

Guide to the Police Negotiating Board (PNB)

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Purpose

1. The Police Negotiating Board (PNB) fulfills the legal requirement, under section 61 of the Police Act 1996, for a body comprising appropriate representation to consider 'questions relating to hours of duty, leave, pay and allowances, pensions¹ or the issue, use and return of police clothing, personal equipment and accoutrements.' The PNB (the Board) will seek to reach agreement on these matters and those agreements then become recommendations to be passed to Scottish Ministers. Ministers will then decide whether to accept the recommendation (agreement) and enact it in law.
2. The PNB used to operate across the UK. However, following recommendations in the Winsor Report, the Anti-Social Behaviour, Crime and Policing Act 2014 abolished PNB in England, Wales and Northern Ireland and established the Police Remuneration Review Body (PRRB) to advise the Home Secretary on pay issues for England, Wales & Northern Ireland². As such, the PNB now only operates in Scotland.
3. This guide is intended to be a helpful introductory reference document only and has no legal basis. As stated above, the statutory basis for the PNB is set out in s.61 of the Police Act 1996. The Act states that the PNB constitution shall be made after consultation between the Secretary of State and the organisations represented at PNB. A copy of the constitution is provided at Annex A.

Membership

4. The PNB negotiates agreements between the 'official side' (6 members representing the "employers") and the 'staff side' (6 members representing police officers):

Official Side

- | | |
|-------------------------------------|-----------|
| • Scottish Police Authority (SPA) | 3 members |
| • Chief Constable (Police Scotland) | 2 members |
| • The Scottish Ministers | 1 member |

Staff Side

- | | |
|---|-----------|
| • Scottish Police Federation (SPF) | 4 members |
| • Association of Scottish Police Superintendents (ASPS) | 1 members |
| • Scottish Chief Police Officers Staff Association (SCPOSA) | 1 member |

¹ From 1 April 2015 all pension advice to Scottish Ministers will be a matter for the Scottish Police Pension Scheme Advisory Board (SAB) and they will consult the PNB on these matters as appropriate.

² The Senior Salaries Review Body (SSRB) deals with pay matters relating to Chief Officers in England, Wales and Northern Ireland.

5. Each of the parties nominate those who are to represent them on the Board and specify the period for which the representatives will serve. They may also nominate a replacement for a representative who is absent from a meeting. Others may also attend meetings as observers and may participate only by invitation by the Chair, but will not have the right to cast a vote (should one be required).
6. The Sides will each appoint a 'Side Secretary' (who may or may not be a member of the Board) and each Side will also appoint a Chair from amongst their number. A full list of current PNB members can be found at Annex B.

Remit

7. The PNB negotiates the terms and conditions for all constables and cadets (but not Special Constables) on matters regarding:
 - Police officers' hours of duty, leave, pay, allowances and pensions.
 - The issue, use and return of police clothing, personal equipment and accoutrements
8. From 1 April 2015 pension issues in relation to the new 2015 pension scheme will be discussed at the Police Pension Scheme Advisory Board (SAB). The SAB will also advise on the desirability of changes in relation to schemes under the Police Pensions Act 1976, but PNB members will continue to be consulted on any changes to these schemes.
9. All other matters fall under the remit of the Scottish Police Consultative Forum (SPCF), including issues such as conduct and performance, Special Constables, training, leadership and development. Further information on the SPCF is provided at paragraph 35.
10. A new website for the PNB has been created and is hosted on the Scottish Government website <http://www.gov.scot/Topics/Justice/policies/police-fire-rescue/police-scotland/PNB>. This includes a list of PNB Circulars from 1979 onwards – hard copies of which can be obtained from the Independent Secretariat if required. An archive of PNB Circulars from 2013 onwards which can be accessed on line is also available.

Meetings

11. PNB meetings generally take place on a quarterly basis, although they can be held more regularly if required.
12. The dates and agenda for meetings of the PNB will be agreed between the Side Secretaries and the Independent Secretary.
13. Minutes of meetings will be circulated to the side secretaries shortly after each meeting takes place. It shall be for the sides to resolve any points of ambiguity or dispute between themselves and in liaison with the Independent Chair in advance of the next meeting.
14. In advance of a PNB meeting, both sides may separately hold a 'pre-meet' to discuss the agenda. This offers the different parties on each side an informal forum in which to air their views and come to a consensus – the intention being that both staff and official sides 'speak with one voice' in negotiations. Each Side determines its own processes for establishing a consensus view, which may be a view commanding unanimous support, or may be a view which all constituents are prepared to accept in the interests of the greater common good.
15. On the day of a PNB meeting, each side may hold a further brief pre-meet to confirm their positions. Following this, there will be a 'behind the Chair' meeting between the Official and Staff Side Secretaries and Chairs (overseen by the Independent Chair), with the purpose of updating each other on the positions each Side intends to adopt regarding the main items on the agenda. These updates may cause the Sides to embark on further negotiation but once both Sides are content there is nothing further to discuss 'behind the chair', the main joint meeting will take place.

Role of the Independent Chair

16. The PNB has an Independent Chair appointed by the Prime Minister³. The role is designed to provide a neutral, independent voice in the negotiations and to assist in bringing the parties to agreement, through support, informal mediation and conciliation.

