



# SCOTTISH POLICE FEDERATION

Established by Act of Parliament

Ref: MM/AM/LW

## **West Area Committee Minutes**

Minutes of the West Area Committee meeting held at the Glynhill Hotel, Renfrew on Wednesday 4 December 2013 at 10 am.

### **1 ATTENDANCE AND OPENING**

Malcolm Macdonald (Secretary)

Donald Walker (Deputy Secretary)

John Campbell (Deputy Secretary)

Andrea MacDonald (Chair)

Jim Foy (Vice Chair)

Richard Webster

Jennie Shaw

John Adams

Gary Turnbull

Pamela Fleming

John O'Neill

Steven McIntosh

Philip Maguire

Andrew Hastie

Tom Bingham

Campbell Smith

Scott Wilson

Kenny Welsh

John Hunter

John Haynes  
Gary Mitchell  
David Readie  
Stuart Finnie  
Colin Johnston  
Charles Sweeney  
Lawrence Ramadas  
David Blacklock  
Thomas Liddle  
Alistair Bell  
Andrew Keating  
Stephen McCulloch  
Murdo Kennedy  
Eddie Mather  
Kevin Moffat  
James Bevers  
Robin Ferguson  
Dennis Cairns  
Martin Bertram  
Fiona Morris  
Kenny Hodge  
Andy Smith

**Apologies were received from:**

Dawn Bethune  
Alan Thomson  
Colin Fraser  
Martin Bertram (PM only)  
Charlie Sweeney (PM Only)  
Colin Stark

**The Chair welcomed the following guests to the meeting.**

Alisdair McKinnon – K Div

Martin Greenlees – V Div

Gordon Dickson – Chair, East Area Committee

Stuart Warboyes – Training Centre West

Brian Docherty – Chair, Scottish Police Federation ( a.m. only)

Calum Steele – General Secretary, Scottish Police Federation( p.m. only)

The Chair welcomed the members and the guests to the meeting and informed them there would be a presentation before lunch to several of our recently retired members and a few of our representatives who were attending their final meeting.

There would also be an election for the post of Deputy Secretary (Health & Safety).

Time would be allocated after lunch for members to hold Divisional Meetings.

**2 ADOPTION OF STANDING ORDERS**

Standing Orders were adopted for the duration of the meeting.

**3 MINUTES OF PREVIOUS MEETING**

The Minutes of the last meeting had been circulated and were accepted as a true record.

There were six actions raised at the previous meeting and the Chair updated members in respect of the progress of these issues.

**ACTION 1**

Names of the Sergeant Representatives for the Equality Committee to be passed to John Campbell, Deputy Secretary, and added to the Committee list.

**COMPLETE**

**ACTION 2**

Following the update from Blair Henderson, Sergeants PNB Representative, at the meeting in September that the General Secretary and the National Chair had initiated discussions at the PNB Scotland Standing Committee about the exchange of public holidays for annual leave.

It was agreed that the WAC JCC Representatives would ask for an explanation about this matter and request that a full consultation with the membership to take place regarding this, perhaps by way of a survey using Survey Monkey.

## **COMPLETE**

The Chair advised that she had raised this matter at the JCC meeting in September only to be personally embarrassed and embarrassed on behalf of the WAC to find that the proceedings at the PNB Scotland Standing Committee had been misrepresented. This was confirmed in the minutes of that meeting as taken by the Independent Secretariat from PNB which quite clearly articulated that the matter had been raised by the Official Side as an indication that they would be presenting a formal proposal in the near future.

The Chair further updated members that the matter had been raised again at the JCC meeting in November as it was anticipated that the Official Side was present their proposal at the PNB Standing Committee later that month.

Sergeant John Adams had raised the question of conducting a survey of the membership regarding this matter but after some discussion this was not agreed.

## **ACTION 3**

Following a strong discussion, members stated that they wished the WAC JCC Representatives to take a vote of no confidence in the General Secretary to the JCC if it was found that he had acted ultra vires in signing the Workforce Agreement before it had been presented to JCC. If however, he had not acted in such a manner then the WAC wished the JCC Representatives to express their disappointment that he did so without full consultation with the JCC.

## **COMPLETE**

The Chair updated members that the Secretary had raised this matter at the JCC meeting in September.

The matter was discussed fully but it was agreed that the General Secretary had not acted ultra vires as the initial remit provided to the Group set up to negotiate the Workforce Agreement with the Force had permitted this action.

As a result a vote of no confidence was not proposed although the Secretary did ask that this Committee's disappointment be recorded.

## **ACTION 4**

A Working Group was to be set up under the auspices of the Deputy General Secretary for the Commonwealth Games and regular updates would be provided to the WAC.

## **COMPLETE**

The Working Group had been set up and the Secretary was to provide a full update later in the Agenda.

