the Official Side was not in a position to formally commit to funding half the survey at that stage and asked the OME to conduct a tendering exercise to make every effort to keep costs down. Subject to the outcome of the tendering exercise, the Official Side would make a final decision on funding the survey this year. The Sides agreed to discuss in due course the frequency of the census in future years.

South East regional allowance

No change since the last meeting. Agreement has now been reached and PNB Circular 11/1 issued. However, the circular was agreed by the Official Side on a majority basis and we have yet to hear whether or not the Home Office will be ratifying the agreement.

This agreement gives forces currently paying the South East allowance flexibility to pay up to £3,000 and £2,000 respectively (an increase of £1,000) with effect from 1 April 2011. The criteria for payment will be based on local recruitment and retention considerations. The agreement protects payments currently made to officers in receipt of the South East allowance and includes two 'no detriment' provisions concerning officers in receipt of a half rate housing allowance and secondly, in the situation where officers in receipt of rent or housing allowance are sharing accommodation. The no detriment provisions will only apply where the higher allowance is being paid ie in a geographical location, a BCU etc.

Background: An Official Side letter was received on 22 October 2010 to confirm that the OS had agreed, on a majority basis, to the introduction of flexibility for forces making the South

East allowance payment. The letter acknowledged that Staff Side had agreed to withdraw the London allowance element of their original claim and that the OS had agreed to address the rent and housing allowance issues raised by Staff Side. The OS proposed an implementation date of 1 September 2011. The OS also pointed out that it might be necessary to return to this issue once the outcome of the Winsor review was known. At the PNB meeting on 28 October 2010, in light of Staff Side comments, the Official Side agreed to an implementation date of 1 April 2011. Staff Side provided comments on a draft PNB circular in November 2010 and a response from the Official Side was received in January 2011.

Temporary promotion – reckoning of service

No change since last meeting. This item relates to the issue of reckoning of service on temporary promotion in both the higher and the substantive rank. Staff Side wrote to the Official Side on 6 November 2008 setting out Staff Side's reasoning and including information on a County Court judgement (Gill v CC Merseyside) that concurs with Staff Side's view that regulation 24(2) provides for the simultaneous reckoning of service.

Staff Side's position has been further strengthened by the County Court judgement in the case of R M Crorie v (1) The Secretary of State for the Home Department and (2) National Policing Improvement Agency made on 9 October 2009. His Honour Judge Derek Halbert ruled that the correct interpretation of regulations would mean that *"an officer is given credit at any given pay scale for any time he or she has spent at that level or higher."*

The Official Side wrote to the Staff Side on 15 January 2010 and proposed that if permanent promotion occurred within five years of a previous temporary promotion then the temporary promotion service would count towards service in that rank. The agreement would take effect from 1 April 2010 going forward and therefore would not apply retrospectively. At the PNB meeting in January Staff Side made it clear that any agreement would need to apply retrospectively and that any further periods of temporary promotion should also take into account any previous periods of temporary promotion. The Official Side wrote again on 4 March and Staff Side provided comments on a draft PNB circular on 26 May 2010 on the following basis:

- Any permanent or temporary promotion occurring on or after 1 September 2010 will take account of all previous periods of temporary promotion, where a period of temporary promotion has been worked within the previous five year period and that these periods will count towards service in the higher rank;
- Any agreement reached at this time must acknowledge that Regulation 24(2) provides for the simultaneous reckoning of service in both the higher and lower ranks; and
- To include reference that this agreement would not alter the current provision in regard to substantive promotions. In other words, that it remains the case that all time spent in a higher rank on permanent promotion counts towards service in the higher rank as well as a lower rank.

At the PNB meeting on 28 October 2010 the OS said that they would be writing to the Staff Side shortly to agree that that all periods of temporary promotion within a previous five year period would be taken into account when reckoning service in the higher and lower rank. Staff Side welcomed this but said they would wait to see the details in writing to ensure both Sides had a shared understanding. At the PNB meeting on 20 January the Official Side said that they hoped to respond shortly.

Payment of Allowances whilst on Sick Leave without Pay

No change since the last meeting.

