

Police Federation
Of England and Wales



Ffederasiwn Heddlu
Lloegr a Chymru

Established by Act of Parliament

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IR/sg

21 December 2011

Paul Wylie
Independent Review of Police Officers'
and Staff Remuneration and Conditions
5th floor, Globe House
89 Ecclestone Square
London SW1V 1PN

Dear Paul,

PART TWO – DISCUSSIONS ON KEY ISSUES

Thank you for your letter of 13 December 2011 inviting the Police Federation of England and Wales (PFEW) to provide any final comment or evidence on the six issues identified. I will address each point in turn.

1. Fitness testing for in-service officers

It would appear that Mr Winsor is likely to recommend in-service fitness tests for all police officers. The requirements for the role of a student officer differ from that of many serving police officers. Recruits are subject to a fitness test to ensure they are able to meet the Officer Safety Training (OST) element of their training. OST is a competency that needs to be achieved in order for a student officer to complete the IPLDP.

The PFEW, in line with the other constituent members of the Police Advisory Board for England and Wales (PABEW), believe that certain specialist roles in the Police Service also require a level of fitness. The PABEW Fitness Working Group has identified the level of fitness required for officers performing a number of specialist roles and has validated these standards and assessed them for equality impact.

The PABEW has previously considered and rejected in-service fitness tests as not being appropriate or necessary for access to, or retention in, all police roles. Mr Winsor needs to ask whether, and if so, what level of fitness is required to undertake other roles in the Service. The fitness standard selected needs to be justified under the requirements of the Equality Act.

I would draw your particular attention to the requirements of the indirect discrimination provisions of the Equality Act in respect of employment. These provisions require that any fitness test for employment should be a proportionate means of achieving a legitimate aim. This means that any fitness test for access to a role should be appropriate (i.e. it should not be over or under the required standard to undertake the particular role) and it should be necessary (i.e. it would not be possible to undertake the role without meeting the required standard).

For completeness, I should say that the above comments apply to indirect discrimination. Different rules apply in respect of direct discrimination, although the principle of non-discrimination in access to jobs still applies. To set different standards for access to a job, for example, for men and women, would constitute direct discrimination against the disadvantaged sex. Direct discrimination cannot be justified except under the requirements of direct age discrimination. The Fitness Working Group decided that the principle of non-discriminatory access to roles in the Police Service should be paramount and that it was indefensible to set different fitness standards for different age groups.

2. Educational standards for entry at constable rank

Similarly, any educational standards that Mr Winsor recommends for access to work as a Constable in the Police Service will need to be justified under the indirect discrimination provisions of the Equality Act as being a proportionate means of achieving a legitimate aim.

I note that Mr Winsor stated at the Police Superintendents' conference in September that "some police officers are barely literate" because the educational requirements to join the service are so low, and that criminal barristers "speak in contemptuous terms of the quality of police evidence that is sometimes provided to them", and he claimed "we've looked at the educational standards for the police from 1930 and 1946 and I can tell you they are very, very significantly harder."

With respect, this anecdote falls far short of the evidence required to justify any potential indirect discrimination caused by setting an educational standard to join the Police Service in the 21st century.

This matter comes within the remit of the PABEW National Recruitment Standards working group chaired by John Randall, the Independent Chair. The issue of written standards (which I understand is the issue for Mr Winsor) has been discussed regularly at these meetings and in 2007 the working group undertook a comprehensive review with Skills for Justice, the Commission for Racial Equality and the Crown Prosecution Service.

In order to operate a standard approach to recruitment that was based on the justifiable requirements of the role and was open to the widest pool of candidates, the Service decided to use an assessment centre where candidates could

demonstrate their skills and abilities rather than relying on academic standards that may have no practical relevance to the work of a Police Officer. The SEARCH assessment centre was developed, and continues to develop under the direction of the PABEW National Recruitment Standards working party, to reflect the modern demands of the Service.

3. Educational standards for entry at senior rank

The PFEW is opposed to officers being recruited directly into senior ranks. Our submission to Part Two of the review makes this plain. It is therefore otiose for us to speculate on the skills required to join the Service at senior ranks. Our comment at paragraph 3.30 of our submission was the summation and conclusion of our evidence set out at paragraph 3.21 *et seq*, which indicated that the idea that recruiting directly into senior ranks would improve diversity was based on no evidence and counter-intuitive.

We would suggest that should Mr Winsor seek to set educational, or other, standards for recruitment to senior ranks these standards should be properly assessed for equality impact. He should also identify where the prospective pool of diverse candidates are currently employed, with the requisite skills, abilities and inclination to join the Service at senior ranks.

4. Overtime

The PFEW is opposed to any buy-out of overtime in respect of any rank or specific role. We reiterate our view that overtime is a necessary consequence of the nature of police work, and that utilising existing officers in this way reduces the need to recruit more officers, which is not an option in the context of reducing numbers arising from the fiscal consolidation pursued by the Coalition Government (PFEW Part Two Submission, paragraph 2.54).