## **ACTION 5**

A WAC Circular was to be issued calling for nominations for the post of Deputy Secretary, Health and Safety, due to the retiral of Donald Walker.

**COMPLETE**

## **ACTION 6**

Invitations were to be sent to all Representatives who were retiring, inviting them to the WAC meeting in December.

**COMPLETE**

### **4. Election – Deputy Secretary (Health & Safety)**

The vacancy had arisen due to the retirement of Constable Donald Walker.

Three nominations had been received as follows ; Gary Mitchell, Martin Bertram, Andy Smith.

Each of the candidates addressed the committee and there followed an official vote.

Results as follows : -

Martin Bertram – 15

Gary Mitchell – 14

Andy Smith – 11

Andy Smith stood down having the least number of votes and there was a second vote, results as follows :

Martin Bertram – 23

Gary Mitchell – 16

Martin Bertram was duly elected Deputy Secretary.

The Chair and members of the Committee congratulated Martin and wished him well in his new role.

The WAC Secretary will write to the Chief Constable requesting that Martin be released from his operational role as soon as is possible to allow him to take up his new post within the Federation.

## **5 LEGAL ADVICE AND ASSISTANCE**

There have been 12 files sent to SPF for legal advice and assistance since the last WAC Meeting –

3 on conduct issues

4 in relation to ill health

2 in relation to injury on duty

A further 4 were rejected for various reasons.

## **6 POLICE NEGOTIATING BOARD (SCOTLAND STANDING COMMITTEE)**

The Secretary updated the members as follows ;

The General Secretary of SPF reported that the PNB at a UK level continued to be heavily focused on the Tom Winsor report and in particular on the question of compulsory severance. He said it was likely that this matter would go to arbitration.

He said the PNB Scotland Standing Committee (SSC) was dominated by process where a number of new Scottish Police Authority members were getting used to the PNB and its agenda items. Papers from John Randall, Independent Chairman of the PNB on pan UK issues particularly with regard to police pensions and potential changes to the PNB Constitution had been discussed.

The Business Manager was liaising with ASPS and SCPOSA and working towards compiling a PNB SSC Staff Side response to the Government consultation on the creation of a PNB Scotland.

He reminded members that in England and Wales, pension issues would no longer be dealt with by PNB as it was to be abolished and the proposal was that instead, pensions would be dealt with by the Police Advisory Board for England and Wales. John Randall had proposed that a sub group of the PAB E&W be created to deal with UK pension issues.

While PNB SSC members appreciated the sentiment it did not consider that a sub group was appropriate to consider such important matters as this implied Scotland and Northern Ireland were not equal partners to England & Wales. Work was being undertaken to create an appropriate body to overcome this difficulty.

The General Secretary said he was in communication with Scottish Government about a new consultative forum to replace the Police Advisory Board for Scotland which had been abolished on 1 April 2013.

The General Secretary said he had received a letter from the Official Side of the PNB SSC on the question of exchanging public holidays for annual leave. Malcolm MacDonald said there had been strong feeling at his Area Committee based on a misunderstanding that the exchange of public holidays for annual leave had already been agreed and he asked that a clear minute entry on this matter be made. He said that his Area Committee had determined that if such an agreement had already been reached there should be a sanction on the head of the organisation.

Andrea MacDonald confirmed that there had been significant disquiet at the West Area Committee over this matter and a suggestion that a membership survey might be necessary to reach a view on whether this was a viable proposal.

The General Secretary reminded members that at the last meeting this matter had been discussed as it was known at that time that it was on the Official Side's agenda. It had been discussed against the background of a £60m gap in police funding next year and an acknowledgement that the PSoS was under significant pressure to cut costs. It was also acknowledged at that time that serious cuts in terms and conditions for officers working in E&W had already been made and that these had not been applied in Scotland. The ability to preserve pensionable and take home pay is absolute and the JCC agreed the debate on annual leave for public holidays had merely explored the issue and set loose parameters for the JCC's PNB representatives.

The Secretary then updated the members from the JCC Meeting which had taken place on 5 & 6 November 2013.

The General Secretary had reported that the main item on the PNB Agenda had been the Police Arbitration Tribunal on the outstanding Winsor issues. He reported that despite the service level agreement between the PNB and PAT that results should be made known within a set timescale, this had not occurred on the last number of occasions and given the proximity to Christmas it was unlikely to be met in this case also.

He also reported PNB constitutional issues had been discussed relative to the abolition of the PNB and the creation of a Police Pay Review Body for England and Wales and the future of a negotiating mechanism for Scotland. He said that the Scottish legislative position was lagging behind somewhat and the Independent chairman of the PNB, John Randall, had said that legislation may have to be amended to cater for this. The General Secretary also reported that the Scottish PNB would have equal status to the Police Advisory Board for England and Wales and the Police Advisory Board for Northern Ireland for dealing with reserved UK wide pensions arrangements.