³ The Independent Chair will be appointed by the Scottish Ministers once the Police Negotiating Board for Scotland is created in Scottish legislation.

17. The Independent Chair is also required to produce an annual report for Scottish Ministers, detailing the business of the PNB for the 12 months up to 31 March each year⁴. The report should include details of:

- Business progressed (and length of time taken)
- Attendance & continuity of representation
- Information provided to the Sides by the Independent Secretariat (either on his/her own initiative or at the request of the Sides)

18. Before submitting the report to the Scottish Ministers, the Independent Chair will make available to both Sides a draft copy and will take into account any comments which the Sides may make in its regard. An electronic copy of the most recent annual reports will be available on the PNB website. Hard copies are available on request from the Independent Secretariat.

Role of the Independent Secretariat

19. The Independent Chair is supported by an Independent Secretariat⁵. They have responsibility for producing minutes of meetings, drafting PNB circulars (which set out details of any PNB agreements), and for coordinating the joint secretarial meetings which can take place prior to PNB with the two side secretaries to agree what should be on the agenda. The Independent Secretariat may also be called upon to conduct research as required by the Board.

20. Correspondence with the Independent Secretariat should normally be directed via the Side Secretaries but should PNB members need to contact them directly, please use the following mailbox: PNB.Secretariat@scotland.gsi.gov.uk.

⁴ Given that the PNB was abolished for England, Wales and Northern Ireland on 1 September 2014, the last PNB annual report prepared by the Independent Chair, was for the period 1 April 2013 until 31 July 2014. The Home Office have agreed that the next annual report can therefore cover the period from 1 August 2014 to 31 July 2015. With the agreement of the members of PNB, the PNB constitution will be amended to reflect the new reporting year, when the PNBS is established in Scottish legislation. This approach will enable the whole of a year from one pay settlement to the next to be covered in a single report (given that rates of pay for a 1st September settlement date are normally agreed by the July meeting of the PNB).

⁵ The employee holding the position comes from a division of the Scottish Government with no direct responsibility for policing, thereby preserving their independence from those Scottish Government officials who represent Scottish Ministers on the Official Side. This reflects the arrangements for PNB when it was a UK wide body, in which the interests of the Secretary of State were represented by Home Office officials and the Independent Secretary was a civil servant from the office of Manpower Economics.

Committees

21. The board may form sub-committees and working groups to consider specific issues as it sees fit. These meetings may be chaired by the Independent Chair (and minutes can be taken by the Independent Secretariat) or, they can be chaired by a PNB member if the Sides agree that the committees or groups do not require to be Independently Chaired.
22. There is currently one Working Group on Equalities (Terms of Reference at Annex C).

Conciliation and Arbitration

23. If the parties fail to agree on a particular issue, either side may formally register the disagreement and, through the Chair, seek to initiate the conciliation process.
24. The Chair, acting as conciliator, will meet the parties either separately or jointly, and will seek to promote a voluntarily agreed recommendation to be reported back to the Board as a possible basis for reaching a settlement. If there is still no agreement the matter will be referred to the Advisory, Conciliation and Arbitration Service (ACAS) for second stage conciliation, with a view to seeking a voluntarily agreed recommendation to be reported back to the Board for agreement.
25. If the Official Side and the Staff Side of the Board fail to agree on a recommendation to Scottish Ministers, and if conciliation does not result in an agreed recommendation, the dispute will be referred to arbitration. Arbitration will be by a Panel of three arbitrators appointed by ACAS and any decision of the arbitrators will be treated as though it were an agreement of the two sides. (It has been agreed that in some circumstances a single arbiter may be appropriate).
26. Arbitration decisions are currently not binding on Ministers (although they are binding on the Sides).
27. A procedural document setting out the process for conciliation and arbitration (and accompanying flow chart) is attached at Annex E.

Regulations and Determinations

28. Once a consensus has been reached, the Independent Secretariat will draft a PNB circular on the "agreement". A draft will be shared with the Side Secretaries to ensure it reflects their understanding of what has been agreed before a circular setting out the details of the agreement is published. An example of a typical PNB circular can be found at Annex F.

29. Scottish Ministers may then choose to enact the agreement into subordinate legislation in the Scottish Parliament, through the Police Service of Scotland Regulations 2013, and in determinations signed by Scottish Government officials. Once formalised into Regulations and/or a Determination, the substance of the agreement can then be incorporated into Police Scotland's operational policy.
30. As per the flow chart at Annex D, once agreement is reached at PNB, the official side may be responsible for drafting an 'Explanatory Note' (EN) setting out the detail of how the agreement will be implemented. The EN should be agreed with the staff side prior to the PNB Agreement (set out in the Circular) being implemented.
31. The Police Service of Scotland Regulations and determinations can be found here:
<http://www.legislation.gov.uk/ssi/2013/35/contents/made>

Constitution

32. The constitution of the PNB has been amended to reflect the Board's remit in relation to Scotland only. The amended constitution (approved by the Home Secretary) can be found at Annex A.

