

**POLICE NEGOTIATING BOARD  
STAFF SIDE**

**WINSOR REVIEW OF POLICE OFFICERS' AND  
STAFF REMUNERATION AND CONDITIONS:  
PART ONE REPORT**

**Staff Side submission to the Police Arbitration  
Tribunal**

**8 November 2011**

**Staff Side Secretary  
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## Terms of Reference

The agreed terms of reference are as follows:

*To consider a failure to reach agreement between the two Sides of the Police Negotiating Board and its Standing Committees on the following matters covered by the attached letter of Direction from the Home Secretary dated 6 April 2011:*

**Recommendation 2** – *Police constables, sergeants, inspectors and chief inspectors should receive an additional 10% of their basic pay, on an hourly basis, for hours worked between 8:00pm and 6:00am (non-pensionable).*

**Recommendation 5** – *Determination Annex E, made under Regulation 22 of the Police Regulations 2003, should be amended to require the chief officer to consult, rather than agree, with the local joint branch board and individual officers in connection with the bringing into operation of a variable shift arrangement. That consultation should take place over a period of at least 30 days. Before making his decision, the chief officer should be required to consult the affected officers and take full account of their individual circumstances, including the likely effects of the new arrangement on their personal circumstances. New shift arrangements should not be brought into effect earlier than 30 days after the communication of the decision of the chief officer.*

**Recommendation 6** – *Determination Annex G, made under Regulation 25 of the Police Regulations 2003, should be amended to replace time and a third premium pay for casual overtime with plain time. The minimum hours for being recalled between duty should be abolished and instead paid at plain time for the hours worked, with travelling time.*

**Recommendation 7** – *Determination Annex H, made under Regulation 26 of the Police Regulations 2003, should be amended to remove double time premium pay and the notice period of five days for working on a rostered rest day. Time and a half premium pay should be payable for working on a rostered rest day with fewer than 15 days' notice.*

**Recommendation 8** – *Determination Annex H, made under Regulation 26 of the Police Regulations 2003, should be amended to allow the payment of overtime at double time for 25 December and seven other days chosen for the next financial year by the officer before 31 January. Cancellation with fewer than 15 days' notice should require the authority of an Assistant Chief Constable.*

**Recommendation 11** – *Police officers on mutual aid service should be paid for the hours they are required to work each day, plus travelling time to and from the place of duty. Where those hours coincide with the unsocial hours period, or the duty has been required at short notice and they are eligible for the new overtime rates, the officer should be paid at the applicable premium rates.*

**Recommendation 12** – *The definition of 'proper accommodation' should be revised to describe a single occupancy room with use of en suite bathroom facilities. Where such accommodation is not provided, the officer should receive a payment of £30*

*per night. The current definition of 'higher standard accommodation' should be removed and not replaced.*

**Recommendation 13** – *Officers held in reserve on a day and who have not been paid for any mutual aid tour of duty that day, should receive the on-call allowance of £15 for that day.*

**Recommendation 20** – *Police officers and all members of police staff below the top of their pay scale should be suspended at that increment for a two-year period commencing September 2011.*

**Recommendation 25** – *The chief officer bonus scheme should be suspended for a two-year period commencing September 2011.*

**Recommendation 27** – *The bonus scheme for superintendents and chief superintendents should be suspended for a two-year period commencing September 2011.*

**Recommendation 29** – *Competence Related Threshold Payments should be abolished from 31 August 2011 and all outstanding CRTP payments up to that date should be paid on a pro-rated basis.*

**Recommendation 33** – *Special Priority Payments should be abolished from 31 August 2011 and all outstanding SPPs up to that date should be paid on a pro-rated basis.*

**Recommendation 34** – *An interim Expertise and Professional Accreditation Allowance of £1,200 per annum should be introduced from September 2011 for officers meeting the skills or length of service criteria in the four stated priority functions. It should be paid monthly and pro-rated where an officer works part-time. It should be removed when an officer leaves the qualifying role.*

**Recommendation 43** – *The replacement allowance for housing should remain. However, the amount an officer receives should not increase from 31 August 2011 with changes in personal circumstances, such as promotion. The existing framework, by which the amount an officer receives reduces when he lives with another officer also receiving the allowance, should remain.*

**Recommendation 44** – *A national on-call allowance for the Federated ranks should be introduced from September 2011. The amount of the allowance should be £15 for each occasion of on-call after the officer in question has undertaken 12 on-call sessions in the year beginning on 1 September. An on-call occasion should be defined as the requirement to be on-call within any 24-hour period related to the start-of-the-police-day.*

**Recommendation 45** – *The national on-call allowance should be reviewed by the Police Negotiating Board three years after its introduction in the context of better management data.*

**Recommendation 59** – Regulation 5(4) of the Police Regulations 2003 should be amended so that an officer giving written notice to return from part-time to full-time working, must be appointed by the Police Authority within two months if the force has a suitable vacancy, and within four months of the notice being received.

## Introduction

In her speech to the Police Federation of England and Wales Annual Conference on 19 May 2010, the Home Secretary announced that, as part of the new Government's Coalition Agreement, there would be "a full review of the remuneration and conditions of service for police officers and staff." The exact wording of the Coalition Agreement simply stated that:

*"We will have a full review of the terms and conditions for police officer employment".*

The police service is no stranger to reviews of the pay and conditions of service of its officers. Police pay deteriorated relatively during the 1970s as incomes policy imposed limits on pay, having a particular impact upon the public sector. As morale, recruitment and retention of police officers declined, dissatisfaction with the role of the Police Council led to increased discussion within the police service about the introduction of industrial rights. The severity of this situation led to the withdrawal of the three Police Federations from the Police Council in 1977. In response the Government agreed to establish the *Committee of Inquiry on the Police*, chaired by Lord Edmund-Davies.

The Edmund-Davies Inquiry in 1978 proposed indexing police officers' pay to movements in the Average Earnings Index for the whole economy. The inquiry acknowledged that the police service could not easily be compared with any other group of workers and that police pay should reflect the special nature of the police officer's role including:

- the restriction on the right to strike
- the risk of assault and injury
- disruption to family life
- manpower and recruitment issues
- increased responsibilities/workloads

The index was modified in 1984 when the underlying index of average earnings was substituted.

In 1993 the *Inquiry into Police Responsibilities and Rewards* was set up under Sir Patrick Sheehy to examine the rank structure, remuneration and conditions of police service. Following recommendations made in the Sheehy Report, from 1994 police basic pay adjustments were linked to the median total pay increase in a sample of private sector organisations surveyed by the Office of Manpower Economics (OME), which was widely used at the time to inform negotiations on the pay of civil servants.

Between October 2005 and February 2006 the Official Side tabled three papers to reform pay and reward for police officers. In April 2006 discussions on those proposals broke down when the Official Side refused to honour the index on which police pay had been up-rated annually since the Sheehy Report in 1994. The issue of police pay was determined by the Police Arbitration Tribunal in both 2006 and 2007.

In November 2006 the Government announced a review of the way police pay was determined, which was undertaken by Sir Clive Booth. The first part of the review of police officer pay arrangements, *Fair Pay for Police Officers*, was published in February 2007. This report recommended that indexation should be retained for 2007-2008, but using a public sector facing index, applying it flexibly and in the context of resumed work on modernisation. In December 2007 the second part of the Booth Report was published, which recommended the creation of a Pay Review Body for police officers. The then Home Secretary linked this recommendation to proposals for a multi-year pay deal although, with the conclusion of pay negotiations on the multi-year agreement, the Government was content not to pursue the proposal for a Pay Review Body.

It was widely accepted that the three-year pay deal agreed by the PNB in October 2008 provided the opportunity for both Sides of the PNB to engage in constructive discussions over pay reform during the lifetime of that pay agreement.

Staff Side has been more than willing to engage in a meaningful discussion on the reform of police pay and conditions. To this end, on several occasions the Staff Side Secretary had sought information on the Official Side's proposals for the future of police pay and conditions of service.

With the last instalment of that agreement having been implemented in September 2010, it is disappointing that Staff Side only became aware of the policy positions of some of the major stakeholders within the Official Side during the course of the Winsor Review. This was despite the fact that Staff Side has requested that the Official Side bring forward its proposals for pay reform on several occasions informally and at least twice at formal meetings of the PNB Federated Ranks Committee within the last two years<sup>1</sup>.

### **Winsor Review**

On 1 October 2010 the Government announced a review of police pay and conditions to be led by Tom Winsor, supported by professional advice from former Chief Constable Sir Edward Crew and labour market economist Professor Richard Disney. Winsor was given a remit to consider all aspects of police pay and conditions.

The Review was asked to report to the Home Secretary in two parts. The first part was to recommend changes to conditions of service which could be made in the short-term while the second report would make recommendations on longer-term reform of the bargaining machinery<sup>2</sup>.

Representatives of Staff Side met with Winsor for bilateral discussions on a number of occasions. In addition, the Staff Side Secretary attended three seminars arranged by the Review Secretariat looking at deployment, exit routes and performance and post-related pay.

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<sup>1</sup> PNB Federated Ranks Committee Minutes, 23 July 2009 and 28 October 2009

<sup>2</sup> Winsor Review Terms of Reference (attached as Appendix A)

At the beginning of November the constituent members of Staff Side submitted their evidence to the Review. In mid-December the PFEW and PSAEW submitted their critiques of the submissions from other organisations, including ACPO, the APA and the Local Government Group which collectively represent the England and Wales members of the Official Side. The Home Office initially indicated it would be making a submission to the Winsor Review, but ultimately chose not to do so.

The completion of the first report was initially scheduled for February 2011. In actuality, the first report was not delivered until 8 March 2011. The second report was originally scheduled for delivery to the Home Secretary in June 2011. This timetable has now been adjusted and Winsor has been provided with an extension until the end of January 2012.

Following publication of the Winsor Report, the PNB established a joint working party to consider its recommendations. The first meeting of that working party took place on 6 April 2011. On that date the Home Secretary directed the PNB to consider and make recommendations to her in respect of the matters set out in Recommendations 2, 5-8, 11-13, 20, 21, 25, 27, 29, 31, 33, 34, 37, 39, 43-46, 48, 55, 57-59 of the Winsor First Report. In doing so, the PNB was to take account of the following factors:

- The tough economic conditions and unprecedented public sector deficit, and the consequent Government's Spending Review;
- The resolution by the Government that the public sector must share the burden of the deficit;
- The Government's policy on pay and pensions;
- Analysis of the value of current remuneration and conditions of service for police officers and staff, as compared to other workforces;
- A strong desire from the public to see more police officers and operational staff out on the frontline of local policing;
- A recognition that there are also less visible frontline roles which require policing powers and skills in order to protect the public;
- The particular frontline role and nature of the Office of Constable in British policing, including the lack of a right to strike;
- Parallel work by the police service to improve value for money;
- Wider Government objectives for police reform, including the introduction of Police and Crime Commissioners, the reduction of police bureaucracy and collaboration between police forces and with other public services;
- Other relevant developments including the Independent Public Service Pensions Commission led by Lord Hutton, the Hutton Review of Fair Pay in the Public Sector led by Will Hutton, any emerging recommendations from them, and the Government's commitment to protect accrued pension rights;
- The impact of any recommendations on equality and diversity.

At the first meeting of that working party the Official Side also presented a letter to Staff Side in which it stated its view that "all the PNB related recommendations in the Report form a package of reform". In the Official Side's view, that package was

based on “rigorous analysis, widespread engagement and a clear understanding of the challenges currently facing the police service.”<sup>3</sup>

Despite the Official Side approach that all recommendations formed a package, in fact the PNB was able to agree in principle to the following individual recommendations which have not been included within the terms of reference for this hearing of the PAT:

- Recommendation 31 – Chief Officers should recognise whole teams, both officers and staff, with a team recognition award payment of £50 to £100 each for outstandingly demanding, unpleasant or important work, or outstanding work for the public
- Recommendation 37 – Police Authorities should be required to pay all reasonable costs arising from the sale and purchase of a chief officer’s house, and should pay all tax liabilities arising from any relocation packages, so that, for the chief officer concerned, there is no personal financial disadvantage.
- Recommendation 38 – Police Authorities should publish details of all benefits for chief officers and their values in their annual reports, itemised by officer.
- Recommendation 39 – Chief officers should provide receipts for all expenses, and information as to expenses above £50 paid to chief officers should be published quarterly on the Police Authority’s website
- Recommendation 46 – The link between the Motor Vehicle Allowance for police officers and that for local authorities should be re-established from September 2011.
- Recommendation 48 – Officers’ maternity entitlement should increase from 13 weeks at full pay to 18 weeks at full pay. With officers having the option, with the agreement of their chief officer, to spread the final five weeks of maternity pay over 10 weeks at a reduced rate.
- Recommendation 55 – The Police Pension Regulations should be amended to allow chief officers to make a choice in relation to the time at which their pension benefits crystallise.
- Recommendation 57 – The criteria for the use of the powers in Regulation A19 should be amended, with service-critical skills and performance being explicit considerations.
- Recommendation 58 – As quickly as possible, police forces should be provided with the ability to offer voluntary exit terms to police officers, substantially on the terms contained in the Civil Service Compensation Scheme 2010.

A further anomaly in the Official Side approach emerged in relation to Recommendation 21, referred to the PNB by the Home Secretary, and therefore part of the Official Side package. Recommendation 21 stated that:

*The current systems of performance-related pay should be suspended until September 2013.*

Paragraph 3.2.1 of the Winsor Report stated that all officers are “already eligible for a form of performance-related pay”, as set out in the May 2002 agreement to reform police pay and working conditions. The agreement reached in May 2002 was

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<sup>3</sup> Official Side letter, 6 April 2011 (Annex C)

promulgated by PNB Circular 02/9 (Advisory). This introduced Competence-Related Threshold Payments (CRTPs), Special Priority Payments (SPPs) and bonus payments, but made no mention of any other form of performance-related pay for federated ranks. The initial assumption of Staff Side was that Recommendation 21 referred to CRTPs, since paragraph 3.9.7 stated that because of the criteria for their award, “CRTPs are a form of performance-related pay”.

However, since Winsor proposed to completely abolish CRTPs in Recommendation 29, rather than suspend them until September 2013, this did not appear to accord with Recommendation 21. Furthermore, CRTPs are not “already available to all officers”, only those who have been on the top pay increment for one year and who meet the relevant criteria.

Following a letter from Staff Side on 27 April 2011 seeking clarification of Recommendation 21, Winsor wrote to Staff Side on 9 June (see Annex D). Winsor stated that:

*Recommendation 21 states that the current systems of performance-related pay should be suspended until September 2013. This includes the chief officer bonus scheme (Recommendation 25) and bonuses for superintendents and chief superintendents (Recommendation 27). The only exception to this is that chief officers should be able to continue to make ex gratia payments of £50 to £500 to any officer in order to recognise a piece of work which is outstandingly demanding, unpleasant or important.*

*In the case of the Competence Related Threshold Payment for members of the Federated ranks who have reached the top of their pay scales for a year or more (paragraph 3.9.2), I recommended that this should be abolished (Recommendation 29).*

This response appeared to indicate that Recommendation 21 covered Recommendations 25 and 27, but not Recommendation 29, under which Competence-Related Threshold Payments were to be abolished in their entirety rather than simply suspended for two years. As it transpired, therefore, Recommendation 21 was not an all-encompassing recommendation but only in fact applied to matters covered in a further two recommendations. The lack of clarity and transparency in recommendation 21 meant that the PNB agreed to set this recommendation aside even though it, too, also formed part of the Official Side package.

### **PNB negotiations**

At the first PNB Full Board meeting following the Home Secretary’s letter of direction, on 14 April 2011, the Staff Side Secretary committed Staff Side to fully engaging in the process of negotiation and stated that Staff Side would table a number of its own proposals as part of that process.

Meetings were held on 14 occasions between the publication of the Winsor Part One Report and the 26 July 2011 PNB Full Board meeting, which was the deadline set by the Home Secretary to complete negotiations on the Winsor recommendations.

Over the course of those meetings Staff Side explained its concerns about the practical implications of some of Winsor's recommendations. These concerns are set out in detail in Section Two of this submission.

Broadly speaking, these concerns fall under six headings:

- The impact upon equality and diversity of the Winsor recommendations
- The implications for the future of police officer pay and conditions of service implied by these recommendations
- The considerable financial hardship which these recommendations would cause for many of our members
- The long-term and permanent impact upon pensions
- The impact upon the work-life balance of officers
- The fairness of the impact of these recommendations

In recognising the desire of the Official Side to reform police officers' pay and conditions of service, Staff Side explained that it could not agree to the Winsor package in its entirety. There were many elements of this package which would cause considerable financial hardship to many police officers, and there were some recommendations which would fundamentally weaken the position of police officers in relation to their work-life balance. Staff Side was also concerned that the "interim" nature of the proposals did not provide a basis on which it could engage with the Official Side about the future payment structure for officers.

Despite repeated requests from Staff Side during the years leading up to the Winsor Review, the working group discussions were the first occasions since 2006 in which the Official Side set out its principal motivations in the reform of police officer pay. These were articulated as a desire to save money and to change the culture of police pay.

Being made aware of the Official Side's motivating factors for the first time enabled Staff Side to table an alternative offer during the course of the working party discussions which delivered as much in savings as the proposals in the Winsor Report. It also delivered a change in the reward mechanisms for police pay. Unlike Winsor's recommendations, Staff Side's proposals would not increase the administrative burden upon forces. They would also allow for a more flexible approach to pay, which should allow for a narrowing of the gender pay gap which has been evident since an Equal Pay Audit was conducted by the PNB in 2009 (Annex E).

The Staff Side offer included:

- The suspension of the SPP pot for three years until 2014. This would generate a higher level of savings than Winsor's proposal to abolish SPPs.
- A reduction in the rate of casual overtime, which is not directed, from time and a third to plain time.
- The suspension of superintendents' and chief officers' non-pensionable bonus payments until September 2013.

- The suspension, at this time, of Staff Side’s long-standing claim for a national on-call allowance.
- Acceptance of a two-year pay freeze

This offer has been Equality Impact Assessed (Annex W). Taken together, and including the year on year savings from the reduction in the number of officers in receipt of housing allowance, these concessions amount to a total saving of between £374 million and £422 million by 2014.

As Her Majesty’s Inspectorate of Constabulary stated in its report, *Adapting to Austerity*, published in July 2011, the Winsor recommendations, “if implemented will affect forces differently according to their workforce profile: in fact, some forces have claimed that for them the costs will exceed the savings.”<sup>4</sup>

Staff Side’s alternative proposals involve no additional costs to forces. Therefore, there should be no situation in which a force is not financially better off as a result of Staff Side’s offer.

Staff Side accepts that the Part Two Report of the Winsor Review may bring forward proposals based upon compelling evidence of the need for change. In the absence of any such evidence in the Part One Report, though, Staff Side does not believe it is prudent to abandon the current structure of police officer pay at this stage. The current structure is simple and easy to manage, with low administrative costs and generates an extremely small number of appeals relative to the size of the service.

Staff Side takes particular exception to Recommendation 20, which proposes an incremental pay freeze. As we explain later in this submission, Staff Side was never consulted on this proposal during the evidence-gathering phase of the Review. It is apparent, though, that this recommendation is the only actual source of savings in the Winsor Report:

- In 2011-12, Winsor predicts that the progression freeze will save £72 million, while total net savings in 2011-12 are £71 million
- In 2012-13, the progression freeze saves £192 million, while total net savings are £197 million
- In 2013-14 the progression freeze leads to savings of £220 million while the net savings for that year are £217 million.