The General Secretary said that at the PNB Scotland Standing Committee (PNBSSC), it was expected the Official Side would formally advise the Staff Side of its proposals to exchange some public holiday's into annual leave days. He said it was likely that Christmas Day and New Year's Day would remain as statutory public holidays.

Members had a lengthy discussion on this topic and discussed the savings being sought from PSoS, the cost of policing public holidays, the absolute imperative of protecting as far as possible police officer take home and pensionable pay and the practical impact this proposal would have if implemented.

The General Secretary said he had met Scottish Government officials to discuss the future governance of pensions through a Pensions Board and a Pensions Scheme Advisory Board. He said this was a massive responsibility and that training would be required for those who were to be involved. He thought the implementation date for these bodies would be 1 April 2015.

The General Secretary reported that he had been in discussion with the Scottish Government about the future of the PNB in Scotland, and the Cabinet Secretary for Justice's plans for binding arbitration. Whilst this had been promised in relation to pay, there was some indication that this might be extended to cover allowances. He further said that he and the Business Manager were to examine the options for drawing on the historic experiences of others from the PNB to shape the future arrangements.

David Hamilton asked if there were any further developments on Government decisions relative to pensions. The General Secretary said the expected Home Office circulars on this matter had been delayed by several weeks but was expected to be issued in the next few weeks (JCC Circular 74/2014 issued on 20 November 2013).

The General Secretary said that many members had commented on apparent improvements to the pensions of FBU members. He said it was important to realise that these improvements had only been achieved by FBU members sacrificing value in other areas of their scheme and that in terms of ability to retire from age 55; this simply brought their arrangements into line with what the police proposal already was. In the other headline areas, the police scheme continued to be more generous than that for firefighters.

### ***The Secretary updated members from the PNB (SSC) 7 & 20 NOVEMBER 2013***

A letter was circulated from Kenny MacAskill, Cabinet Secretary for Justice, outlining the next pension contribution increase together with a letter from Danny Alexander, making it clear that if the Scottish Government did not impose this increase then their budget would be reduced by £3-4million per month.

There were discussions regarding the implications of the Public Service Pensions Act 2013 and it was agreed that Calum Steele and Niven Rennie would attend the initial meeting with the Scottish Government to start progressing this matter.

Work continues on the Conduct and Performance Regulations.

The Official Side had tabled an item for discussion entitled Exchange of Public Holidays for Annual Leave, however on the day they stated that they had not finished the proposal they wished to submit but that they would write to the Staff Side soon outlining their proposals.

The Staff Side stated that they would consider the proposals when they were submitted.

## **7. JOINT CENTRAL COMMITTEE CIRCULARS**

**The Following JCC Circulars had been issued since the last WAC Meeting -**

56/13 PSoS (Performance) (No 2) Regulations - Consultation

57/13 JCC Subject and Standing Committee Minutes – August 2013

58/13 Police Pensions – Information

- 59/13 HMRC Message on Fixed Protection 2014 - Information
- 60/13 Summary of Governance & Administration for Public Sector Pension Schemes - Information
- 61/13 Pensions in an Independent Scotland – Information
- 62/13 Precautionary Advice Pensions
- 63/13 SPF Media Release Police Station Closures - Information
- 64/13 Scottish Budget (Draft) 2014 – 2015 – Consultation
- 65/13 PTC AGM 29.05.14 - Information
- 66/13 Police Pensions in an Independent Scotland
- 67/13 JCC Minutes – September 2013
- 68/13 JCC Agenda and Papers – November 2013
- 69/13 JCC Subject and Standing Committee Minutes – October 2013
- 70/13 JCC – Joint UK Agenda November 2013
- 71/13 Justice Sub Committee on Policing - Calls for Views on Local Policing - Consultation
- 72/13 Legislative Consent Memorandum on ASB, Crime and Policing Bill - Consultation
- 73/13 SPF Media Release – Audit Scotland Report on Police Reform - Information
- 74/13 Home Office Circular 14/2013 – Further Information on Long Term Police Pensions Reform
- 75/13 HMICS Work Plan 2014-2017 - Consultation
- 76/13 JCC Minutes – November 2013

**All circulars had been forwarded to the members prior to the meeting.**

## **8. WEST AREA COMMITTEE CIRCULARS**

**The Secretary informed the members that the following WAC Circulars had been circulated to the members:**

- 52/13 Police Pensions Information
- 53/13 HMRC Message on Fixed Protection 2014 - Information
- 54/13 Summary of Governance & Administration for Public Sector Pension Schemes - Information
- 55/13 On Call – Inspecting Ranks

