

A close-up, low-angle shot of a police car's light bar. The word 'POLICE' is visible on a blue light panel in the foreground, which is slightly out of focus. In the background, several police officers in uniform are visible, also slightly out of focus, suggesting a busy street scene.

Your wellbeing – who's responsible?

A guide to the working conditions of inspecting ranks



Introduction

Dear Colleague,

On 1 September 1994, the environment in which the inspecting ranks worked within the police service changed beyond recognition. It was on that day that the 'new conditions of working for inspectors and chief inspectors' were agreed by the now defunct Police Negotiating Board (PNB), and with it the entitlements to payment for ALL overtime and working on public holidays and rest days were removed.

There has been much confusion since the introduction of the 1994 agreement and many colleagues appear to know very little about what that actually meant – labouring under many misunderstandings which are making their actual working conditions more arduous than they really need to be.

This misunderstanding can be exploited by managers and has resulted in the inspecting ranks arguably becoming one of the most put upon in the service.

This booklet is intended to provide you with information that will dispel the myths, increase understanding and most importantly, reduce the abuse of this rank's goodwill.

We hope you will find this booklet informative and useful.

Police Federation of England and Wales

The September 1994 PNB Agreement

MYTH: "When we became salaried we accepted working long hours for no extra money."

"No police officer should be required to work regular excessive hours; this is a particular consideration in the case of inspectors and chief inspectors who are not paid for overtime."

Contrary to popular belief neither side in the negotiating process ever intended the agreement to worsen the working conditions of the inspecting ranks.

The increase in pay agreed in 1994 was never meant to compensate you for regularly working long extended hours.

Indeed the PNB agreement (circular 94/17) addresses the concerns of the Federation that their "members will not be required to work regularly excessive hours" in that it states "both the staff side and official sides agree that such an arrangement (long hours) would be contrary to the intention and spirit of the agreements." Also in support of this, Paul Whitehouse, the then Vice-Chair of the Association of Chief Police Officers (ACPO, now the National Police Chiefs' Council), wrote the following:

"Inspectors and chief inspectors, no less than other members of police forces, need to be able to plan for their work and for their personal and family commitments. Consequently, it is important that they should be given, so far as the exigencies of duty permit, reasonable notice of when they will be required to be on duty. For sound reasons to do with health and welfare, the safety of others and effective working, no police officer should be required to work regular excessive hours, and over a period of time, each officer should be allowed to take the full entitlement to days free from the requirements of duty. This is a particular consideration in the case of inspectors, chief inspectors and higher ranks, who are not paid for overtime."

These points were later reiterated in Home Office

circular 21/97 within which it says "The changes to conditions for the members of the ranks of Inspector and chief inspector introduced with effect from 1 September 1994 should not have altered, nor were they intended to alter, the average hours worked each week in posts filled by members of those ranks."

So you can see it is very clear what the agreement meant and we are keen to ensure that the inspecting ranks' working conditions are not abused.

Unfortunately for whatever reason, this intention has been overlooked. Instead, what has been promulgated ever since by successive generations, members and managers alike, is the belief that the £3,250 received back in 1994, was compensation for doing long hours. As a result of this prevailing attitude we now have a significant proportion of our members, you and your colleagues, operating in unchallenging ignorance of what your "new" terms and conditions actually are.

It is apparent that there are parts of the police service who are failing to ensure that the agreement and ACPO advice is being complied with.

MYTH: "I knew I'd have to do it when I applied for promotion. It goes with the job."



Impact on conditions of service

“Despite the 1994 agreement you are still protected by Regulations.”

Police Regulations and Working Time Regulations

What is the 1994 agreement worth to you?

It is important to remember that, whilst many thought £3,250 was too low a settlement figure for some inspectors, (and they were probably right, but it was a nationally negotiated agreement), the money awarded was an increase in pensionable pay.

Furthermore, what was £3,250 is now worth considerably more in real terms. Consequently, inspecting rank pensions, both lump sum and residual, are, substantially more than our federated colleagues.

So what did the police service get for their £3,250 in 1994?