This proposal has the appearance of an afterthought following the realisation that the totality of every other recommendation in the Part One Report produced no net savings to the police pay bill. As such, Staff Side objects to the unfairness of this recommendation.

In recognising the desire of the Official Side to see a movement in the way police pay is determined, Staff Side has proposed that for federated ranks:

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<sup>4</sup> *Adapting to Austerity: A review of police force and authority preparedness for the 2011/12–14/15 CSR period*, HMIC, July 2011

- Pay progression within the rank should be contingent upon satisfactory performance as evidenced by a Performance and Development Review (PDR). In the absence of a PDR, progression would be automatic.
- Retention of a CRTP should be based upon an annual review linked to performance appraisal. In the absence of such a performance review being carried out by the force, the officer would continue to receive his or her CRTP.

Staff Side would point out that it has sought a PDR process which was fit for purpose since 1994. Staff Side believes that together these two proposals should provide the basis for a change in the culture of pay in the service.

Although willing to engage in a meaningful discussion on pay reform which will lead to concrete outcomes, at this stage Staff Side is reluctant to agree to a particular direction of travel in advance of the publication of the final part of the Winsor Review. Staff Side also has particular difficulty agreeing to specific proposals where the evidence does not support the recommendations. Nowhere is this more so than in the case of those Winsor recommendations in which there is a real possibility of a disproportionate discriminatory impact against officers with certain protected characteristics, in particular women officers. Disappointingly these proposals have not been adequately assessed for equality impact. Staff Side believes that our proposals, unlike Winsor's, reduce rather than increase the potential for indirect discrimination to occur against officers with protected characteristics and could narrow the gender pay gap in the service.

## Staff Side Response

In this section Staff Side sets out its detailed concerns in respect of each individual recommendation from the Winsor Review which has been referred to the Police Arbitration Tribunal (PAT).

Despite the Official Side stipulation that the 27 Winsor recommendations sent to the PNB by the Home Secretary formed a package, a third of those recommendations were actually agreed in principle by the PNB. The PAT has been asked to make an award in respect of the remaining 18 recommendations. Staff Side's position in respect of all 27 recommendations is set out below:

- **Recommendation 2 (page 19)**  
Staff Side asks the PAT to reject this recommendation on the grounds that it fails to address the actual impact of shift work upon officers' health or take account of officers with caring responsibilities. It will also result in an increase in bureaucracy and reduction in flexibility for officers and forces.
- **Recommendation 5 (page 24)**  
Staff Side asks the PAT to reject this recommendation since Police Regulations already afford considerable flexibility to chief officers. No evidence has been put forward which supports this proposal. The PNB has only recently agreed guidance for forces on the design of variable shift arrangements (Home Office Circular 16/2010).
- **Recommendation 6 (page 29)**  
Staff Side asks the PAT to reject this recommendation as the current arrangements for overtime are appropriate. Also, any reduction in the rate of overtime will lead to a greater interference in the work-life balance of officers.
- **Recommendation 7 (page 34)**  
Staff Side asks the PAT to reject this recommendation as this proposed reduction in cost would remove the financial disincentive to forces of making short-notice changes to duty rosters and will lead to a greater interference in the work-life balance of officers.
- **Recommendation 8 (page 36)**  
Staff Side asks the PAT to reject this recommendation since Police Regulations provide greater flexibility. The implementation of this recommendation would also necessitate force's returning to the publication of 12-month rosters. This is despite Staff Side agreeing to the Official Side proposal that rosters only be published on a three-monthly basis. This recommendation would, therefore, reduce flexibility for forces.
- **Recommendation 11 (page 37)**  
Staff Side asks the PAT to reject this recommendation given that it offers no new proposals in respect of officers on mutual aid who are able to return home. Where they cannot return home, proposed change is less favourable. Winsor confuses mutual aid with held in reserve, the current arrangements for which

have stood the test of time and provide a cost-effective way of moving officers around the country.

- **Recommendation 12 (page 41)**

Staff Side asks the PAT to accept the definition of 'proper accommodation' contained within Recommendation 12 but to reject the amount proposed as it could act as a disincentive for forces to provide such accommodation.

- **Recommendation 13 (page 42)**

Staff Side asks the PAT to reject this recommendation as it is based upon a lack of understanding of the current mutual aid and held in reserve provisions.

- **Recommendation 20 (page 43)**

Staff Side asks the PAT to reject this recommendation on the following grounds:

- This recommendation was subject to no consultation or discussion with any constituent parts of Staff Side during the course of the Review.
- This recommendation is contradictory and poorly focused in respect of superintending ranks and chief officers.
- This recommendation will have a disproportionate adverse impact upon women officers and officers from black and minority ethnic communities.
- The recommendation is unfair to officers who have made plans based upon a legitimate expectation of pay progression.
- Winsor has failed to take account of the permanent effect of this recommendation upon future pensions in payment for police officers.
- Staff Side has for several years proposed that incremental progression for federated ranks should be linked to satisfactory performance. It is therefore, unfair to penalise officers for the failure of the Official Side to introduce such a process.

- **Recommendation 25 (page 52)**

Staff Side asks the PAT to reject this recommendation, given the limited financial savings and the clear link between evidenced performance and pay.

- **Recommendation 27 (page 54)**

Staff Side asks the PAT to reject this recommendation given the clear link between performance and pay.

- **Recommendation 29 (page 57)**

Staff Side asks the PAT to reject this recommendation as CRTPs were part of a package of reforms proposed by the Official Side and were introduced to incentivise officers who had reached the top of their pay scale. Staff Side has offered to link the retention of CRTPs with the annual appraisal of officers.

- **Recommendation 33 (page 63)**

Staff Side asks the PAT to reject this recommendation since Special Priority Payments were introduced as part of a comprehensive package of pay reform and followed specific requests from the Official Side that chief officers be able to reward officers locally.

- **Recommendation 34 (page 66)**  
Staff Side asks the PAT to reject this recommendation because of the arbitrary selection of the relevant posts, the lack of an adequate equality impact assessment of the EPAA and its likely impact upon the gender pay gap. There is also a lack of robustness within the design of the scheme which would increase bureaucracy within forces.
- **Recommendation 31 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 37 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 38 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 39 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 43 (page 70)**  
Staff Side asks the PAT to reject this recommendation given that the Winsor Review has provided no evidence or justification to support this recommendation.
- **Recommendation 44 (page 72)**  
Staff Side asks the PAT to reject this recommendation given that the second part of the Winsor Review will examine the case for role-related pay and that this issue should be examined in relation to those roles which include an on-call requirement.
- **Recommendation 45 (page 75)**  
Given Staff Side's position in respect of Recommendation 44, Staff Side also asks the PAT to reject Recommendation 45.
- **Recommendation 46 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 48 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 55 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 57 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.
- **Recommendation 58 (page 11)**  
Staff Side has agreed this recommendation in principle with the Official Side.

- **Recommendation 59 (page 76)**

Staff Side asks the PAT to reject this recommendation as no evidence is provided that current regulations present any problem for forces.

## Recommendation 2

***Police constables, sergeants, inspectors and chief inspectors should receive an additional 10 percent of their basic pay, on an hourly basis, for hours worked between 8:00pm and 6:00am (non-pensionable).***

Staff Side asks the PAT to reject this recommendation.

Staff Side objected to this proposal during negotiations on the following grounds:

- The evidence used by Winsor as regards the historical basis of supplementary pay
- The actual impact of shift work upon officers' health
- The failure of this recommendation to take account of officers with caring responsibilities
- The increase in bureaucracy and reduction in flexibility that this would create

### **Historical basis of the Winsor recommendation**

In justifying his proposal for an unsocial hours allowance Winsor states, in paragraph 2.1.2 of his report:

*By the time of the Edmund-Davies committee's report on police pay in 1978, the expectation that all police officers in the Federated ranks would regularly work unsocial hours was so firm, that the committee recommended incorporating their supplementary pay into basic pay.*

Winsor then goes on to quote Edmund-Davies:

*Although consolidation [of supplementary pay into basic pay] does remove from pay a specific identifiable element for working unsocial hours, it should not be forgotten in the future that police pay does contain such an element.*

Winsor makes no further reference to the background or basis of this payment. As Edmund-Davies explains in paragraph 111 of his second report, this payment was introduced in 1974, following a detailed survey of unsocial hours worked by police officers.

It is important, though, to put the introduction of supplementary pay into context. In 1972, police pay increased by 6.5 per cent, while inflation was running at over 7 per cent and average earnings had risen by 13 per cent. Although police officers received a significant pay increase in 1973, the 1974 pay increase for police officers had to take place within the limits of Stage 3 of the Government's Pay Code. This allowed for a pay increase of 7 per cent, but with exceptions to that limit for those working "unsocial" hours.

Given the rate of inflation, which was already in excess of the pay limit by the time of the 1974 negotiations on police officer's pay, the Official Side was content to use the "unsocial hours" aspect of the Code to increase pay for officers. In July 1974, Committee C of the Police Council agreed that the pay of federated ranks should be increased in accordance with Stage 3 of the Heath Government's Pay Code. This allowed for a maximum increase of 7 per cent and the introduction of "supplementary

pay”, supposedly in respect of unsocial hours. The value of supplementary pay as a proportion of basic pay varied between 6 and 9 per cent.

Inflation reached 17 per cent in the third quarter of 1974, as the new pay scales were implemented for federated ranks.

As a separate allowance which was not consolidated into basic salary, supplementary pay did not count toward overtime, therefore reducing its value as an element of the 1974 pay award. The consolidation of supplementary pay into basic pay, as recommended by Edmund-Davies, belatedly rectified this situation.

### **Actual impact of shift work of officers’ health**

Although shift working is a particular feature of policing, there is evidence to suggest that it is not the timing of shifts which is most detrimental to officers’ welfare, but the frequency of changes to those patterns. Survey work carried out for the PFEW highlighted a number of personal costs, with particular impacts upon the well-being of officers who worked rotating shift patterns. Many reported difficulty maintaining concentration or alertness, finding it hard to relax and suffering from worry and anxiety. Many also reported suffering from fatigue or exhaustion, insomnia or disturbed sleep and loss of appetite, over-eating or poor diet<sup>5</sup>. All of these feelings and symptoms can have an obvious impact upon the long-term health and well-being of police officers.

Winsor’s rationale includes the impact of working unsocial hours upon officers’ health. However, his recommendation does not compensate officers for the frequency of changes to their shift patterns. As such, it does not address this most concerning aspect of shift-working which impacts upon the health of officers.

### **Officers with caring responsibilities**

This recommendation flies in the face of the hours of most value to the public and to forces, as well as to officers in terms of work-life balance. To recompense particular shift patterns differently fails to recognise that:

- Police officers can be required to work at any time
- The “perfect” shift pattern does not exist; it is an accommodation between the expected needs of the force and the number of available officers
- Traditionally officers have worked rotating shifts, taking a turn of working hours around the clock rather than working fixed shifts that might better suit their domestic circumstances or personal preferences
- Some officers have domestic commitments that restrict the hours they are able to work
- It should be possible to match the needs of the force with the needs of individual officers

Winsor makes a judgement about the value of particular hours of the day without any evidence to support this within a policing context. The choice of 8pm to 6am, is based upon a view that:

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<sup>5</sup> Internal, unpublished PFEW research, 2009

*Unsocial hours in this context means 8 pm - 6 am, ie the hardest hours on the system.*<sup>6</sup>

The concept of paying for work at different times is predicated on the idea that some times are “normal working hours” and others are “anti-social”. Essentially this means paying more for work before 9am or after 5pm on Monday to Friday. In fact these “anti-social” hours are often more attractive to workers who need to fit work around childcare commitments, and these workers are more likely to be women. Most importantly, paying more for certain hours would distort the value of police work at certain times and open up the possibility of successful equal pay claims between men and women who were not able to undertake work at those times.

Winsor refers to the case of *Manley and Blackburn v West Midlands Police*<sup>7</sup>. to support his argument for an unsocial hours allowance:

*The female claimant officers had brought the case on the basis that they were not eligible for the SPP because of child-care considerations, however the EAT upheld the Chief Constable’s appeal.*

The period in question in the *Manley and Blackburn* case for which a Special Priority Payment was paid was in respect of the hours between midnight and 6am. Winsor is extending this to 8pm to 6am. His EIA justifies this new payment as it “compensates for childcare costs at that time” ie between 8pm and 6am.” Winsor misses the point completely. In fact the basis of the *Manley and Blackburn* case was that the women could not work between midnight and 6am precisely because they could not get childcare; it was not about paying for it.

The EAT (confirmed by the Court of Appeal) said that “it was a legitimate aim to reward night work” The Court recognised that it discriminated against women (who had greater responsibility for childcare) and needed to be justified. They considered that West Midlands Police had justified the level of indirect discrimination – in those particular circumstances. At the time of the application in 2003 it was estimated that the payment discriminated against fewer than 30 women officers in West Midlands Police.

The impact of shift patterns on people with childcare responsibilities is substantially different if they are single parents and have to pay for childcare or if they have a partner or another person who can care for their child at times when bought childcare is not available. These issues are of particular importance to women who have the prime responsibility for childcare and who need flexibility not rigidity in their working arrangements. In other sectors where women are employed in greater numbers than in the police service, such as the NHS or the retail sector, flexibility is recognised as providing benefits for both employers and employees.

The Official Side would need to identify and then to justify the gender discrimination that will result from this proposal. Although Winsor justifies the payment of night work

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<sup>6</sup> Email to Staff Side Secretary, 31 January 2011 (attached as Annex F)

<sup>7</sup> *Chief Constable of West Midlands Police v Blackburn and anor* EAT, 11.12.07 (0007/07); *Blackburn and anor v Chief Constable of West Midlands Police*. Court of Appeal, 2008 EWCA Civ 1208.

through the unsociable hours allowance, the resulting gender discrimination has not been identified. If there is no discrimination then no justification is necessary. If there is a significant difference between the eligible men and women then this has to have proportionally greater justification.

Winsor's modelling apparently demonstrates that 40 per cent of officers are currently working 24-hour, seven-day work patterns. Despite requests by Staff Side, the Official Side has failed to identify how many of those officers are women and how many are men, and how many women and men remain on 24-hour, seven-day work patterns throughout their whole careers.

### **Impact upon rostering**

The impact assessment should give an idea of what will happen as a result of this different payment structure and should include how it will impact on both men and women. Staff Side believes it will mean that people who want to work regular nights, because in some circumstances it may suit their childcare needs, will not be allowed to do so because of the cost. This will reduce the opportunity for flexible working and lead to a danger of shift patterns which are based upon financial constraints rather than meeting the force's demand profile. The Official Side has consistently failed to address this concern.

### **Increasing bureaucracy and reducing flexibility**

At paragraph 2.1.32, Winsor writes that the Review's "terms of reference require it to have regard to 'a strong desire from the public to see more police officers and operational staff out on the frontline of local policing.'" If that is indeed the aim of Recommendation 2, it appears unlikely to meet this objective as simply rewarding officers working night shifts will not increase their contact with members of the public – or at least not those who profess to want to see more police officers "on the frontline of local policing". If the aim of the recommendation is to increase the number of officers rewarded for working in response roles, Winsor should have recommended a response allowance, which would have been applicable to officers in response roles regardless of the time of day of their tour of duty.

In his evidence to the Home Affairs Committee, Winsor stated that:

*There is going to be some additional administrative burden, such as with the unsocial hours payment that we have recommended whereby there will be a 10 per cent increase in the hourly rate of pay for officers in the federated rank – that is up to and including chief inspectors – for the hours worked between 8.00 pm and 6.00 am. Now, in order to operate that system, it is necessary for the police force to know who is working that shift and what rank he or she holds. Some police forces do not know that and they are going to have to find out. Now, if a factory can have a system whereby it knows when their workers are working and who they are, so can the police.<sup>8</sup>*

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<sup>8</sup> *The New Landscape of Policing: Evidence heard in Public Questions 440-513*, Home Affairs Committee, 14 June 2011

Staff Side considers this analogy to be wholly inappropriate to policing. The requirement to be able to deploy officers flexibly and, as recent events have shown, at very short notice, is incompatible with a rigid system of shift payments.

Winsor appears to have recognised the danger to the flexibility which such an allowance would introduce. There can be no other reason why the level of the proposed unsocial hours allowance is so undervalued in comparison to those payments made to other groups of workers.

In making his recommendation for an unsocial hours allowance, Winsor states that his review has attempted to reach an industry average of 20 per cent in relation to the shift allowance, by adding 10 per cent to the existing 9 per cent of basic pay which he suggests is already paid in respect of shift-working. The reality of this is the payment only represents an additional maximum of 10 per cent for officers, with many officers who work unsocial hours likely to receive significantly less than that amount.

Winsor's own figures for both the average unsocial hours payment and the fixed interim payment equate to just 4 per cent of basic pay<sup>9</sup>.

At paragraph 2.1.10, Winsor draws attention to the unsocial hours payments in five other organisations as set out in Table 2.1 of his report, suggesting that these examples are "illustrative of the wider employment market". In paragraph 2.1.11 Winsor states "With the exception of the National Health Service, the premium rates for unsocial hours in these organisations are relatively low, at approximately 20% of basic pay." The NHS pays unsocial hours premia of 30 per cent to 60 per cent. There is no obvious reason to ignore the NHS and it should be remembered that it employs over one million people. The other organisations in the table put together employ no more than 200,000 individuals.

Looking at wider labour market surveys, Industrial Relations Services reported that, out of 65 organisations making additional payments for unsocial hours<sup>10</sup>:

- The average premium for two-shift, alternating early/late patterns (usually 6am to 2pm, 2pm to 10pm) ranged from 10 per cent to 22 per cent
- The premia for workers on continental shift patterns varied from 28 per cent to 38 per cent
- The premia for working nights was 33 per cent on average, with payments ranging from 25 per cent to 45 per cent.

In September 2010, Incomes Data Services reported that in 22 organisations the average premium was 22 per cent across all types of shifts. The average payment for night shifts was 33 per cent<sup>11</sup>.

Staff Side does not support this recommendation and asks that the PAT rejects it.

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<sup>9</sup> Paragraph 2.1.39, *Part One Report*

<sup>10</sup> *IRS Employment Review*, September 2009

<sup>11</sup> *IDS HR Study 925*, September 2010

## Recommendation 5

***Determination Annex E, made under Regulation 22 of the Police Regulations 2003, should be amended to require the chief officer to consult, rather than agree, with the local joint branch board and individual officers in connection with the bringing into operation of a variable shift arrangement. That consultation should take place over a period of at least 30 days. Before making his decision, the chief officer should be required to consult the affected officers and take full account of their individual circumstances, including the likely effects of the new arrangement on their personal circumstances. New shift arrangements should not be brought into effect earlier than 30 days after the communication of the decision of the chief officer.***

Staff Side asks the PAT to reject this recommendation.

Staff Side has severe reservations about this proposal for the following reasons:

- Police Regulations, as currently drafted, afford considerable flexibility to chief officers
- This proposal appears to be based upon a misunderstanding of the current situation
- No evidence has been put forward which supports this proposal
- The PNB has only recently agreed guidance for forces on the design of variable shift arrangements (VSAs)
- Officers would no longer have a sense of ownership of the shift pattern and would be, and consider themselves to be, disadvantaged by an imposed shift pattern. There would be an unnecessary reduction in officers' morale and good will towards the service.

### **Police Regulations provide considerable flexibility**

Lawful orders and exigencies of duty provide chief officers with considerable scope to deploy officers. In addition, forces can always operate an eight-hour shift pattern that provides all the flexibility required. Staff Side has consistently asked the Official Side for examples where Police Regulations, including Regulation 22, have inhibited the operational flexibility of forces, but no evidence has ever been provided.