- 56/13 Pensions
- 57/13 Precautionary Advice Pensions – JCC Circular 62
- 58/13 Scottish Budget (Draft) 2014 – 2015 - Consultation
- 59/13 Election – Deputy Secretary (Health and Safety)
- 60/13 Shift Variations
- 61/13 Vehicle Inspections
- 62/13 Police Pensions in an Independent Scotland – Information
- 63/13 JCC Minutes – September 2013
- 64/13 JCC Agenda and Papers – November 2013
- 65/13 JCC Subject and Standing Committee Minutes – October 2013
- 66/13 Justice Sub Committee on Policing - Calls for Views on Local Policing - Consultation
- 67/13 Legislative Consent Memorandum on ASB, Crime and Policing Bill - Consultation
- 68/13 SPF Media Release – Audit Scotland Report on Police Reform - Information
- 69/13 Home Office Circular 14/2013 – Further Information on Long Term Police Pensions Reform
- 70/13 New Federation Address
- 71/13 HMICS Work Plan 2014-2017 - Consultation
- 72/13 JCC Minutes – November 2013.

**All Circulars had been forwarded to the members prior to the meeting.**

## **9. JCC – FINANCE STANDING COMMITTEE**

The Chair updated the members.

One member questioned the matter of the amount of money to be spent on the proposed TV campaign.

The Chair replied that this money was being spent in order to raise the profile of policing in Scotland and to get into the public eye in a positive light.

This is especially important for forthcoming elections to ensure that the police are supported by the public in the same way as teachers, nurses, firefighters etc.

There were no questions.

## **10. JCC – LEGISLATION AND REGULATIONS STANDING COMMITTEE**

The Secretary gave a brief update and informed the Committee that the minutes of the meeting held on 16 October 2013 had been circulated via WAC circular 65/13.

## **11 JCC - OPERATIONAL DUTIES STANDING COMMITTEE**

The Secretary informed the Members that the minutes from the meeting held on 16 October 2013 had been circulated via WAC Circular 65/13.

The first meeting of the Area Operational Duties Standing Committee was held on Wednesday 30 October 2013. Unfortunately due to non-attendance, the first meeting was non quorate.

However those who did attend discussed a draft agenda. At the next meeting a Chair and Secretary will be elected. It is imperative that members attend these meetings. A note of the dates for future meetings has been circulated.

The Force has also formed a Working Practices Review Board to be headed by ACC Penman.

The Federation will have representation from all 3 Areas of SPF.

The first meeting was due to take place on 13 December 2013 but due to the tragic incident of the previous Friday evening involving the Police helicopter, this meeting was cancelled and future meetings have been diaried, the first of which is scheduled to take place on 24 March 2014.

However we will continue to make representations to the Force prior to this meeting.

## **12 JCC - CONDUCT SUBJECT COMMITTEE**

The Vice Chair updated the members ;

The National Conduct Subject Committee met on 15 October 2013 and the minutes were circulated via WAC Circular 65/13.

The West Area Conduct Subject Committee met on 26 September and 14 November 2013. The draft, and thereafter, final minutes of the September meeting were circulated on 29 October and 19 November 2013. The draft minutes for the November meeting have been prepared and await approval.

The Vice Chair invited any questions from the minutes previously circulated. He thanked the members of the Conduct Area Committee for their commitment and attendance at meetings. He then updated the committee on the number of outstanding CAPS he is aware of and progress in relation to these. The Officers subject to complaints that have sought federation advice will be updated every 3 months on whether any complaint is still 'live'. It will not however be possible to give progress reports on these cases.

The committee were reminded that Officers subject to allegations cannot be compelled to comment on these allegations in any operational statement. It was reported that PIRC had attended a national conduct meeting recently and stated they would be happy to attend at a future Area Committee meeting and provide an input on their work.

Those members trained and on the Conduct Area Committee were now being given the opportunity to attend at hearings and the feedback on this was positive.

An update was given on the results of recent hearings and how many were due to be held.

The committee were reminded that any Officer subject to interviews in relation to criminal matters, especially with regards to DPA offences, had the same rights as any other individual and it was for them to decide on whether to make comment or otherwise. The legal advice is entirely separate from any opportunity to respond to a misconduct allegation.

There was brief discussion regarding the unacceptable level of time that Officers have to wait before being notified that a complaint has been closed.

The SPF Chair has raised this matter and had been informed that Officers would be notified as soon as possible.

One member asked if the conduct training would be offered to all Representatives or just Conduct Representatives ?

The Vice Chair stated that it was intended to train as many Representatives as possible after the Conduct Representatives were trained.

One member raised concern regarding the large number of ARI's for officers due to them being placed on a protected post. It was important to remember that this was not the same as officers being absent.

If an ARI comes up and it is in relation to disability then it should be reported to the Committee

The Chair informed members that it appears that OHU staff are telling Officers that if they do not return to work prior to April 2014 they may lose their jobs under the new Performance Regulations.

