

TERMS OF REFERENCE, POLICE CONSULTATIVE FORUM

Background and Rationale

1. With the demise of the Police Negotiating Board (PNB) and the introduction of the Police Remuneration Review Body (PRRB) on 1 October 2014 it was recognised that there would be value in providing a forum for representative bodies to meet outside the PRRB so that the employers' representatives (ACPO now NPCC, APCCs) and staff associations (PFEW, PSA and CPOSA) could come together to discuss pay and conditions related matters. The Police Consultative Forum (PCF) was set up. This was intended to facilitate understanding of one another's priorities, enable the sharing of perspectives on relevant issues, allow for co-operative resolution of difficulties, and minimise the risk of escalation of disputes. It was also to enable co-ordination of priorities, positions and areas of agreement both before the establishment of the PRRB remit and after the call for evidence has been issued.

2. At the request of the staff associations the function and operation of the PCF was reviewed by the Home Office during 2019. It concluded that the PCF purpose and value remained unchanged but it was decided by Ministers that the appointment of an independent Chair would facilitate debate, help focus on outcomes, and provide a process for making any further changes. This decision was effected in September 2019 and the terms of reference reviewed and agreed by members in December 2019.

Scope

3. A number of matters of common interest arise that are unlikely to be dealt with through the normal PRRB process and the Forum will provide an opportunity to discuss and seek to resolve those issues that would otherwise have no means of resolution or would take up valuable time and resources from the PRRB. However it is important to be clear that the Forum is not a negotiating body. It has no statutory basis and no decision-making powers. It is a voluntary arrangement intended to facilitate quick and effective agreements on appropriate matters and contribute to the maintenance of excellent industrial relations. Areas of activity for the Forum will include:

- (1) Consideration of the data and other evidence needed for PRRB, agreement on what will be collected and submitted. This might include joint submissions to the Home Secretary suggesting matters for inclusion in the annual remit letter to PRRB.
- (2) Reaching agreement on the types of issues dealt with previously under PNB (pay, conditions of service, excepting pensions) that might be ratified under the Reserved Powers of the Home Secretary, without the need to go to the PRRB.
- (3) Discussion of matters such as Regulations and Determinations that form the basis of formal consultations by the Home Secretary, and ongoing matters arising from these.

- (4) Reaching agreement on issues that should be addressed on a UK wide basis, including England, Wales, Scotland and Northern Ireland.
- (5) Dealing with Requests for Guidance from forces and/or branch boards, including interpretation of agreements, and Regulations and Determinations.

4. These matters are outside the statutory remits of the PRRB, PAB, and College of Policing. Requests for Guidance cover only those concerning the interpretation and/or implementation of Regulations and Determinations emanating from decisions by Home Office, PRRB, PNB or PAT, or the interpretation and/or implementation of an agreement made under the PNB or previous agreement by PCF.

Work Flow

5. Issues for consultation or discussion will come from a number of sources and will go on for decision outside the PCF. The table below illustrates the most likely routes:

Source	CONSULTATION TOPIC	RECOMMENDING BODY	DECISION MAKER
HO/NPCC	Pay Reform	PRRB	Home Secretary
NPCC/Staff associations	Changes to or proposals for new regulations or determinations	Home Office	Home Secretary
Forces/local staff associations	Requests for Guidance	NPCC and staff associations	<p>The NPCC and staff association agreement is normally the end of the matter, and their agreement is treated as a decision.</p> <p>In a small number of cases the NPCC and staff associations may feel the matter requires a regulatory change. In these situations <i>only</i> the matter will go to the Home Secretary</p>

6. Where a matter is introduced the meeting agenda should make clear whether it is for engagement or consultation using the definitions in the attached annex A.

Representation

7. For the Forum to work, both employers and staff associations must be represented, as the aim will be to agree ways forward that are acceptable to all. Representatives will be drawn from NPCC, APCC, PFEW, PSA and CPOSA. In addition, representatives from SPF, PFNI, Scottish Superintendents, Northern Ireland Superintendents' Association, Northern Ireland employers, Scottish employers may observe.

