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## Review of Substance Misuse and Testing regulations

### **Background:**

In October 2003 a PABEW working party made recommendations on how a national testing scheme for substance misuse should be set up, what substances should be tested for, and what action should be taken in the event of a positive test. In November 2005 amendment Regulations came into force stating all prospective recruits should be tested, and rejected if found to test positive and officers in certain safety critical roles should undergo routine testing. For officers where there was cause to believe they may be misusing drugs, a general liability to be tested was written into Regulations.

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. The PABEW agreed the review should be taken forward by a working party which would review the range of substances that are currently tested for, the 'cut off' points for positive tests, methods of testing (e.g. inclusion of hair samples), the conducting of multiple tests on a single strand of intelligence, the list of specialist/ safety critical posts and the use of recall to duty for the purpose of testing.

### **Current Status:**

The following current position of the working party is as follows:

- The definition of safety critical posts subject to random testing should be widened. Since most officers will be captured within the new definition the working party would not object to testing of all officers.
- "With cause" testing may be extended from the existing five groups to one additional named group of drugs (e.g. Cathinones) on the basis of intelligence. The officer must be informed at the time of testing which drugs he/she is suspected of taking.
- National cut-off levels should be developed for the main 5 drug groups so that outcomes are consistent for officers around the country.
- Regulations should be amended to make it absolutely clear that officers cannot be recalled to duty for the purposes of a drugs test.
- Forces should be permitted to use hair testing on **potential recruits** as an additional method of screening.

- The working party could not reach agreement on the use of hair testing for serving officers. In the interests of reaching a consensus on this issue ACPO proposed that, in limited circumstances, the power should be available to use existing methods to test an officer over a 3 month period. This would only apply in the presence of compelling intelligence that the officer is a long term drug user. Members agreed to consider this proposal as an alternative to hair testing.

Further detail is provided in Paper E to this meeting. The final recommendations from the working party will be presented to PABEW in October 2010.

## **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 appointment of additional Chairs of the Police Appeals Tribunal remains scheduled for 2010/11.
- Agreement on the draft amendments to UPPs for Chief Officers has been delayed for a number of reasons including the election.
- Forces have been informed they should expedite 'legacy' cases from the 2004 regulations. This seems to be taking place.
- Initial results of research into use of the procedures against BME officers have been produced. There is some evidence of bias but insufficient data to reach any conclusion. A further report will be given to PABEW in 12 months.
- Revised Home Office guidance will confirm that conversations with 'police friends' are confidential.
- A review of the conduct regulations will be undertaken. A 3 month consultation will take place towards the end of the year.

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- The outcomes of Hearings are inconsistent with the severity assessments of officers' misconduct. A letter has been sent from PFEW to the Police Minister to highlight the problem.

## **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.

### **Current Status:**

The guidance on secondment is still before the Police Staff Council for comment. The PABEW is also awaiting confirmation from the Home Office on the tax status of officers seconded for a period over 2 years before final sign-off. The Home Office was pressed for a response on this matter at the last meeting of PABEW.

## **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. At the PABEW meeting in July 2006 it was agreed that this working party should be 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:

- The highest number of candidates went through SEARCH since it was introduced. There was a slight decrease in female candidates but an increase in older candidates and a doubling of candidates with English as a second language. 65%

of candidates passed. The sub-committee submitted a paper to PABEW on the importance it attaches to the report against the backdrop of reduced funding. The Chairman reiterated this view in a recent letter to the Home Office.

- Following the sub-committee's recommendation to extend the shelf life of SEARCH to 24 months, members are considering the production of guidance to forces on how to manage waiting lists.
- The pass rate for the oral communication element of SEARCH is currently 100%. This could be artificially increasing the overall percentage scores of candidate and consequently the pass rate. The sub-committee will consider further whether alternative assessment models are required for the oral communication element.
- The Thames Valley pilot on written communication standards has not yet produced any evidence due to the small number of candidates being put forward for SEARCH. A report will be made to a future meeting.

## **National Police Promotions framework (Work Based Assessments):**

### **Background**

In April 2006 the Police Minister approved the trial of Work-Based Assessment for Promotion within seven forces. The Police Promotion Examination 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 is taking place 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.

### **Current Status:**

Leicestershire has stated its intention to withdraw from the trial. West Midlands, Avon and Somerset and North Wales have suspended promotions. It is not possible for sufficient data to be collected on the new trial to result in a credible evaluation by April 2011. Two reviews are being undertaken of the licensing process, one by PPEB one by the NPIA. The findings will be discussed at the PPEB meeting in October. There

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has been no detail from NPIA on the holistic review. However, we understand a review of promotion arrangements has been commissioned by the Government. It is likely no firm decision on the future of NPPF will be made before the findings of this review are made known, possibly by the end of 2010.

## **Workforce Modernisation**

### **Background**

A pilot programme involving 11 "demonstration sites" was launched by the NPIA in 2007. Only 9 sites completed the pilot. The sites were testing ways of working aimed at increasing their capacity and capability at no extra cost, or maintaining the same level of performance at lower cost (by civilianising tasks that are deemed not to need the powers of a warranted officer). The programme was evaluated by Deloitte who published their final report in March 2010. The Federation's report critiquing the WFM evaluation, "How it measures up. What can we expect from the national evaluation of the Workforce Modernisation Programme?", was sent to the Home Office, NPIA, Chief Constables, Police Authorities and JBB reps in December 2009. The Deloitte evaluation put a very positive spin on the results. However, it did not or could not evidence where effects were a direct result of WFM rather than other initiatives. The programme provided no new findings in the areas of Neighbourhood and Intelligence and therefore did not achieve its aim of covering all areas of policing. A statement reflecting PFEW's concerns was read by the General Secretary at the PABEW meeting in April. A letter was also sent to the Home Secretary documenting our concerns on the matter.

### **Current Status:**

The final paper presented to PABEW on workforce modernisation in July reiterated the NPIA's confidence in the WFM programme and the Deloitte evaluation and did not address our concerns about previous unsubstantiated claims of success. It will now be for forces to make their own judgements based on the evidence from Deloitte and our own "How It Measures Up" report. The NPIA also disclosed that they have created a workforce planning model being piloted by a number of forces. We have written to the NPIA to request further information on this pilot.

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## **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:**

Draft regulations and guidance were circulated for comment in March 2009. However they did not reflect the agreement at PABEW. A number of additional functions were also included in the proposed scheme of delegation. It was agreed that amended draft regulations and guidance should be drafted by the Home Office. In May 2010 the Federation wrote to the Home Office asking for an update on progress. The Home Office has confirmed that the regulations are currently being drafted and will be circulated shortly.

## **PABEW Fitness Working Group**

### **Background**

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 PABEW agreed that the police service should adopt one national standard that must be adhered to by all forces. The APA and Home Office asked for further time to review the report before supporting the remaining recommendations.

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## **Current Status**

No update since last PABEW. The new fitness standards were approved by the PABEW in April 2010. The Fitness Working Group will draft a guidance document for forces on the implementation of the recommendations.

## **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. 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.

### **Current Status**

Draft regulations allowing DNA samples to be taken prior to appointment have been circulated and they are acceptable to PFEW. Guidance will also be drafted. We have requested that it is drafted by the working party rather than ACPO and that similar checks should apply to police staff. The Chair of the DNA Strategy Board is still concerned about the use of non-PACE samples to search against, and later store on, the DNA database. 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 is seeking further clarification on this from the Information Commissioner as it could be impossible to put into practice.

**Date of next PABEW meeting – 28 October 2010**

**Ian Rennie**