This item is currently not being progressed by the Official Side. Previously, at a PNB meeting in January 2010 the OS undertook to draft a guidance document on managing sickness absence for Staff Side to consider. Staff Side has stressed the importance of ensuring that procedures are in place to properly manage the process of dealing with long-term sick leave.

Background: In 2004 the Official Side submitted a proposal stating that whilst officers were on unpaid sick leave they should not be entitled to any allowances. Staff Side did not agree with the proposal and was particularly concerned that officers were being left, unmanaged, on sick leave for over a year. The matter went to conciliation, but the process was halted pending the outcome of the discussions on pay reform.

Part-time Working and Police Regulations 2003

No change since the last meeting.

This Official Side item has been referred to the Gender Equality/Work Life Balance working group. Staff Side members of the GEWLB working party have some sympathy with this claim, but concerns as to how it can practically be achieved without being discriminatory or having an adverse effect on all officers wishing to revert to full-time hours.

The OS has indicated that they will pick up this issue when they respond to the Staff Side on proposed amendments to regulations and determinations covering part time working. At the last meeting of the GEWLB wp there was a useful and productive discussion on reduced hours and flexible working and the Official Side has been asked to respond to the Staff Side ahead of the next meeting of the wp.

Background: The Official Side proposal seeks to address the issue of part-time officers who apply to return to full-time duties, when on sick leave, in order to secure pay at full-time rates. Staff Side lawyers are concerned that the proposals could potentially undermine the right of a part-time member to revert to full-time service in all cases, and that agreement is required from management to increase hours in all cases. Staff Side wrote to the Official Side on 17 January 2006 detailing their concerns and suggesting a proposed resolution.

Equal Pay Audit

A report on the preliminary findings of the EPA was submitted to the PNB in January 2010. This item was referred to the GEWLB working party. The GEWLB on 10 February decided to set up a small twg to examine the data further and agree a way forward. The twg has met on three occasions.

Part-time Inspectors and above – Pay

This item was referred to the Gender Equality & Work Life Balance working party but as a result of the Sides failing to reach any agreement was removed from the agenda, pending the outcome of litigation. Staff Side had received legal advice from a leading QC, who has recommended that this issue should be tested as an equal pay claim. A hearing was set for the first week of February 2011.

The Court Judgement in the test case of Clark v MPA and the Commissioner of Police of the Metropolis was received in May 2011 – **copy attached**. The Court found that Inspectors who worked part time are entitled to be paid at their normal hourly rate for all hours actually worked and not just their normal hours of duty, in accordance with Regulation 24, Annex F, Part 11. Staff Side wrote to the OS on 26 May 2011 to ask that the OS now accept this long standing Staff Side claim and issue a PNB circular. Staff Side expects that consideration of this issue will take place at the next meetings of the Gender Equality/Work Life Balance working party and PNB on 18 and 26 July 2011 respectively.

Background: An issue has arisen at Joint Secretaries via a request for guidance from Herts force. Herts have stated that they do not currently pay part-time inspectors for any time worked over and above their agreed hours. The Official Side asked that we provide them with an explanation as to why part time inspectors are hourly paid to help them in their discussions with their colleagues. A letter was forwarded to the Official Side on 7 December 2007. Staff Side has indicated that they are willing to negotiate a change to regulations so that part-time Inspectors are only paid up to a maximum of 40 hours in any one week.

Mutual Aid

This matter is currently on hold due to the Winsor review.

The ninth meeting of the Mutual Aid/ Held in Reserve JWP took place on 6 December 2010 and a revised Official Side discussion paper on an agreement covering the Olympic and Paralympics period was discussed. The revised paper had changed very little from previous versions. No agreement was reached on a minimum 12 hour payment for hours worked or on the issue of officers held in reserve in their own force area, the period during which the agreement would apply, the amount of any Olympic allowance and additional compensation for hours worked by Inspecting ranks. The Sides agreed to suspend the working party until the outcome of the Winsor review was known and no further dates have been set.