Structure

8. As the Forum is not a decision making body there will be no set number of attendees, but the Chair will have the right to limit the numbers who intervene in discussion to ensure balance and momentum are maintained, with the aim of arriving at consensus. The Staff Associations will be represented by their National Secretaries (eg National Secretary PFEW, National Secretary PSA) or his/her nominee. The employer will be represented by the NPCC portfolio lead for pay, or his/her nominee.

9. The Home Office will provide a secretary for the Forum. The Secretariat will agree agendas and papers for meetings with the Chair and prepare a note for the record. Each representative body should provide, and keep updated, the name of the key contacts the secretariat should use for PCF communications. That person should take responsibility for wider circulation and the coordination of any responses within their organisation.

Timing

10. Quarterly meetings will be arranged approximately three weeks ahead of scheduled meetings of Chiefs' Council to maximise the opportunities for progress. These meetings will be independently chaired. Should it be necessary, then between quarterly meetings informal monthly meetings may be scheduled and convened by whichever party has instigated them. Updates from those meetings will be provided to the quarterly meeting. Additional ad hoc meetings may be agreed as necessary.

Funding

11. There is no central provision of funds beyond the provision of the independent Chair and Secretariat.

Status

12. This is a voluntary body.

13. As this is not a statutory body, agreements will have no formal status. Matters on which the forum has reached agreement will be communicated to the Home Secretary and, as appropriate, forces or PCCs. The Home Secretary would then need to consider whether the matter should be included in the PRRB remit letter, whether an amendment to Police Regulations and Determinations is needed without reference to the PRRB, or whether a Home Office circular should be issued. It is likely that the Police Consultative Forum might offer a suggestion as to which is most appropriate.

Requests for Guidance

14. The process known as “Requests for Guidance” has been taken over by the PCF from the Police Negotiating Board (PNB). It aims to help resolve local disputes (between force and staff association branch board) on the interpretation of Regulations, determinations or PNB agreements (as detailed in PNB circulars) or consensus reached at PCF (a PCF agreement). It aims to provide agreed guidance on a case by case basis.

15. In principle, RfGs should be resolved at the lowest level possible, with local processes being exhausted before matters are escalated to the Police Consultative Forum.

16. During local discussions, employer and staff association representatives can write jointly (or individually) to the PCF secretariat and make a Request for Guidance on the interpretation of Regulations and determinations, or a previous PNB agreement or PCF agreement.

On receipt of an RfG the secretariat will copy this to the NPCC and staff association representatives on the PCF

It will normally be possible for the PCF to provide agreed authoritative advice to the local parties on the interpretation of Regulations and determinations and PNB agreements (including disputes about management’s use of an unqualified discretion provided to the Chief Constable in a Police Regulation or a PNB agreement). The secretariat will be responsible for ensuring this advice is delivered on behalf of the forum. A letter will be sent from the PCF Chair noting the agreed view of the PCF.

17. The Forum recognises that RfG will be an important route for clarity on pay and conditions. For that reason, both NPCC and the staff associations will publicise the Terms of Reference of the Forum, and contact details of Secretariat, to relevant parties (forces and local staff association leads). In addition, the forum will request that the Home Office publish a circular with this information.

18. If a Request for Guidance leads to the need for clarification to be issued regarding Regulations and determinations or a PNB agreement then this will be referred to the Home Office as a submission from the Police Consultation Forum. At this point, the Home Secretary may wish to consider amending the relevant Regulation or determination (which would be consulted on in the usual manner) or to include it in the PRRB remit letter.

Summary of Likely Actions

19. In summary, the actions that the Police Consultative Forum might take are as follows:

- (1) Write back to the party/parties who raised the RfG and provide a summary of the agreed view of the PCF.
- (2) Write to the Home Office noting that either:
 - a) an issue has come to light that may require amendment to Regulations and/or determinations (or a Home Office circular to be issued) to clarify the meaning of a provision, or;

b) an issue has come to light that may require a new provision in Regulations/determinations or a recommendation from the PRRB (to be set out in Regulations/determinations).

The right of parties to such disputes to challenge the interpretation or application of Regulations, determinations (or relevant agreements) through legal channels is unaffected by any guidance given by the PCF.

Annex A.

