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## **POLICE STAFF COUNCIL Employers' Side**

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**To: Clerks to Police Authorities (copy enclosed for Treasurer)  
(England and Wales excluding Metropolitan Police)**

**Chief Constables (copy enclosed for Force Personnel Manager)  
(England and Wales excluding Metropolitan Police)**

**Metropolitan Police and Forces in Scotland (for information only)**

**c.c. PSC Employer Side Members**

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26 May 2006

### **CIRCULAR EMP/1/06**

#### **EMPLOYERS SIDE GUIDANCE**

#### **AMALGAMATION OF POLICE FORCES GUIDANCE ON HUMAN RESOURCE PRACTICE IN RELATION TO TRANSFERS**

##### 1. Introduction

- 1.1 The Employers Side in preparing these guidelines wishes to establish advice on the practical issues that can be used by all parties involved in the process of amalgamation.

##### Guiding Principles

- 1.2 The principles underlying this agreement are:

- The creation of new strategic forces should ensure the most efficient and effective deployment of resources in the interests of delivering services to the public.
- HR policies should enable strategic police authorities and Chief Constables to create teams which are best able to achieve this aim.
- HR teams in the new forces should be committed to delivering excellence in HR services and strategic support to the new organisations.
- We must seek to retain valued skills in this process. Wherever possible, HR policies should aim to minimise compulsory redundancies. If there are

redundancies, help should be given to staff to find suitable alternative employment.

- Those who cannot find a suitable place in the new structures, should be supported in a way which enables them to leave with dignity, and helped to find suitable employment elsewhere if they wish.
- It is expected that posts in the new forces will largely be filled by transfer from the precursor forces. In those cases where posts are nevertheless to be filled by competitive appointments, those appointments must be made on the basis of merit, applying best practice in relation to race equality and diversity.

## 2a. Duty to Inform and Consult

2.1 During the process of amalgamation of police forces, it is essential that employing bodies comply with statutory obligations relating to information and consultation.

These obligations are set out in the Transfer of Employment (Protection of Employment Regulations) 2006 and the Trade Union and Labour Relations (Consolidation) Act 1992.

2.2 When there are any employees who may be affected by the transfer of the undertaking in which they are employed there is a statutory requirement on their employer to consult all the persons who are appropriate representatives of any of those affected employees long enough before the transfer takes place for those consultations to be relevant. The employer must inform the representatives of

- (1) The fact that if the transfer is to take place, when approximately this will happen, and the reasons for it;
- (2) The legal, economic and social implications of the transfer for the affected employees;
- (3) Measures which the employer envisages he will take in relation to any employees in connection with the transfer, or, if no measures will be taken that fact and
- (4) If the employer is the transferor, the measures which the transferee envisages he will, in connection with the transfer, take in relation to such of those employees whose contracts will be transferred to him or, if he envisages that no measure will be so taken, that fact. (There is an obligation on the transferee to give the transferor the information necessary to enable the transferor to fulfil this obligation).

Although there is no specific requirement for the information to be provided in a written document, this is considered good practice.

2.3 An appropriate representative includes representatives of an independent trade union or staff association recognised by the employer.

2.4 If an employer recognises a trade union, he must consult with the union, not other employee representatives.

## 2b. The Consultation Process

- 2.5 Initial consultation should commence at as early a stage as possible.
- 2.6 The consultation must be undertaken with a view to reaching an agreement.
- 2.7 In the course of the consultation, the employer must consider any representations made by the appropriate representatives and reply to them and if he rejects any of those representations, state his reasons for doing so.
- 2.8 Although there are no specific statutory requirements relating to consultation with individual employees under TUPE, this is sound policy, particularly in areas where union or staff membership may be low.
- 2.9 It is important to document the various stages of the consultation process so that if necessary it can be shown that statutory requirements have been complied with.

Additional Sources of Guidance include the Department of Trade and Industry Leaflet PL699 Employment Rights on the Transfer of an Undertaking and the Employers Organisation Advisory Bulletin Number 404, August 1999 Consultation – TUPE and Collective Redundancies

## 3 Records and Information

- 3.1 It is highlighted that accurate and complete information on all existing service standards and resources will be an essential requirement for acquiring authorities. This is equally relevant to personnel records and information.
- 3.2 It is therefore crucial to ensure that all staff records are up to date in respect of all such circumstances and the general provision of accurate data.
- 3.3 It is critical for the protection of existing employees that comprehensive accurate personnel records are maintained. These records will cover;
  - Workforce data
  - Personnel policies and procedures
  - Local agreements
  - Individual employees data
  - Individual payroll data.