It is quite clear from the most recent figures from the Chartered Institute of Public Finance and Accountancy (CIPFA) that the cost of overtime continues on a downward trend and that its cost is not a source of concern to the Police Service. As we stated in our Part Two Submission we agree with the *High Level Working Group Report on Police Value for Money* published last year that there should be a three-pronged approach to reducing overtime further: increased management control, process improvement to reduce the demand for policing services and more effective deployment.

The PFEW believes that retaining the cost of overtime for both constables and sergeants remains a matter of basic fairness that police officers should be entitled to a reasonable work-life balance. This view is supported by the experience of the inspecting ranks whose overtime was removed in 1994 in the wake of the Sheehy Report. As a consequence of this removal their workload increased substantially and has remained a constant source of discontent within the rank. It should also be noted that as a supervisory rank, sergeants would be especially vulnerable to the same pressures now experienced by inspecting ranks. A 2007 report by the Metropolitan Police Service Inspectors' Branch Board found that inspectors and chief inspectors were working on average 27 per cent more hours per week than the target 40 hours per week stipulated in Regulations and in the 1997 Home Office Guidance (HOC 21/97). The latter included the following paragraphs:

4. For sound reasons to do with the health and welfare of the officer, the safety of others and effective working, no police officer should be required to work regular excessive hours, and, over a period of time, each officer should be allowed to take their full entitlement to days free from the requirements of duty. This is a particular consideration in the case of inspectors, chief inspectors and higher ranks, who are not paid overtime.

5. The changes to conditions for members of the ranks of inspector and chief inspector introduced with effect from 1 September 1994 should not have altered, nor were they intended to alter, the average hours worked each week in posts filled by members of those ranks.

However, excessive hours is a particularly likely scenario for sergeants given that over the course of a year they currently work 22 per cent more ordinary overtime hours at time and a third than constables (*PNB Census 2010*). Since this is the overtime that occurs at the end of an officer's tour of duty, it is the very overtime that is likely to be abused by force managers should payment cease for sergeants and also constables.

5. Regional pay

You ask whether regional pay would become more palatable to the PFEW if other public sectors follow suit. On 7 December the Chancellor of the Exchequer wrote to the chairs of each the Pay Review Bodies (PRBs) asking them to consider a number of issues. Not all parts of the public sector will follow suit, since not all PRBs are being asked to consider regional pay for their remit groups. Doctors and dentists and the judiciary have been specifically excluded. So too have the armed forces, on which Mr Winsor is keen to model police officers' conditions of service in other respects. Police officers can be required to work anywhere in the UK, sometimes at a moment's notice, as was seen during the policing of the riots earlier this year. It would be intrinsically unfair to expect officers to perform duty in all parts of the UK at different and less favourable rates.

The Chancellor of the Exchequer has asked the PRBs to consider how private sector employers determine wages for staff in different areas of the country. In actual fact, regional pay is not as widespread in the private sector as is often imagined. As the PFEW indicated in its evidence to the second part of the review, according to IDS, whose independent report accompanied our submission, the majority of multi-site private-sector employers operate national pay scales with additional payments for London and the South East. This mirrors the current pay structure for police officers.

In both the Autumn Statement and in his oral evidence to the House of Commons Treasury Committee on 7 December 2011, the Chancellor of the Exchequer used the example of the Ministry of Justice as a model for localised pay. The pay structure introduced for the Ministry of Justice in 2007 was initially based on five zones, but under an agreement reached in 2010 the number of zones was effectively reduced to four.

The Chancellor of the Exchequer also stated in his correspondence with the PRBs that they should consider whether and how any new approach could be delivered within national frameworks. The PFEW believes that the current system of national

pay determination for police officers remains appropriate. If the Official Side or Staff Side felt that there was a case for a particular location allowance for police officers in specific parts of the country, either Side would be free to bring a proposal or claim to the Police Negotiating Board.

In setting out the case for examining regional pay variation the Autumn Statement cited research by the Institute for Fiscal Studies in its February 2011 *Green Budget*. When looking at this issue, one of the conclusions of the IFS *Green Budget* was that:

If the earnings forecasts of the OBR turn out to be correct, i.e. with a return to more normal earnings growth from 2013–14 onwards, there might then be a case for higher public sector pay growth in London and the South-East than in the rest of the country in those years.

Specific location allowances currently exist for police officers in London and the South-East and it is feasible that, within the current PNB arrangements, those allowances could be increased at a greater rate than the national pay scale should the circumstances merit such an approach. The PFEW does not, therefore, believe that there is a case for changing the current method of national pay determination for police officers.

6. Paid union officials

As you are aware, Section 64(1) of the Police Act 1996 holds that a member of a police force shall not be a member of any trade union, or of any association having for its objects, or one of its objects, to control or influence the pay, pensions or conditions of service of any police force. The PFEW is not a trade union, but a body which exists by statute to represent and promote the interests and welfare of police officers and the efficiency of the police service. Matters relating to trade unions are therefore not relevant.

Also, the point you raise in your letter relates to a development which has arisen since the consultation period ended and appears to focus on how some union officials are funded, rather than challenging the role they perform. This is an issue outside the review's remit. The review, as far as I am aware, is looking at the pay negotiating machinery itself and whether or not the PNB should remain, be reformed or replaced, on the basis of its merits or otherwise. Our views on this matter were set out in our submission. The Home Secretary has not questioned the role played within the police service by PFEW representatives and I would be grateful if you could, therefore, clarify whether or not the Home Secretary has amended the review's terms of reference to consider such matters.