A Home Office study on police rostering in 2003 and the Accenture report in 2004 both concluded that Regulations were not a barrier to effective and flexible deployment and instead cited widespread confusion and, at times, ignorance of the Regulations and their implications for shift working and overtime. Accenture recommended a balanced scorecard approach to resource management in the police service; the study identified four elements that needed to be considered in resource management; these were: external factors, matching supply and demand, officer welfare and manageability. A well-managed VSA that is designed with a particular force or basic command unit (BCU) demand pattern in mind offers the best supply and demand match, resulting in a better quality of service to the public and more efficient use of resources, but also maximises officer welfare considerations.

Accenture examined in detail rostering and resource management arrangements in a number of sample forces and other public sector organisations. The study found that

there was very little consensus in the service around what makes an effective shift pattern mainly because forces believe that each is 'unique' in its policing demands and, therefore, needs a bespoke shift pattern. However, the study clearly showed that, whilst absolute levels of demand vary, the pattern of demand is remarkably similar across the country, regardless of geography. Indeed, 84 per cent of BCUs have peaks and troughs of demand at very similar times of the day and week.

The study concluded that a well-designed Variable Shift Arrangement (VSA) can provide up to 70 per cent more officers on duty at peak times than a shift pattern with flat supply. It stated that "if all forces were to move to a demand-modelled VSA, we estimate that 2,500 officers nationally would be transferred from periods of low demand to duty during the late evening peak periods". It went on to say that

*....shift patterns that match supply to demand effectively – particularly as part of a wider resource management strategy – have the potential to reduce overtime. In addition, although we have found no definitive relationship between any one type of shift pattern and a particular level of overtime, some shift patterns present real risks of increasing certain types of overtime (e.g. 12-hour shifts can increase the risk of cancelling rest days for court appearances) .... and have the most detrimental effect on external factors such as case-handling continuity.*

Although a number of stakeholders have always cited Police Regulations as a barrier to change, the report found that Regulations themselves are not the problem, but rather widespread confusion and sometimes ignorance of the Regulations and their implications for both shift working and overtime.

The Accenture report concluded that "all forces need to improve their understanding of demand and resource management if they are to deliver significant service improvement. Only when forces have a more sophisticated understanding of policing demand and their own response to it will they and others be able to make value-for-money judgements about particular policing functions".

### **Misunderstanding of the current situation**

Winsor recommends that:

- a chief officer should consult a JBB and individual officers over a period of at least 30 days on the bringing into operation of a VSA;
- Before making his decision the Chief Officer shall take full account of officers' individual circumstances;
- The new shift arrangement should not be brought in to effect earlier than 30 days after the communication of the Chief Officer's decision.

Currently, there are no time limits for discussions on the introduction of a VSA: this recommendation introduces a 30 day minimum requirement. In addition, it is not clear whether Winsor envisages the 30 day consultation period taking place during the development stage, as PNB envisages, or whether officers will be presented with a 'new shift pattern' on which to comment or highlight the likely effects on their personal circumstances, which would not address ACPO's criticism of the present system.

There is no requirement currently for a chief officer to take full account of an officer's individual circumstances before making a decision. This would seem to have more potential to limit chief officer's operational flexibility – he or she will need to demonstrate that any decision is reasonable, has taken into account all relevant considerations and has been equality impact assessed, and if necessary, justified as being a proportionate means of achieving a legitimate aim. Currently the agreement with the JBB ensures that the JBB can represent the needs of officers both collectively and individually. This vital link with officers and the ability to deal with conflicts before they arise would be lost under this proposal.

A chief officer may need to respond individually to officers to explain how the decision has been reached and how the individual officer's circumstances had been taken into account. Having said that there is no compulsion on the chief officer to ensure the VSA itself takes account of these individual circumstances and a chief officer could well implement a shift pattern that is unpopular with a majority of officers. Winsor has not been clear in setting out how, exactly, he sees this working in practice. No detail is given in the report and so it is difficult to comment on whether or not these considerations could be implemented in a meaningful way.

Winsor proposes that any new shift pattern should not be brought into effect earlier than 30 days after his decision has been communicated. If this is in response to ACPO's assertion that "lead in times to vary established police officer shift patterns are protracted at 56 days" his proposals amount to at least 60 days. In addition, as previously pointed out to Winsor, only 28 days' notice must be given to change shifts when publishing a three-month roster and that changes in shifts can be imposed at any time due to exigencies of duty. The 56 days highlighted by ACPO relates to a decision to revert from a VSA to an eight hour shift pattern.

### **No evidence to support this recommendation**

Winsor recommends that VSAs should be subject to consultation rather than agreement with JBBs, despite admitting that there is no evidence that a JBB has ever prevented the implementation of a VSA.

The only reason cited by Winsor is that in any other public sector workforce, the workforce would be consulted upon changes and that whilst noting police officers cannot withdraw their labour he argues that prison officers and the armed forces similarly do not have the right to resort to industrial action yet they do not have the power of veto over their shift arrangements. However, the comparison groups do not face the same frequency of changes to their shifts as police officers. The provision for VSAs to be agreed is the only protection given to police officers and is vitally important to protect work-life balance.

The Official Side first wrote to Staff Side in June 2004 saying that they felt that Annex E paragraph 2 (a) was "*inconsistent and unnecessarily limits the operational flexibility chief officers require.*" Since that date the Official Side has consistently failed to provide any examples of situations where JBBs have not agreed a VSA and indeed hundreds of VSAs exist across England and Wales.

Winsor selectively refers to the HMIC report *Valuing the police* when discussing length of shifts in paragraph 2.3.4 of his report. He says "HMIC found that longer

shifts were beneficial for individual officers, with some spending more days away from work than at work” and argues that this means that officers are unavailable for “days on end”. In fact HMIC highlighted examples of officers working 12-hour shifts and how this could lead to an imbalance between the needs of the public and the service and the convenience and needs of individual officers. It is unclear how Winsor’s recommendation will alleviate this as some forces appear to prefer 12-hour shifts. As a result, Winsor’s recommendation may still result in forces implementing VSAs which increase the number of days off for police officers, but at the instigation of the chief officer. Furthermore, it is inaccurate to state officers were not available, as Winsor does; it is more accurate to state that those officers were simply off-duty having completed their rostered hours.

The HMIC report goes on to say that:

*While shifts can never match demand perfectly, good logistics in the Police Service could engineer a more effective ‘fit’ of supply to demand, whilst recognising appropriate work-life balances. Indeed, with reduction of funding, this is essential if we are to avoid moving from a thin to invisible front line.*

This would suggest that what is necessary is the balanced scorecard approach recommended by Accenture alongside improved resource management. Winsor makes no comment on forces failure to plan for known events and to match supply with demand as highlighted in the Accenture report, the HMIC report *Valuing the police* and the HMIC/Audit Commission report *Sustaining value for money in the police service*.

### **Recent PNB guidance on VSAs**

Despite the practical guidance contained in the Accenture report, and despite it being promoted through a Home Office Circular, it is clear that forces did not take up the recommendations in the report. In an attempt to refresh this guidance, which is still as relevant today as it was in 2004, the PNB Gender Equality and Work Life Balance Working Group developed simple guidance on the development of shift patterns that was issued as PNB Circular 10/1, Guidance on designing Variable Shift Arrangements (VSA). This guidance addressed the needs of the Official Side to ensure a consistency of approach across all forces in negotiating with JBBs, while highlighting the importance of flexible working and work-life balance. This guidance has now been approved by the Home Secretary in Home Office Circular 16/2010. Staff Side believes that this guidance reflects the correct approach to setting out shift arrangements in Regulations. However, this agreement receives no mention at all in the Winsor Report.

Winsor also mentions that JBBs may hold ballots of members to agree VSAs despite the fact that there is no requirement in regulations to hold such a ballot. PNB circular 10/1 states that a ballot may be held by the JBB. This enables the JBB to gauge officers’ views before an agreement is reached and that any ballot should be constructed in such a fashion that it highlights any objections to specific elements of proposed rosters rather than merely acceptance or otherwise of a particular way of working. The agreement of the Branch Board being required by the Chief Constable introduced a joint responsibility to consult with the workforce and results in changes being more fully accepted because they are promoted by the Branch Board.

In addition Winsor refers to ACPO comments that the present system where the choice is either a new system or else reverting to the regulation eight-hour system results in an absence of meaningful consultation. However, Police Regulations have always been clear that a normal period of duty for an officer is eight hours. Since 1992 it has been possible to agree alternative shift arrangements between the chief officer and JBB and this was intended to give forces greater operational flexibility. It also ensures safeguards are in place to prevent problems in respect of health and safety, work-life balance and equality. The PNB envisaged that consultation with JBBs, affected officers and other stakeholders should be undertaken at an early stage when any new shift pattern is being considered and in particular throughout the development stage. Suitable and reasonable consultation with officers and their representatives throughout the development process can be expected to negate the necessity to hold a ballot to assess officers' views and is very likely to result in agreement being reached. This is illustrated by the hundreds of VSAs in operation throughout England and Wales and the lack of any examples that the current arrangements do not work.

Given the guidance jointly agreed by both Sides and set out in PNB Circular 10/1 and Home Office Circular 16/2010, Staff Side believes that not only is this recommendation unnecessary, it is also potentially detrimental to service delivery.

## Recommendation 6

***Determination Annex G, made under Regulation 25 of the Police Regulations 2003, should be amended to replace time and a third premium pay for casual overtime with plain time. The minimum hours for being recalled between duty should be abolished and instead paid at plain time for the hours worked, with travelling time.***

Staff Side asks the PAT to reject this recommendation.

Staff Side believes that the current arrangements for overtime are appropriate and that the overtime bill can be brought down through the adoption of better management. The fall in the overtime bill in recent years is evidence of this. If overtime is reduced from time and a third to plain time, then there will be no management incentive to reduce officers' working hours and their work life balance will be overwhelmed. In these circumstances, overtime must be voluntary.

### **Current position**

Currently overtime for constables and sergeants is potentially payable when an officer is retained on duty after their tour of duty ends, they are recalled between two tours of duty or they are required to begin earlier than the rostered time without due notice and on a day when they have already completed their normal daily period of duty. Overtime is currently referred to as planned or casual overtime. Planned overtime is when an officer is informed at or before the commencement of his or her tour of duty that they will be required to work additional hours to those rostered. How much overtime is paid depends on how much is worked – if an officer works less than 15 minutes they are not eligible for any payment. The term casual overtime applies where an officer is not informed at the start of his or her tour that they will be required to remain on duty after the tour ends. This is also subject to the 30 minute disregard on the first four occasions in any week casual overtime is worked.

### **Winsor proposal**

Winsor has recommended that all overtime should be referred to as casual overtime while compensation for working on rest days, public holidays and annual leave should be referred to as planned overtime.

He proposes that casual overtime is paid at plain time on the grounds of “affordability and fairness”<sup>12</sup>. He suggests that the 30 minute disregard has set a precedent for recognising that a degree of flexibility is required at the end of a tour of duty.

### **Staff Side concerns**

Staff Side has several concerns in respect of this proposal:

- The incidence of overtime imposed upon officers would increase
- There is a lack of evidence to support this proposal
- The relationship between this proposal and Winsor Part Two
- The service has already achieved considerable reductions in overtime

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<sup>12</sup> Paragraph 2.5.44, *Part One Report*

- Overtime payments for police officers are not generous in comparison to other groups of workers
- There has been no equality impact assessment of this proposal which will inevitably reduce officers' ability to have a reasonable work life balance.

### **Incidence of overtime**

Staff Side has concerns that if the financial penalty on forces is reduced then instances of so-called casual overtime will increase. A reduction in overtime rates could incentivise forces to use overtime more widely, especially at a time when many forces are experiencing falling officer numbers. The PNB has made good strides in recent years in developing a framework that has addressed the overtime bill and the management of overtime. In a time of financial constraint forces may now see this as a cheap way to utilise officers more, with the resulting detrimental impact on officers' work-life balance.

### **Lack of evidence to support proposal**

Winsor states that while he has not been able to establish the main factors driving what he refers to as casual overtime, he has concluded from his consultations with officers that "the majority of this has probably resulted from officers working beyond their tours of duty, rather than having started their shifts earlier or having been recalled between shifts"<sup>13</sup>. Again, no evidence is provided to substantiate this. In fact there are no transparent calculations on the effect of changes to overtime payments.

In regard to abuse of the system by officers, Winsor also recommends that the minimum four hours for being recalled to duty should be abolished, but this is another protection for officers. Winsor argues that although they had found no evidence in support of media claims that officers claim a minimum four hours for taking a short telephone call when off duty, the mere fact that it is "capable of being abused in the way described" is grounds enough for ending the requirement<sup>14</sup>.

The Winsor Report contains no evidence or discussion of how the present arrangements are indeed "capable of being abused". Police Regulations actually state:

*Where a member is recalled to duty between two rostered tours of duty (or in the case of a member working variable shift arrangements, shifts) and is entitled to reckon for less than 4 hours of overtime in respect of any period for which he is recalled, disregarding any overtime reckonable under regulation 22(e) and the determination made under that regulation, he shall be deemed to have worked for such period 4 hours of overtime in addition to any overtime reckonable by virtue of regulation 22(e). (Regulation 25, Annex G, Police Regulations and Determinations 2003)*

In the case of *Lavelle v Chief Constable of Northumbria*, the Newcastle County Court determined that<sup>15</sup>:

<sup>13</sup> Paragraph 2.5.16, *Part One Report*

<sup>14</sup> Paragraph 2.5.45, *Part One Report*

<sup>15</sup> *Lavelle v Chief Constable of Northumbria*, Newcastle County Court, 2007

*Even on occasions when he was rostered, if the result of answering the call was simply to deflect it in some way, because there had been a mistake in calling upon him or the call was about something which was outwith his particular expertise, or for some other similar reason, it would not seem to me he was recalled to his duty. But if he engaged with the enquiry and dealt with it within the scope of his duty as a Police Search Adviser, it seems to me that it falls within the Regulations as a recall.*

Guidance published by the Police Federation of England and Wales itself states that answering a telephone call “does not generally constitute a recall to duty and does not attract the minimum four hours compensation provided in regulations.”<sup>16</sup>

### **Impact upon work-life balance**

A requirement to work for just one hour outside of an officer’s rostered shift pattern could result in considerable disruption for an officer. Officers with caring responsibilities can find it particularly difficult to accommodate such short notice changes.

### **Relationship to Winsor Part Two**

Winsor also talks, in paragraph 2.5.54, about considering the case for a buy-out of overtime in certain roles, together with the case for a wider job banding process.

*In the longer-term, Part 2 of the review will consider the case for buying out overtime in certain roles, together with the case for a wider job banding process which takes account in basic pay of the likelihood that an officer will be required to work longer than the normal 40-hour week. There is a sound case for reviewing the arrangements which apply to officers who receive the most overtime in VIP specialist protection teams. (para 2.5.54)*

Staff Side has concerns that any reduction in the rate for casual overtime at this stage could conveniently reduce the value of any buy-out following Part Two of the report.

### **Reductions already achieved**

Winsor downplays the recent reductions in overtime costs since 2007-08. In fact, there has been a £65 million reduction in the overtime bill in England and Wales, which represents a fall of 15 per cent over two years. There is also a failure to appreciate that police numbers rose in part as a “catch-up” from the noticeable fall in numbers in the 1990s. Also comparing the cumulative percentage increase in police numbers and the cumulative percentage increase in population over time suggests that police numbers never caught up with population growth until 2004 and have indeed fallen back somewhat on this measure since 2007. This situation will continue to worsen with the pressure upon police budgets and the likely loss of around 16,000 police officers over the next four years of the comprehensive spending review period.

### **Comparisons with other groups of workers**

Winsor uses data from the Annual Survey of Hours and Earnings (ASHE) to provide comparisons with other sectors in relation to overtime. However, since ASHE is

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<sup>16</sup> *Police Regulations Quick Reference Guide*, PFEW 2009

based on sample survey data it is not always robust enough to test various propositions in respect of overtime pay as Disney's analysis clearly shows. Where comparison could be drawn easily, namely hours of overtime worked per week, there was little difference between different groups of employees, with officers actually working fewer hours than the average for all male employees as a whole (3.6 against an average for all male employees of 4.5 hours).

Winsor accepts that it is "impracticable to make a like-for-like comparison in every respect"<sup>17</sup>. Winsor reports Disney's finding that whereas among all employees there has been a fall in the use of overtime in contrast there has been a "sustained rise in male constables' and sergeants' overtime between 1999 and 2009" and draws attention to the apparent paradox of such an increase at a time when officer numbers increased. However, Disney actually writes that his chart shows "a gradual increase for police in the first part of the period with no clear trend thereafter and indeed, as shown previously, a sharp fall in 2009"<sup>18</sup>. Winsor does not reference the contribution of women constables and sergeants in respect of overtime which further skews the statistics, making the increase seem greater. The PNB Equal Pay Audit in 2009 showed that women do less overtime than men, resulting in an overall pay gap in respect of overtime of just under 20 per cent at the constable rank and just over 22 per cent rank of sergeant<sup>19</sup>.

At paragraph 2.5.44 of the Winsor Report, the justification for reducing overtime on a duty day from time and a third to plain time is made on the grounds that premium pay should not be payable for work which is needed to complete an officers' daily duty.

In fact, according to a survey published in in *IRS Employment Review*, in 73 organisations employing 71,000 staff, the most common overtime premium on weekdays was time-and-a-half<sup>20</sup>.

According to a report from Incomes Data Services in December 2010, nearly 80 per cent of the organisations it featured paid overtime at time and a half on weekdays. At the Home Office, for example, all grades to executive officer and equivalent receive time and a half for any overtime on weekdays. On Saturday they receive time and a half plus an additional half-time pensionable attendance allowance, bringing them to double-time. On Sundays and public holidays, they also receive double-time<sup>21</sup>.

Therefore, Staff Side does consider that overtime for police officers is unnecessarily high in comparison to overtime rates in other sectors.

In addition, police officers must disregard the first 30 minutes on at least four separate occasions in a week. In more than three-quarters of those companies surveyed by IDS, the minimum qualifying period was 15 minutes before overtime

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<sup>17</sup> Paragraph 2.5.23, *Part One Report*

<sup>18</sup> p271, *ibid.*

<sup>19</sup> *PNB 2009 Equal Pay Audit*,

<sup>20</sup> *IRS Employment Review*, July 2007

<sup>21</sup> *IDS HR Study 931*, December 2010

payments were triggered<sup>22</sup>. Only 59 per cent of the organisations surveyed by IRS Employment Review made employees work for a qualifying period before overtime was paid. In most cases, when the qualifying period has passed, employees were paid for all overtime completed<sup>23</sup>.

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<sup>22</sup> *IDS HR Study 931*, December 2010

<sup>23</sup> *IRS Employment Review*, July 2007

## Recommendation 7

***Determination Annex H, made under Regulation 26 of the Police Regulations 2003, should be amended to remove double time premium pay and the notice period of five days for working on a rostered rest day. Time and a half premium pay should be payable for working on a rostered rest day with fewer than 15 days' notice.***

Staff Side asks the PAT to reject this recommendation.

Winsor has recommended the removal of double time and the notice period of five days and that instead time and a half should be payable for a requirement to work on a rostered rest day with less than 15 days' notice. This is a reduction in the rates payable and a cost-cutting measure. He states that this change will incentivise managers to plan deployments more efficiently and will provide officers with greater advance certainty that their rest days will be protected. Yet it is not clear how this will be achieved since it will simply be cheaper to make short-notice changes to the roster and will do nothing to encourage better resource management.