Freedom of Information

33. The PNB is listed as a public body under schedule 1 of the Freedom of Information Act 2000. As such, information held by PNB (including information provided to the Secretariat by the Sides) is covered by the general right of access to information held by public authorities. For negotiations to be effective, the confidentiality of positions advanced by either Side on a 'without prejudice' basis needs to be respected. Accordingly, whilst PNB seeks to operate in a spirit of transparency, if requests are made for information provided on a 'without prejudice' basis in the course of negotiations, PNB may seek to rely upon one of the exemptions in the Act which allows information to be withheld subject (in most cases) to the balance of the public interest in maintaining the exemption outweighing the public interest in disclosing the information.
34. FOI requests should be sent to the Independent Secretariat mailbox.

Relationship with the Scottish Police Consultative Forum (SPCF)

35. Whilst the membership of the SPCF is broadly the same as that of the PNB (although, being only a consultative body, there are no 'sides') the function of the body is different. Legislatively, the SPCF fulfills the requirement for a consultative forum under section 11(7) and section 54(2) of the Police & Fire Reform (Scotland) Act 2012. It provides the appropriate forum for the submission

of representations with regard to regulations proposed by Scottish Ministers under section 11 or section 48 of the Act.

36. Additionally, it is designed to be a proactive body, enabling parties to raise issues with Ministers other than those on which Ministers are minded to make regulations (except those that fall within the terms of reference of PNB). In doing so it avoids the need to establish a series of ad hoc working groups to consider individual issues (technical sub-groups can be set up within the SPCF if required).
37. The SPCF acts as an advisory (rather than negotiating) body, with the remit of anything falling outside that of the PNB. Generally, the SPCF meets on the same day as PNB.
38. The Terms of Reference for the SPCF are provided at Annex G.

Relationship with the Joint Negotiating and Consultative Committee (JNCC)

39. The JNCC is concerned with matters within the authority of the Chief Constable. The JNCC will discuss operational delivery of HR policies and these will include agreements reached through PNB and SPCF meetings (which between them define the conditions of service of officers within the service). As such Scottish Ministers and the SPA have no representation at JNCC meetings (but may be invited at the Chief Constable's discretion) which are held solely between the CC's representatives and staff associations.
40. On operational matters, the decision of the CC is final. However, should a matter remain unresolved due to a difference of view as to the meaning of a regulation or determination, or the application of policy/guidance promulgated by the PNB/SPCF, it is entirely appropriate for the matter to be referred back to PNB/SPCF for clarification.
41. However if a matter remains unresolved purely because of issues regarding management or implementation, it is generally not appropriate for referral to PNB/SPCF. A disagreement within the JNCC is not covered by the ACAS Procedural document at Annex E. However, in cases of strong disagreement the sides may agree to arbitration by a third party such as ACAS.
42. The Terms of Reference for the police officers JNCC is reviewed on an annual basis and is available on request from Police Scotland.

Future

43. The Police Negotiating Board for Scotland (PNBS) will be created by provisions contained in the Criminal Justice (Scotland) Bill 2013. Once brought into existence, the PNBS will replace the current PNB and will continue to exercise the same functions. Once PNBS is in place, arbitration on pay will be legally binding on the Scottish Ministers.
44. It is anticipated that the Independent Chair of the PNB will go on to Chair PNBS after it comes into being (as well as the SPCF).

**CONSTITUTION
OF THE
POLICE NEGOTIATING BOARD**

(AS AMENDED TO PROVIDE FOR THE BOARD TO OPERATE IN SCOTLAND ONLY)

With changes approved by Home Secretary on 23 March 2015

Operative date: Date of Commencement Order of Section 131 of the Anti-social Behaviour, Crime and Policing Act 2014 in relation to England, Wales and Northern Ireland (1 September 2014).

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Preamble

1. The constitution of the Police Negotiating Board ('the Board') set out in the following paragraphs has been agreed by the Secretary of State in accordance with the provisions of Section 61 (3) of the Police Act 1996.
2. Any reference in this constitution to pensions matters will be construed as including any matter which is or may be dealt with by regulations under the Police Pensions Act 1976.

The Board

3. The Board will meet as appropriate to consider matters affecting all ranks. It may also consider matters affecting its own constitution.

Functions

4. The functions of the Board are to consider the questions listed in Section 61(1) of the Police Act 1996 – hours of duty; leave; pay and allowances; the issue, use and return of police clothing, personal equipment and accoutrements; and pensions – and to make recommendations on such questions to Scottish Ministers.

Representation

5. The Board will consist of an Official Side and a Staff Side representing, and appointed by, the authorities and bodies ('the constituent bodies') listed in Tables 1 and 2 below. Each constituent body will have the number of representatives shown.

Table 1 – OFFICIAL SIDE	
Constituent body	Total
The Scottish Ministers	1
The Scottish Police Authority	3
The Chief Constable of the Police Service of Scotland	2
TOTAL	6

Table 2 – STAFF SIDE	
Constituent body	Total
The Chief Police Officers Staff Association	1
The Association of Scottish Police Superintendents	1
The Scottish Police Federation	4
TOTAL	6

Committees

6. The Board may constitute such sub-committees or working parties as they think fit.

Independent Chair and Deputy Chair

7. The Independent Chair of the Board will be appointed by the Prime Minister in accordance with Section 61(2) of the Police Act 1996.

