

Title
OFFICE OF THE PCC BUSINESS MEETING

Date	Location	Duration
2 nd June 2016	Office of the PCC	09:45 – 10:35am

Present:
Vera Baird - Police and Crime Commissioner
Elaine Snaith – Chief Executive, OPCC
Mike Mullen – Head of Strategic Asset Management
Iain McCulloch – Deputy Director of Finance
Dean Lowery – Officer of the PCC

Apologies for absence:
Mr Richard Heron – T/Director of Legal Services

1 Adoption of changes to holiday pay following BEAR Scotland Vs Fulton judgement on overtime

The Commissioner was presented with the following report:

PURPOSE OF THE REPORT

This report sets out a recommendation to adopt a change to the Office of the Police and Crime Commissioner (OPCC) employee pay and conditions of service regarding the calculation of holiday pay in relation to overtime.

BACKGROUND

Bear Scotland v Fulton was an Employment Appeal Tribunal that confirmed that normal “non-guaranteed” overtime is to be included in the calculation of holiday pay. This would apply to anyone who works overtime whether that be occasionally or regularly. The appeal ruled that holiday pay calculations needed to include certain additional payments as they were “normal remuneration”.

The report of the 10 February 2016 set out the implications of the ruling for the Force officers and staff and proposed that when a national agreement is reached for Police Staff that a similar agreement for the OPCC would be submitted for approval. A Police Staff Council Circular (Joint Circular 085) was issued on 17 May 2016 confirming arrangements for implementation of this payment.

PROPOSED AGREEMENT FOR ADOPTION

The following is proposed for agreement:

Holiday Pay

For the purpose of the four weeks (20 days) annual leave payment, under Regulation 13 of the UK Working Time Regulations the OPCC should reckon the following as 'normal remuneration' for payment:

All forms of non-contractual overtime, for both full time and part time workers (including plain time overtime where applicable) including that payable as part of rest day working compensation;

Acting up Allowance;

Payments are effective from 1 January 2016 and are pensionable except in accordance with LGPS regulations – payments made in recognition of leave that has not been taken (e.g. upon leaving employment) are not pensionable.

The calculation for payment is 20/365 of total of payments identified in the list above paid

For the purpose of this ruling the on-going payment will be based on 20 days annual leave (i.e. the statutory minimum) with effect from 1 January 2016 and the payment will be made on an annual basis on the first available pay date following the end of the reference period. The reference period will include all payments made between 1 January and 31 December each year.

FINANCIAL IMPLICATIONS

A review of pay has identified that no arrears are due to current or former employees. The OPCC does not normally pay overtime or allowances and therefore there is expected to be no financial impact in 2016/17.

RECOMMENDATION

To approve the adoption of the proposed agreement for inclusion in the Office of the Police and Crime Commissioner employee pay and conditions of service.

Notify staff of the change to the employee pay and conditions of service.

It was agreed that Iain McCulloch would produce an email broadcast to be sent to OPCC staff.