This proposal has not been assessed for equality impact. Staff Side considers that this proposal would adversely impact on officers with domestic commitments who would have even less protection from short term cancellations. This would particularly impact on women officers.

Furthermore, Staff Side has genuine concerns about the robustness of some of the overtime data used by Winsor in his report to inform his proposals in respect of double-time payments for rest days with less than 5 days' notice.

It has recently been reported by the OME that the PNB's Earnings and Hours Census for 2010, which replaced the previous sample survey approach, had great difficulties collecting data which clearly distinguished between double-time payments for rest days with less than 5 days' notice and public holiday working (OME note, 26 April 2011). In addition, double-time is applicable for recall from annual leave and would also be included within this category.

OME recorded that four of the largest forces in England and Wales (MPS, GMP, South Yorkshire and West Yorkshire) together with West Mercia were unable to distinguish between double-time payments made to officers for working rest days at less than 5 days' notice and payments made to officers working on Public Holidays. The first four forces were unable to report Public Holiday payments and put all double-time payments into the rest day overtime at double time field. West Mercia was able to record Public Holiday overtime but not rest day overtime at double-time. Therefore, they recorded all double-time payments for both in the Public Holidays overtime field.

This problem has important implications for the overtime evidence base relied upon by Winsor. This is based on responses received directly from forces as to the distribution of overtime in their force, Winsor having initiated his own survey back in October 2010 before the 2010 PNB data was available. Winsor refers to his data as *unverified*, unlike PNB data which was rigorously verified at the time by ORC and

later by OME. It is therefore unclear the extent to which Winsor was aware of the limitations in force data that have subsequently come to light.

Given that Winsor relies on the returns from only 28 forces it becomes of some significance whether the 5 forces identified by the OME are among those responses. If not controlled this may have implications for the savings that Winsor has calculated from the proposed change to rest day overtime at less than 5 days' notice since it would affect the nature of the split between these two components of overtime at double-time. This split would have been applied by Winsor to the reported cost of officer overtime at double-time based on its percentage of total overtime costs of £369 million, published by the Chartered Institute of Public Finance Accountants (CIPFA). The nature of the split between the two types of overtime at double-time would therefore determine the amount of rest day overtime at double-time subject to the proposal to reduce this payment to officers to time and half.

This example also illustrates why it is important that Winsor should have been more transparent as to the source of his data and how he subsequently handled it to arrive at his estimated savings.

## Recommendation 8

***Determination Annex H, made under Regulation 26 of the Police Regulations 2003, should be amended to allow the payment of overtime at double time for 25 December and seven other days chosen for the next financial year by the officer before 31 January. Cancellation with fewer than 15 days' notice should require the authority of an Assistant Chief Constable.***

Staff Side asks the PAT to reject this recommendation.

Staff Side believes that Regulation 24, Annex H 3(j) already provides greater flexibility than that proposed by Winsor:

*Where it is at his own request that a member works on a day which is a public holiday, rostered rest day or, for a part-time member, a free day, he shall not be treated for the purposes of this determination as having been required to do duty on that day but shall be granted another day off in lieu thereof, which shall be treated as a public holiday, rostered rest day or free day as the case may be.*

The ability to nominate public holidays may compensate officers with particular personal needs on certain days. It will not however “protect” those days from being cancelled but allow the compensation for cancellation to be enhanced.

Winsor asserts that it should be rare to cancel an officer's public holiday because the pool of officers available will be larger since the days will be spread over the year rather than being concentrated on the statutory holidays. Although Winsor did not assess this proposal for equality impact, it is clear that there could well be benefits for officers who wish to take leave on particular religious holidays, for cultural reasons or personal reasons. However, it is worth noting that Winsor still proposes that the Christmas Day should be protected for all officers.

Winsor states that it is no longer the case that all eight statutory public holidays in the year are appreciably and qualitatively different from other working days. However, many employers do indeed close on all public holidays including all schools and many childcare facilities. If Winsor's proposal was introduced then this would amount to a reduction in public holiday leave in years when the Crown or Government nominate additional public holidays.

Furthermore, this would introduce an unnecessary level of bureaucracy into a system which is already managed well by forces. Requiring approval by an assistant chief constable brings an unnecessary level of senior management involvement into the existing arrangements which would be impractical for operational policing. To select holidays 12 months in advance would also necessitate the return of 12-month duty rosters, even though Staff Side agreed to the Official Side's proposal to reduce duty rosters from 12 months to three months as part of the May 2002 agreement. This would, therefore, reduce the flexibility of forces.

## Recommendation 11

***Police officers on mutual aid service should be paid for the hours they are required to work each day, plus travelling time to and from the place of duty. Where those hours coincide with the unsocial hour's period, or the duty has been required at short notice and they are eligible for the new overtime rates, the officer should be paid at the applicable premium rates.***

Staff Side asks the PAT to reject this recommendation.

Recommendation 11 correctly identifies that an officer who travels to a mutual aid operation and is able to return home to sleep or enjoy compensatory rest will be paid for all hours of duty and travelling time. Recommendation 11, therefore offers no new proposals in respect of officers on mutual aid who are able to return home.

Furthermore, Recommendation 11 makes no reference to officers who are held in reserve. In fact, Staff Side is concerned that Winsor appears to have confused mutual aid with being held in reserve: compensating officers who are held in reserve is not confined to mutual aid operations. The reference to "mutual aid service" in the recommendation is also indicative of the confusion inherent in Winsor's approach to this subject, as officers on mutual aid or who are held in reserve are deployed and performing duty.

Mutual aid and held in reserve are two distinct provisions. Mutual aid is provided for by Section 24 of the Police Act 1996 which provides that a chief officer of any police force may, on the application of the chief officer of any other police force, provide constables or other assistance for the purpose of enabling the other force to meet any special demand on its resources.

Mutual aid is not voluntary and officers are directed to serve or work away from their normal place of duty when providing aid to another force. The normal place of duty is defined in PNB Circular 88/2, for an officer below the rank of superintendent, as the police station or other police establishment.

At paragraph 2.7.3, Winsor asserts that the mutual aid provisions arose as a result of the need to police disturbances such as the 1984-85 Miners' Strike. In fact, neither the mutual aid provisions nor the "held in reserve" agreement arose as a consequence of the Miners' Strike. In 1982 a dispute arose about the existing rules of payment when officers from Lancashire were held in reserve at the Conservative Party Conference in Blackpool. This led to PNB Circular 83/10.

During the Miners' Strike a dispute arose involving Hertfordshire officers over the interpretation of 'proper sleeping accommodation' in PNB 83/10. The matter was referred to the PAT in July 1986, which made a decision which clarified the PNB 83/10 and resulted in PNB Circular 86/15; hence the reference to the 'Hertfordshire Agreement'.

Issues arose again in relation to the 1990 Conservative Party Conference, which led to attempts by Staff Side to improve the standard of accommodation and resulted in the most recent version of the agreement.

These arrangements, which constitute being “held in reserve” have been comprehensively negotiated in the Police Negotiating Board and published in PNB Circulars 83/10, 86/15, 88/9 and 95/8. Although provisions for compensating officers held in reserve were in place before 1983, these circulars clarified the position.

### **Mutual aid and held in reserve**

If an officer is on mutual aid, then they are away from their normal place of duty (by virtue of the fact that they are outside of their force). As identified above, an officer who travels to a mutual aid operation and is able to return home to sleep or enjoy compensatory rest will be paid for all hours of duty and travelling time. However, if officers serve away from their normal place of duty and are obliged to stay in a particular, specified place from which they are not allowed to return home they are designated as “held in reserve” (PNB Circular 88/9). They are, therefore, paid for all hours of duty, except for a period of eight hours, provided they:

- Are required to sleep in a particular location; and
- Have freedom of movement when not on duty, but must remain contactable

Under such circumstances, all of an officer’s hours will be counted as duty, except for a period of eight in every 24 hours, provided that the proper sleeping accommodation is provided. Where the minimum definition of proper sleeping accommodation is not met, officers will be eligible for a payment for 24 hours’ duty (PNB Circular 86/15).

A hardship allowance is also payable to officers where the appropriate standard of accommodation has not been provided within the appropriate timescales (PNB Circular 86/15).

These provisions apply to officers held in reserve, regardless of whether they are on mutual aid or remain within their own force.

### **Compensation for direction and disruption**

Winsor and the Official Side have consistently confused mutual aid and held in reserve. Winsor appears to believe that officers are currently entitled to a minimum payment of 16 hours, irrespective of the hours worked, only when they are on a mutual aid operation. The actual position is that the 16-hours payment is only applicable to officers who are held in reserve, regardless of whether or not they are on mutual aid. Staff Side is of the view that this level of compensation, which has been agreed through the PNB and PAT process, is appropriate for the disruption caused to officers’ work-life balance.

The existing payments in respect of mutual aid and held in reserve compensate officers for being unable to return home, as well as for the inconvenience, disruption to family life, the impact on child care arrangements or care of a dependent and any additional costs. As mutual aid is not voluntary, it is not an officer’s choice whether or not they undertake this duty requirement. If it was voluntary, they would be able to consider its impact on all of these issues before volunteering.

The proposal does not adequately compensate for the disruption and additional costs associated with being away from home for undefined periods. There will be many officers who are simply unable to be away from home either at short notice or for long periods. These officers are more likely to be women. Women now make up to 40 per cent of officers under five years' service. It will not be an option therefore, either operationally or in terms of the equality legislation as it was in the 1984-5 Miners' Strike, to restrict women from undertaking public order duties. This proposal is likely to inhibit the retention of women in the police service.

The current arrangements have stood the test of time and provide a cost-effective way of moving officers around the country. It is widely acknowledged that the arrangements deliver officers where they are needed and that they are significantly cheaper than employing extra officers on a 'just in case' basis. Such instances are not limited to public order situations, but have included major investigations and other policing operations.

Staff Side welcome the views of the PAT on the fact that members of the inspecting ranks are not paid in respect of the Hertfordshire Agreement. During the recent disturbances several forces recognised this inherent unfairness and paid members of the inspecting ranks sums varying between £100 and £150 a day. This was not based upon the hours worked, but in recognition of the inconvenience and disruption caused by being held in reserve.

Staff Side would concur with the PNB Independent Chair when he stated that there is a balance to be struck between forces having resources available at short notice and the price paid for the disruption and inconvenience caused to officers' private lives<sup>24</sup>.

It is particularly regrettable that this proposal has not been assessed for equality impact. Recommendation 11 fails to recognise that when officers are held in reserve, even if they are not engaged directly in some form of policing activity, they are available for duty. As such, there must be a fair and appropriate mechanism to compensate officers for their hours of duty and the disruption associated with being held in reserve.

In addition, Staff Side consider that this proposal would unnecessarily increase the bureaucracy around the payment of mutual aid duties

### **Value for money for forces**

As recently as the riots across several cities in August 2011, mutual aid was seen to work highly effectively, allowing the deployment of thousands of officers across England at extremely short notice. This was in spite of the fact that August is the peak holiday period.

During previous discussions on mutual aid, the PNB Official Side provided only six examples of mutual aid operations in recent years, including Operation Otter (Sussex Police), Operation Oasis (Kent Police) and Operation Glencoe (Essex

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<sup>24</sup> John Randall – PNB Mutual Aid Joint Working Party meeting, 23 February 2010

Police). Without mutual aid, forces would have to maintain significantly larger numbers of police officers than they currently do.

At a meeting of the PNB Mutual Aid Working Party on 8 April 2010 (currently suspended pending the Winsor Review), the Official Side provided figures for the cost of mutual aid operations as supplied by ACPO. In only one out of the six operations cited by ACPO, did officers routinely work for just eight hours and Staff Side contends that this was an example of poor resource management. It was clear that on operations where officers are held in reserve, they are in the main being asked to work extended hours in addition to being unable to return home. For this reason, Staff Side stands by its view that the PNB Circulars 83/10, 86/15, 88/9 and 95/8 remain the appropriate mechanism for remunerating those officers who are held in reserve.

Mutual Aid and being held in reserve require forces to direct and control their officers and the current remuneration reflects this police duty requirement.

## Recommendation 12

***The definition of 'proper accommodation' should be revised to describe a single occupancy room with use of en suite bathroom facilities. Where such accommodation is not provided, the officer should receive a payment of £30 per night. The current definition of 'higher standard accommodation' should be removed and not replaced.***

Staff Side asks the PAT to accept the definition of 'proper accommodation' contained within Recommendation 12 but to reject the amount proposed.

Staff Side does not believe that the figure of £30 contained within this recommendation is a sufficient disincentive to forces, and that the payment could be more cost effective for Forces than providing appropriate accommodation.

If officers are to be held in reserve and the accommodation is not of the required standard then they must be compensated adequately for this. Staff Side judges that the current arrangements, which provide for 24 hours' payment and a hardship allowance, are appropriate in such circumstances.

If officers are not required to sleep in a specified location then the compensation should reflect an amount that allows an officer to pay for proper alternative accommodation.

## Recommendation 13

***Officers held in reserve on a day and who have not been paid for any mutual aid tour of duty that day, should receive the on-call allowance of £15 for that day.***

Staff Side asks the PAT to reject this recommendation.

This recommendation also shows a complete lack of understanding of the current mutual aid and held in reserve provisions. Winsor actually compares the restrictions of being held in reserve as being the same as being on-call at home with family<sup>25</sup>.

The provisions of PNB circulars 83/10, 86/15, 88/9 and 95/8 apply to all officers serving away from their normal place of duty and who are obliged to stay in a particular, specified place and not allowed to return home.

Recommendation 13 makes no reference to officers held in reserve at their normal place of duty or whilst not at their place of duty.

The Official Side has failed to explain the circumstances in which this recommendation would apply. At a meeting of the PNB Pay and Conditions Working Party on 20 June 2011, the Official Side stated that Recommendation 13 would apply to officers on mutual aid who were stood down but held in reserve. However, if this was the case then they would have been paid for mutual aid duty on that day and therefore would not be entitled to receive the proposed on-call allowance of £15.

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<sup>25</sup> Paragraph 2.7.26, *Part One Report*

## Recommendation 20

***Police officers and all members of police staff below the top of their pay scale should be suspended at that increment for a 2-year period commencing September 2011***

Staff Side asks the PAT to reject this recommendation on the following grounds:

- This recommendation was subject to no consultation or discussion with any constituent parts of Staff Side during the course of the Review
- Recommendation 20 is short-term in nature
- Incremental progression is widespread across the public sector
- This recommendation is contradictory and poorly focused in respect of superintending ranks and chief officers
- The current system of progression enables forces to plan budgets effectively
- Winsor has failed to take account of the permanent effect of this recommendation upon future pensions in payment for police officers
- This recommendation will have a disproportionate adverse impact upon women officers and officers from black and minority ethnic communities
- The recommendation is unfair to officers who have made plans based upon a legitimate expectation of pay progression
- Staff Side has for several years proposed that incremental progression for Federated ranks should be linked to satisfactory performance. It is therefore, unfair to penalise officers for the failure of the Official Side to introduce such a process

### **Lack of consultation**

Staff Side is, as always, willing to discuss the reform of police pay and the role of performance assessments within police pay. However, any discussion should start from a proper understanding of the available evidence.

Staff Side is extremely disappointed with this recommendation. Recommendation 20 is a proposal on which Staff Side has had no opportunity to give its views during the course of the Winsor review.

At no point in either the written consultation or during any of the seminars or bilateral meetings with Winsor were its views ever sought on the incremental pay freeze. Indeed, the lack of discussion of this topic is clearly evidenced within his report<sup>26</sup>.

### **Short-termism**

At paragraph 3.1.27 of his report Winsor writes that:

*A system designed in 1919 for a police service in crisis, and affirmed in 1978 in circumstances of chronic under-payment of police officers, in both cases involving a haemorrhaging of manpower, should not be continued purely on the basis of its simplicity.*

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<sup>26</sup> Paragraphs 3.1.19-31.26, *Part One Report*

Staff Side is extremely concerned by this assertion. 1919 and 1978 were just two examples of periods in the history of UK policing when the police service was unable to cope with significant labour market challenges. It is widely acknowledged that the last thirty years have been a period of unparalleled harmony and co-operation in police industrial relations.

The entire ethos of the Edmund-Davies Committee was to not only to remedy police officer underpayment in the short-term, but more importantly to ensure that such a situation should not arise in the future. If the police service is unable to attract and retain officers of the appropriate calibre as the labour market tightens, Staff Side is extremely concerned that the service will be faced with the prospect of a further review of pay and conditions of service to restore the value of police officer pay and conditions of service and the diversity and character of its officers. The service needs to learn the lessons from past reviews and not simply swing from one short term knee-jerk review to another.

### **Incremental progression widespread across public sector**

At paragraph 3.1.28, Winsor writes that:

*Automatic pay progression is, therefore, a system of the past which fails to recognise either individual contribution or the weight and nature of the work which that police officer or police staff member does.*

As members of Staff Side explained in their evidence to the Winsor Review, incremental pay scales are used by two-thirds of organisations in the public sector according to IDS<sup>27</sup>.

Winsor reports that the submissions received focused on pay progression almost exclusively as a means of rewarding competence or experience, and that this was at odds with the original purpose as set out in the Desborough report (1919) to retain longer-serving officers. Yet a recent IRS report on pay progression in the public sector explicitly states that “pay progression is designed to reward an employee’s acquisition of skills and experience in their role”<sup>28</sup>.

Winsor quotes ACPO’s claim that full competence should be attained relatively quickly, but that some officers may never reach it despite 10 years of service. This ignores the finding that officers applying for the current CRTP have a high success rate. Winsor also ignores the current procedures in place for tackling unsatisfactory performance by again appearing to back ACPO’s assertion that there are officers who perform at a standard “which is just enough to avoid being subject to the procedures for tackling unsatisfactory performance to earn the same as an officer who is working harder and has higher skills”<sup>29</sup>. This appears to be an admission by ACPO that they cannot properly manage or motivate officers under the current arrangements. There is no guarantee that they will be able to do so under any future arrangements. Furthermore, this is just one example of the unsubstantiated hypothetical scenarios that litter this supposedly ‘evidence based approach’.

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<sup>27</sup> *Pay progression*, IDS HR Studies 929, November 2010

<sup>28</sup> *IRS Employment Review*, March 2011

<sup>29</sup> Paragraph 3.1.12, *Part One Report*

### **Superintending ranks and chief officers**

Recommendation 20 applies to all police officers who have an incremental scale, in that all those “below the top of their pay scale should be suspended at that increment for a two-year period”. This wording makes no distinction between those officers whose progression is currently based upon length of service, such as members of the federated ranks, and those officers in the superintending ranks and among assistant chief constables (ACCs) whose incremental progression is based upon performance.

At paragraph 3.1.1, Winsor states that:

*Police staff and police officers, except those at Deputy Chief Constable and Chief Constable ranks (and their Metropolitan Police Service and City of London equivalents), receive by far the greatest part of their pay according to pay scales which have annual increments. This means that each year, irrespective of performance, pay rises.*

This statement suggests a belief that pay for all officers rises each year irrespective of performance. Parts 6 and 8 of Regulation 24, Annex F of the 2003 Police Regulations stipulate that for both ACCs and members of the superintending ranks, progression through the pay scales “will be according to the individual’s PDR rating”. Those officers rated as competent receive a single increment and those rated as exceptional receive a double-increment. Where they are rated as not yet competent in the case of superintending ranks or unsatisfactory in respect of ACCs, those officers receive no increment. Winsor does in fact make reference to these arrangements at paragraph 3.1.4.