8. The Independent Chair or the Deputy Chair will preside at all meetings of the Board.

9. The Deputy Chair will exercise the full functions of the Independent Chair in his or her absence, or if the post is vacant.

Independent Secretariat

10. An Independent Secretariat acceptable to the Board will be provided by Scottish Government.

11. The Secretariat will be answerable to the Independent Chair and responsible for:

- (a) The administrative arrangements for meetings of the Board and its sub-committees and working parties.
- (b) Taking the minutes and notes of such meetings.
- (c) Researching and assessing data on pay and all other matters of concern to the Board and its committees. The results of such research will be supplied to both Sides of the Board.
- (d) Providing information to the Sides, either on request from the Sides or as the Secretariat in consultation with the Independent Chair considers appropriate.
- (e) Other matters determined by the Board.

12. The Secretariat will, where possible and consistent with their independent status, provide any other assistance requested by either Side.

13. Where necessary the Secretariat will prepare, in consultation with the Official and Staff Sides, explanatory memoranda giving agreed interpretations of:

- (a) Police Regulations which give effect to agreements reached by the Board;
- (b) agreements reached by the Board which are not embodied in Police Regulations.

Members

14. The constituent bodies listed in paragraph 5, Tables 1 and 2, will nominate those who are to represent them on the Board and will specify the period for which their representatives will serve.

15. A constituent body may fill a casual vacancy in its representation on the Board, or nominate a replacement for a representative who is absent from a meeting.

Officers

16. The Official Side and the Staff Side of the Board will each appoint a Side Secretary.

17. A person may be appointed as a Side Secretary whether or not that person is a member of the Board.

Quorums

18. The quorum for the Board will be a majority of members from each Side.

19. If a meeting of the Board is found not to be quorate, the Independent Chair will suspend the meeting.

Meetings

20. All meetings of the Board, and any sub-committees or working parties, will be called by or on behalf of the Independent Chair. The Independent Chair will call a meeting at the request of either side, on his or her own initiative, or in such other circumstances as the Board may determine.

21. The proceedings of the Board or of a subcommittee or working party will not be invalidated if all its members have not been appointed or if it is subsequently discovered that there was some defect in the appointment of a member or of a deputy for a member.

22. Subject to the other provisions of this constitution, the Board will determine their own procedure.

Conciliation and Arbitration Procedure

23. An agreement of the Board will be reached by the concurrence of both Sides of the Board. When considering any of the questions listed in section 61(1) of the Police Act 1996 with a view to making a recommendation to Scottish Ministers, either the Official Side or the Staff Side may formally register a failure to agree and, through the Chair, seek to initiate the conciliation process.

24. If the Chair is satisfied that there is no further scope for agreement in the Board on the question under consideration, he or she will refer the question for first stage conciliation, which will take place as soon as reasonably practicable and, in any event, will commence within a period of one month from the date of a failure to agree being recorded.

25. The Chair, acting as conciliator, will meet the parties either separately or jointly, and will seek to promote a voluntarily agreed recommendation to be reported back to the Board as a possible basis for reaching a settlement. Should agreement on such a recommendation not be reached, the matter will be referred to the Advisory, Conciliation and Arbitration Service (ACAS) for second stage conciliation, with a view to seeking a voluntarily agreed recommendation to be reported back to the Board as a basis for reaching a settlement.

26. Where conciliation fails to result in agreement, the matter may be referred to arbitration, at the instance of either Side and under the terms of paragraph 27, without being referred back to the Board.

27. If the Official Side and the Staff Side of the Board fail to agree on a recommendation to Scottish Ministers, and if conciliation does not result in an agreed recommendation, the dispute will at the instance of either Side be referred to arbitration. Arbitration will be by a Panel of three arbitrators appointed by ACAS (save that both Sides may agree that one arbitrator will suffice to deal with the matter under referral).

28. The terms of reference for any dispute referred to arbitration will be jointly agreed beforehand by ACAS conciliation and the Official Side and the Staff Side. Terms of reference may include to what extent arbitrators should provide reasons for their award.

29. If one or more of the arbitrators is unavailable at the required time, a reserve (or reserves) will be appointed by ACAS. Arbitration proceedings involving a Panel of arbitrators may continue notwithstanding the death or absence of, or relinquishment of appointment by, one or two of the arbitrators.

30. Any decision of the arbitrators will be treated as though it were an agreement of the two Sides of the Board.

31. Pension matters are not arbitrable.

Powers of the Scottish Ministers

32. The Scottish Ministers will have the power to direct the Board to:

- (a) consider and reach agreement on such matters as they may specify and/or
- (b) set deadlines for the Board to complete its consideration of such matters.

33. Both these powers will be reserved for cases where the Scottish Ministers consider their use to be justified as a matter of serious national importance to the police service. The powers will only be used following consultation with the Independent Chair.

34. Where agreement cannot be reached by the set deadline, the Independent Chair will declare a failure to agree and (following conciliation if this is deemed appropriate by the Chair) the matter will be referred to ACAS for arbitration. Paragraphs 23-31 of the Constitution will then apply.