The Chair asked that any such instances are notified to the Federation Office.

### **13. EQUALITY SUBJECT COMMITTEE**

The Deputy Secretary John Campbell updated the Members.

The National Equality Subject Committee met on 15 October 2013 and the minutes were circulated via WAC Circular 65/13.

The West Area Equality Subject Committee met on 1 October 2013 and the minutes were circulated on 4 October 2013 to all members of the Committee.

The next meeting will be held on 26 November 2013 and when the minutes are approved they will be circulated to all members of the WAC.

The Equality Subject Committee met on 15 October 2013 and the minutes have been circulated.

The committee awaits feedback regarding the documents on Flexible Working and Occupational Maternity Pay progressed to the Scotland Standing Committee of PNB.

Locally there are 35 officers on half pay and 25 on no pay. This is a decrease from August mainly due to a number of retirements from the service due to ill health.

At present there are 20 Officers going through the ill health process. The problems of getting people through the ill health process now seem to have been addressed by the Force and the SPA. This will continue to be monitored.

At present in the West area we have 8 ongoing grievances. Most of which relate to what the Force calls 'robust management.'

Additionally there are 105 Officers on paid/unpaid maternity leave and 7 on paternity leave.

#### **14 JCC - HEALTH AND SAFETY SUBJECT COMMITTEE**

##### **The Deputy Secretary, Donald Walker updated the members:**

The National Health and Safety Subject Committee met on 15 October 2013 and the minutes were circulated via WAC Circular 65/13

The West Area Health and Safety Subject Committee met on 17 September but the meeting was not quorate.

The minutes from the meeting held on 28 November 2013 will be circulated shortly.

The members were informed that Martin Bertram would now take on the role of Health and Safety Secretary for the West Area due to Donald Walker retiring later this month.

One member raised the issue Of Officers having to share body armour. It was agreed that it was not acceptable for an Officer having to wear the same body armour that another Officer has been wearing previously.

Every Divisional AFO should be provided with their own set of body armour and Divisional budgets should be used for this purpose.

The Secretary informed members that this matter has been raised on several occasions but the issue lies with cost of purchase.

The matter has been raised with the Health and Safety lead and will also be raised through Firearms Monitoring Group.

## **15 COMMONWEALTH GAMES**

The Chair of the North Area Committee attended at the Commonwealth Games Consultative Working Group Meeting on 2 December 2013 on behalf of the Deputy General Secretary and unfortunately his feedback is that he is somewhat concerned that planning is not as far forward as it should be.

Concerns were raised in respect of the blanket cancellation of annual leave, the need for our members to know if they are working and where and also issues in terms of accommodation and shift patterns. He also, again, raised the issue regarding the allocation of Sub Groups for next year's annual leave and the fact that Sub Group E only has 13 days for summer. There is a further meeting tomorrow regarding this matter.

The Deputy General Secretary is also going to progress the issues further up the Senior Management ladder.

There is a meeting scheduled to take place on 5 December 2013, the purpose of this meeting is to discuss proposed shift patterns for the duration of the Commonwealth Games.

## **16 MOTION(S)**

There was an update on the two motions taken from the WAC in September to the JCC in November.

The motions submitted to the JCC on behalf of the WAC were raised at the JCC Meeting on 5 November. Both these motions were defeated.

Sergeant Colin Johnston had originally submitted eight motions to the meeting, all of which were deemed to be incompetent either in content or in the way in which they were presented. However, the Secretary spent a considerable amount of time reviewing these motions and returned them to Sergeant Johnston and spoke to him at length about what he needed to do.

He also granted Sergeant Johnston leeway in terms of the time restriction for presenting motions as this would not have been met otherwise.

Sergeant Johnston duly resubmitted his motions, this time seven in number. Of these seven, three were deemed to be incompetent. Sergeant Johnston asked the Secretary for more time to reconsider and further redraft his motions but this was refused.

**The remaining four were to be discussed.**

**The Chair requested that anyone wishing to speak on any of the motions would be granted 5 minutes to do so. The mover of the motion would thereafter have the right to reply.**

**Due to the subject of the following motion, the General Secretary who was attending the meeting as a guest, asked to leave the meeting at this point.**

## Motion 1

This Territorial Area Committee has no confidence in the current General Secretary of the Scottish Police Federation Calum Steele to continue in his current role and seeks his removal through Joint Central Committee. Proceedings under rule xx of should be commenced.

**Mover : Colin Johnston**

**Seconder : Larwence Ramadas**

Notes.

Concerns have been raised at meetings of West Territorial Area Committee concerning the continued suitability of the current General Secretary of the Scottish Police Federation to perform this role in the interests of all members.

A vote should be held on this subject with a view to removing the current office holder.