Further dialogue

With regard to a further meeting prior to the Christmas break, I am afraid that the timing of your letter and the deadline you have set for responding does preclude any meeting prior to Christmas. However, Paul McKeever and I are more than willing to meet with you and Sir Ted Crew in the first week in January.

I note that your letter to me was copied to the General Secretary and Chair of the Constables' Central Committee as well as the Joint Central Committee Chairman. As you know, the PFEW is made up of three rank Central Committees representing the

interests of Constables, Sergeants and Inspector ranks. I can confirm that the views in this response represent the views of all the constituent members of the PFEW and I have therefore copied the General Secretaries and Chairs of all three rank Central Committees into this reply.

Yours sincerely,

A handwritten signature in blue ink that reads "Ian Rennie". The signature is written in a cursive style with a large initial 'I'.

IAN RENNIE
General Secretary

Reviewer: **Tom Winsor WS**
Policing Adviser: **Sir Edward Crew QPM DL**

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13 December 2011

Sergeant Ian Rennie
General Secretary
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Dear Sergeant Rennie,

PART 2 – DISCUSSIONS ON KEY ISSUES

I write further to your letter of 30 November 2011 to Tom Winsor.

As you know, Mr Winsor is very close to finalising his recommendations for Part Two of the review. It had been the intention of the meeting on 24 November to discuss a number of pertinent issues that could have an effect on your membership's pay, terms and conditions. However, you have now indicated that you wish all future communication to be set out in writing.

The review has carefully considered your documented responses to both consultation periods and compared your views with the evidence and opinion of others. As a result of this process, the review would be grateful for any final comment or evidence that you wish to provide on the following issues:

- **Fitness testing for in-service officers** – the review notes in paragraph 2.38 of your submission that:

“The PFEW supports the conclusions of the PABEW regarding fitness tests for recruits and officers in specialist roles and rejects the idea that in-service fitness tests are appropriate or necessary for access to, or retention in, all police roles”.

The review would be grateful for any further justification as to *why* serving police officers should not be subject to in-service fitness tests, given that a job-related fitness test is used as a condition for entry?

- **Educational standards for entry at constable rank** – the review notes in paragraph 3.29 of your submission that:

“Setting an “academic qualification” for entry to the police service would... have a disproportionate adverse impact on people from minority groups and radically alter the employment profile of the service, and risk alienation from the wider community”.

Please could you provide any further justification as to *why* the PFEW takes this view. Most public sector professions require significantly higher pre-entry qualifications. Why should the police service be different?

- **Educational standards for entry at senior rank** – the review notes in paragraph 3.30 of your submission that requiring the skills needed at these ranks would also have a disproportionate adverse impact on certain protected characteristics:

“The role related requirements for entry at senior levels are very likely to indirectly discriminate, in particular against women and people from black and minority ethnic backgrounds as they are likely to be under represented in the employment sectors that would give the skills required to perform at senior levels in the service.”

Again, please could you state what evidence you have for the PFEW’s view that women and candidates from a BME background are less likely to have the necessary skills, including what skills you believe would be needed at this rank.

- **Overtime** – Part One of this review stated that the review will consider the longer-term case for buying out overtime in certain roles or as part of a wider job banding process. The review has carefully considered the PFEW’s arguments against this principle for all roles, however the review would be grateful for your considered view on the hypothetical scenario posed. If overtime were to be bought out for certain roles or ranks, for example sergeants, how should this be achieved so as to be fair to the officers concerned, but also fair to the taxpayer?
- **Regional pay** – The review has considered the PFEW’s comments on the suggestion that the police service should be subject to regional pay. Such a system would enable equal pay for equal reward, and could arguably be fairer to officers in strong labour markets, such as London. The Chancellor of the Exchequer has since announced on 29 November 2011 that he will be asking the public sector pay review bodies to consider the case for regional pay. Please could you provide your reaction to this recent development, including whether it becomes more palatable if other public sectors follow suit?
- **Paid union officials** – A further development which has arisen since the consultation period has ended is the suggestion from some Government Ministers, including the Prime Minister, that the “current level of subsidy to the trade unions cannot be sustained, either morally, or economically”. The review understands this to be a criticism of the manner in which some public servants are allowed to undertake union activity whilst being paid by the public sector organisation. Mr Winsor fully appreciates that the Police Federation is not a trade union, but he would be grateful for your considered thoughts on whether such comments have any implications for the police service and its staff associations?

It is in the interest of your members that the Police Federation is given every opportunity to influence any emerging recommendations. As Mr Winsor's letter of 25 November made clear, he remains willing to meet with the Police Federation before the Christmas break. As the report is due to be published in January 2012, I would respectfully request that you submit any further evidence by 23 December 2011.

I have copied this letter to Sergeant Paul McKeever, Constable Julie Nesbit and Constable Paul Barker.

Yours sincerely,

PAUL WYLIE
Secretary