Annual Report

35. The Independent Chair will make an annual report to Scottish Ministers. The report will cover the 12 months up to the year ended 31 March and be submitted within 2 months. The report will include:

- (a) business processed and length of time taken, with an explanation if any matter has taken over 12 months to be concluded;
- (b) attendance, and continuity of representation;
- (c) numbers attending meetings;
- (d) reference to information provided to the Sides by the Independent Secretariat, either on its own initiative or at the request of the Sides;
- (e) the use of arbitration;
- (f) evidence that the Board is monitoring its own effectiveness and improving its business processes where justified.

36. Before submitting the Annual Report as above, the Independent Chair will make available to the Sides a draft of the Report and will take into account any comments which the Sides may make on it.

EQUALITIES WORKING GROUP – TERMS OF REFERENCE

An Equalities working group (EWG) of the PNB will consider proposals referred to it by the full PNB in respect of Equality related matters

The group will also be responsible for a wide range of issues that may vary according to changes in primary legislation/regulations and/or determinations, including the following activities:

- Terms and Conditions and how these impact on groups with protected characteristics;
- New legislation e.g. Flexible Working/Children and Families Act;
- Matters outstanding from the UK Gender; Equality and Work-Life Balance group (Appendix 1)

Proposals requiring consultation/negotiation will be progressed using the following process:

- Points of agreement and disagreement will be recorded.
- Unless agreed otherwise discussions held will be without prejudice.
- Proposals agreed at the Equalities Working Group will be tabled at full meetings of the PNB for approval and will then be issued for consultation in accordance with the current legislation.
- An Equalities Working Group update paper from the group will be agreed and tabled at each PNB

Membership:-

Representatives from:

Police Scotland (2)

Scottish Government (1)

Scottish Police Authority (1)

SCPOSA (1)

The Association of Scottish Police Superintendents (1)

Scottish Police Federation (2)

Other invitees as deemed necessary by the PNB or Sides.

Chair of Meetings

Meetings of the working group will be chaired on a rotating basis, with a chair nominated by members of the official side and the staff side chairing alternate meetings. The organisation holding the Chair at any meeting may increase their attendance numbers by one.

Terms of Reference

There will be regular monitoring and reviews of the Terms of Reference by the Equalities Group to ensure it continues to meet the requirements of the group.

Frequency of meetings

The group will meet as frequently as agreed by both sides to progress matters referred by the PNB.

Subgroup lifetime

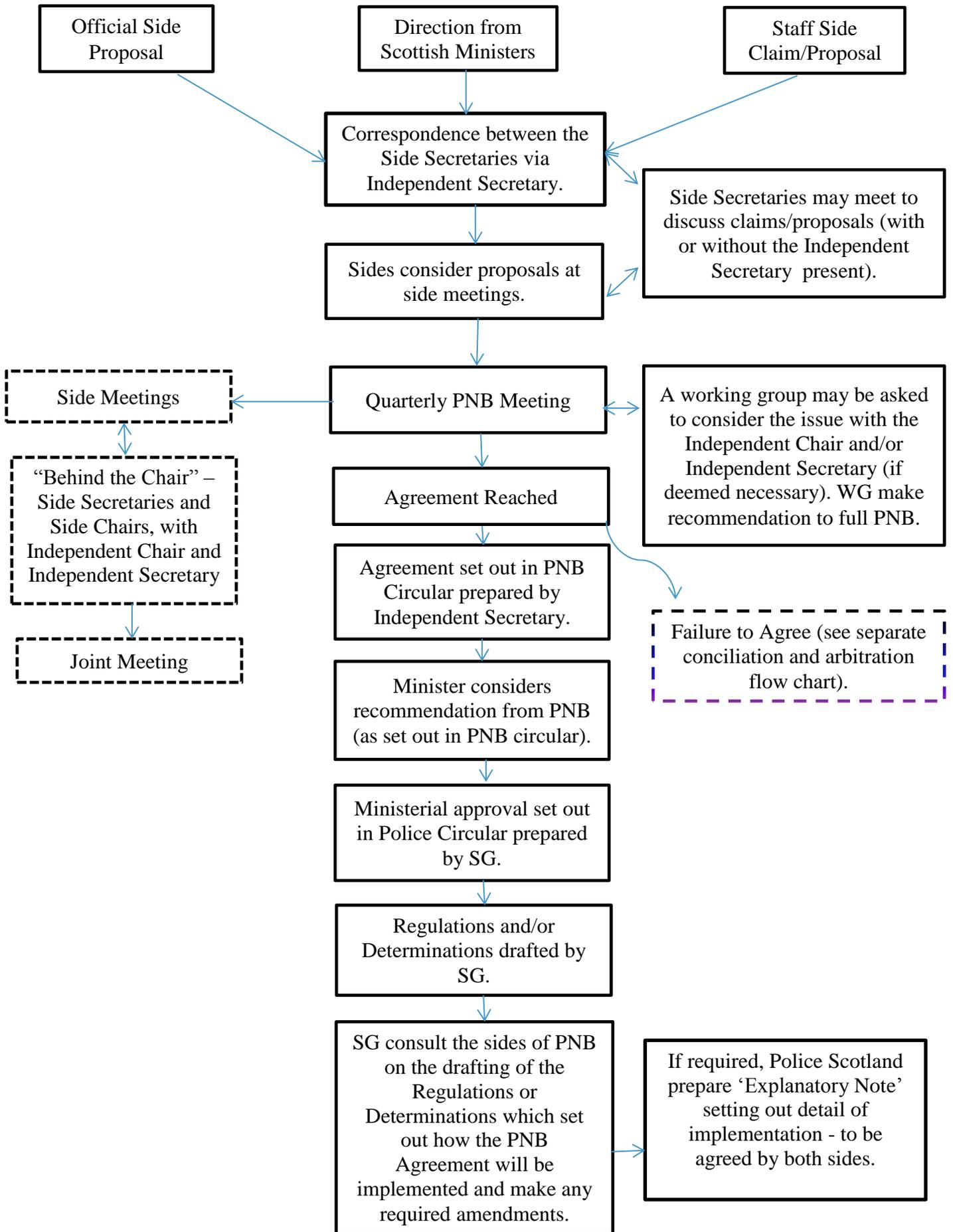
The need for and effectiveness of this subgroup will be kept under review.