Concerns have been raised regarding the loss of an annual conference which for years has provided the opportunity for Divisional Representatives acting as delegates to hold the Government, Office of Chief Constable and the executive of the SPF to account.

Given that 2014 is one year into Police Scotland, the year of the Scottish Referendum and growing anger and concern about police pensions it is a disgrace that this staff association cannot debate these issues as it has done with other matters for the past 95 years.

Concerns have been raised regarding issues signing of Work Force Agreement, proposed changes to Public Holidays and a change of voting procedures which do not reflect the number of Police Federation members in each area.

Concerns exist regarding press articles and letters from politicians which uncomfortably associate the SPF with political parties and their political view on a particular subject. Clearly the SPF should be apolitical and any association with one political party is wrong and potentially damaging in the future.

It is requested that a vote of no confidence under rule is presented at JCC.

**THIS MOTION WAS DEFEATED**

## Motion 2

This Territorial Area Committee asks Joint Central Committee to have the Scottish Government review the rules and procedures contained within the Police Federation Rules 2013 and in particular rule 13 which deals with conduct and behaviour of Police Federation representatives.

It has become apparent that when dealing with an Officer subject to a complaint these rules lack detail in their procedure regarding legal or federation representation at a hearing, what documents will be provided to the officer subject to a hearing, confirmation if the evidence made in any allegation is oral or statement, the officers right to attend a hearing and present a case for consideration to the decision makers, clear guidance on the separation of roles associated with the investigation of a complaint, the decision making on a complaint and an appeal process, the number of persons who should make a decision on upholding or dismissing a complaint and the similar guidance on an appeal process. Clearly establish who the decision makers are in this process is it all JCC members or is it a small group.

The regulations appear silent on the length of suspension imposed.

Currently these rules and their application run against natural justice and Article 6 of ECHR.

Article 6 of the European Convention on Human Rights is a provision of the European Convention which protects the right to a fair trial. In criminal law cases and cases to determine civil rights it protects the right to a public hearing before an independent and impartial tribunal within reasonable time, the presumption of innocence, and other minimum rights for those charged in a criminal case (adequate time and facilities to prepare their defence, access to legal representation, right to examine witnesses against them or have them examined, right to the free assistance of an interpreter).

These rules are contained within Police Federation Regulations 2013 and in particular Rule 13.

**Mover – Colin Johnston**

**Seconder – Lawrence Ramadas**

Notes :

Concerns have been recently raised concerning Rule 13 of Police Federation rules and their application by Joint Central Committee.

These rules deal with the conduct and behaviour of Police Federation representatives.

It is important these rules and their practical application are reviewed for their compliance with natural justice .

Also any disposal of suspension should have a determinate penalty.

It is understood that these rules have been applied without allowing an Officer subject to a complaint the right to address JCC, who are the decision makers in this process

It also appears that no vote is taken by JCC on a decision to uphold an allegation or dismiss the allegation. A decision is based on no dissenting voices raised!

There are no guidelines giving instruction as to which members of JCC are making a judgement and what process is being undertaken.

It also appears that there is a dilution of roles between those investigating and being decision makers.

It is vitally important that these rules and their application are transparent and compliant with basic rules of fairness and natural justice.

The Scottish Government should have these rules reviewed in line with the following component parts of Natural Justice which requires

#### Prior notice of hearing

Natural justice allows a person to claim the right to adequate notification of the date, time, place of the hearing as well as detailed notification of the case to be met. This information allows the person adequate time to effectively prepare his or her own case and to answer the case against him or her

#### Opportunity to be heard

Every person has the right to have a hearing and be allowed to present his or her own case. Should a person not attend the hearing, even with adequate notice given, the adjudicator has the discretion to decide if the hearing should proceed. In *Ridge v. Baldwin*, a chief constable succeeded in having his dismissal from service declared void as he had not been given the opportunity to make a defence. In another case, *Chief Constable of the North Wales Police v. Evans (1982)*, a chief constable required a police probationer to resign on account of allegations about his private life which he was given no fair opportunity to rebut.

#### Conduct of the hearing

When deciding how the hearing should be conducted, the adjudicator has to ask whether the person charged has a proper opportunity to consider, challenge or contradict any evidence, and whether the person is also fully aware of the nature of the allegations against him or her so as to have a proper opportunity to present his or her own case. In *Secretary of State for the Home Department v. AF (2009)*, Lord Phillips of Worth Matravers said:

The best way of producing a fair trial is to ensure that a party to it has the fullest information of both the allegations that are made against him and the evidence relied upon in support of those allegations. Where the evidence is documentary, he should have access to the documents. Where the evidence consists of oral testimony, then he should be entitled to cross-examine the witnesses who give that testimony, whose identities should be disclosed.

#### Right to Representation at a Hearing

It has also been suggested that where a tribunal hearing concerns the individual's reputation or right to livelihood, there is a greater need for allowing legal representation as this vindicates the idea of equality before the law.