## 4 Transfer of Personnel records

- 4.1 Under TUPE the liabilities in respect of the employees transfer from the transferor employer to the transferee. This includes the liability for outstanding employment tribunal cases and other legal proceedings and allied matters.
- 4.2 There is therefore an obligation on the transferor to provide the transferee with details of the employees who are due to transfer including:
- Continuous service
  - Relevant collective agreements
  - Pay
  - Holidays
  - Sick pay
  - Annual leave
  - Pensions
  - Other contractual terms and conditions

In addition there will be from 19 April 2006 an obligation for the transferor to provide certain categories of information to the transferee. In summary the transferor will have to provide details of the age and identity of transferring employees, the particulars of employment an employer is obliged to provide to an employee, disciplinary and grievance information and claims brought against the transferor within the previous two years (or of any claim which the transferor has reasonable grounds to believe the employee may bring) and any collective agreements.

This information must be provided not less than 14 days before the transfer or if special circumstances mean it is not reasonably practicable to meet that deadline, as soon as reasonably practicable. There is also an obligation on the transferor to notify the transferee of any changes to the information.

- 4.3 The transferor authority will also wish to pass on to the transferee authority:
- The personnel file of the employee
  - The pay etc records
  - Other relevant papers.
- 4.4 Failure to provide such information could make the transferor authority liable to pay compensation. The compensation will be £500 for each employee in relation to whom the information has not been provided. However an Employment Tribunal may award a lower sum if it would be just and equitable to do so.

## 5. Creation of New HR Policies

5.1 The new strategic forces/authorities should consider the creation of a single set of policies for all their staff, including:

- Grievance procedure
- Disciplinary procedure
- Sickness procedure
- Maternity provision
- Paternity leave
- Adoption leave
- Job share policy
- Capability procedure
- Harassment procedure
- Diversity policy
- Code of conduct of personnel
- Health and Safety policy
- Data Protection policy
- Secondary Employment policy
- Recruitment and Selection policy and procedure
- Probationary period
- Appraisal policy
- Job Evaluation procedure
- Trade union and other associations
- Facilities
- Pension policies
- Staff Development/Training policy

This list is not exhaustive.

5.2 The new strategic forces should consider the establishment of conditions, having regard to those contained in PSC handbook, including:

- Pay and allowance/grading/salary scale/increments
- Travel and subsistence allowances
- Expenses
- Honoraria
- Working hours
- Overtime
- Unsocial hours agreements
- Time off in lieu arrangements
- Leave
- Notice periods

This list is not exhaustive.

5.3 Most Forces have over the years dealt with redundancy situations which have arisen either through internal restructurings or through changes to working practices and subsequent demands.

The majority of Forces have established policies in place to deal with these situations. An integral part of these policies is the recognition that steps can be taken to minimise in a managed way the number of compulsory redundancies that may arise and to ensure not only positive employment relations but also to meet our legal requirements.

It is appreciated that every situation must be assessed on its individual merits but some of the actions that can be taken (and we are aware many forces are already doing these) include the following:

- Appropriate use of temporary contracts
- Appropriate use of fixed-term contracts
- Retirement of employees who are beyond normal retirement age
- Appropriate use of agency staff
- Reductions in overtime
- Restrictions on recruitment

- Establishing a central monitoring mechanism for decisions on all vacancies
- Ring fencing vacancies within revised structures
- Seeking where appropriate applicants for voluntary severance
- Establishing effective re-training/re-deployment mechanisms

If you have any enquiries on this circular please do not hesitate to contact Mick Pepper from the Home Office on 020 7035 1885, Graham Baird on 020 7296 6722 or Emine Ali on 020 7296 6746.

Yours faithfully

A handwritten signature in black ink that reads "Sarah Messenger". The signature is written in a cursive style with a large initial 'S'.

**Sarah Messenger**  
**Employers' Side Secretary**