



POLICE FEDERATION

NEWS

SOCA special

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PF News – a regular update on Federation matters

Serious Organised Crime Agency (SOCA) What you need to know

“The Police Federation of England and Wales supports the creation of SOCA and wants it to succeed. However, we do not believe it will do so unless it is properly integrated into the existing policing structure, has the experience of, and is staffed by, fully sworn police officers and appropriate terms and conditions are agreed for those transferring.”

Jan Berry, Chairman, The Police Federation of England and Wales

Don't join yet

Whilst the Police Federation of England and Wales wholly supports the creation of an organisation that tackles serious organised crime, the terms and conditions for officers transferring must be fair and the Agency must be staffed by fully sworn police officers. Currently neither of these criteria has been met and therefore the Federation is advising officers not to join the National Crime Squad or NCIS until conditions of employment by the new Serious and Organised Crime Agency, which will absorb the NCS and NCIS, have been agreed.

Serving NCS and NCIS officers who have been seconded from their home force are also being advised to remain on secondment.

The Federation's recommendations follow the serious lack of information given so far by the Home Office as to the precise terms and conditions for officers who will eventually be employed by the Serious and Organised Crime Agency (SOCA).

Clint Elliott, general secretary of the Police Federation, said the terms

lacked detail and cautioned all officers against them signing up to them.

“We cannot, at present, recommend that any federated rank member should accept an offer of employment directly with the NCS with a view thereafter to being compulsorily transferred to SOCA.

“In our view members who are currently seconded to NCS or NCIS from their parent force, should remain on secondment.”

The new crime-fighting agency is proposed as part of the Serious and Organised Crime Bill currently going through Parliament. The Federation fully supports the creation of a national organisation aimed at tackling level three crime which is fully integrated into the rest of the police service. However, it is strongly opposed to attempts to alter the current terms and conditions of NCS and NCIS officers who will eventually transfer to SOCA.

The Terms and Conditions as they currently stand, have considerable implications regarding officers' status, powers, pensions and pay structure and the Federation remains sceptical of Home Office assurances that staff

transferring to the new organisation will not lose out.

Mr Elliott said: “We are far from satisfied that the proposals made to date, and the terms of the SOCA Bill, are such as to make this a reality.”

The Federation is urgently seeking to amend the current Bill and elicit guarantees from the Home Office that those transferring to SOCA will retain the same rights as they have now.

SOCA must be staffed by police officers

Plans in the Serious Organised Crime and Police Bill will also mean officers transferring to SOCA will lose their status and power of Constables. Instead, the Director General of SOCA able to give out powers on an ad-hoc basis to staff as and when required and then remove them in the same way. This is a recipe for disaster. SOCA is primarily aimed at tackling organised crime and must be staffed by fully sworn, politically independent, experienced police officers and fully integrated into the policing structure, if it is to be truly effective.

Transferees forced into uncertain future

NCS and NCIS officers who are promoted or move jobs within the new Serious Organised Crime Agency will be forced to accept the Agency's terms and working conditions.

The Federation says this could deter officers from fulfilling their career potential. They are expected to accept less favourable terms and conditions.

"SOCA staff should not be blackmailed into accepting SOCA terms and conditions simply because they seek promotion. This will be detrimental to, and discriminates against, those staff who join on their existing terms and conditions. They may now be forced to decline enhancement in their career even though they may be the better candidate," said Jan Berry, chairman of the Federation.

The Federation is asking officers to think twice before signing any agreement as the detail of the transfer schemes is still shrouded in uncertainty and is far from finalised.

"Until and unless this issue is resolved, we would have an obvious difficulty in advising our members to join SOCA," said Mrs Berry.

The Federation has warned that with a significant number of NCS officers declining to sign up to SOCA its crime-fighting capability could be undermined.

"This could have a potentially catastrophic effect in the battle to combat organised crime and would risk the SOCA board having to resort to outside organisations in an attempt to make up the numbers required," Mrs Berry added.

SOCA officers may face dismissal without cause

SOCA officers could be dismissed and given just three months notice, under the agency's new terms and conditions.

As employees, officers would be subject to the same employment law as everyone else, including being sacked.