### Decision making and Reasons

Currently, the principles of natural justice in the United Kingdom and certain other jurisdictions do not include a general rule that reasons should be given for decisions. In *R. v. Northumberland Compensation Appeal Tribunal, ex parte Shaw* (1951), Denning L.J. stated: "I think the record must contain at least the document which initiates the proceedings; the pleadings, if any; and the adjudication; but not the evidence, nor the reasons, unless the tribunal chooses to incorporate them. If the tribunal does state its reasons, and those reasons are wrong in law, certiorari lies to quash the decision." It has been stated that "no single factor has inhibited the development of English administrative law as seriously as the absence of any general obligation upon public authorities to give reasons for their decisions".

Historically, uncontrolled public decisions have led to poor outcomes and disrespect for the decision-makers. Such decisions also lacked the regularity and transparency that distinguish them from the mere say-so of public authorities. On such grounds, there are obvious benefits for the disclosure of reasons for decisions. First, procedural participation by people affected by a decision promotes the rule of law by making it more difficult for the public authority to act arbitrarily. Requiring the giving of reasons helps ensure that decisions are carefully thought through, which in turn aids in the control of administrative discretion. Secondly, accountability makes it necessary for the public authority to face up to the people affected by a decision. When a public authority acts on all the relevant considerations, this increases the probability of better decision outcomes and, as such, is beneficial to public interests. Another important benefit is that respect for decision-makers is fostered, which increases their integrity in the public's eyes.

### **THIS MOTION WAS DEFEATED**

### Motion 3

That this West Area Committee asks Joint Central Committee to approach the Scottish Government and have them change regulation 12(1) of the Police Federation (Scotland) Rules 2013 and increase the number of days to two days for an Area Committee meeting.

The new rule should read “12(1) Each Area Committee may hold four ordinary meetings in each calendar year ,each meeting lasting not more than two days”

These changes are contained within Police Federation Regulations 2013 and amend to the former wording .Previous meetings of the Federation Joint Branch Boards were permitted under Police Federation (Scotland) Regulations 1985.

However it is understood that given the workload and appreciation of the number of members in attendance that all former Chief Constables of Strathclyde allocated 2 days quarterly to facilitate Divisional Representatives and their Area Committees work.

It is necessary for 2 days to be allocated back to Area Committees.

**Mover: Colin Johnston**

**Seconder : Larwence Ramadas**

#### Note

Concerns have been raised at WAC meetings held since June 2013 and the introduction of these regulations. The concerns centre upon the decision of The Scottish Government to limit to one day every per quarter Divisional Federation Representatives meeting at their Area Committee Meetings.

Prior to the introduction of these changes by the Scottish Government the meetings would be held over 2 days every quarter with the Chief Constable consent.

The meetings have been reduced to one day which is expected to facilitate meetings of the separate boards and all other business.

This reduction in days made available to Divisional representatives restricts debate, reduces discussion and accountability of issues both local and national.

**THIS MOTION WAS DEFEATED**

#### Motion 4

That this West Area Committee asks Joint Central Committee to approach the Scottish Government and have them amend Regulation 6(b) Police Federation Regulations 2013.

The new amendment should read as follows:

6(b) must ensure that each member of Joint Central Committee cast the number of votes calculated to represent the number of members in their Area of Police Scotland divided by the number of representatives from their Area of Police Scotland on the JCC.

6(b)(1) The product of the above mentioned calculation shall be called the multiplier,;that multiplier shall be applied to each vote cast by each such member so that the vote cast by the said member shall have the same numerical value as the number of contributing members they are thus deemed to be representing.

**Mover: Colin Johnston**

**Seconder : Larwence Ramadas**

#### Note

Concerns have been raised due to changes made by the Scottish Government who April 2013 amended the previous Police Federation (Scotland) Rules which ensured that all Central Committees ,Central Conferences and Conference Arrangement Committees be based on proportional representation and the members and delegates cast votes in proportion to the number of subscribing members in their police force.

The background to this motion stems from a decision made to move away from proportional representation which was previously contained within Police Federation (Scotland) Rules.

In 2005 Northern Joint Branch Board proposed a move away from proportional voting which reflects the current changes made in 2013 by the Scottish Government.

However delegates at Annual Conference defeated this motion in 2005.

At Annual Conference in 2006 a new motion was presented by Joint Central Committee to preserve and maintain Proportional Voting by members and delegates at Central Committees, Central Conferences and Conference Arrangement Committees.

Delegates at Annual Conference carried this motion to preserve Proportional Voting.

Indeed Annual Conference was made aware that Joint Central Committee had undertaken a review of these voting rules 2005-2006 and agreed that in all voting processes within JCC and Annual Conferences Forces should be allowed to vote proportionately to their size.