- The removal of the right to compensation for working a bank holiday, other than the day being re-rostered;
- The removal of the right to compensation for cancelled rest days, irrespective of the notice given, other than the day being re- rostered;
- The removal of the right to compensation for all overtime, flexibility in your working practices;
- As overtime has gone so has the concept of time off in lieu, and;
- Option of pay at double time for recall from annual leave.

Rest days owed

This document does not include chapter and verse on each of these concessions. Such detail is contained elsewhere and is easily accessible. However there are a few salient points worth expanding upon.

The 1994 PNB agreement brought about a significant change in relation to rest days worked. Whereas other federated ranks should be notified within four days of when the new rest day is to be taken, that day to be re-rostered to a date within 28 days of the day worked, inspecting ranks can take them off at any time (exigencies of duty permitting) within 12 months of accruing them.

Obviously the only compensation inspecting ranks get for working a rostered rest day is the day off in lieu, so you should carefully consider using days owed when it comes to balancing your hours if you are approaching the Working Time Regulation (WTR) limit.

Any outstanding days over 12 months old may, however, be LOST. We have heard of colleagues falling foul of this provision and losing the worked rest days they were owed. Regulations state the 'inspector or chief inspector, shall, during the next following 12 months and so far as the exigencies of duty permit, be allowed or (as the case may be) granted a day's leave in lieu of any such day not allowed or granted.'

To date, the assumption that rest days will be lost after 12 months has not been tested in a court. This stipulation also applies to any unused annual leave entitlement. As with unused worked rest days do not assume that you will automatically be allowed to trade unused annual leave days on retirement.

FACT:

Inspecting ranks can take owed rest days off at any time (exigencies of duty permitting) within 12 months of the actual day being accrued.

FACT: Time spent prior to, or immediately after, a tour of duty 'handing over' to a colleague is NOT casual overtime and should be recorded as duty time.

The ability to carry over annual leave from one leave year to the next is covered by Police Regulation 33, annex O, paragraph 3a: At the discretion of the chief officer and subject to exigencies of duty, members can carry over to the next leave year no more than five additional days of annual leave outstanding from the current year (in exceptional circumstances, the chief officer can allow a member to carry over more) or to bring forward to the last month of a leave year, no more than five days leave from the following year.

It is common for many within inspecting ranks, who perform the duty officer role, to start their shift early in order to receive a hand-over from an outgoing colleague and similarly they then have to stay on at the end of the shift to hand over to the incoming duty officer. These hours must, like all other hours, be accurately recorded on whatever means in use, whether it be a force duty management system, paper record duty state or even the Police Federation of England and Wales (PFEW) duty recording app (www.polfed.org/app).

We would actually go further and say that technically it should form part of your roster, but we appreciate that senior managers are unlikely to concede that there is a need for anyone to either come to work earlier or stay beyond the conclusion of their shift and hence agree to its inclusion in any roster.



Flexibility

The biggest impact of the flexibility provision is that the inspecting ranks are no longer subject to a rigid eight hour working day. That concept has gone, as has the term: “a meaningful tour of duty.” In effect therefore, the working day can be as much as 23 hours 59 minutes or as little as a solitary minute.

The closest we get to the definition of ‘a working day’ is, and this applies to everyone except those who are on a Variable Shift Arrangement (VSA), that we have to complete **an average of 40 hours over five days in any one working week.**

Whilst later in this document you will see inspecting ranks can work what are popularly termed ‘short’ days you cannot do your 40 hours or more in the first four days and take a fifth day off as time owed or ‘flexitime’. For you to have the fifth day off you would have to take a re-rostered rest day or annual leave.

The 1994 agreement always intended ‘flexibility’ to be a two-way street with an element of give and take on both sides. Some forces have agreements in place which allow inspectors to balance their hours by working fewer than eight hours on a particular day. In effect this means that if you work long hours on one day you can work less than eight hours on the next day to reduce your average.

Some also go further and abide by the 48 hour maximum average working week under the European Working Time Regulations (WTR) where, if you work in excess of 48 hours in one week, you should reduce your hours in the next or subsequent weeks in order to bring your average back down.