Currently, officers can only be dismissed for reasons of misconduct, inefficiency or ill health. The provisions for which are contained in their statutory terms and conditions of employment.

But as a SOCA employee, officers would be required to renounce all their current employment rights which the Federation believes is a detrimental move.

"Employees under contracts of employment, subject to express provision to the contrary, enjoy significantly less job security than police officers employed under the Police Regulations 2003.

"We are concerned that following a transfer, a member's employment could be terminated on as little as three months notice," Clint Elliott, secretary of the national Federation said.

"Officers should not be employees, so as to preserve their independence and avoid potential for dismissal on notice without cause," Mr Elliott added.

The Federation is seeking appropriate protection for its members to ensure that once an officer transfers to SOCA and becomes an employee, their employment cannot be terminated otherwise than on grounds of age, ill health retirement pursuant to discipline/efficiency procedures.

FROZEN PAY?

Officers joining the Serious and Organised Crime Agency could see their pay frozen under plans for a new pay structure. This fear is further compounded by a failure to establish a formal negotiating forum at which the Police Federation can take an active role to ensure your interests are represented.

Under the terms and conditions, a new grading system has been proposed which would be underpinned by a job evaluation scheme and job profiles supported by an integrated competency framework. SOCA will be developing this with Skills for Justice.

The Home Office has stated that the process for deploying staff within SOCA, or redeploying where there is a mis-match between posts and numbers, will be 'fair and transparent and will take into account the knowledge, skills and potential of staff as well as, as far as possible, taking account of personal circumstances and preferences.'

However, they have admitted that staff will not necessarily undertake the same work as they did in their previous role in their precursor agencies.

The Federation said: "Police officers transferring to SOCA must not be disadvantaged. The absence of a comparative pay structure for all applicants to consider before transferring, leads to the possibility that the pay of certain staff could be frozen until the other members catch up. A system of annual negotiation on salaries, similar to the PNB, needs to be implemented."

Politicising policing

Plans to sever the link between police officers and the Crown could turn them into political pawns and creates a dangerous precedent of politicians setting policing priorities, the Federation has warned.

Proposals to scrap the Office of Constable lie at the heart of the new Serious and Organised Crime Agency and are contained within the Serious Organised Crime and Police Bill currently going through Parliament.

Under the new regime, officers would no longer swear their allegiance to the crown, but would become employees of the new crime agency.

The move reverses 175 years of policing in this country and would undermine officers' impartiality and accountability, the Federation believes.

"No politician should be determining operational priorities; policing is a service – not a vote winner. It is the link to the Crown that allows officers to act impartially, independent of political

control, to use discretion and to be personally accountable for action or inaction, both on and off duty.

"Such independence and accountability is the very foundation of policing in this country," Jan Berry, chairman of the Police Federation said.

The decision also means the director general of SOCA will be able to confer the powers of a constable on other SOCA employees, such as immigration and HMCE officers. These powers could be given to an individual for a particular operation, only to be later removed once it has been completed.

Concerns have been raised by the Federation on the impact this will have. The ability to bestow certain legal powers at certain times and to certain people is not only confusing for those operatives on the ground, but could see direct interference from the Home Secretary leading to further politicisation of the Agency.

For this reason, the Federation

argues that SOCA is primarily a crime agency and, as such, should be operated by police officers in order to make it truly effective.

"The police are best experienced in crime fighting and detection: in pursuit of criminals, officers will require training, experience and understanding of the exercise of their powers."

"A real danger exists that SOCA will become a new breed of law enforcement which, at best, will give rise to a stand-alone organisation which is separate from the rest of the police service and, at worst, will end up competing with local forces. This is a recipe for disaster."

"Criminals know no boundaries – they operate at different levels and across borders. If SOCA is not properly integrated into the current policing system, intelligence and information will go missing. This will only be of benefit to criminals and could have the disastrous effect of leading to a growth in crime across the country," added Mrs Berry.

PENSION RIGHTS

The Federation is concerned that officers joining SOCA will forfeit their existing pension rights when they join the organisation.

The Federation is calling for the proposals to be clarified and it is vital officers retain all their current pension rights.