Background: This item originated in the Federated Ranks Committee and was expanded to include the Superintendents and is now on the agenda for the Full Board. A Staff Side working party was set up to look at revising the current provisions for Held in Reserve under a new banner of a requirement to sleep in a designated location. The working party produced a proposed set of principles that would govern situations where members were required on a policing operation and were unable to return home to sleep. These were submitted to the OS on 15 June 2009. In addition, the Official Side wrote to propose that a joint working party be set up to review 'the current arrangements for payments to officers to make them more appropriate to the types of mutual aid that Forces now more regularly provide to each other in a range of circumstances.' This was agreed at the Federated Ranks Committee meeting in January 2009. The first meeting of the joint working party took place on 15 June 2009.

In July 2010, the Official Side agreed to revise their discussion paper ahead of the PNB meeting on 28 July. The revised OS discussion paper to PNB proposed that the Hertfordshire agreement should be abolished and a new agreement would apply to mutual aid only; officers would only be paid for the hours that they actually work subject to current overtime regulations; in addition, where accommodated officers would also receive a mutual aid allowance of £30 for each night accommodated; and where officers do not receive proper accommodation or are not stood down from immediate operational availability they will be paid for all hours that they are on mutual aid away from their home force. The allowance, as proposed by the OS, would only be payable to constables and sergeants.

Staff Side repeated their view expressed at the wp meeting on 6 July that consideration of the OS's proposals should come under the umbrella of the wider review of police officers' pay and conditions. The OS are keen to ensure alternative arrangements are in place to cover the Olympic Games. Staff Side has indicated that they are content to seek to agree alternative arrangements for the Olympic period only. This would be a one-off agreement that would not extend further than the Olympic period; the Hertfordshire agreement should continue to apply until an alternative is negotiated and agreed. At the wp meeting on 31 August some progress was made. Discussions took place on a number of issues including the period of time over which the new arrangement will apply, what hours officers will be expected to work and the value of any allowance (Olympic payment) over and above payment for hours worked. Discussions were due to take place in a technical working group to look at a form of words to show that the new arrangements would only apply to those

officers undertaking (pre-planned) Olympic duties. Following which the Official Side would revise their discussion paper ahead of the next working party meeting on 28 October 2010.

Housing Allowance – reduction when shared between couples

No change since the last meeting. Agreement has now been reached and PNB Circular 11/2 has been published. However, the circular was agreed by the Official Side on a majority basis and we have yet to hear whether or not the Home Office will be ratifying the agreement.

At the PNB meeting on 28 July 2010 the OS confirmed that they could agree this item on a majority basis. This view was not endorsed by the Home Office or the Northern Ireland Government. An Official Side letter was received on 22 October 2010 to confirm that the OS had agreed, on a majority basis, to the proposal that where two officers receive a reduced housing allowance by reason of co-habitation, then either:

- (a) Each officer receive half of the allowance of the higher rank officer
- or
- (b) Either party (with the consent of the other) can elect to receive their full allowance with the other party receiving no allowance, during the period that they remain co-habiting or elect with consent to return to provision (a).

The OS proposed an implementation date of 1 April 2011 with no retrospective payments made as a result of this change. The OS also pointed out that it may be necessary to return to this issue once the outcome of the Winsor review was known. At the PNB meeting on 28 October 2010, Staff Side confirmed their acceptance of this proposal. Staff Side comments on a draft circular were sent to the Official Side in November 2010.

Background: A proposal was received from CPOSA in June 2008 citing the case of an ACPO officer and an officer from the federated ranks. Staff Side agreed that the Secretary should write to the Official Side with a view to progressing an anomaly whereby a shared housing allowance between a couple of different ranks was less than if the higher rank officer lived alone or the spouse retired and rejoined.

Held in reserve allowance – SO14 Royalty Protection Officers Scotland and elsewhere

No change since the last meeting. Staff Side on 19 January 2011 decided to keep the proposal on their agenda pending the publication of the Winsor recommendations.

PENSIONS ISSUES

POLICE PENSIONS REVIEW WORKING PARTY

Please find attached the Police Pensions WP report to April PNB. The main updates to note are:

Police Pension Contributions

There have been two Technical Working Groups to discuss the proposed increase to pensions contributions. We now expect the formal consultation to commence in early July.

Independent Public Service Pensions Commission

In the Budget on 23 March the Government said that it: “accepts Lord Hutton’s recommendations as a basis for consultation with public sector workers, trades unions and others, recognising that the position of the uniformed services will require particularly careful

consideration. The Government will set out proposals in the autumn that are affordable, sustainable and fair to both the public sector workforce and the taxpayer.”