FACT:

Inspecting ranks no longer have a definition of a working day in terms of hours.

SUGGESTION:

We strongly advise all colleagues not to sign an individual opt-out from the Working Time Regulations.

The WTR limit referred to in the guidance document is a maximum of 48 hours per week over the reference period (normally calculated at 17 weeks). The only way that you can legally go over this average is by signing an individual opt-out agreement. We seriously counsel anyone against signing any such opt-out as the WTRs are currently the only legal protection you have.

In normal circumstances the WTRs provide you with some protection by entitling you to a period of rest between tours of duty of at least 11 hours. However, when you are called upon to work long hours due to an urgent operational need, the chief constable or commissioner can derogate this entitlement under Regulations 18 & 20.



Part-time working

All inspectors and chief inspectors who are working part-time should be paid for any hours worked in excess of their agreed hours, up to 40 hours in any one week. As annual leave will be calculated in hours for part-time inspecting ranks, this may need to be recalculated to ensure you receive the correct entitlements.

See circular 022/2011– *Part-time Inspectors: payment of additional hours worked*, for further details.

FACT: The concept of a 1/2 day's annual leave still exists in Regulations up to a maximum of three days per annum.



“No Inspector or chief inspector should routinely work more than a 40 hour, five day week.”

Time off in lieu

There is also a legal obligation under the WTRs for individuals and managers to keep an accurate record of the hours worked by them and their staff.

So you must record your hours of duty accurately and as a manager, you must ensure that your staff do likewise.

The 'keeping of records' stipulation does not extend to the creation of a 'time off card' as there is no formal entitlement to compensation for extra hours worked on a like-for-like basis.

If you need to leave work before having worked eight hours then the 'short day' provision comes into effect. It means you will have to work longer than eight hours at some point in order to balance your hours.



On-call

The legal position of on-call is set out in the Determinations of the Secretary of State as: A member of the rank of constable, sergeant, inspector or chief inspector shall receive an allowance of £15 in respect of each day on which they spend any time on-call.

A 'day' means a period of 24 hours commencing at such time or times as the chief officer shall fix after consultation with the branch board, and the chief officer may fix different times in relation to different groups of members.

Colleagues who do volunteer to be on-call need to carefully consider the effects of their force alcohol testing policy. The Police (amendment No.2) Regulations 2012 came into force on 1 April 2012 and now allow for the testing of any member of a police force as part of a routine random testing regime.

When one considers that the alcohol limit is 13mg% in breath, roughly one third of the drink/drive limit you can see why we advise complete abstinence from alcohol for those on-call. However, the policy does afford some protection to officers who are not on-call but who are 'recalled to duty' unexpectedly. They have an opportunity to self declare and thus avoid employment for that duty but this protection is NOT available to those on-call, as by its very nature those officers were aware that they may be required to be on duty and thus accept this imposition on their private lives.

FACT: Officers unwilling or unable to do so cannot be required to undertake on-call.

"So do the hours I spend waiting on the end of a phone count or not?"

Many people get confused between being on-call and working time. Time spent on-call is not in itself working time. It does not therefore count towards the total of hours worked and hence neither does it enable an officer to claim compensation in the form of having their rest day reinstated. The situation changes as soon as you are called upon to act, whether that is just to make a decision over the phone or actually to attend an incident. When this occurs those hours do count and need to be recorded and the entitlement to compensation is triggered.

Any time spent giving advice on the phone, granting authorities, travelling when called in etc. is working time and MUST be recorded in line with both Police and WTRs. Thus it will not be uncommon for colleagues who have volunteered to be on-call to be booked on and off on numerous occasions throughout a 24 hour period of being on-call.

On-call is not the only option and we would urge all of you affected by its demands to explore every other option available to cover the issues of resilience that exist within your role. On-call really should be the final option.

Remember, on-call is voluntary and should not make you a slave of the service.

FACT: Any time spent giving advice on the phone, granting authorities, travelling when called in etc. is working time and must be recorded.

On-call is being abused as the cheapest means of overcoming real resilience issues with little or no regards to the consequential detriment it has upon individuals work/life balance.

Notes



