



Home Office

Rt Hon Nick Herbert MP
MINISTER OF STATE FOR POLICING AND CRIMINAL JUSTICE

2 Marsham Street, London SW1P 4DF
www.homeoffice.gov.uk

January 2012

Dear Chair/Chief Executive

Police Staff Transition

I am grateful to the Association of Police Authorities and the Association of Police Authority Chief Executives for the work that has been undertaken to date, in partnership with the Association of Chief Police Officers and the Home Office, to consider the transition of staff from Police Authority employment to that of a directly elected Police and Crime Commissioner on the 22 November 2012. I am also grateful for the contributions of the Secretary to the Trade Union side of the Police Staff Council and pleased to inform you that they now have a seat at the Transfer Schemes Board.

Whilst the negotiations as to how the transition of staff will take effect at a local level may vary from force area to force area, I have listened to the issues that have been raised as a result of the work of the Transfer Schemes Board as part of the Transition Programme and wanted to write to Authorities to provide some reassurance and clarity on the issues raised. In advance of this letter I have consulted with the respective Chairs of the Association of Police Authorities, the President of ACPO and the Secretary to the Trade Union side of the Police Staff Council on my intended content of this letter. I am grateful for their replies and wish to assure you that the remaining concerns that they have raised will be addressed by the Transfer Schemes Board over the coming months. I would encourage you to ensure that your staff are kept fully apprised of developments, including this letter, to ensure that we can provide to them and the public a smooth and open transition to PCC governance in November 2012.

Staff Transfer from Police Authority Employment to PCC Employment

The transfer of staff will take place in two stages. I want to offer reassurance to your staff by setting out the parameters within which we envisage the staff transition taking effect and the potential impact on any current or future collaboration agreements that underpin current force planning and resource. The Act will ensure that all staff currently employed by Police Authority on the 21 November 2012 will pass to the employment of the PCC on the 22 November 2012. This is stage one.

Those staff who are under the direction and control of the Chief Constables will remain so until stage two is negotiated and completed as set out below. The Government expects the principles set out in the Cabinet Office Statement of Practice on Staff Transfers in the Public Sector to be applied. The Statement of Practice can be found at www.civilservice.gov.uk. This advice mirrors TUPE regulations, but the Government has taken the view that TUPE itself will not apply because the transfer of staff from Police Authority employment to that of the respective Office of Police and Crime Commissioner can properly be regarded as an administrative reorganisation of public functions and authorities, and is therefore outside the scope of TUPE.

In London, I am grateful to the Metropolitan Police Authority and the Metropolitan Police Service who have already undertaken the necessary steps which ensured an effective transition to the Mayor's Office for Policing and Crime on the 16 January 2012.

Stage 2 Transfer

Once this initial stage one transfer has taken place on the 22 November 2012, the Police and Crime Commissioner within each force area is likely to want to begin to negotiate with their respective Chief Constable as to the most appropriate ultimate employer for different members of staff. As APA, APACE and ACPO are aware, through discussions at the Transfer Scheme Board to date, work is still underway to consider in detail what is required for the second stage. However, I am aware that there is a general consensus amongst all parties that it is best to make the second transfer at the end of a financial year to avoid unnecessary cost implications and revaluations of funds and assets at a mid year point.

The second stage of transfer should be completed **by** April 2014, but we should not tie the hands of the elected PCC unnecessarily and we must leave it for the PCC, in partnership with the Chief Constable and Unions, to determine when they wish to carry out the transfer locally within this wider time frame, from November 2012 and April 2014. I appreciate that some may argue that if a PCC decided to make this change mid year that this would incur additional cost but I believe the PCC is directly elected by the public locally and it is right that they are held to account by the public for that decision. We of course want the second transfer to be done in partnership between the Chief Constable and the PCC and for them to be well thought through and considered. The provisions in the Act will mean that Ministers will need to approve all stage two transfer schemes and so we will have to consider each case individually.

Pension Implications

I would also like to take this opportunity to allay any concerns about staff pensions for non-uniformed staff transferring to the new employers as a result of the reforms. The Police Reform and Social Responsibility Act provides for the abolition of police authorities and the creation of PCCs and Chief Constables as two separate corporations sole so that each can employ staff in their official capacity. Non-uniformed staff are eligible to join the Local Government Pension Scheme (LGPS) and steps are being taken to replace a police authority with a Police and Crime

Commissioner and Chief Constable as employers in their own right in the LGPS regulations. The Department for Communities and Local Government (DCLG) has commenced a statutory consultation to effect these changes from 22 November 2012.

For stage one, provisions in Schedule 15 to the Police Reform and Social Responsibility Act to make Transfer Schemes can ensure the legal and orderly transfer of LGPS pension assets and liabilities to the appropriate PCCs for their continued management as an employer in the LGPS. This will be the legal undertaking which will avoid the crystallisation of pension liabilities with the former police authorities.

Following the elections in November 2012 staff will be transferred, in the first instance, to the appropriate Police and Crime Commissioner. At a later point, stage two, staff may again be transferred to the appropriate Chief Constable. I am aware that concern has been raised about the proposed changes at stage two and potential cost pressures. I wanted to clarify the position that the working group, PCC Transition Project 13 which includes representatives from DCLG, is looking closely at this issue and will take all steps to ensure that full consideration is given to the way LGPS pension assets and liabilities would be assessed between the new employers and who assumes responsibility for LGPS pension liabilities going forward.

Collaboration Agreements

Through a number of engagement events attend by a good number of police authority Chairs, Chief Executives, Chief Officers and police staff a number of questions have been raised on collaboration agreements. In answer to these I would like to make clear that all existing agreements made under sections 23 and 23A of the Police Act 1996 will be transferred automatically from police authorities to PCCs under the terms of paragraphs 5 and 21(7) of Schedule 15 to the Police Reform and Social Responsibility Act.

I would also like to be clear that authorities should not be reluctant to approve or enter into new collaboration agreements pending the election of PCCs. Collaborative working between forces and authorities is key to improving the efficiency and effectiveness of the police service, and it is vital that this work is not delayed. It is also important to ensure that collaboration agreements are put on a proper, formal footing under the 1996 Act as amended to ensure an orderly transfer to PCCs.

I would finally like to reassure you and your staff that I will continue to work with your respective representatives to ensure that this transition process is implemented as smoothly as possible. I am copying this letter to all Chief Constables within England and Wales and to the Secretary to the Trade Union side of the Police Staff Council.

Thank you for your continued engagement on this matter.



NICK HERBERT