Reward Framework Project

Terms of Reference for Engagement and Consultation

Purpose

The aims of this document are:

- to set out the Terms of Reference for both engagement between the National Reward Team and the staff associations' teams, and statutory *consultation* between the Home Secretary (represented by the Home Office) on officer Pay Reform, and the National Secretaries of the PFEW and PSA
- to set out a process to be followed, including named persons responsible, and forums wherein engagement and consultation will be undertaken
- to ensure the consultation process is legally compliant, in accordance with the European Union Directive, and compliant with best practice as set out by ACAS.

As best practice consultation flows out of engagement, it is considered appropriate to set out both the engagement and consultation processes in a single document, lest there be any confusion.

For both, this document sets out:

- Who should be involved
- What should be provided and discussed
- When this should happen
- Where (in what forum)¹

In setting out a more structured approach that better defines the objectives of engagement and consultation it is hoped that the obligations of all parties are made clear, and adhered to. This should facilitate better working relationships.

Engagement Definition

- 2.1. Engagement is the process of informal discussion of draft proposals and ideas: in this case, where the NRT and staff associations are named and responsibilities attributed in this document, the engagement will be regarding pay reform.
- 2.2. NPCC / staff association engagement will be undertaken by the NPCC Chief Constable lead, or by the NRT acting as the delegated representatives of the Chief Constable. It will include the National Secretaries of the PFEW and PSA, and appropriate professional staff from the Research and Policy Department at PFEW. The National Secretaries are the elected representatives of over 120,000 officers, with statutory responsibility to provide their voice

¹ Note the Police Consultative Forum is being reviewed, and some of the content of this paper may need to be reviewed / revised following that review. It is hoped that some progress can, however, be made in the meantime with agreeing this paper.

on matters pertaining to pay and conditions.

- 2.3. Engagement will occur throughout the process of drafting and preparing proposals for Chiefs' Council. It is not formal or binding, nonetheless it requires investment of time and effort by all parties. Therefore for it to be worthwhile for the staff associations to participate, there needs to be a mutual trust and respect, and evidence that matters have been listened to and addressed, or explanation given of why not.
- 2.4. Given the significant investment there should therefore be a principle of there being no surprises at the time of submitting proposals to Chiefs' Council, and especially to the PRRB.
- 2.5. The NPCC NRT state that the aim of engagement is:

"To share our thinking and to give staff associations an opportunity to comment on and to help inform and to shape the employer's proposals before formal presentation to NPCC".

It is hoped that through this process consensus can be reached on proposals: however, it is acknowledged this will not always be the case. Where consensus cannot be attained, there should be a mutual understanding of why that has not been possible, and a record kept, such that these can be flagged up to both the Chiefs' Council, who will determine an agreed NPCC position, thereafter throughout the decision making process (i.e. the proposal, agreed with the staff associations or otherwise, that will go to the PRRB for them to make a recommendation to the Home Secretary, who will make the decision).

Engagement Scope

- 3.1. The scope of engagement discussions will centre around all aspects of the NPCC Reward Framework Project. but are likely to focus on design proposals relating to² the list below. This list is not intended to be comprehensive, and other matters may be added at either the request of the NRT or staff associations, or indeed the Home Office or PRRB.
 - Pay progression through the different career stages to include:
 - Progression requirements
 - Criteria and guidance surrounding stage 4 payments
 - Salary points at Stage 2 and 3 (including salary levels, and the size of relativities between points)
 - Proposals for other ranks etc.
 - The P Factor:
 - Valuation and policy guidance (for all ranks)
 - Refinement of descriptors
 - Methodology to ensure both descriptors and valuation remain current
 - Any consideration of eligibility
 - Variable pay to include:

² Final outcomes of work, and the direction at key points will be dependent on PRRB recommendations and Home Office decisions.

- Clarifying scope of activity
- Developing payment criteria
- Benchmarking:
 - Market comparators and methodology
 - Desired salary position within the market
 - Methodology to ensure both benchmarking of salary (less P Factor payment) takes place
- Implementation of the new reward framework and transitional arrangements for serving officers.
- Communication strategy and key messages

Engagement Process

- 1.1 Engagement is a defined workstream within the NRT's phase 2 project plan and has dedicated NRT leads. Engagement with staff associations will take place both informally and formally.

Informal engagement

- 1.2 This will be conducted through regular update meetings (in person and/or telephone conferences) between the nominated NRT representative (s) and PSA and PFEW National Secretaries, and Head of Research and Policy, or a member of that department. These will be used to discuss initial ideas/proposals progress and areas of concern. In the interests of generating an open and frank dialogue, these meetings will not be recorded and are not binding. Their primary purpose is to build a climate of openness and trust, to flag any issues at an early stage and to keep all parties updated.