We are not clear where this means SOCA intends to pay the surviving spouse an

amount upon death of a serving SOCA agent.

The Home Office has said all staff will be able to stay within their existing pension schemes throughout their careers in SOCA, whether this is the Civil Service Pension Scheme, the Police Pension Scheme or the Local Government Pension scheme. This will remain the case for transferred staff even if

they move onto SOCA terms and conditions.

A police officer's spouse currently receives five times their annual salary if murdered or purposely killed on duty or twice the annual salary for death in service. The Federation also pays the family a further £2,500 and all children of the deceased officer receive £35 per week.

Federation Advice (SOCA)

Open letter from Clint Elliott (General Secretary)

I am writing on behalf of the Joint Central Committee to confirm our view that we cannot, at present, recommend that any Federated Rank Member should accept an offer of employment directly with the National Crime Squad (with a view thereafter to being compulsorily transferred to SOCA). In our view members who are currently seconded to NCS or NCIS from their Parent Force, should remain on secondment. I will update you as to the views of the Joint Central Committee as time proceeds.

Whereas we have received confirmation from the Home Office that the Secretary of State has given an undertaking that staff who transfer will “transfer at no detriment”, we are far from satisfied that the proposals made to date, and the terms of the SOCA Bill, are such as to make this a reality.

Police members of NCS are currently employed under the Police Regulations 2003 and determinations made thereunder. Their employment may only be terminated on reaching retirement age, on ill health grounds or pursuant to the discipline or efficiency regulations. Such members hold the office of Constable and this secures a material degree of independence in operational matters.

Under the current Bill it is proposed that where a member is employed by NCS (and is not therefore on secondment) and they compulsorily transfer to SOCA, they will:

- Be employed as employees of SOCA under a contract of employment
- No longer hold the office of Constable, but

- Be designated such powers as a Constable, Customs Officer or Immigration Officer as the Director General of SOCA may from time to time determine.

Employees under contracts of employment, subject to express provision to the contrary, enjoy significantly less job security than police officers employed under the Police Regulations 2003 and determinations made thereunder. In the absence of an express provision allowing for an employee’s employment to be terminated on notice (for whatever reason), we are advised that the court is likely to imply that a contract of employment can be terminated on “reasonable notice” which could be as little as three months. Hence, absent any provision to the contrary, whereas there might be financial implications, we are concerned that following transfer a member’s employment could be terminated on as little as three months notice (and otherwise than on grounds of age, ill health retirement or pursuant to either discipline or efficiency procedures).

We are working with your representative to seek appropriate commitments (which will be legally binding) as well as appropriate amendments to the SOCA Bill to address, amongst other things:

- (a) Appropriate protection for members to secure that post transfer (if they are to become employees) that their employment cannot be terminated otherwise than on grounds of age, ill health retirement pursuant to discipline/ efficiency procedures;
- (b) That the discipline/efficiency procedures applicable post transfer should be (so far as possible) in

identical terms to those applicable now;

- (c) That terms and conditions post transfer may only be capable of amendment by agreement (and a refusal to accept any such amendment should not give grounds for lawful termination of employment).

We are also concerned about the proposal that, post transfer, any subsequent transfer and/or promotion will be conditional on a member agreeing SOCA terms and conditions (no doubt materially different from those terms which will transfer) as a condition of taking up that new position or promotion.

Finally, members who are considering accepting direct employment by NCS should appreciate that current proposals from the Home Office/SOCA do not guarantee that all directly approved police members will transfer. There currently exists the possibility of the employment of such a member being terminated on the transfer. We hope that this issue can be clarified for members to secure that all directly employed police members will transfer.

Insofar as those members who are currently on secondment (and will remain on secondment) their secondment will transfer to SOCA. The terms of the Bill do not, as yet, confirm that they should enjoy the same terms and conditions after transfer as before. We are pressing for an amendment to the Bill to address this issue and are also raising it in correspondence with the Home Office.

It is for the reasons outlined in this letter that the Police Federation cannot recommend you to transfer to direct employment either in NCS or NCIS at this moment in time or to the newly formed SOCA.