The will of Annual Conference in 2006 and the examination undertaken by JCC was presented as proof that Proportional Voting demonstrated equality and fairness even if there was to be change to the structure of Scottish Police Federation.

Why was it necessary for the Scottish Government to change the proportional voting rules when Annual Conference rejected such proposals in 2005 and JCC enquired into the subject made proposals and presented them to Annual Conference who approved to keep Proportionate Voting.

Surely the procedure for changing and rules affecting Proportionate Voting is Annual Conference. – Vox populi Vox Dei

It is imperative that proportionate voting at Central Committees, Central Conferences and Conference Arrangement Committees is reinstated.

Quite simply the West Area Committee should have more votes to reflect that it has over half of Scotland's Police Officers. If this legislation is reverted back to where it was prior to April 2013 then it is felt that the SPF policies will be more reflective of their overall membership.

If the views of membership are to be expressed through Divisional Representatives and their Area Committees then a proportional voting system must be in place as it previously was prior to April 2013.

Without a proportional voting system all power is concentrated in the centre of the SPF which makes the organization less accountable to the majority of its membership.

**THIS MOTION WAS CARRIED**

The mover of the motions raised the issue of one of his motions that had been deemed incompetent. The Chair informed the members that this matter could only be discussed if the mover challenged her decision. To do so, he required 4 supporters. If this support was forthcoming, the motion, but not the supporting notes, could be heard and the Chair then had the right to explain her decision. A vote would then be taken to ascertain if the motion could be heard in full but this would require a 2/3 majority. The mover then challenged her decision and received support from 4 members.

The motion was presented and the Chair duly explained why it was deemed to be incompetent. A vote was taken and the movers challenge was defeated as he did not receive support from a 2/3 majority.

## **17 CORRESPONDENCE**

There were 11 items of correspondence as follows –

- Resignation from WAC from John O'Neill (retiring)
- Resignation from WAC from Andrew Kennedy (ill health)
- Resignation from WAC from William Park (retiring)
- Resignation from WAC from Stevie McIntosh (retiring)
- Letter from Alan Beveridge 21.10.13
- Letter from Gary Mitchell re nomination for Dep. Sec Post
- E mail from Martin Bertram re nomination for Dep. Sec. Post
- E mail from Andy smith re nomination -Dep. Sec. Post
  - E mail from David Readie re resignation with effect 13.12.13 (moving to East area)
  - Resignation from WAC from Tom Bingham. (retiring)
  - E Mail from DCC Rose Fitzpatrick re the incident involving the Police helicopter

## **18 COMPETENT BUSINESS**

### **Honoraria/Salary Review Group**

Following the acceptance of a motion from the North Area Committee a Review Group was set up to look at the issue of honoraria/salary. This Committee nominated Sergeant Jennie Shaw to represent them on this Group. The Group has had several meetings and will be providing a full report to the JCC in January and this will then be made available to all three Area Committees for the meetings in March.

However, an interim update has been prepared for presentation at each of the Area Committee meetings to ensure that the same information and message is being passed on. Sergeant Shaw will present this update but it is understood from the Chair of the Group that she will not be in a position to answer any specific questions until the Group has agreed the content and recommendations of the final report.

Sergeant Shaw informed the members that there had been several meetings to look into how the agreement had been reached and the history of the agreement. There will then be an update and a series of recommendations. There should be a report by January 2014.

The working group would provide the report and recommendations and submit to the JCC.

### **Consultation- Corroboration**

One member highlighted comments made by David Ross, Vice Chair-Scottish Police Federation regarding a recent consultation on corroboration. Members were informed that a copy of the full written response was available on the SPF website.

There was discussion regarding the response made and one member asked if it would be possible to request that SPF circulate information to the members to clarify the point made.

Calum Steele who was attending the meeting confirmed that this can be done and he gave some information to the members.

### **WAC Meetings**

One member raised the matter of the start time for the WAC Meeting being brought forward due to the meeting having to take place over one day. It was suggested that the meeting commence at 9.30 am as opposed to 10 a.m.

A vote was taken but the majority of members were against this and it was agreed that the start time would remain at 10 a.m. and the meeting would continue until all business has been finalised.

One member asked if other venues had been considered for future WAC Meetings? This had previously been looked at but there were travel costs involved. However, the matter could be addressed again if the members so wished but approval would have to be sought in respect of any travel costs.

## **19. CLOSURE**

The Chair closed the meeting and wished everyone a safe journey home and a Merry Christmas. A vote of thanks was given to the Chair.

The General Secretary of the SPF thanked the West Area Committee Officer Bearers for their effort and assistance to members over the last few days in connection with the recent incident involving the Police helicopter.

**ANDREA MACDONALD**

**CHAIR**

**MALCOLM MACDONALD**

**SECRETARY**