Formal engagement

- 1.3 This engagement on plans and proposals will be more structured and will likely involve written correspondence (including e-mail). The aim is to try to accommodate feedback by amending proposals during the design phase or to establish and record the areas of dispute and/or the reasons why consensus cannot be reached.
- 1.4 Matters subject to formal engagement will form substantive Police Consultative Forum (PCF) Working Group agenda items, so that views can then be recorded and minuted. The activity will also feature on the project timeline.
- 1.5 All such items must have papers circulated a minimum of two weeks before the meeting, in order to allow for staff association consideration.
- 1.6 Matters being brought to the PCF for formal engagement will normally be dealt with during Working Group PCF meetings (monthly). Should matters – by exception – be

brought to the full PCF Quarterly for engagement then this should be clearly labelled as such, and kept separate from the agenda items for consultation. There must be clarity over where and when matters are being dealt with as Engagement, and when as Consultation. This is in order to ensure the appropriate people are present and consultation is dealt with in a distinct manner to engagement.

- 1.7 It is accepted that fully developed proposals may not be finalised and might continue to evolve until the NPCC Chiefs' Council are invited to give their approval. However, NRT thinking will be shared as soon as there is some substance to a proposal, so that engagement time can be maximised.
- 1.8 It is understood that the NPCC, as the employer representative, reserves the right to proceed with its proposals after the engagement period and, if proposals are adopted by the Home Secretary, to move to *consult* with the staff associations through the Quarterly PCF process.
- 1.9 At that point, the NPCC should seek that the Home Office is fully included as formal consultation is statutory.
- 1.10 Note that, as set out later in this document, *final* consultation over Regulations and Determinations is with the Home Office: however as per ACAS guidance (see para 7.3) it is understood that the statutory consultation on proposals should occur before decisions have been made. It is therefore assumed that formal consultation will start *after* the NPCC have agreed a position paper, but *before* the employer representatives (NPCC, APCC, and HO) have put forward any proposals to the PRRB. It is anticipated that the original Terms of Reference for the PCF will be maintained following the HO review to the extent that the PCF will continue to be, as a primary function, a forum at which the employers and staff associations aim to reach an agreement on matters that are subsequently taken to PRRB and / or the Home Secretary for final decision.

Consultation Definition

- 1.11 Consultation is statutory, and must take place in accordance with the appropriate European Directive³, and the Police Act⁴.
- 1.12 Directive 2002/14/EC5 Informing and Consulting Employees establishes a general framework for informing and consulting employees in the European Community and sets out minimum requirements for the right to information and consultation of employees in undertakings or establishments within the Community. "Information and consultation shall cover", among other matters:

"(b) information and consultation on the situation, structure and probable development of employment within the undertaking

³ The European Directive covers all workers. Whilst officers are not strictly speaking employees, it is understood that they fall within the definition of workers adopted, and therefore this directive applies.

⁴ When 2014 PNB was disbanded, the Antisocial behaviour Crime and Policing Act amended the Police Act, both to create the PRRB and detail how Regulations were to be consulted upon from then onwards.

⁵ <https://eur-lex.europa.eu/legal-content/EN/ALL/?uri=CELEX:32002L0014>

(c) information and consultation on decisions likely to lead to substantial changes in work organisation or in contractual relations”

“Information shall be given at such time, in such fashion and with such content as are appropriate to enable, in particular, employees' representatives to conduct an adequate study and, where necessary, prepare for consultation”.

“Consultation shall take place:

- (a) while ensuring that the timing, method and content thereof are appropriate;
- (b) at the relevant level of management and representation, depending on the subject under discussion;
- (c) on the basis of information supplied by the employer in accordance with Article 2(f) and of the opinion which the employees' representatives are entitled to formulate;
- (d) in such a way as to enable employees' representatives to meet the employer and obtain a response, and the reasons for that response, to any opinion they might formulate;
- (e) with a view to reaching an agreement on decisions within the scope of the employer's powers referred to in paragraph 2(c)”.