Matters outstanding from the UK Gender; Equality and Work-Life Balance group

PNB Circular	Title	Key Points
2014/8(advisory)	Compensation for working a rest day/free day within a period of annual leave	For consideration by PNB SSC
2014/9(advisory)	Part time working arrangements	For consideration by PNB SSC
2014/21	Children and Families Act	Details of implementation and drafting of appropriate regulations/determinations for consideration by PNB SSC

ANNEX D

Police Negotiating Board



ACAS procedural document

February 2015⁶

Conciliation:

1. This procedure will be implemented to resolve instances where there is a Failure to Agree (FTA) at the Police Negotiating Board (PNB).
2. Before a FTA can be registered, the PNB must use every effort to reach an agreement on the issues in dispute. If no agreement is reached, a FTA must be registered in accordance with the PNB constitution.
3. The Independent Chair will then initiate first stage conciliation and will seek to promote a voluntarily agreed recommendation to be reported back to the Police Negotiating Board (the Board) as a possible basis for reaching a settlement.
4. Should agreement on such a recommendation not be reached and the Chair determines that further conciliation has the prospect of resolving the issues, the matter will be remitted to ACAS Scotland for second stage conciliation, with a view to seeking a voluntarily agreed recommendation to be reported back to the Board as a basis for reaching a settlement.
5. The parties to the dispute should separately record the issues in dispute on the prescribed form [see Appendix 1].
6. The Chair of the PNB must be satisfied that the issues recorded have been fully discussed and that there is no further first stage conciliation that the Chair can offer to assist resolution.
7. ACAS Scotland will convene a second stage conciliation meeting with the parties within 21 days of the matter being remitted to them by the Chair of the PNB.
8. The conciliation commencement may be extended by a further 14 days by mutual agreement of the parties.
9. ACAS will liaise with the parties to determine a suitable date and location for conciliation.

⁶ ACAS Procedural document agreed by ACAS Scotland and the official and staff sides of PNB on 19 February 2015.

10. Three rooms should be available for use during the conciliation process. One of the rooms should be large enough to accommodate all of the parties should a joint meeting be necessary.
11. The conciliation will commence with the conciliator being apprised of the nature of the dispute. The conciliator will determine whether this session is conducted jointly with the parties or separately with each.
12. In conciliation, ACAS will discuss the issues as recorded on the prescribed form with the parties. The purpose of these conciliation talks will be to determine whether any modification of the positions outlined by the parties can be achieved to enable a consensus or agreement to be reached.
13. It is essential that each party ensures that personnel with the necessary authority to make decisions attend conciliation.
14. ACAS will regulate the procedure for conciliation and have sole discretion on the conduct of the meeting.
15. At the end of the conciliation process, ACAS will summarise and agree the position with the parties. The summary will include:-
 - a. Whether the issue(s) in dispute is resolved;
or,
 - b. Whether conciliation is suspended to allow the parties to review their position;
or,
 - c. Whether some of the issues in dispute are resolved;
or,
 - d. Whether the matter is to be referred to arbitration.
16. If the outcome of the conciliation is that the matter is to be referred to arbitration, joint Terms of Reference for arbitration must be agreed during conciliation.

Arbitration

Arbitration will be provided by ACAS and conducted in accordance with the following provisions:

1. A standing panel of three arbiters will be appointed from an ACAS list. The parties, together with the Scottish Minister, will identify the three people whom they consider suitable for resolving PNB disputes.
2. The parties, together with the Scottish Minister, will identify which member of the panel will act as the Chair of the panel. Each panel will consist of the Chair and two other members selected from the ACAS list. The Chair will regulate the procedure at the arbitration hearing.
3. If one or more of the arbiters is unavailable at the required time, a reserve (or reserves) will be appointed by ACAS with the agreement of the sides. Arbitration proceedings involving a panel of arbiters may continue notwithstanding the death or absence of, or relinquishment of appointment by, one or two of the arbiters.
4. A sole arbiter can determine the outcome of a dispute if both sides agree that this will suffice to deal with the matter under referral. Under these circumstances, the Chair of the panel should determine the outcome of the dispute. If the Chairperson is unavailable, one of the other two members of the standing panel of three should fulfil this role.
5. The arbitration panel (or single arbiter) will be responsible for determining the outcome of the dispute.
6. The process to be followed will be:
 - The parties will agree the Terms of Reference for the arbitration at conciliation.
 - The hearing date will be agreed with the parties and will normally take place no later than 8 calendar weeks from the date of the agreed Terms of Reference.
 - The hearing will be held in the ACAS Scotland office at 151 West George Street, Glasgow, G2 2JJ.
 - No later than seven calendar days prior to the hearing, the parties will each supply the arbiter or panel with a copy of a written Statement of Case (SoC) and will exchange between themselves at least two copies of their respective written SoC. The SoC must address the question agreed for arbitration and not introduce new issues.

- The parties may present whatever information and arguments they see fit to the arbiter / panel and they will exercise their judgement as to the weight to be given to all such information and arguments.
 - Although the parties will be free to elaborate and explain their case to the arbiter / panel at the hearing, oral submissions will be with reference to the written SoC only.
7. The SoC will contain all submissions upon which the party relies in support of or in opposition to the claim and will include the following:
- The ranks involved and the number of officers in each rank.
 - The nature of the claim.
 - The existing situation.
 - The grounds in support of or opposition to the claim.
 - Where reference is made to any document or documents, copies or extracts thereof will be provided.
 - The names and status of the representative or representatives who will appear before the arbiter / arbitration panel.
8. If one of the parties requests that the case should be adjourned from the date fixed to a later date, the following will apply:
- Consent to an adjournment must be sought and agreed by the other party.
 - If the consent is forthcoming, then notice of such agreed adjournment shall be sent to the arbiter / panel as soon as possible and they will fix a new hearing date.
 - If one party refuses consent to the request for an adjournment, the party seeking the adjournment may make formal application to the arbiter / panel whose decision will be final.
9. After the arbitration hearing, the arbiter/panel will produce a written report summarising the main points made by each party, the details of the award and the reasons for their decision. This report will be provided to the parties within 14 days of the conclusion of the arbitration hearing.
10. The arbitration award must be in accordance with the parameters of the agreed question for arbitration.
11. The Arbitration report will be sent simultaneously to all parties.
12. Any decision of the arbiter / panel will be treated as though it were an agreement of the two sides of the Board.

Registration of a Failure to Agree of the PNB

This form will be used by the parties to identify the issues which constitute the Failure to Agree.

The parties should separately record, in short bullet form, the details of the issues which they believe are in dispute. Each party should record the issues separately.

Official Side: Points in Dispute

<ol style="list-style-type: none">1.2. 3. 4. <p>Signed and dated by Official Side:</p>

Staff Side: Points in Dispute

<ol style="list-style-type: none">1. 2. 3. 4. <p>Signed and dated by Staff Side:</p>

Chair confirmation that the issues outlined above have been the subject of first stage conciliation by the Chair and that the FTA persists.

Signed and dated by PNB Chair:

Process for conciliation and arbitration – to be set out in the PNB constitution

Claim or proposal tabled at PNB by staff or official side.

If no agreement:

Failure to Agree registered.

First stage conciliation (Chair).
If no agreement:

Second stage conciliation (ACAS).
If no agreement:

The sides agree the issue to be determined at arbitration and with ACAS, jointly agree the Terms of Reference

A panel of 3 will determine the outcome of the dispute (save both sides agree that one arbiter will suffice to deal with the matter under referral).

The arbitration panel / single arbiter, will produce a report setting out the key points made by each side, the award and the reasons for their decision.

Process for resolving differences relating to existing or new PNB agreements – to be set out in a PNB Procedure

Difference of opinion between the service and the staff side on the implementation or interpretation of a new PNB agreement.

The service changes the way an existing agreement is applied **OR** differing practice is identified across Divisions.
See purple box below.

Discussions should take place at local level between the service and the staff side to determine whether a mutually acceptable resolution can be implemented. Reference should be made to the Explanatory Note (EN), where this is available. Both parties commit to agreeing on any necessary amendments to EN.

If needed, matter should be considered at a joint secretarial meeting. No involvement of the Chair.

Agreement - under either circumstance, the staff side and the service agree on a joint approach to resolve the matter. The EN should be updated where appropriate.

No agreement - the matter can be referred by either side to full PNB for clarification. The Chair can facilitate discussions (but not offer a view *if* they judge that the matter may end up at first stage conciliation). **At this point, if there is a difference of opinion on how an existing agreement is applied, the status quo ante will be retained (i.e the way things were done before).**

If no resolution reached following discussion at PNB, a FTA cannot be registered at this stage.

It will be open to either side to formally table an amendment to the existing PNB agreement (or to the EN), or to table a new proposal/claim for re-negotiation at PNB

Agreement

If no agreement

The only exception to this will be where legal advice compels the force to change the existing practice as a matter of urgency to comply with the law.

PNB Circular 2014/7 (Advisory)

POLICE NEGOTIATING BOARD

Independent Secretary:
Bill Blase
Office of Manpower Economics
Victoria House
Southampton Row
London WC1B 4AD

POLICE NEGOTIATING BOARD AGREEMENT

1. The Official and Staff Sides of the PNB Scotland Standing Committee have reached an agreement to extend the Chief Officers' agreement on temporary promotion arrangements to officers in the superintending ranks serving in the Police Service of Scotland. Details are set out in the attached memorandum.
2. This PNB circular remains advisory until specific approval from the Scottish Government has been given and does not confer authority* to implement the agreement. Once approval has been given, it will be communicated in a Scottish Government circular. In due course the relevant Minister will make formal determinations.
3. Any enquiries about this circular should be addressed to the Independent Secretariat at the Office of Manpower Economics ☎ 020 7271 0472, to the Official Side Secretary ☎ 020 7187 7329 or the Staff Side Secretary ☎ 01189 844005. Enquiries to the Independent Secretariat relating to the interpretation of this circular should be made in writing.

9 April 2014

* PNB Circulars form a single numerical series. Those which in themselves provide authority to implement an agreement carry the serial number alone, while those which are advisory are designated as such after the serial number.

1.1. MEMORANDUM

The Official and Staff Sides of the PNB Scotland Standing Committee have reached agreement to extend the Chief Officers' agreement on temporary promotion arrangements to officers in the superintending ranks serving in the Police Service of Scotland:

After 28 consecutive days of acting up for or temporary promotion to ACC/Commander, a superintendent or chief superintendent will be paid at a rate equivalent to 90% of the higher rank's basic pay or receive an honorarium of an amount determined by the Scottish Police Authority, in order to ensure that the officer is suitably rewarded for the extra responsibility.

TERMS OF REFERENCE
SCOTTISH POLICE CONSULTATIVE FORUM
(SPCF)

Background

1. Under sections 11 and 54 of the Police and Fire Reform Act 2012 the Scottish Ministers must consult and share a draft of regulations to be made under section 11 or 48 and consider any representations made to them. The consultees will be:
 - the chief constable;
 - the Authority;
 - the joint central committee of the Police Federation for Scotland;
 - such persons as appear to them to be representative of senior officers;
 - such persons as appear to them to be representative of superintendents (including chief superintendents); and
 - such other persons as they consider appropriate.

Function

2. The functions of the SPCF are not set out in legislation but Scottish Ministers wish the statutory consultation set out above to be open and transparent and will always look for Regulations to be agreed through discussion before they are made.
3. Including Regulatory consultation, there is scope for the SPCF to discuss a wide range of workforce issues, examples of these include:
 - Conduct and Performance;
 - Special Constables;
 - Promotion;
 - Qualifications for appointment e.g. Medical standards, Fitness tests and Entrance Tests;
 - Health and Safety;
 - Fitness;
 - Training; and
 - Leadership and Development.
4. Scottish Ministers would also welcome advice on general questions affecting police officers in Scotland, where members believe that wider discussion at the forum will help the efficiency and effectiveness of the Police Service of Scotland. Scottish Ministers may also refer a matter to members, asking them to consider the issue and provide their advice, within timescales agreed with members.

5. The SPCF will not discuss issues that are under the remit of the Police Negotiating Board, that is:
- hours of duty;
 - leave;
 - pay and allowances;
 - the issue, use and return of police clothing, personal equipment and accoutrements; and
 - Pensions.

Membership

6. The membership of the SPCF will consist of:
- a) Officials representing the Scottish Government, Safer Communities, Police Division;
 - b) Two nominated representatives from each of the following:
 - the Association of Scottish Police Superintendents;
 - the office of the Chief Constable of the Police Service of Scotland;
 - the Scottish Chief Police Officers Staff Association;
 - the Scottish Police Authority and
 - the Scottish Police Federation.
 - c) HM Inspector of Constabulary (or nominated representative);
7. If any member of the SPCF is unable to attend a particular meeting that member may appoint a substitute after obtaining the consent of the appropriate representative body.
8. Any member of the SPCF may propose that an additional representative attend one or more meetings of SPCF. The attendance at a meeting by such an additional representative must be approved by the Chair.

Chair

9. Full meetings will be chaired by the Independent Chair of the Police Negotiating Board.

Secretariat

10. The secretariat will be supplied by the Independent Secretary of the Police Negotiating Board.

Working Groups

11. Any member of SPCF can propose, in writing or at a full meeting of the forum, that a Working Group be set up to address specific issues. Proposals for a Working Group must have the support of the majority of SPCF members and will be

approved by the Chair. Any proposal for a Working Group must set out the group's remit, its expected duration and membership. Proposals should be forwarded to the Secretariat for circulation through correspondence to the members.

12. A Working Group may include co-opted persons who are not members of SPCF
13. Working groups will be chaired by a representative of the Scottish Government, Police Division, they will be required to provide regular updates to SPCF and, if appropriate, submit a report to SPCF for consideration at a full meeting.

Meetings

14. Full meetings of the SPCF shall, insofar as is possible, be held before meetings of the PNB Scotland Standing Committee but two meetings must be held annually and there shall be other additional meetings as the Chair considers necessary. Members of the SPCF have the right to call for a meeting to be convened. The decision to convene a meeting will be at the Chair's discretion. The Secretariat will notify members of SPCF of the date of any meeting.
15. A short report of the proceedings will be made available by the secretariat to members of SPCF after each meeting.

15 April 2014