Furthermore, at paragraph 3.1.17, Winsor states:

*The Superintendents’ Association is correct to argue that pay progression should be based on competence, and in the superintending ranks it is. This is, however, not the case in the Federated ranks, where progression is automatic.*

It is the latter situation, as it applies to Federated ranks, which Winsor appears to be targeting when he writes, at paragraph 3.1.28 that automatic progress is “a system of the past which fails to recognise either individual contribution or the weight and nature of the work” of police officers. As such it appears to Winsor “to be right that...there should be a suspension of progress for the first two years of the spending review period”.

This implies that where progression is not automatic, then it would not be right to suspend officers at their current increment for the two-year period. Given the progression arrangements for superintending ranks and ACCs, this appears to contradict the wording of Recommendation 20.

### **Impact upon pensions**

Like most other groups of public service workers, police officers are also facing the prospect of an increase in their pension contributions. At 11 per cent for the Police

Pension Scheme 1987 (PPS 1987) and 9.5 per cent for the New Police Pension Scheme 2006 (NPPS 2006), police officers already pay the highest rate of contribution of all of public service workers whose pensions were reviewed by the Independent Public Service Pensions Commission, chaired by Lord Hutton. The Home Office has proposed that pension contributions for the vast majority of police officers should rise by between 2.5 per cent and 4 per cent. This would see officers in the NPPS 2006 paying between 12 per cent and 12.7 per cent of their salary, while officers in the PPS 1987 will pay between 14.2 per cent and 15 per cent of their salary in pension contributions. Taken together with the incremental pay freeze, this will lead to a significant reduction in officers' take home pay. Furthermore, unlike other groups of works, police officers have no recourse to resist these increases. Police officers are unable to take any form of industrial action; moreover, pensions are not subject to arbitration and any increase can be imposed upon police officers by the Government without reference to the PAT.

Staff Side is aware that Winsor, in proposing this recommendation, has not taken into account the future savings to the service of the reductions in pensions in payment that will result from this recommendation. As this recommendation will have a direct impact upon pensionable pay, it will reduce the amount of pension payment which officers will receive upon retirement. The modelling carried out by Winsor fails to incorporate these savings and, therefore, significantly underestimates the full level of reduction to the police officer pay bill that would be a consequence of this proposal.

Staff Side also considers that this will have a disproportionate adverse impact on those officers who have achieved promotion later in service. This proposal therefore needs to be properly justified as being a proportionate means of achieving a legitimate aim.

### **Identified impact upon women and BME officers**

Although few of Winsor's proposals have been assessed for equality impact, the Review's Equality Impact Assessment acknowledges that the progression freeze will have a greater impact on women than men at every rank up to and including chief superintendent. This reflects the increase in recruitment among women over the last 10 years which results in a higher proportion of women officers at the lower end of the pay scale in each rank. The review believes that this is a "necessary and proportionate step in the current challenging fiscal climate".

Winsor's EIA also reports that "more Black and Minority Ethnic (BME) officers are likely to be affected by progression being frozen at 2010/11 for two years, than white and unstated officers, whereas white and unstated officers are more likely to be affected by the abolition of CRTPs." The reason for this is that, as has been the case with female officers, recent years have seen a significant increase in BME recruitment and so there will be fewer BME officers towards the top of the pay scale for any particular rank.

The EIA acknowledges that there are equality issues associated with the approach of the Winsor recommendations, but believes that "the overall approach aims to treat the entire workforce equally, so that inequalities are balanced out across the ranks and lengths of service, and that senior ranks share a proportionate impact."

Under Recommendation 20 it is not clear that officers will resume incremental progression at the end of the two-year period. Therefore, female officers or officers from BME communities who have not already reached the top of their pay scale may not have the opportunity to do so. Winsor's second report has not been published and so Staff Side has no knowledge of the details of the system of remuneration which he proposes should replace the incremental pay scales. In the absence of any concrete proposals to the contrary, Staff Side has genuine fears that this recommendation will have the effect of making the gender pay gap and the gap in pay between white and BME officers permanent.

Staff Side notes that Winsor justifies this discrimination on the grounds that officers at the top of the pay scale are more likely to be white and male and that the abolition of CRTPs (Recommendation 29) will balance out the disproportionate impact of the incremental progression freeze. In the first instance, this argument only applies to federated ranks as superintendent ranks and chief officers do not have access to CRTPs.

More importantly, though, incremental pay scales and CRTPs are two separate practices, and Staff Side is of the view that disproportionate impact upon officers with protected characteristics in respect of basic pay cannot be justified by disproportionate impact upon officers who do not share those characteristics in respect of other aspects of pay. Staff Side does not believe it is appropriate or lawful to trade-off discrimination in respect of one group of workers against that suffered by others. Case law under the equal pay legislation indicates that the equality impact of each element of the pay package needs to be considered separately<sup>30</sup>.

Furthermore, for reasons which we explain below, Staff Side does not support the abolition of CRTPs.

Recommendation 20 will introduce a permanent gap in the average basic salary of male and female officers and between white and BME officers. Staff Side does not believe that Winsor or the Official Side has adequately justified this discrimination against female and BME officers as being a proportionate means of achieving a legitimate aim.

### **Unfairness**

It is clear that the incremental progression freeze is the only real source of savings in the Winsor Report:

- In 2011-12, Winsor predicts that the progression freeze will save £72 million. His total net savings in 2011-12 are £71 million
- In 2012-13, the progression freeze saves £192 million, while total net savings are £197 million
- In 2013-14 the progression freeze leads to savings of £220 million while the net savings for that year are £217 million.

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<sup>30</sup> In *St Helens & Knowsley NHS Trust v Brownbill* [2011], the Court of Appeal held, in line with the House of Lord's decision in *Hayward v Cammell Laird Shipbuilders Ltd* [1988], that the terms in the claimants' contracts were distinct and capable of comparison and therefore should not all be "lumped together". The CA stressed that equal pay is focused on each distinct term relating to remuneration as opposed to the totality of pay received.

Staff Side believes that on top of the proposed pay freeze this proposal would cause police officers significant financial hardship. This is at odds with Winsor's recognition in paragraph 2.1.30, when he considered removing the 9 per cent unsocial hours element from basic pay from some officers. He said that that approach would be too severe. His reasoning being:

*...that officers had, in good faith, made their decisions about their financial affairs, where they and their families live, and in other respects on the basis that their basic pay could not be subject to a sudden and substantial reduction.*

Recommendation 20, if implemented will cause such a reduction for many officers. For example, using Winsor's own calculations, a police constable with seven years' service will lose £4,143 between September 2011 and 2013, irrespective of the public sector pay freeze. As set out later in this submission, some officers could lose substantially more than this.

Much has been said about the public sector being asked to share the pain which the private sector has already had to bear. When average earnings growth fell in the private sector over the course of 2009, the changes to the Retail Price Index went negative for the first time in 50 years and remained below zero for much of that year. Where employers and workers agreed to pay freezes, although painful for large numbers of households, workers were not experiencing the substantial cut in real incomes which is now being suggested for police officers and other public sector workers through the proposed two-year pay freeze.

Inflation has been running at 5 per cent for most of the year and is not forecast to fall for some time<sup>31</sup>. This fact, together with the loss of expected income as a result of Recommendation 20 and the proposed increase in pension contributions for police officers, will create genuine difficulties for our members.

At paragraph 3.1.28, Winsor states that it appears right that pay progression should be suspended pending the establishment of a fairer system of pay. Staff Side takes the opposite view, which is that incremental pay progression should remain until it is clear what will replace it. Staff Side is particularly concerned at the lack of any guarantee from the Official Side that incremental progression would resume after two years<sup>32</sup>.

### **Staff Side alternative**

Staff Side understands the desire of the Official Side to see a change in the culture of police pay in respect of the federated ranks, so that progression is based not simply upon length of service. To address this desire, Staff Side has proposed that incremental progression for federated ranks should be subject to a satisfactory annual PDR. This would bring members of the federated ranks in line with the progression arrangements for superintending ranks and ACCs.

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<sup>31</sup> *Economic and Market monitor*, BNP Paribas Economic Research Departments, July-August 2011

<sup>32</sup> PNB Joint Working Party Meeting, 16 June 2011

However, at paragraph 3.3.11, Winsor writes:

*It is apparent that a significant proportion of the police service is not yet ready for a more developed system which will attach appreciable financial consequences to assessments of competence and exceptional performance. For such a significant cultural change to work, leadership will be essential. There is little evidence that the current performance regimes in forces would be able to carry the weight of a performance related pay element, although this should change over the next few years as forces develop better systems.*

Winsor is correct when he says that the service is not ready for performance-related pay, but Staff Side finds the suggestion that this will change over the next few years rather optimistic, given the Official Sides previous inability to introduce performance pay for the Federated Ranks.

At the Fourth meeting of the Joint Working Party on Federated Ranks' Pay on 8 February 1994 Staff Side made the following proposal:

*The Staff Side propose an integrated salary structure of three overlapping scales which recognise experience, skill development and the increased responsibilities brought about by the flatter organisational structure. Each scale contains a discretionary element of four additional increments on top of the non-discretionary maximum which would only be accessed by performance. The discretionary element in the pay scales recognises the importance the Home Secretary attaches to relating pay to an appraisal-based measure of performance.*

Staff Side also agreed at that meeting to the provision whereby an officer might remain on the same pay point following a less than satisfactory appraisal marking, but that this should also automatically trigger the unsatisfactory performance procedure.

At that meeting the Home Office confirmed that a steering group was in the process of developing an appraisal system and intended starting a pilot scheme from September 1994, with full implementation from September 1995 and appraisal related pay from September 1996.

At an Extraordinary Meeting of PNB Committee C on 24 February 1994, Staff Side and the Official Side agreed to pay scales for the Federated Ranks in which progression would be dependent upon satisfactory performance. PNB circular 94/1 and every PNB Circular on the pay of Federated Ranks up to and including 02/13 contained the following wording in relation to officers who had completed two years' post-probationary service:

*All officers move to this salary point on completion of two years' service as a constable, subject to satisfactory appraisal. Progression thereafter is also dependent on satisfactory appraisal.*

At its February 1994 Extraordinary Meeting, PNB Committee C also agreed that additional performance-related payments would be available to constables who had

reached the eight-year point of the 14-point pay scale and to sergeants who had reached the top of the pay scale. The PNB Independent Chair acknowledged that an appraisal system had yet to be developed, but said he had envisaged a three-tier system in which officers were marked as unsatisfactory, satisfactory or exceptional/outstanding.

Paragraph 5.1.1 of PNB Circular 94/1 contained the following wording:

*To amend the structure of constables' and sergeants' pay to provide a link between levels of pay and appraisal results. The revised pay structure will operate from 1 September 1994 with the exception of payments linked to outstanding performance. These will be introduced during the year beginning 1 September 1996 when the appraisal system has been developed.*

At a meeting of the Police Advisory Board of England and Wales in December 1995 the Police Minister, David Maclean MP, explained that during the preceding two years an appraisal system had been developed for use by all forces to relate police officers' pay to their performance in line with the 1994 PNB agreement. The model system had been piloted earlier in 13 forces and the National Criminal Intelligence Service. The new appraisal system was to be introduced on the basis that the link with pay would only be considered when forces were used to the system and were satisfied that it was working properly. The pay link would only be developed once the system was well-established.

The following wording in respect of officers who had reached the mid-point of the pay scale was contained in every PNB Circular on the pay of Federated Ranks from 94/1 to 02/13 inclusive:

*From this point onwards officers appraised as outstanding will earn a one-off non-pensionable performance payment of [£625-£840]. To retain this payment from year to year the officer must continue to deliver outstanding performance.*

In relation to the top of the pay scale, each PNB circular contained the following wording:

*Officers reaching this point, who are appraised as outstanding, will earn a non-pensionable performance payment of [£625-£840]. If the officer maintains the same performance level in the succeeding year, he or she will get an additional payment of £840 and the first payment will be consolidated. To retain the non-consolidated payment in subsequent years the officer will need to continue to deliver outstanding performance.*

However, PNB Circular 96/8 setting out the pay arrangements for Federated Ranks as of September 1996, the due date for the implementation of payments linked to outstanding performance, contained the following wording:

*Payments linked to outstanding performance will be introduced when the appraisal system has been developed.*

This wording was replicated in every PNB Circular on the pay of Federated Ranks up to and including 02/13. In the absence of an agreed appraisal system it was not legally possible for forces to make single performance payments and no officer has ever received such a payment.

The provision for pay progression and additional payments to be linked to performance were removed as part of the May 2002 agreement on reform of police pay which saw changes to the overtime arrangements and the introduction of CRTPs and SPPs.

During the 2005-06 discussions on pay modernisation, the then Staff Side Secretary, John Francis, wrote to the Official Side Secretary, Sarah Messenger on 16 March 2006. The letter included the following statement:

*Staff Side fully supports a robust, transparent and fair PDR system – underpinned by external quality assurance and thorough, accredited training for line managers.*

*Staff Side believes such a system should be in place before any pay decisions are linked to PDRs. Once such a system is bedded-in, Staff Side would consider the possibility that incremental progression could be linked to a satisfactory PDR – based on the presumption of ‘competent’ performance and any ‘not yet competent’ conclusions being fully evidenced by line managers.*

The fundamental challenge for any performance-related pay system within the police service is that officers’ performance must be objectively assessed to a consistent standard. It would be unfair for an officer in one force to be judged against different standards to an officer in that or another force. That is why constituent members of Staff Side have been involved in the development of the recently agreed national appraisal process and the review of the conduct and performance regulations in 2008. However, the 43 forces in England and Wales have yet to adopt this appraisal process which is not mandatory.

At paragraph 27, Winsor states that superintendents’ pay increments “appear to have been operating reasonably satisfactorily”. Pay progression for superintendents within the incremental scale is based upon the PDR; this is precisely what Staff Side has proposed for all police officers.

Given Staff Side’s historic position in respect of incremental progression contingent upon performance and the lack of consultation, Staff Side believes that freezing pay increments is an unfair attempt to make rank and file officers pay for the failure of the Official Side to introduce a PDR process which is fit for purpose.

## Recommendation 25

### ***The chief officer bonus scheme should be suspended for a two-year period commencing September 2011***

Staff Side asks the PAT to reject this recommendation.

Staff Side has consistently opposed the bonus scheme for chief officers, in favour of the consolidation of bonus payments back into basic salary. The original introduction of the chief officer bonus scheme was funded at the expense of chief officers' basic salaries. In addition CPOSA has an outstanding pay claim which has been held in abeyance awaiting the Winsor Review; the claim is reflective of a pay drift for chief officer's basic salary since 2003. Winsor's proposal to suspend the chief officer bonus scheme for two years is, therefore, singularly unjustified. No evidence is produced within the Part One Report to support the suspension of the bonus scheme, nor is there any evidence that the scheme does not meet the objectives which Winsor is exploring Part Two of the Review.

The Official Side has set out two drivers for reform:

- Making financial savings
- Lack of support for the scheme

With respect to the financial savings created by Recommendation 25, the combined savings from the suspension of bonus payments and performance-related pay for chief officers and superintendents is assessed by Winsor as yielding only £500,000 in 2011-12 and only £1 million in 2012-13 and 2013-14. This equates to 0.5 per cent of the savings which Winsor estimates will be made by his recommendations over the period to 2013-14, if all of his recommendations are implemented.

With regard to the lack of support for the scheme, Staff Side is of the view that this is a matter of contention as the scheme is overseen by police authorities and based upon the 2010 Chief Officers' Bonus Survey<sup>33</sup>, the majority of chief constables and deputy chief constables were in receipt of bonuses. This evidences that the majority of police authorities supported the process and were content to award bonuses based on the criteria below:

- **Key personal objectives which must be agreed at in line with the Home Office Guidance on PDRs for Chief Officers.** There will normally be between four and six key personal objectives and no more than ten. These objectives must reflect national and local policing plan and priorities and any national work of a significant nature. They must be SMARTER (Specific, Measurable, Achievable, Realistic, Time limited, Evaluated and Reviewed) objectives which capture the essence of what the reviewer expects the chief officer to achieve over the coming year, with a particular emphasis on the chief officer's personal contribution to improving the Force's performance. The key personal objectives must be defined in such a way that at the end of the year it will be obvious whether they have been achieved, exceeded or not achieved. One of these key

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<sup>33</sup> 2010 PNB Survey – Chief Officers Bonus Payments, Local Government Employers

personal objectives must relate to crime reduction and another must relate to diversity. All the key personal objectives must be quantifiable and assessment of whether they have been achieved, exceeded or not achieved must use PPAF data where appropriate.

- **The twelve ACPO competencies set out in the national competency framework for chief police officers<sup>34</sup>**. Each of these will need to be assessed in relation to each Chief Officer by the reviewer and marked as Exceeded, Achieved or Not Achieved.

At the end of the year, the two factors will need to be brought together in an overall PDR assessment of A, B or C

- A – A significant number of key personal objectives must be assessed as exceeded and no objective must be assessed as “not achieved” and a significant number of competencies must be rated as exceeded and no competencies must be assessed as “not achieved”. The Crime Reduction and Diversity objectives must be exceeded.
- B – All key personal objectives must be assessed as at least achieved and a significant number of competencies must be assessed as at least achieved.
- C – Does not meet the requirements of A or B above.

The ceiling for such bonus payments are:

- 15 per cent for Chief Constable
- 12.5 per cent for Deputy Chief Constable
- 10 per cent for Assistant Chief Constables

Given the limited financial savings and the clear link between evidenced performance and pay, Staff Side sees no basis for Recommendation 25.

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<sup>34</sup> Home Office Circular 27/2003

## Recommendation 27

### ***The bonus scheme for superintendents and chief superintendents should be suspended for a two-year period commencing September 2011***

Staff Side asks the PAT to reject this recommendation.

Access to performance related bonuses (PRBs) and double increments were introduced as part of the 2003 pay agreement. The concept of introducing performance-related pay for superintending ranks was clearly initiated by the Official Side. This scheme was developed through negotiation and was not achieved without elements of pay and conditions that pertained at the time being relinquished in exchange for the introduction of performance-related pay. The scheme as defined in PNB Circular 03/18 was based around the PDR system. Further detail is provided in PNB Circular 04/7.

Members of the superintending ranks were to be set a number of PDR objectives in the 'SMART' format, Specific, Measurable, Achievable, Relevant and Timely<sup>35</sup>. A minimum of four work-related personal objectives were to be agreed and set. If more than four were set, then at the beginning of the reporting period it was to be identified which of the four objectives were to be assessed for pay progression/bonus purposes.

To be eligible to receive a PRB or double increment, a superintendent or chief superintendent must 'exceed' at least three out of the four pay-related objectives set for him or her and at least 'achieve' the fourth. Such officers would then be graded as 'exceptional'.

Those officers graded as 'exceptional', and not at the top of their pay scale, would qualify for a double increment equating to an enhancement of salary of approximately four per cent for superintendents and three per cent of salary for chief superintendents. The payment of double increments does benefit pensionable pay and thus the implementation of this recommendation has a potentially long-term and significant impact upon the post-retirement income of superintending ranks. Recommendation 20, which proposed the freezing of incremental pay progression for two years, will result in officers who are rated as 'competent' or 'exceptional' receiving no increment regardless of their performance.

Those officers graded as 'exceptional', and at the top of their pay scale, would qualify for a PRB equating to five per cent of salary. A PRB is not pensionable.