1.13 ACAS⁶ has set out best practice in consultation, stating that:

“Consultation involves taking account of as well as listening to the views of employees and must therefore take place *before* decisions are made. Making a pretence of consulting on issues that have already been decided is unproductive and engenders suspicion”.

1.14 ACAS also makes clear that there should be an audit trail showing how the employer has considered the staff association positions, and if these have been discounted reasons must be given. The Police Act sets out the requirement for consultation by the Home Office, on Regulations and Determinations.

1.15 The NPCC, as the employer representative, reserves the right to proceed with its proposals after the engagement period and, if proposals are adopted by the Home Secretary, to consult with the staff associations through the Quarterly PCF process. Once the NPCC Chiefs' Council has agreed a proposal, formal consultation can begin.

1.16 At that point, in accordance with best practice, the NRT will, if it has not already done so, provide a formal consultation paper. This must include:⁷

- Details of the current arrangements, that are to be amended;
- The policy intention;
- The rationale for change;
- The proposal;
- Staff directly affected by the change;
- The impact of the change on those staff, including an Equality Impact Assessment;
- The timeframe for consultation;
- The financial impact of the proposal;
- Feedback methods through the consultation process;

⁶ <http://www.acas.org.uk/index.aspx?articleid=675>

⁷ Contents list taken from NHS paper “Managing Organisational Change Policy”, 26 September 2013, sections on informal and formal consultation.

- The process to be followed after the consultation period (eg transitional arrangements).

1.17 The earliest stages of consultation will therefore deal with the matters listed in the above bullet points. There will be consultation to determine whether or not there is support in principle for each proposal, and whether there are practical reasons why the staff associations cannot support proposals. Both parts of the discussion must be captured in a shared audit trail.⁸

1.18 Once that has been done, the NPCC may seek that the Home Office moves to the statutory final formal consultation stage on Regulations and Determinations, which is between the Home Office and staff associations.

Roles and delegations

1.19 The key parties involved in engagement in Pay and Reward reform are the NPCC Lead, supported by the NRT, and the National Secretaries of the PFEW and PSA, supported by the Research and Policy department PFEW. At this informal stage it may be appropriate for delegated nominees to represent either the NPCC Lead or the National Secretaries.

1.20 The key parties involved in consultation are the employer representatives (the NPCC Lead, the APCC Lead, the Home Office, the National Secretaries of the PFEW and PSA). At this stage it is important that the appropriate named consultees, who have been elected or appointed to specified roles, undertake the consultation in person.

1.21 For the engagement and consultation process to work as effectively as possible, certain commitments from those involved are required.

NPCC National Reward Team

The NRT will:

- *Isolate decision points in relation to work stream proposals to prioritise these for engagement.*
- *Agree with staff associations a timeframe for the engagement process, commensurate with the delivery plan and aim for at minimum period at least one month for consultation, with all papers being provided a minimum of two weeks before any PCF WG meeting at which they will be discussed.*
- *Items for engagement, and the time allocated, will be factored into the project delivery plan for tracking purposes.*

⁸ The final NRT position statement supplied to the NPCC Chiefs' Council should indicate the degree of support or otherwise for the proposal and indicate specific reasons for any opposition. ACAS state that there should be an audit trail showing how the employer has considered the staff association positions, and if these have been discounted reasons must be given. Therefore the NRT must not just state reasons for opposition, but also how they have considered these reasons, and if they have discounted them, why.

- *Strive to accommodate feedback by adjusting proposals accordingly and before they are submitted for NPCC sign off.*
- *Make sure that the views expressed by staff associations, whether informal, if appropriate, or formal if these are available for reference, and the degree of consensus, or otherwise, is made clear in proposals prepared for NPCC and others. When so doing, allow the staff associations the opportunity to verify the position that is stated as being that of the staff associations, rather than communicating it to others without the staff associations having sight.*

Staff associations

PSA and PFEW National secretaries will:

- *In keeping with their statutory responsibilities, act as the representative of the 120,000 officers*
- *Endeavour to provide a view to the NRT on the relevant proposal, by the end of the agreed time frame, wherever possible. This will usually be by way of official correspondence, or e-mail. Should engagement be undertaken at a PCF Working group, then the minutes will reflect both parties' perspectives, and will not be published until both parties have agreed they are an accurate record.*

Flowchart key points:

