



Scottish Police Federation

5 Woodside Place Glasgow G3 7QF

JCC Circular 51 of 2016

Ref: CS/BD/LS

20 September 2016

Attachments: Open letter from SPF Chairman

Dear Colleague

Open letter from SPF Chairman – Police Cuts

I refer to the above and attach herewith the letter for your information.

A copy will also be placed on the SPF website.

Yours sincerely

Calum Steele
General Secretary



SCOTTISH POLICE FEDERATION

Established by Act of Parliament

Open letter from the Chairman of the SPF to all members

Dear Colleague

In our campaign "YOUR POLICE SERVICE NEEDS YOU", we have been made aware of some alarming behaviour by some supervisors. This letter addresses two issues of concern.

1. Functions, duties and lawful orders

I have attached an extract from the Police and Fire Reform (Scotland) Act 2012 to this letter (Annex A). It deals with functions, duties and lawful orders. An instruction that could cause you to be in neglect your duty is not a lawful order if it is given for financial reasons. This could lead to legal action against you and your supervisor.

2. Overtime compensation

A summary of the main overtime regulations is also attached to this letter (Annex B). We all know overtime budgets are under severe pressure but this does not give your supervisor the right to compensate you at less than the regulation rate, or demand that you perform overtime duty for time off in lieu only, or any other ad hoc arrangement. Regulations and determinations are law and cannot be altered by any individual officer regardless of their rank.

Send us examples of police cuts you have experienced and how they are affecting the job we do to:

PoliceCuts@spf.org.uk

We guarantee to protect your anonymity.

Yours sincerely

Brian Docherty
Chairman

Annex A

Extract from Police and Fire Reform (Scotland) Act 2012

Functions of constables

19 Constables: functions and jurisdiction

- (1) A constable has—
 - (a) all the functions conferred on a constable by virtue of this or any other enactment or by rule of law,
 - (b) all the powers and privileges of a constable throughout Scotland.
- (2) A constable who is the chief constable, a deputy chief constable, an assistant chief constable or a local commander also has all the additional functions conferred on such a constable by virtue of this or any other enactment or by rule of law.

20 Constables: general duties

- (1) It is the duty of a constable—
 - (a) to prevent and detect crime,
 - (b) to maintain order,
 - (c) to protect life and property,
 - (d) to take such lawful measures, and make such reports to the appropriate prosecutor, as may be needed to bring offenders with all due speed to justice,
 - (e) where required, to serve and execute a warrant, citation or deliverance issued, or process duly endorsed, by a Lord Commissioner of Justiciary, sheriff, justice of the peace or stipendiary magistrate in relation to criminal proceedings, and
 - (f) to attend court to give evidence.
- (2) When taking lawful measures in pursuance of subsection (1)(d), a constable must take every precaution to ensure that a person charged with an offence is not unreasonably or unnecessarily detained in custody.

21 Direction and control of the Police Service

- (1) Constables are, in the carrying out of their functions (including any functions held by virtue of being a deputy chief constable, an assistant chief constable or a local commander), subject to the direction and control of the chief constable.
- (2) A constable must—
 - (a) carry out lawful orders, and
 - (b) punctually and promptly perform all appointed duties and attend to all matters within the scope of that constable's office.
- (3) Police staff and police cadets are, in the carrying out of their functions, subject to the direction and control of (and may be dismissed by) the chief constable.

22 Failure to perform duty

- (1) It is an offence for a constable, without reasonable excuse, to be absent from duty.
- (2) A person who is guilty of an offence under subsection (1) is liable on summary conviction to imprisonment for a period not exceeding 60 days or a fine not exceeding level 3 on the standard scale.
- (3) It is an offence for a constable to neglect or violate the constable's duty.
- (4) A person who is guilty of an offence under subsection (3) is liable—
 - (a) on conviction on indictment, to imprisonment for a term not exceeding 2 years, or to a fine, or to both, or
 - (b) on summary conviction, to imprisonment for a term not exceeding 12 months, or to a fine not exceeding the statutory maximum, or to both.

Annex B

OVERTIME – Reg 17, Annex 7 (A) (1) - is defined as time:

- (a) at the end of a tour of duty or rostered shift
- (b) a recall between two tours of duty or rostered shifts
- (c) before a tour of duty where the member is not given due notice of the earlier starting time and that time is on a day when the member has already completed a daily period of duty.

CASUAL OVERTIME – Reg 17, Annex 7 (A) (6) - is defined as:

unforeseen overtime worked at the end of a shift and is compensated at time and a third, "except that on each of the first 4 occasions on which overtime in respect of which the member was not informed at the beginning of the shift is worked during a week; 30 minutes of the overtime work is to be disregarded."

REQUIRED TO WORK ON A REST DAY – Reg 18, Annex (8) (1) compensation is:

- (a) with less than 5 days' notice = double time
- (b) with less than 15 days' notice = time and a half
- in any other case = another rest day

in relation to (a) and (b) above, compensation can be payment or time off in lieu at the officers' choice.

MINIMUM COMPENSATION FOR WORKING ON A REST DAY – Reg 18 Annex (8) (3) (h)

where a constable is required to do duty, or is recalled to duty, for a period of less than 4 hours on a public holiday or a rostered rest day or, for a part-time constable, a free day, such period or each such period, is to be treated as though it were a period of 4 completed hours. Compensation can be payment or time off in lieu at the officers' choice.

REQUIRED TO WORK ON A PUBLIC HOLIDAY – Reg 18, Annex 8

- (a) with less than 8 days' notice = double time and another public holiday
- (b) in any other case = double time

Compensation can be payment or time off in lieu at the officers' choice.