The nature of promotion within the police service means that most superintendents and chief superintendents attain such ranks in the latter part of their service and when they are, by definition, of more mature years. Staff Side is concerned that the implementation of Recommendation 27 will have a disproportionate effect on members of the superintending ranks, both in terms of age and gender. During the Superintendents' Committee Working Groups, the Official Side were requested to undertake an Equality Impact Assessment (EIA) to establish the implications of

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<sup>35</sup> PNB Circular 04/7

implementing this particular Recommendation<sup>36</sup>. The Official Side have so far failed to conduct such an assessment; despite the Independent Chair of PNB stressing the importance of one being conducted in time for the PAT Hearing<sup>37</sup>. In addition, the lead negotiator for the Superintendents' (Staff Side) Committee wrote to the Official Side Secretary on 6 September 2011 and requested that an EIA be completed as soon as possible. A response to this letter is still awaited (copy of letter attached at Annex M).

Since 2003 increasing numbers of superintendents and chief superintendents have qualified for either double increments or PRBs due to their exceptional personal performance. Data provided by the PNB for 2008 shows that 187 superintendents and chief superintendents qualified for a double increment and 359 qualified for a bonus payment. This represents approximately 35 per cent of superintendents and chief superintendents in England and Wales. Moreover, the Official Side has never tabled any concerns about this scheme since its introduction in 2003, nor have they proposed the introduction of any alternative arrangements.

During this time, the performance of the police service has improved dramatically. Crime has gone down, detection rates have increased, complaints have reduced and public confidence has improved. Although such improvements in performance have not been delivered by superintendents and chief superintendents alone; their leadership in tackling these issues, as a result of the focus provided by the specific performance objectives set for them, has made a significant contribution to the performance achieved. In this regard, the scheme can only be considered a success.

Winsor estimates that the effect of suspending bonus payments for superintending ranks and chief officers would represent a reduction in overall police budgets of £0.5m in 2011-12 (a part year saving), £1m in 2012-13 and £1m in 2013-14<sup>38</sup>. However, these figures are not disaggregated from chief officers. It is, therefore, not clear what proportion of these savings will be gained from the suspension of performance-related pay for superintending ranks alone.

During the various working group meetings, the Official Side stated that the driving forces behind Winsor's recommendations were twofold. One was "to make savings" and the other "to stop the unfair time-based system of incremental progression". When it was pointed out that incremental progression for both chief officers and superintending ranks was already linked to performance, the Official Side eventually accepted that saving money was the only justification for Recommendation 27<sup>39</sup>.

Despite his criticisms of other forms of performance-related pay within policing, Winsor states that superintendents' pay increments "appear to have been working satisfactorily"<sup>40</sup>. Given that PRBs work on the same basis as increments, and that no evidence is produced to demonstrate that PRBs have not worked, Recommendation 27 appears to have no justification. Indeed Recommendation 27 is inconsistent with

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<sup>36</sup> Superintendent Ranks Working Party Notes, 20 May 2011

<sup>37</sup> *ibid.* and Superintendent Ranks Working Party Notes, 22 June 2011

<sup>38</sup> Table 8.1, *Part One Report*

<sup>39</sup> Notes of sixth Meeting of PNB Working Group held on 16 June 2011

<sup>40</sup> Paragraph 27, *Part One Report*

Winsor's assertion that high "performers should be paid more than those who perform adequately, and higher again than those who perform poorly"<sup>41</sup>.

Since June 2010, the number of superintending ranks in England and Wales has declined by 243 (17 per cent). At a maximum of 5 per cent of salary, a PRB, or double increment, represents a very modest recognition of the 'exceptional' performance demonstrated by those remaining superintending ranks in the context of ever-increasing spans of command and responsibility.

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<sup>41</sup> Paragraph 12, *Part One Report*

## Recommendation 29

***CRTP should be abolished from 31 August 2011 and all outstanding CRTP payments up to that date should be paid on a pro-rated basis***

Staff Side asks the PAT to reject this recommendation.

Competency Related Threshold Payments (CRTPs) were introduced as one element of a comprehensive package of pay reform in May 2002, with the first CRTPs being awarded in April 2003. CRTPs are available to federated rank officers who have served for a year at the top of their pay scale and who satisfy the requirements of the scheme to demonstrate high professional competence. CRTPs were introduced as a mechanism for continuing to incentivise officers who had reached the top of their pay scale.

Under the scheme set out in PNB Circular 02/17 it is possible for officers to lose the payment since it is expected that officers awarded the payment will maintain the level of performance and commitment to the job necessary to achieve the payment. Each force would put in place local procedures that would support and encourage officers to maintain those standards. However, where, under any formal management procedures, including any performance assessment process operated by a force, concerns are identified with respect to the maintenance of high professional competence by an officer in receipt of the payment, managers should trigger a reassessment of suitability for on-going payment.

Winsor's decision to abolish the payment is based on his belief in "an assumption of competence – that officers are working to the standard that would be expected of them". Winsor believes that the resources currently used to support this system would be better used recognising "the challenges faced by those officers in the Federated ranks who work unsocial hours"<sup>42</sup>.

Qualification for a CRTP requires that an officer demonstrates high professional competence under each of the following four national standards (Regulation 24, Annex F, Part 9, Police Regulations 2003):

### 1. Professional competence and results

- Effective organisation of work to meet the demands of the applicants' role
- Commitment to Police Service values
- Commitment to health and safety requirements
- Compliance with the Code of Conduct

### 2. Commitment to the job

- Commitment to achieving Force objectives
- Commitment to personal and professional development
- Commitment to achieving high levels of attendance

### 3. Relations with the public and colleagues

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<sup>42</sup> Paragraph 3.9.23, *Part One Report*

- Promoting equality, diversity and human rights in working practices
- Contributing to the Force's response, recognising the needs of all relevant communities
- Working as part of a team

#### 4. Willingness to learn and adjust to new circumstances

- Making best use of available technology
- Demonstrating an openness to change

There is nothing within the criteria for the scheme which prevents an officer who works unsocial hours from being rewarded. In proposing the abolition of CRTPs, though, Winsor is making a judgement not simply on the best way to reward police officers, but also on the actual aspects of policing which should be rewarded.

### Effectiveness of CRTPs

When looking at CRTPs, there are three categories of officer which are important in understanding the effectiveness of this scheme as a reward mechanism: the proportion of officers eligible to apply for CRTPs; the proportion of eligible officers who actually apply, and the proportion of applicants who are awarded a CRTP. Table One demonstrates that, although there is a high success rate among those who apply, at each rank the majority of officers have not been at the top of scale for at least one year and, therefore, are not eligible to apply. Across all ranks, just over one in three officers is eligible to apply for a CRTP.

**Table 1: Proportion of officers at top of scale for at least one year, by rank**

|                     | Percentage |
|---------------------|------------|
| Constable           | 34.0       |
| Sergeant            | 46.0       |
| Inspector           | 47.0       |
| Chief Inspector     | 48.0       |
| All federated ranks | 36.8       |

Source: 2009 CRTP Survey

Table Two demonstrates, of those officers who are eligible, the proportion that actually applies for a CRTP at each rank. Less than 90 per cent of officers in each rank actually apply for a CRTP despite being eligible to do so.

**Table 2: Proportion of eligible officers applying for CRTP, by rank**

|                     | Percentage |
|---------------------|------------|
| Constable           | 89.0       |
| Sergeant            | 89.0       |
| Inspector           | 87.0       |
| Chief Inspector     | 82.0       |
| All federated ranks | 89.0       |

Source: 2009 CRTP Survey

As Winsor identified, of those who are at the top of their pay scale and eligible to apply for CRTPs, 99 per cent of applicants are successful<sup>43</sup>. Given that there is such

<sup>43</sup> Paragraph 3.9.8, *Part One Report*

a high success rate for CRTPs, it seems difficult to understand why such a sizable minority of officers would not apply for a CRTP.

It is important to understand that not all systems of reward work on a purely formal basis. In fact, the high success rate of those who apply, together with the sizable minority of officers who do not apply, illustrates that the CRTP scheme does work very effectively. This is an example of informal supervision working effectively within the police service. Where officers do not apply, this is usually because they understand that, on the basis of their current performance, their application is likely to be rejected.

As Staff Side identified in its submission to the Winsor Review, the high success rate among eligible officers reflects the fact that, within the context and volume of issues within policing the majority of officers continue to perform effectively to ensure their continued receipt of a CRTP. Where officers in receipt of a CRTP have failed to continue meeting the requirements of the scheme, they may have their CRTPs removed.

### **Impact upon pensions**

The Police Pension Scheme 1987 (PPS 1987) is a final salary scheme and its pension benefits are calculated based on average pensionable pay. This is usually the pensionable pay in the last 12 months of service but, if an officer's pensionable pay in one of the preceding two years was higher, then this figure will be used instead; this is known as the "three years rule" (Police Pensions Regulations 1987, Regulation G1). Pensionable pay comprises basic pay, London weighting, CRTP and pay on temporary promotion. Therefore, if CRTPs are abolished it will represent a cut in the average pensionable pay for scheme members, although this will not happen until after the three years rule starts to lose its effect i.e. two years after the payment is removed. Three years after CRTP is removed it will be totally excluded from final salary calculations.

### **Criticism unfounded**

An Official Side Circular dated 19 November 2002 (Annex N) makes clear that:

*It will be the responsibility of each police authority to assure itself that the arrangements are in place in their force for assessment and payment under this scheme, including the arrangements for triggering reassessment are efficient and effective.*

As that circular explains, the assessment of performance must be based upon evidence consisting of at least one example of "achievement from their day-to-day work" against each of the 12 criteria within the scheme. These examples must be "relevant, accurate and indicative of the officer's overall performance against each of the criteria." Such evidence must also be "taken together with managers' knowledge of the officer's performance levels over the period."

Such a scheme does not appear to lack the rigour in the way in which Winsor characterises it. In fact, rather than criticising the design of the scheme, Winsor writes:

*The CRTP regime has not worked as it was intended to. If an officer applies for a CRTP, the evidence shows that he is almost certain to receive it as a matter of course, often with little management scrutiny or anything approaching rigorous application of the national standards. CRTPs have become another pay point on the scale. (paragraph 3.9.22)*

In respect of CRTPs Winsor takes the position of many on the Official Side that they have not worked as they were intended to. Great weight seems to have been given to the oral contributions of two participants of the performance and post related pay seminar, who recounted their experience of forces paying CRTPs “unless a report was put in arguing otherwise.” No evidence is produced to substantiate this claim. Nor is any evidence produced in the report to support the assertion that officers who apply are “almost certain” to receive a CRTP “with little management scrutiny”. The only basis for this claim is the high success rate of eligible applicants.

However, although Winsor reports both the percentage successful of officers applying and percentage of eligible officers applying, the degree of officer success is somewhat distorted by this presentation which is based on neither the percentage successful of those eligible nor on its variation across ranks. The PNB Equal Pay Audit of 2009 shows 88 per cent of eligible Federated Rank officers receiving CRTPs, but some variation by rank from 88 per cent of Constables to only 80 per cent of Chief Inspectors.

In presenting overall figures for the Federated Ranks, Winsor obscures the noticeable variation across forces in respect of even application rates. Leaving aside the Hertfordshire force where percentages applying are especially low across all groups, the percentages applying is as low as:

- 74 per cent among male constables in Greater Manchester
- 64 per cent among female constables in Gloucestershire
- 64 per cent among male sergeants in Merseyside
- 40 per cent among female sergeants in Fife,
- 46 per cent among male inspectors in Gloucestershire
- 40 per cent among female inspectors in both Gloucestershire and Derbyshire
- 29 per cent among male chief inspectors in Cumbria
- 29 per cent among female chief inspectors in PSNI

This information is based on a table compiled by OME for the Official Side to inform equal pay discussions (September 2010).

### **Equality concerns**

Staff Side does have some concerns in respect of CRTPs. A key issue is ensuring that female officers are encouraged to apply for CRTPs. The 2009 PNB Equal Pay Audit identified the CRTP scheme as contributing to the equal pay gap by effectively extending the length of each pay scale.

Although all officers at the top of scale can apply for a CRTP, it is clear that not all those eligible apply. There are significant gender disparities in application rates. It appears that the decision as to whether to award a CRTP is taken before an application is made; this is most likely to be a consequence of Force application

criteria and/or lack of line management support identified prior to application. Once made, however, the success of the application shows no real gender difference.

The biggest gap in favour of male officers at each rank is in respect of the eligibility to apply for a CRTP, because female officers are less likely to be at the top of their pay scale. The average length of service for current male constables is 12 years, while that of female constables is eight years. Most male constables will be on the top of scale and eligible for CRTP whilst most women will not.

However, there is also a tendency for women not to apply for a CRTP even when they are eligible. This tendency is more evident at the inspecting ranks: 15.7 per cent fewer eligible women chief inspectors do not apply for a CRTP compared to equivalent men.

### **Staff Side position**

Staff Side believes that CRTPs should be retained and that continued receipt of a CRTP should be contingent upon a satisfactory PDR. Given the concerns over the time taken to access the CRTP, Staff Side has also suggested that if the Official Side is committed to introducing performance related pay, then in the interim period pending consideration of Winsor's second report, the CRTP scheme could be extended to any officer not just those that are at the top of their pay scale.

As stated in respect of Recommendation 20, during previous discussions on modernising police pay in 2006, the Official Side indicated a desire to link incremental pay progression to performance. Staff Side gave a commitment to discuss this, subject to the police service introducing a national system for reviewing performance that is fit for purpose.

At the PNB Working Party meeting of 24 May 2011, the Official Side Secretary indicated that one of the Official Sides principles for police pay is that it should be linked to contribution. That is why Staff Side has proposed that the annual review of CRTP could be linked to the annual appraisal of officers. This will support better management of the procedure and allow managers to remove the payment should officers not be demonstrating a high professional competence in accordance with the four national standards that include a commitment to the job and professional competence and results.

This also addresses Winsor's criticism of the process in that individuals are almost certain to receive it as there is little management scrutiny or anything approaching rigorous application of the national standards. It also supports the belief he expresses in his report, that individuals should receive less if they are underperforming.

CRTPs are a means by which forces are able to reward the contribution of police officers in the same way as Winsor states that incremental progression for superintending ranks has been utilised<sup>44</sup>.

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<sup>44</sup> Paragraph 27, *Part One Report*

In evidence to the House of Commons Home Affairs Committee, Winsor stated his view that:

*No money turns on the appraisal system, so it is easier to give someone a "steady as she goes" kind of appraisal, rather than an honest appraisal saying, "You are just not performing as well as you should be."<sup>45</sup>*

Since money does in fact "turn" upon the CRTP assessment, this implies that CRTPs should be an effective means of rewarding contribution. Staff Side's offer to link the retention of CRTPs with the annual appraisal of officers and to allow officers below the top of their pay scale to apply for CRTPs meets any Official Side objection to their continued use.

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<sup>45</sup> Q466, *The New Landscape of Policing: Evidence heard in Public Questions 440-513*, Home Affairs Committee, 14 June 2011

## Recommendation 33

### ***Special Priority Payments should be abolished from 31 August 2011 and all outstanding SPPs up to that date should be paid on a pro-rated basis***

Staff Side asks the PAT to reject this recommendation.

Special Priority Payments (SPPs) were introduced as part of a comprehensive package of pay reform and followed specific requests from the Official Side that chief officers be able to reward officers locally. Staff Side was initially resistant to the introduction of SPPs on the grounds that they were likely to be divisive and discriminatory. This problem was inherent in the system. The limit on the proportion of officers able to receive SPPs (30 per cent, later extended to 40 per cent) ensured that Forces sought to identify groups of officers to make up the numbers rather than identify officers who genuinely met the criteria for the payment. That is why Staff Side suggested the removal of the 40 per cent eligibility criteria during the negotiations<sup>46</sup>.

In the subsequent years since their introduction, these payments have proved so divisive that Staff Side understands that ACPO no longer supports their use either. In its submission to the 2008 Green Paper ACPO urged the “re-direction of monies which currently support differential payments such as SPPs and bonuses which, in ACPO’s view, are divisive rather than supportive”<sup>47</sup>.

Under the SPP scheme each force decides which roles will receive an SPP during the next 12 months (Regulation 34, Annex U, Police Regulations 2003). If an officer has been in a post which is designated as eligible to receive an SPP, they receive an annual payment. If they have been in that post for less than 12 months, they receive a pro-rata payment. Last year Staff Side agreed to an Official Side proposal that these payments may be paid on a monthly basis to make them more flexible.

The annual amount for an SPP is not less than £500 a year and not usually more than £3,000 a year, although Chief Officers may vary this up to a limit of £5,000 a year. In February 2008 the Official Side tabled a paper from ACPO which sought agreement that the SPP scheme should be amended to allow the maximum SPP payable to be increased to £8,000 per annum, which was only withdrawn in January 2011.

In February 2009, the Chief Constable of Northumbria Police called for SPPs to be scrapped and that funding for those payments should be equally distributed among all officers<sup>48</sup>. Indeed, this was exactly the approach taken by Grampian Police when determining how SPPs should be allocated for 2009<sup>49</sup>. Each federated officer received an equal payment of approximately £700, although this was clearly in breach of PNB Circular 03/16 (Advisory), which stated that no more than 40 per cent of the force strength should benefit from SPPs.

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<sup>46</sup> PNB Joint Working Party Meeting, 25 May 2011

<sup>47</sup> *From the neighbourhood to the national, ACPO Response to the Policing Green Paper*, October 2008

<sup>48</sup> “Qualified cops first in line for priority pay”, *Police Review*, 13 February 2009

<sup>49</sup> “Force scotches priority pay for the few”, *Police Review*, 8 January 2010

While these comments and actions are difficult to reconcile with the Official Side proposal to increase SPPs to £8,000 a year, they do demonstrate the divisiveness of SPPs.

In addition, there are examples of inconsistencies between forces, which have come to light during collaborative working, where officers from one force have been in receipt of SPPs, while officers working with them from other forces have not.

Winsor expresses surprise that payment for “frontline posts in particularly demanding areas only appear as the fourth most used criteria reported by the forces responding to an ACPO pay and reward survey for 2010.” However, this was only one of the scheme’s original criteria. The other three criteria, demanding working conditions, difficult to recruit and retain and carrying higher responsibility, occupied the top three reasons ahead of it. This point is essentially about the flexibility and discretion of Chief Officers. As Winsor himself states, his proposals will “return a degree of local flexibility to police forces” in the longer term<sup>50</sup>. If Winsor’s long-term aim is to return local flexibility to forces, why then does Winsor criticise Chief Officers for the choices they make with that local flexibility now?

Winsor says:

*I do not agree with those who assert that SPPs have had no benefits. They have been helpful in some respects, allowing forces to use a small proportion of their pay budgets to meet specific local needs. Some have used this power creatively, whilst others have not. SPPs have also secured a measure of acceptance that not all posts at a particular rank are equal. (paragraph 4.1.32)*

Winsor goes on to say that he believes “variable pay is the best approach for the modern police service, with those who contribute more receiving more”. However, at no stage does Winsor identify how Forces should identify “those who contribute more”; neither does he address the potential for such a judgement to discriminate against women officers. The 2009 PNB Pay audit identified that the pay gap in favour of men for SPPs was around 7 per cent for Inspectors, 8 per cent for Chief Inspectors, 9 per cent for Sergeants, rising to almost 13 per cent for Constables.

Although Winsor accepts that SPPs have been divisive, he believes this “stems less from the principle that some receive the payment whilst others do not, and more from the uncertainty of its receipt each year, the criteria which are applied by some police forces, and dissatisfaction at the removal of the payment in later years”<sup>51</sup>. Staff Side disagrees with Winsor’s analysis of the causes of division in relation to SPPs. The fact that there is uncertainty over the receipt of SPPs is a cause of anxiety, not division. Staff Side would contend that, in addition to this understandable anxiety, there is also a great deal of divisiveness associated with SPPs specifically because some officers receive them while others do not.

