

Report to: Appointments & Remuneration Committee

Agenda : 5

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Subject: Police Regulations

Sponsor: Chief Executive

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For: Decision

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1. Purpose of paper

- 1.1 This paper informs the Committee of the current arrangements for recording the terms and conditions of service of police officers. It compares the regulatory approach with that of a 'rules of employment' approach, with the aim of achieving a clear, easily navigable framework of reference for officers and staff. The paper concludes by recommending a way forward.

2. Background

- 2.1 In the BTP, police officers are employees with contracts of employment. Whereas in Home Office police forces all police officers, as Constables, are office holders, not employees. They have no contract of employment. Therefore, the terms and conditions of employment of Constables are defined by regulations made by the Secretary of State pursuant to s50 of the Police Act 1996 ("the 1996 Act"). The current regulations are the Police Regulations 2003 as amended in 2007 and 2012.
- 2.2 The Executive has been working towards developing a set of regulations pursuant of s50 of the 1996 Act for BTP officers. The drivers for this work are that the terms and conditions for BTP officers can currently be found in a myriad of places including contracts of employment, force orders, standard operating procedures, policies and a small number in Regulations made by the Authority, specifically for dealing with complaints, misconduct, performance and police appeal tribunals. This is a complicated matrix to navigate. The challenge of keeping everything up to date, cohesive and consistent is significant. The development of a set of regulations will formalise arrangements and provide a clear framework of reference for officers and staff to navigate and understand.
- 2.3 The Authority has the power under s36 of the Railways and Transport Safety Act 2003 ("the 2003 Act") to apply with or

without modification regulations made under s50 of the 1996 Act. Indeed it seems that the Act intended terms and conditions to be set by regulations either by the Secretary of State or the Authority; to date neither has done so.

- 2.4 The power under s36 only allows the Authority to differ from Home Office regulations so far as necessary to reflect the structure and circumstances of the Force. At the present time BTP officers largely have parity with their Home Office colleagues. The most significant area of difference is the pension and redundancy arrangements. Therefore, if the Authority were to bring in regulations mirroring s50 of the 1996 Act this is not expected to significantly alter current terms and conditions, rather it will formalise these arrangements.

3. Delivery Options

- 3.1 There are two possible approaches for delivering this piece of work:
- Regulations¹
 - Rules of Employment²
- 3.2 Under s36(4) of the 2003 Act the Authority “*may make provisions about the terms and conditions of constables and other persons employed in the service of the Police Force otherwise than by regulations*”. This gives the Authority the option to take a ‘rules of employment’ approach.
- 3.3 The benefit of the rules of employment approach compared to the regulatory approach is that it is more flexible, easier to update and quicker to implement, as it does not require Secretary of State approval. This would achieve the desired outcome of a clear and easily navigable single set of terms and conditions of service.
- 3.4 The benefit of using the regulatory process is that this could be perceived as a stronger approach but in actuality it has the same legal effect as rules of employment.
- 3.5 Therefore, the rules of employment approach is the recommended way forward as it is pragmatically and procedurally more straightforward whilst having the same legal effect.
- 3.6 It is further recommended that DfT support be sought for the Rules of Employment approach to further validate this as the Rules will not require Secretary of State approval.

¹ RTSA 2003 s36(1)

² RTSA 2003 s36(4)

4. Impact assessment

- 4.1 It is not anticipated that there will be any significant changes to terms and conditions as a result of this exercise and no diversity issues have been identified. However, legal advice is that it would be necessary to introduce a new BTP employment contract for all officers, not just new entrants, to ensure that the new matrix of contract terms and Regulations or Rules of Employment were aligned, cohesive and comprehensive. This will be a significant piece of work.
- 4.2 The rules of employment will be drafted 'in house' to minimise cost but this will be a significant and time-consuming task. A legal check will be required once the draft is complete.

5. Recommendations

- 5.1 The Committee support the Rules of Employment approach for taking this work forward.
- 5.2 The Committee agree that DfT support for this approach should be sought to further validate the rules of employment approach as these will not require Secretary of State approval.