On 17 March 2011 the Chief Secretary to the Treasury, in a speech to the IPPR, set out the Government’s proposals in respect of the Hutton recommendations, including: “we accept Lord Hutton’s recommendations in this case that 60 should be the benchmark Normal Pension Age for the uniformed services.”

http://www.hm-treasury.gov.uk/press_61_11.htm

We are writing to the Home Secretary to seek clarity on the process for discussing Lord Hutton’s recommendations at the Police Negotiating Board.

ADDITIONAL ITEMS

Indexation of Pensions

Staff Side sought leave to apply for Judicial Review of the Secretary of State for Work and Pension’s decision to uprate public service pensions by the CPI instead of the RPI. This has been granted and the hearing will take place at the Royal Courts of Justice on 25/26/27 October 2011.

Commentary on the Police Pension Regulations 1987

No change since last JCC.

Background: The Home Office intends to update the Commentary (which has not been amended since its initial publication in 1987), but it will not be published before the 1987 Regulations have been consolidated to provide a single UK-wide Police Pension Scheme. There is already a Commentary to the Police Pensions Regulations 2006 for the New Police Pension Scheme 2006

Staff Side Working Party – Ill Health Retirement Issues

No change since last JCC.

Background: Staff Side will schedule an Ill Health Retirement Working Party meeting as soon as practicable. The Working Party will consider SPF proposals relating to: i) seeking an amendment to Annex K of Police Regulations 2003 to ensure that all officers injured on duty and who thereafter are on sick leave are never placed onto half- and then no pay; ii) amending Annex K so that all officers subject to the ill-health retirement process should be retained on full pay until the date of their retirement; and iii) seeking changes to the ill-health retirement procedure.

PNB FEDERATED RANKS COMMITTEE

SPPs

No change since the last meeting. At the PNB Federated Ranks meeting on 20 January 2011 the Official Side said that they wished to remove this proposal from the agenda as they did not intend pursuing it at this time although they reserved the right to bring the matter back at a future date.

Background: At the PNB meeting in February 2008 the Official Side tabled a paper from ACPO that sought agreement that the SPP scheme should be amended so that SPPs could be used more flexibly in the workforce modernisation demonstration sites for a limited time period. They would like the PNB to allow the maximum SPP payable to be increased to

£8,000 per annum for workforce modernisation sites and they would like this to be paid in monthly instalments.

Part-time workers – free days to be treated as rest days

This item has been referred to the Gender Equality/Work Life Balance working group and is currently on hold due to the Winsor review.

Background: Staff Side submitted a claim at the PNB meeting in April 2008 for duty performed by a part-time constable or sergeant on a free day to be compensated in all instances in the same manner as if it were a rest day. At a Technical Working Group meeting on 21 September 2009 on part time working the OS indicated that whilst they wanted to keep the concept of 'free days' they may be prepared to agree that they be compensated in the same way as rest days. However, at the GEWLB wp meeting on 22 March the OS rejected the claim. They felt there was not enough merit in the claim and that, amongst other considerations; it would have a cost element. At the GEWLB meeting on 13 May SS suggested that as the OS had raised the question of cost it would be helpful if ACPO could write to forces to establish whether they considered that additional costs would be incurred and if so why. The SS undertook to draft some questions for the OS's consideration and these were sent to the OS on 29 June 2010. At the GEWLB meeting on 13 July 2010 the OS said that they would like to like to undertake some joint research with the Staff Side in relation to this claim and the Staff Side claim for compensation for a requirement to work on a rest day or a free day within a period of annual leave.

Compensation for a requirement to work on a rest day or free day within a period of annual leave

No change since the last meeting. This item has been referred to the Gender Equality/Work Life Balance working group and is currently on hold due to the Winsor review.

Background: Staff Side submitted a claim at the PNB meeting in April 2008 for the same level of compensation be awarded to rest days and free days that fall within an annual leave period as that currently provided for annual leave days and days in lieu of overtime. The Official Side have indicated that they are not enthusiastic about this claim. The Official Side has said that ideally officers should not be required to work within a period of annual leave, however, if they were, due to force requirements, officers should be fairly and appropriately compensated. They would like to discuss this further with a view to resolving this issue to the satisfaction of both Sides. At the GEWLB wp meeting on 22 March the Official Side said they were prepared to agree this claim subject to several caveats. The OS confirmed this at the July 2010 meeting of the GEWLB but added that they could not guarantee the view of the new Police Minister. As reported above, the OS would like to undertake some joint research on this claim. This matter will be progressed at Joint Secretary level.

Standby/On Call

This item is currently on hold due to the Winsor review. The Winsor review has recommended a £15 on-call allowance for England and Wales.

In addition, agreement has been reached in Scotland on an on-call allowance of £23 per occasion from 1 April 2011, with agreement that this should be uplifted in line with future police officer pay awards. This includes a 'sunset clause' where the allowance would be reviewed 12 months after its introduction – review of its operation including spend over the period. Work towards jointly agreed national guidance, which will provide more detail including an agreed mechanism for measuring use of on-call.

Background: Since the Police Arbitration Tribunal (PAT) award in favour of a national on-call allowance last August, there have been six meetings of the Working Party to look at to look

the nature, frequency and costs of on-call and the principles for the operation of on-call. There have also been four meetings of a Technical Working Group (TWG) to agree the questions for, and data collected from, joint visits to forces to examine their use of on-call.

At the January 2010 PNB the Official Side made its first and only offer to Staff Side of £10 for each occasion of on-call. At a special meeting of the PNB Federated Ranks on 9 February 2010, the Official Side failed to improve upon this offer. At that stage the matter was referred back to the PAT to determine the appropriate level of remuneration.

Despite the reference back to the PAT, both Sides continued discussions in an attempt to agree an understanding of the likely costs of any allowance and the principles for the operation of on-call. At the Working Party meeting of 9 June 2010 Staff Side provided the Official Side with a "without commitment" draft document on the principles for the operation of on-call. The document was also circulated for consultation within the constituent parts of Staff Side, with a deadline of 9 July to ensure that Staff Side had sufficient time to consider all responses.

These responses were considered by Staff Side and a number of amendments were accepted prior to the Working Party meeting with the Official Side on 16 July. At the Working Party, the Official Side suggested a number of amendments, which it confirmed in writing on the afternoon prior to PNB on 28 July. These included removing references to negotiation with JBBs over planned duty rosters or roles, equality impact assessments prior to advertising roles and the voluntary nature of on-call. The amendments also removed the proposed limit of 56 occasions a year or one week in five, weakened the restrictions on on-call on Rest Days and Public Holidays and inserted an "exigencies of duty" over-ride into the rest provisions under the WTR paragraph.

A further meeting of the Working Party took place on 9 August 2010. At this meeting, Staff Side proposed that, given the review of the terms and conditions of service of police officers, the On-call Working Party should be suspended until the review had been completed. This approach was agreed by the Official Side.

DTI Statutory Leave Consultation – statutory holiday entitlement

No change since last meeting. This item is currently on hold due to the Winsor review.

Background: This item relates to the Government's announcement that statutory holiday entitlement will increase to 4.8 weeks (i.e., 24 days if a five day week is worked), inclusive of public holidays, from 1 October 2007 and 5.6 weeks (i.e., 28 days for a full-timer working a 5 day week) from 1 April 2009, pro-rata for those working part time. The Side Secretaries had hoped to be able to issue joint guidance to forces/authorities instead of amending Determinations. Draft guidance was received from the OS and Staff Side comments were sent to the OS on 1 June 2010.

Public holiday and rest day working for inspecting ranks

No change since the last meeting.

At the Staff Side meeting on 22 July 2009 it was agreed that it was no longer necessary to continue to defer this claim pending the outcome of the PSNI allowance review, as that review is now continuing until the later part of 2010 with a decision being made in 2011.

At the October 2009 Staff Side meeting the Inspectors Central Committee indicated that they would be looking to progress this matter in the future via the 1994 agreement, but that this item should remain on the agenda.

Background: SPF proposal that inspectors should receive one and a half day's leave in lieu for each rest day cancelled and two day's compensation for each public holiday worked.

General Secretary
27 June 2011