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<sup>50</sup> Paragraph 4.1.63, *Part One Report*

<sup>51</sup> Paragraph 4.1.30, *Part One Report*

In fact Winsor proposes replacing SPPs with a scheme (an interim Expertise and Professional Accreditation Allowance or EPAA) which Staff Side believes would increase divisiveness and discrimination across the Service (see Recommendation 34 below).

While Staff Side does not support the continued retention of SPPs in their current format, Staff Side considers that the money saved should be used to retain aspects of pensionable pay for police officers. In particular, Staff Side believes that SPPs should be suspended until September 2014 and that the savings achieved through this should be used to enable officers to continue to move up their incremental pay scales and to continue to access and retain their CRTPs (see Recommendations 20 and 29).

## Recommendation 34

***An interim Expertise and Professional Accreditation Allowance of £1,200 per annum should be introduced from September 2011 for officers meeting the skills or length of service criteria in the four stated priority functions. It should be paid monthly and pro-rated where an officer works part-time. It should be removed when an officer leaves the qualifying role.***

Staff Side asks the PAT to reject this recommendation.

Winsor proposes an interim Expertise and Professional Accreditation Allowance (EPAA) to be paid to officers in the following categories:

- Professionalising Investigation Programme (PIP) accredited detectives
- officers accredited to Public Order Level 1 or 2
- officers in possession of Authorised Firearms Officer status
- officers who have worked in Neighbourhood policing for three years

The EPAA is to be set nationally in respect of both policing functions to which it applies and its amount, and will not provide for local flexibility in the short term (paragraph 4.1.63). Winsor envisages however that local flexibility in pay should return in the long term by basing pay on a combination of “individual contribution, job weight and labour market forces”. As these proposals are properly an aspect of Part Two of the Review, the exact nature of what may be recommended is not yet known. This makes agreeing to an interim allowance at this stage extremely difficult for Staff Side, particularly given our concerns in respect of the apparently arbitrary selection of these posts, the lack of an adequate equality impact assessment of the EPAA and its likely impact upon the gender pay gap and the general lack of robustness within the design of the scheme. The management of this scheme would also see the introduction of administrative processes that would clearly increase bureaucracy.

### **Selection of posts**

Staff Side has concerns at the lack of transparency in the selection of the four posts identified by Winsor. These posts have been chosen without any proper process for determining their relative value compared to other posts in policing. Winsor fails to recognise a range of roles within policing with equivalent skills and contributions.

Staff Side notes that Winsor appears to be recommending a Job Evaluation Scheme for police officers in the future although he does not state this or explain how it could be developed. Staff Side notes however that Winsor appears to be anticipating the outcome of any analysis of job worth by nominating four roles that he believes are particularly valuable in comparison to all others.

Staff Side considers that there are limits on the extent to which job evaluation could be applied to police officers, as it could restrict current levels of flexibility and result in different grading and pay for different but commonly occurring combinations of tasks. Despite this, Staff Side believes that a relatively generic scheme applied to generic job information, essentially on a rank basis in order to retain maximum flexibility, may be appropriate. Such a process would encourage credibility through an objective and rational approach and would enable robust comparisons to be made so that pay and

grading decisions are able to genuinely reflect different levels of responsibility and contribution.

This point is particularly important since the EPAA, which is intended to replace SPPs, does not reward skills; it rewards skills that are being used. It is therefore a role-based allowance. An officer could show that he or she has achieved all the skills necessary to qualify for the allowance. However, if they have been posted to a role outside of the four priority functions mentioned (senior investigation, public order, firearms, neighbourhood) they will not receive it. Winsor seems to assume that it is always the choice of the officer where he or she is posted. The EPAA appears to be the first step in a direction of travel being taken by the Winsor Review. This direction links pay directly to the acquisition and use of skills within particular posts. However, the power exists within Police Regulations for officers to be directed to work in any role or part of the force by their chief constable (Regulation 20, Police Regulations 2003). Winsor recognises this at paragraph 2.1.25. Staff Side, therefore, believes that EPAAs will be divisive in the same way as SPPs have been. They will also pose a potential threat to industrial harmony with the possibility of significant challenge to any decision to move officers from roles where they would qualify for an EPAA to those where they do not. Staff Side further believes that the roles chosen by Winsor as being particularly worthy of reward are predominately roles undertaken by men and will mean that the EPAA is inherently discriminatory against women to an even greater extent than SPPs.

Applying an allowance to an acquired skill and its implementation also assumes that officers will be able to access those skills. A significant problem in terms of recognising skills is the lack of support which officers experience in trying to access training. In December 2006, the PFEW commissioned the Institute for Employment Studies (IES) to evaluate the implementation of the Performance and Development Review (PDR) system. This report found that:

- Around 60 per cent of respondents disagreed or strongly disagreed that they had good access to training when they needed it
- Over half of respondents with line management responsibilities indicated that they were dissatisfied or very dissatisfied with the training available to address the development needs of their supervisees
- Around 40 per cent of inspectors thought that their development needs would be addressed in the coming year, compared to just 15 per cent of both sergeants and constables

Where forces do experience skills shortages or recruitment difficulties Staff Side believes that more must be done to ensure adequate access to training for officers.

### **Gender pay gap**

Winsor justifies the abolition of SPPs and their replacement with EPAAs on the grounds that SPPs have been shown to discriminate, and suggests that introducing the EPAA will be “a positive move towards equality”.

However, the Equality Impact Assessment (EIA) carried out by Winsor actually states that:

*The review's workforce and financial modelling indicates that the introduction of the EPAA will result in female officers being slightly more likely to receive the payment at constable rank, but only with a 1% difference....It should be noted that this analysis is limited to some extent by data for the number of officers with Level 2 public order training. This data was provided by ACPO and the NPIA and did not include a gender or ethnicity breakdown.*

No disaggregated figures are included in the EIA and Winsor appears to have undertaken no genuine analysis by gender of the numbers of men and women in each of these roles.

In a different context the Fitness Working Group of the Police Advisory Board for England and Wales (PABEW) sought to test a representative number of men and women officers undertaking various specialist posts in order to identify the operational fitness standards for officers. The Working Group was able to identify some gender data in respect of different roles which shows that women made up 10 per cent of firearms officers and 11 per cent of public order officers.

Therefore, in just two elements, the EPAA regime will have a disproportionate adverse impact on eligible women recipients in the order of 90 per cent, significantly more than the 32.5 per cent difference for SPPs currently evident at Constable rank or the one per cent claimed by Winsor for the EPAA.

### **EPAA's insufficiently robust**

Winsor's comments that, in designing the EPAA "attention has been focused on the functions which are of the greatest importance and require the highest professional skill"<sup>52</sup>. However, Staff Side notes that the rigidity of the proposed system would take away discretion from Chief Officers. The only way a Chief Officer would be able to reduce the budget for the payment whilst still providing the requisite service to the public would be to take away the qualification requirement for the role. Staff Side believes therefore that the EPAA is open to significant manipulation by forces:

- Staff Side has been made aware that in at least three forces, including two of the largest in England and Wales, detectives in investigative functions who are qualified to PIP-level 2 have been notified that their roles will no longer require such accreditation in the future. Some of these roles are highly specialist criminal investigation functions. The effect of such a policy change is to arbitrarily remove a large proportion of trained detectives who would previously have qualified for the EPAA under Winsor's proposals.
- Similarly, no consideration has been given to likelihood that officers will be removed from Neighbourhood policing as they approach the three year qualification point. It will be at the discretion of Chief Officers whether or not officers will be able to remain in post long enough to qualify for an EPAA.
- Winsor states that "the possession and use" of Authorised Firearms Officer status "would entitle an officer to the EPAA". Winsor goes on to state that there are

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<sup>52</sup> Paragraph 4.1.61, *Part One Report*

“approximately 3,000 Federated firearms officers in England and Wales”<sup>53</sup>. However, according to Home Office figures, there are 6,797 Authorised Firearms Officers in England and Wales<sup>54</sup>. This significant discrepancy in figures gives Staff Side concern.

- Moreover, in some forces the numbers of officers on Response teams who have been trained to Public Order Level 2 has been deliberately restricted, despite no shortage of candidates willing to undergo such training.

The ease with which forces may adopt approaches such as those outlined above demonstrates to Staff Side that the EPAA is insufficiently robust in design. Even if Staff Side accepted the EPAA, therefore, there are genuine concerns that it will fail in its attempts to reward those officers for which it was intended, particularly as forces look to make savings from their reducing budgets in the future. As stated in the introduction to this submission, HMIC has reported that some forces have claimed that the costs of the Winsor Recommendations will exceed the savings<sup>55</sup>. Staff Side fears that forces will manipulate the EPAA to restrict the numbers eligible for the payment. This would completely undermine the purpose of the EPAA as an incentive to encourage officers into the posts identified.

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<sup>53</sup> Paragraph 4.1.56, *Part One Report*

<sup>54</sup> *Statistics on police use of firearms in England and Wales 2009-10*, Home Office, 9 June 2011

<sup>55</sup> *Adapting to Austerity*, HMIC, July 2011

## Recommendation 43

***The replacement allowance for housing should remain. However, the amount an officer receives should not increase from 31 August 2011 with changes in personal circumstances, such as promotion. The existing framework, by which the amount an officer receives, reduces when he lives with another officer also receiving the allowance, should remain***

Staff Side asks the PAT to reject this recommendation.

Staff Side believes that the Winsor Review has provided no evidence or justification to support this recommendation.

Winsor acknowledges that housing allowance is in decline and will disappear in time. Winsor believes that removing it now from a diminishing number of police officers would be unduly onerous and he does not recommend its abolition.

However, he does recommend some changes to the system:

*The amount should not increase from 31 August 2011 with changes in personal circumstances, such as promotion.*

A higher housing allowance is paid when an officer is promoted from the federated ranks to a higher rank. For example, on promotion to superintendent, a chief inspector would see an increase to his or her allowance of 16 per cent. Winsor states that an officer has no right to promotion and therefore has no proper expectation of a higher income from an allowance which was designed for a very different age. However, it does remain part of the package of incentives for officers who seek promotion and are expected to accept the increased responsibility that comes with it.

Winsor goes on to state that:

*The existing framework, by which the amount received by an officer reduces when he lives with another officer also receiving the allowance, should remain.*

He believes that this is fair to the taxpayer, as it would not be right for a household to receive an allowance for housing twice. Staff Side is concerned that this aspect of the recommendation could undermine a recent PNB agreement detailed in PNB Circular 11/02. This agreement sought to address the anomaly that occurs when housing allowance is shared between officers of different ranks so that, rather than the housing emoluments of both officers being halved, they could elect to retain the higher allowance and forego the lower one.

Staff Side believes that this recommendation will lead to very limited savings. The Official Side has admitted that any savings are “speculative” and that it was unable to provide detailed calculations of the likely savings (PNB Joint Working Party – 6 July 2011), nor were any calculations were provided within the Winsor Report. The decision to retain the replacement allowance was the decision of a previous Home Secretary. Staff Side believes that this decision should be honoured. The

amount spent on replacement allowance is projected to fall by £55 million by 2014, but these savings have not been factored into the Winsor Report.

Despite these concerns, Staff Side indicated during the course of the PNB negotiations on Winsor that it would be willing to agree to Recommendation 43, provided that the Official Side honoured the agreement reached in PNB Circular 11/02 in respect of shared housing emoluments. In the absence of such an agreement, Staff Side asks the PAT to reject this recommendation.

## Recommendation 44

***A national on-call allowance for the Federated ranks should be introduced from September 2011. The amount of the allowance should be £15 for each occasion of on-call after the officer in question has undertaken 12 on-call sessions in the year beginning on 1 September. An on-call occasion should be defined as the requirement to be on-call within any 24-hour period related to the start-of-the-police-day***

Staff Side asks the PAT to reject this recommendation.

As the PAT will be aware, Staff Side's proposal for an on-call allowance was that it should remain voluntary and would be remunerated as follows:

- For any period of on-call on a duty day, a daily allowance at the rate equivalent to 0.1 per cent of basic pay.
- For any period of on-call on a weekly rest day, public holiday or free day, a daily allowance at the rate of 0.2 per cent of basic pay.
- Officers should not be required to be on-call on an annual leave day. However, if the situation did arise, a daily allowance should be paid at the rate of 0.5 per cent of basic pay.

On the current pay scales, this claim would represent the following ranges for each rank on a duty day:

- Constables – £23.26 to £36.52
- Sergeants – £36.52 to £41.04
- Inspectors – £47.79 to £50.75 (not including London salaries)
- Chief Inspectors – £51.79 to £53.92 (not including London salaries)

A figure of £15, therefore, represents only two-thirds of the lowest point on the constables' pay spine, and so is some way below any level which Staff Side has previously been willing to accept.

The £15 amount is also a flat rate which does not appear to distinguish between a day on which duty is to be performed, a rest day, public holiday or free day, or even periods of annual leave.

According to the joint data gathering exercise conducted by the PNB<sup>56</sup>, the average number of on-call sessions for an officer in an on-call role ranged from 44 a year to 64 a year in the forces visited in England and Wales (with much higher averages in Strathclyde and the PSNI). This recommendation means that officers would not be paid for between a fifth and a quarter of their on-call sessions.

Staff Side is opposed to the principle of a minimum number of on-call sessions before an officer can qualify for payment. Furthermore, Staff Side has concerns at the method used to calculate the cost of the Official Side's proposed on-call allowance payment for police officers in England and Wales. The Winsor Report

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<sup>56</sup> PNB On-call Working Party, October 2009-August 2010

identifies a figure of £15 million in each full year or £40 million cumulatively over the 2011-14 period. Nowhere does the report clearly set out either the number of officers on-call in England and Wales or the number of occasions of such on-call in any one year.

Both Sides of the PNB spent a great deal of time trying to arrive at an agreed methodology throughout 2010. With the assistance of the Independent Chair, John Randall, the Sides made great progress in agreeing a methodology which did not exclude the Metropolitan Police Service (MPS), the largest police force in the country. Although the MPS was able to supply the PNB with the total number of on-call sessions for the whole year, it was unable to provide the number of officers in roles with an on-call requirement. This meant that the PNB On-call Working Party was unable to ascertain the average number of on-call sessions per officer on-call in a year.

Fortunately, in the course of negotiations John Randall suggested a methodology that would allow the Sides to take into account on-call data gathered from all nine force visits, including the MPS<sup>57</sup>. This involved calculating the average number of on-call sessions per officer in force, and then grossing up this average by the total number of all officers in force in the UK. In a subsequent Official Side letter to Staff Side dated 8 June 2010, the Official Side said they “would be happy to agree to use this methodology as a good basis for calculating the estimated cost of any new allowance. In particular we are of the view that the recently agreed and jointly collected data provides a good basis to estimate the likely cost of the allowance”. To this effect the Official Side attached a table setting out their UK costing based on the Randall Formula.

Staff Sides’ response on the 11 June to the Official Side letter pointed out that, in the absence of an alternative, Staff Side would be willing to use the approach set out by the Official Side, but with the exclusion of Police Service of Northern Ireland (PSNI) and MPS data, the former on the grounds that it was clearly an outlier in relation to other UK forces, and the latter on the grounds that at the time the data was far from robust and carried an MPS ‘health warning’. However, subsequently the MPS data was further revised and the total number of on-call sessions in a year was revised down by the MPS on the 21 June 2010 from 304,045, included in the Official Side table, to 179,298.

Using John Randall’s formula and allowing for Winsor’s criterion of 12 on-call sessions in an annual period before becoming eligible for the proposed payment of £15 per session suggests a cost of around £9 million. This is somewhat lower than the £15 million claimed by Winsor. On the basis of our calculations, if officers in England and Wales were paid the £23 per session proposed for officers in Scotland, the cost would still be only about £14 million. This calculation includes 12 sessions which would remain unpaid under the Winsor proposals.

Staff Side’s claim was 0.1 per cent, 0.2 per cent and 0.5 per cent of salary for on-call on duty days, rest days and during a period of annual leave. During negotiations

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<sup>57</sup> *On-Call Allowance – Costing*, 5 February 2010

Staff Side asked the official Side to consider paying those rates at the level of a five-year Constable and below, which were rejected.

Staff Side would expect that officers would be paid for each occasion of on-call undertaken. If this was the case, the cost in England and Wales would rise to £18 million at £23 per session as per the amount agreed in Scotland.

Staff Side, therefore, believes that it is possible to pay officers a higher amount for being placed on-call than that proposed by the Official Side without increasing the financial burden upon forces.

However, given that the second part of the Winsor Review will examine the case for role-related pay, Staff Side believes that this issue should be deferred until the second report and that it should be examined in relation to those roles which possess an on-call requirement.

## **Recommendation 45**

***The national on-call allowance should be reviewed by the Police Negotiating Board three years after its introduction in the context of better management data***

Staff Side's rejection of Recommendation 45 follows from our views in respect of Recommendation 44.

## Recommendation 59

***Regulation 5(4) of the Police Regulations 2003 should be amended so that an officer giving written notice to return from part-time to full-time working, must be appointed by the Police Authority within two months if the force has a suitable vacancy, and within four months of the notice being received.***

Staff Side asks the PAT to reject this recommendation.

Staff Side is opposed to this recommendation as there is no evidence provided anywhere within the Winsor Part One Report that the current Regulation 5(4) presents any problems for forces.

Regulation 5(4) states:

*A person appointed to perform part-time service immediately after serving as a full-time member may give notice in writing of his intention to be re-appointed as a full-time member and shall be so appointed –*

*(a) within one month of the date the notice is received by the police authority, where the authority has a suitable vacancy, or*

*(b) except where sub-paragraph (a) applies, where 3 months have elapsed since the day the notice was received, or from an earlier date if reasonably practicable.*

The Regulation only applies to officers who were previously full-time. It does not apply to all officers who work part-time.

This recommendation lengthens the time allowed to forces to appoint officers to full-time service (from a maximum of three months to a maximum of four months). Staff Side are cognisant that for officers who wish to return to full time working there may well be a pressing financial need and/or a change in personal circumstances necessitating an increase in hours. This recommendation would therefore adversely impact on officers currently working reduced hours, the vast majority of whom are women. Figures from the 2009 PNB Equal Pay Audit showed that around 7,500 officers from Federated ranks worked part time but that only 400 of them were men. One in five women Constables, a quarter of women Sergeants and 13 per cent of women Inspectors worked part-time.

It is not clear why Winsor has picked up on this particular issue or what he believes it will achieve. Winsor has not undertaken an assessment of the impact on people from minority groups of this recommendation. There is no commentary or background associated with the recommendation, just an explanation of the provision as it currently stands followed by Winsor's recommendation to amend it. Moreover, this recommendation is somewhat randomly placed towards the end of the *Managing the Workforce* chapter and it follows on from a section on *Compulsory Severance*. It only comprises two paragraphs and would seem to indicate Winsor's lack of consideration on issues affecting part-time officers.

A word search on “part-time” in the Winsor report produced only 20 hits, most of which relate to this recommendation or Recommendation 32 which proposes that the EPAA should be paid pro-rata if an officer is part-time.

Winsor largely ignores issues affecting officers who work part-time. He has made no suggestions that would make it easier to facilitate part-time working. In fact many of his proposals would adversely impact on part time working and there is no reference at all to Free Day working. Free days apply to officer who work part-time and are defined as a day which is not “a day on which, according to the duty roster a shift is to begin or end;” not “a rostered rest day;” nor “a public holiday” (Regulation 22, Annex E).

## **Working practices and the culture of the police service**

It is important that the implications of any change to the remuneration and conditions of service are considered in the context of what they will mean for the working practices of the police service, and consequently for the culture of the service.

Staff Side does not consider that Winsor's Equality Impact Assessment was adequate; in particular Staff Side is concerned that the impact on women in the Service has not been properly considered. Although women make up 26 per cent of the service overall, they make up 40 per cent of those with less than five years' service and their proportion will increase as more men than women leave the service on retirement and Forces operate a recruitment freeze. Women in the service have been marginalised to the extent that the male gender is used throughout the report, even, as Winsor himself notes on page 31, "when both sexes or either sex is meant".

There are two sets of issues which are apparent from the recommendations in the Winsor Part One Report that would have a major impact on the people that the service recruits and retains: overtime, mutual aid and the rewarding of work during "unsocial" hours; and the reward for working in particular roles through the EPAA. The first set of issues is covered by Winsor under the heading of "deployment", the latter under "recognising posts and skills".

### **Deployment**

Overtime in the police service is directed. The PNB Equal Pay Audit in 2009 found that women already undertake less overtime than men. Officers with caring responsibilities find it particularly difficult to accommodate short notice changes to hours. Forces will need to increase their use of overtime because there will be fewer officers as the recruitment freeze bites. Officers with caring commitments will be less likely to be able to undertake significant overtime requirements and may even be forced to leave the service. These officers are more likely to be women.

The proposed management and payment in respect of mutual aid do not adequately compensate for the disruption and additional costs associated with being away from home for undefined periods. Officers with caring commitments will simply be unable to remain away from home either at short notice or for long periods. Such officers are, again, more likely to be women.

The proposed introduction of the concept of and payment for "unsocial" hours will tend to reward those who do not have caring commitments. Such officers are more likely to be men.

In Britain in 2011, 38 per cent of women and four per cent of men with dependent children work part-time. Almost half of women's jobs are part-time compared with around one in six of men's. Figures from the PNB Equal Pay Audit in 2009 showed that around 7,500 officers from Federated ranks worked part time – just 400 of them were men. In 2009 20 per cent of women Constables, 24 per cent of women Sergeants and 13 per cent of women Inspectors worked part time. It is clear that women officers, just like women in other sectors, need flexible working options if they are to be retained in the service.

Childcare needs are dependent on whether a person is a single parent, in a partnership or whether they have other help available; either free or bought. Commercially available childcare is rarely available during “unsocial hours”.

An “unsocial hours” payment introduces a cost that forces will need to consider when making decisions in respect of the deployment of officers. Therefore, this additional cost is more likely to reduce flexibility in the current conditions of service for police officers and to increase the potential for gender-based job segregation to return to the police service after years of effort to reduce it.

The traditional role-based segregation within policing has not only reinforced stereotypical perceptions of the work of women compared to the work of men, it has usually also implied different time commitments that reinforce those traditional perceptions. Roles that have more definite time parameters are easier for officers with family commitments to manage.

Gender-based job segregation becomes an issue of equal pay if pay policies reward posts held predominantly by men in preference to posts held predominantly by women. This was clearly an issue identified in respect of the payment particularly of SPPs in the most recent PNB Equal Pay Audit conducted in 2009. A highly probably scenario is that the gender pay gap will increase as a result of the unsocial hours payment, as more men than women are available to work such hours; but also, where it suits women officers to work unsocial hours, the additional financial implications will mean that forces are disinclined to allow such a change in those officers’ working patterns.

### **Recognising posts and skills**

As the PABEW Fitness Working Group established, women make up 10 per cent of firearms officers and 11 per cent of public order officers. As a result, in just two elements, the EPAA regime will have a disproportionate adverse impact on eligible women recipients in the order of 90 per cent. This is significantly more than the 32.5 per cent difference for SPPs currently evident at the rank of constable or the one per cent claimed by Winsor for the EPAA.

Moreover, some forces have already begun to change the qualification criteria for particular roles, undermining the basis for Winsor’s link between skills and posts. This is most evident in relation to detective roles and PIP-accreditation. There is also, though, a worrying development in relation to public order training. As highlighted above, women make up only 11 per cent of public order officers. Restricting access to training, particularly if this is driven by financial considerations because such officers would then qualify for the EPAA, is bound to further reinforce the occupational segregation which contributes to the gender pay gap in policing.

### **Potential impact**

Taken together, the issues identified under Winsor recommendations concerning deployment and payment related to posts and skills have the potential to introduce working practices and a change to the culture of the police service which could reverse the progress made in recent years in respect of diversity and gender equality.

## Financial impact upon officers

Under the Winsor recommendations, there are a number of financial implications for police officers. As Winsor states, some officers will lose out, while others will be better off. The major reductions which can be ascertained from the Winsor Report concern overtime, SPPs, CRTPs and the freeze on increments.

**Table 3: Reduction in average overtime payment, by rank**

| Overtime at plain time | Numbers in receipt | Approximate reduction |
|------------------------|--------------------|-----------------------|
| Constables             | 70,751             | £402                  |
| Sergeants              | 13,710             | £591                  |

According to the PNB 2010 Census of Earnings and Hours, the average amount of overtime for constables at time and one third was £1,609.26. Just over 70,000 constables were recorded within the Census as carrying out this form overtime. Under Recommendation 6, the average amount paid to such officers would be reduced by some £400 a year. The reduction experienced by nearly 14,000 sergeants recorded within the PNB Census would average at nearly £600.

**Table 4: Reduction in average rest day working payments, by rank**

| Paying only time and a half on rest days | Numbers in receipt | Approximate reduction |
|--|--------------------|-----------------------|
| Constables                               | 56,433             | £188-£275             |
| Sergeants                                | 11,160             | £254-£362             |

In calculating the reduction in officer pay due to the proposed changes to double-time rest day working, we have had to resort to an approximate range due to limitations of the available data. Just over 56,000 constables were recorded in the original tables based on the 2010 PNB Census of Earnings and Hours as being in receipt of double-time payments for working on a rest day. However, it was subsequently reported by OME that the 2010 Census had great difficulty collecting data which clearly distinguished between double-time payments for rest days at less than 5 days' notice and public holiday working. This was particularly a problem for the MPS and other Metropolitan forces. Staff Side pointed this out in a letter to the Official Side and asked for clarification as to the accuracy of force returns to Winsor, since it had implications for Winsor's estimate of savings. Staff Side received no response to its letter dated 2 June 2011 (see Annex G).

Although OME produced revised tables on 10 April 2011 it was only possible to base them on returns from the City of London, Shire forces and Welsh forces. Given the higher level of overtime worked in MPS and Metropolitan forces, it is unlikely that these revised figures give a true picture of rest day working. It is most likely that the true impact of recommendation 7 would lie somewhere between the two figures. The original tables suggested a current average annual payment for constables for rest-day working at double-time of £1,101.77, whereas the revised figure, covering approximately 21,000 officers, produces an annual figure of £751. Therefore recommendation 7 would see officer pay reduce by between £188 and £275. The equivalent payments for sergeants are £1,446.35 in the original tables (about 11,000 officers) and £1,016.85 (about 5,000 officers) in the revised tables. On the basis of

these tables the figure for double-time working on rest days would fall by between £254 and £362 a year.

**Table 5: Officers in receipt of CRTP, by rank**

| CRTPs            | Percentage in receipt |
|------------------|-----------------------|
| Constables       | 30                    |
| Sergeants        | 40                    |
| Inspectors       | 40                    |
| Chief Inspectors | 39                    |

The current value of Competence-Related Threshold Payments (CRTPs) is £1,212. According to the 2009 CRTP Survey nearly 30 per cent of constables and approximately 40 per cent of sergeants and members of the inspecting ranks were in receipt of a CRTP. If they were at the top of their scale and in receipt of a CRTP, they would lose £1,212 a year. In addition, even if an officer had not reached the top of his or her pay scale, the abolition of CRTPs would mean that they would have lost the potential to have £1,212 added to their pensionable pay. That means that their annual pension when they retire would be over £800 a year lower.

**Table 6: Officers in receipt of SPP, by rank**

| SPPs             | Numbers in receipt | Value     |
|------------------|--------------------|-----------|
| Constables       | 37,420             | £1,203.51 |
| Sergeants        | 10,241             | £1,287.51 |
| Inspectors       | 3,193              | £1,536.94 |
| Chief Inspectors | 737                | £1,582.82 |

Recommendation 33 proposes the abolition of Special Priority Payments (SPPs). According to the PNB 2010 Census, nearly 50,000 officers would lose their SPPs under these recommendations. The average value of those payments ranges from just over £1,200 for constables to nearly £1,600 for chief inspectors.

**Table 7: Officers not at the top scale, by rank**

|                            | percentage not at top of scale | Increment range |
|----------------------------|--------------------------------|-----------------|
| Constables                 | 62                             | £723-£2,703     |
| Sergeants                  | 35                             | £831-£1,269     |
| Inspectors                 | 38                             | £1,320-£1,323   |
| Chief Inspectors           | 37                             | £1,041-£1,089   |
| Superintendents            | 69                             | £2,568-£2,577   |
| Chief Superintendents      | 36                             | £2,115-£2,127   |
| Assistant Chief Constables | Not stated                     | £3,018-£3,030   |

The largest proportion of officers within the police service in England and Wales are at the constable rank. According to the latest Home Office figures, nearly 107,000 officers serve at the rank of constable, out of a total strength of 139,110. Among this group of officers, three out of five have yet to reach the top of their pay scale. As a

result, over the next two years they will lose out increments which would vary in value from £723 to £2,703 a year.

In addition, more than a third of officers at all other ranks, and nearly 70 per cent of superintendents, have also yet to reach the top of the incremental scale. The proportion of assistant chief constables (ACCs) not at the top their pay scale could not be determined. For federated ranks above constable, the incremental pay freeze implies an annual loss of between £831 and approximately £1,300 a year. For superintending ranks, the losses range from approximately £2,100 to £2,600 annually, while they are just over £3,000 a year for ACCs.

For constables on appointment, the losses from the incremental progression freeze results in a loss of nearly £7,000 by end of the second year. This is because officers will have lost the equivalent of two years' worth of the first increment as well as one year of the second increment. On completion of initial training a constable would lose just under £4,700 by the end of the second year of the progression freeze. A mid-point constable, on pay point five of the scale, would lose £2,556 as a result of the progression freeze alone. These are real losses; officers will have made financial plans on the assumption of incremental progression and will, therefore, experience genuine financial difficulties.

These losses can be forecast with some degree of precision since the data exists on contribution of each element of pay to the total pay of officers, as well as the numbers affected. The data in relation to the Winsor recommendations for new pay elements is limited. For example, there is no clarity on the number of officers working during Winsor's definition of unsocial hours or the proportion of their shift which is covered by those hours. Similarly, there is no clarity on the number of officers who will qualify for the EPAA. Some forces are already seeking the removal of the requirement for PIP accreditation from investigation roles, therefore reducing the numbers who will qualify for an EPAA. Moreover, as Winsor himself acknowledges, there is no data available on how many neighbourhood policing officers "are likely to fulfil the three-year tenure criterion"<sup>58</sup>.

While no definitive national data exist in respect of the use of on-call, data gathered by the PNB On-Call Working Party between October 2009 and February 2010 found that, in those forces visited, the proportion of officers in roles with an on-call element varied between 11 per cent and 14 per cent.

According to Winsor, his report "is good news for frontline or operational officers. By 2012-13, a 24-hour response Constable with seven years' service and Level 2 public order training, working a standard shift pattern, may receive approximately £1,770 more than in 2010-11. That includes an additional £1,320 for having to work unsocial hours. This is despite the proposed progression freeze and likely increases in pension contributions."<sup>59</sup>

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<sup>58</sup> Paragraph 4.1.58, *Part One Report*

<sup>59</sup> *Police Pay Review - effect on individual officers and staff*, 18 March 2011, <http://review.police.uk/publications/Case-studies?view=Binary>

If that same constable had simply been allowed to progress up the pay scale as he or she would have expected to, by 2012-13 that officer's income would have risen by over £2,000. So even with Winsor's proposed unsocial hours payment and EPAA, this officer is still worse off than he or she would otherwise have been without Winsor's recommendations.

Such an example ignores the effect on take-home pay of inflation, which has consistently been above 5 per cent throughout 2011 and is forecast to remain at around that level for the foreseeable future, and the public sector pay freeze which all public servants will be subject to, including police officers.

Moreover, as outlined earlier in this submission, the Government has proposed that police officer pension contributions be increased by an average of 3.2 per cent by 2014-15. The effect of this is that many officers will pay between 14.2 per cent and 15 per cent of their salary in pension contributions, putting further pressure on their take-home pay.

The impact of these proposals has not been lost on police officers. In the light of the Winsor Part One report, the Police Federation of England and Wales conducted a survey of its members. Some 42,000 officers participated in that survey, which found that 89 per cent of officers strongly agreed that proposed changes to their terms and conditions of service would see morale among police officers fall; and 61 per cent strongly agreed that officers would leave the service as a result of those changes being implemented<sup>60</sup>.

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<sup>60</sup> PFEW Survey of Members 2011 [http://www.polfed.org/Member\\_survey\\_results\\_2011.pdf](http://www.polfed.org/Member_survey_results_2011.pdf)

## Conclusion

Staff Side is extremely disappointed at the failure of the Official Side to accept our alternative proposals for achieving financial savings and a degree of pay reform ahead of the more wide-ranging review of pay and conditions of service envisaged in Winsor Part Two. Staff Side has acknowledged the Official Side's desire for the service to reduce its pay bill and has produced a package of reforms that delivers savings but does not penalise officers unfairly or disproportionately.

Although the Official Side asserts that the Winsor recommendations are "based on rigorous analysis, widespread engagement and a clear understanding of the challenges facing the police service" the opposite seems to be true. Staff Side is disappointed with Winsor's failure to evidence many of his recommendations. For example:

- Winsor recommends that VSAs should be subject to consultation rather than agreement with JBBs, despite admitting that he had no evidence that a JBB has prevented the implementation of a VSA.
- Winsor found no evidence to support assertions planted in the media that officers' claim a minimum four hours for taking a short telephone call when off duty, but the mere fact that it is "capable of being abused in the way described" is grounds enough for ending the requirement.
- Winsor states that the removal of double time and the five-day notice period for a requirement to work on a rostered rest day will somehow "incentivise managers" to plan deployments more efficiently, but provides no evidence to substantiate this.
- His one and only reference to part-time officers is to make it longer for them to return to full time working. This is accompanied by no evidence of any problems associated with the need to change.
- Winsor states that while he has not been able to establish the main factors driving what he refers to as casual overtime, he has concluded from his consultations with officers that "the majority of this has probably resulted from officers working beyond their tours of duty, rather than having started their shifts earlier or having been recalled between shifts." Again, no evidence is provided to substantiate this. In fact there are no transparent calculations on the effect of changes to overtime payments.
- When he writes about mutual aid, Winsor appears to have confused this with being held in reserve, which he compares to being on-call at home with family.

In evidence to the House of Commons Home Affairs Committee on 14 June 2011, Winsor has referred to our conditions of service as "a barnacle encrusted hulk that needs to be reformed"<sup>61</sup>. This is surprising, since Recommendations 7, 29 and 33, which propose changes to the notice period for rest day working and the abolition of CRTPs and SPPs were brought in as part of the last comprehensive reform of police pay in May 2002. SPPs were not introduced at the request of Staff Side, but following requests from the Official Side to be able to reward officers locally. That process also saw the removal of a number of allowances and payments worth

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<sup>61</sup> *The New Landscape of Policing: Evidence heard in Public Questions 440-513*, Home Affairs Committee, 14 June 2011

considerable sums to police officers. Performance and conduct regulations were overhauled in 2008.

Winsor looks back several times in his report to what he sees as the unfinished business of the 1960 Willink Commission. Society has changed and the context of modern policing has changed. Staff Side would have hoped to find at least one reference to either the Scarman Report or the Lawrence Enquiry in Winsor's own 300-page report. Times have moved-on since the 1960s and Staff Side believes that the police service must continue to attract the right calibre of individual.

The Stephen Lawrence Inquiry and other high profile inquiries have clearly set out what is at stake when police officers fail to properly discharge their responsibilities. The Lord Scarman Report after the Brixton riots established the need to attract candidates of sufficient maturity into the police service. As a result the average age of police recruits, when forces were recruiting, has been around 27 for a number of years<sup>62</sup>. Attracting candidates with the necessary experience and maturity requires an appropriate remuneration package and set of conditions and safeguards for police officers. As Staff Side hopes is clear from this submission, those conditions and safeguards for officers will be lost if many of the Winsor recommendations are implemented. Such a development could have far-reaching and very damaging implications for the police service and the public it serves.

Staff Side also believes that the police service needs to maintain the safeguards and protections to the quality time which officers enjoy with their families. Women now account for 40 per cent of officers under five years' service. The service has benefited from recruiting more women but the Winsor Report contains no proper analysis of the impact of his recommendations upon women in the service, or officers with families or caring responsibilities. The police service must be an employer which welcomes and accommodates officers, particularly women, with caring responsibilities. The service has benefited from greater flexible working which allows Forces to put officers when and where they are needed at no additional cost under the current arrangements and this must be maintained.

Staff Side understands the financial situation facing the police service as a consequence of the cuts to forces resulting from the Comprehensive Spending Review. Staff Side has made genuine attempts to identify alternative savings which would help the Official Side to achieve similar levels of spending reductions over the period identified in the Winsor Part One Report. Staff Side also gave clear indications that it would be willing to engage in meaningful discussion about the long-term reform of police officer pay and conditions. For example, attached to this submission is the PFEW submission to the second part of the Winsor Review. In that document, the PFEW clearly identifies its willingness to consider some form of job evaluation and role-based pay, as well as reiterating its acceptance of pay progression linked to an annual performance review as set out in this submission (Annex X).

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<sup>62</sup> *Examinations and Assessment Police SEARCH Recruit Assessment Centre Annual Results Report 2008-2009, NPIA*

However, in advance of the publication of the final Winsor Report, Staff Side was naturally reluctant to agree to a particular direction of travel or to agree to specific proposals where the evidence does not support the recommendations. Any changes to the current arrangements of remuneration for police officers must meet the long term needs of both the service and the public. Given that the recommendations set out in the Winsor Part One Report were interim arrangements, had the Official Side agreed to the savings proposed by Staff Side, this would have afforded both Sides of the PNB time to engage in a proper, meaningful discussion on longer term reform.

For a staff association to propose the level of savings or the degree of changes to current pay practices is unprecedented. Staff Side feels that the Official Side has completely overlooked the significance of Staff Side's proposal. It is a matter of deep regret and disappointment to Staff Side that the Official Side was unwilling to accept this alternative proposal.

Staff Side notes that support for the Winsor Review's Part One recommendations is not uniform across the Official Side and that the Scottish Government, having reviewed the Winsor Part One Report has ruled out the implementation of any of its recommendations in Scotland. In a recent speech, the Cabinet Secretary for Justice stated that the Scottish Government would not "countenance tearing up the terms and conditions of the police officers who do such a fantastic job for us, as is happening down south as a result of the Winsor review – not now, not ever."<sup>63</sup>

Given the strength of concerns set out by Staff Side, we ask the PAT to reject the Winsor recommendations as set out in the terms of reference.

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<sup>63</sup> Speech by Cabinet Secretary for Justice Kenny MacAskill to SNP Conference, Friday 21 October 2011