

Under Cover

NCOA: Protecting those who protect the public

Issue 12 / March 2020

SERIOUS ORGANISED CRIME REVIEW

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Issues that are important to us all

I am always pleased when **Under Cover** magazine publishes so many issues that are close to the hearts of our members, and this edition is no exception.

The outcome of the NCA Remuneration Review Body (NCARRB) pay submission and oral presentations are soon to take place, and I hope that the need for a 'proper' uplift in pay and allowances – commensurate with what the Agency is proud to say it delivers – will come to fruition. Once again in 2020, the NCOA made a strong case on behalf of its members and forcefully struck home the point that while recruitment may not be an issue, retaining experienced staff with the right salary certainly is.

We must hope that the Review of Serious and Organised Crime by Sir Craig Mackey will reach much further than telling us all what the new decade of threat assessment represents. It should report to the Government that serious and complex crimes cannot be resolved on the NCA's current budget, and will require substantial funding – unless the Government is prepared to close its eyes to the challenges of protecting the public.



Articles covering post-incident procedures (which can now affect every officer in the Agency), and the greatly misunderstood issue of constructive dismissal, articulate why it is so important to join a trade union and be comforted in the knowledge that you are protected each and every day you go to work.

I would like to acknowledge the efforts made on behalf of the NCOA by reps Steve Gibson, Tom Åkerstrom and Dee Taylor who, independently of each other, received awards at the 2019 ADC for outstanding contributions in their lay roles. Well done.

Remember, this magazine is for NCOA members by the NCOA, and the views expressed within (unless stated) are those of yourselves or the NCOA NEC. Please contribute and have your say by contacting the Editor at membership@ncoa.org.uk



Simon Bashford
Editor

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Sad to report...

Under Cover is sad to report the passing of **Norman Parkinson**, an IBT member who retired in 2009 to set up a new home in South Africa. Norman served with both NCA precursor agencies in Kent. Our thoughts are with his family.

We are also sad to report that of one of our founding members passed away last month after a battle with cancer. **Dave Johnson** – Johnno, or just ‘DJ’ to those who knew him – stepped up to be part of the very first NCOA Executive Committee where he performed the role of Deputy Chairman. He led this union in matters of health and safety and learning drawing on years of experience both in law enforcement and member representation. DJ (pictured) subsequently left the Agency in 2016 to pursue a senior level Health and Safety career in the private sector.

Our sincere condolences to Val and the boys as we remember a larger than life character who was a key player in the rapid development and success of the NCOA.



New parental bereavement law set to take effect from April

The Parental Bereavement (Leave and Pay) Act 2018 is expected to come into force in April 2020. Although the change has yet to be confirmed, if it does come into force, bereaved parents will have the right to two weeks of leave following the loss of a child under the age of 18, or a stillbirth after 24 weeks of pregnancy.

Details of the new entitlement, which allows a parent to take either one or two weeks paid leave (the two weeks can be separate) and those who qualify, will be set out in separate regulations.

The leave is paid at the lower of £151.20 per week or 90% of salary and the leave must be taken before the end of a period of at least 56 days beginning with the date of the child's death.

Bereaved parents employed with a minimum of 26 weeks' continuous service will also be entitled to receive statutory parental bereavement pay. Those with less than 26 weeks' continuous service will be entitled to take two weeks of unpaid leave.



Could you make a difference on the NEC?

In July this year, the NCOA National Executive Committee (NEC) will be holding its tri-annual elections.

The 10 positions on the Executive Committee are open to all members who are successfully nominated in line with NCOA rules. Their work is extremely important to the success of the NCOA, and although some functions are covered within the agency facility time agreement, the roles require an element of unpaid time and travel outside of the NCA.

Ideally (but not essential), candidates will be able to demonstrate a sound knowledge and experience in matters relating to NCOA activities and duties, and will be required to attend all requisite training courses to perform the role.

Anyone considering stepping forward as a candidate will be able to find all the information required (including how to present a personal statement) on the NCOA website www.ncoa.org/news nearer the time.

Mackey crime review eagerly awaited

A wide-ranging review exploring ways to bolster the response to threats such as county lines, people trafficking, drugs, child sexual exploitation, fraud and illicit finance, is due to be published in the spring as part of a new drive to crack down on serious and organised crime.

The review – the first of its type to look at the full spectrum of serious and organised crime – was launched at the end of October, and is led by Sir Craig Mackey, the former Deputy Commissioner of the Metropolitan Police. His work follows on from DG Lynne Owens' call for a doubling of the NCA budget to tackle the £37bn impact of serious and organised crime on UK citizens.

The Government has confirmed that the review will consider the powers, capabilities, governance and funding required to tackle today's threats across law enforcement and the justice system in England and Wales – including the NCA, local police forces and regional organised crime units.

Sickening crimes

Home Secretary Priti Patel said: "This review will help strengthen our response to these sickening crimes, building on the existing success of the NCA. The threat is growing, and offenders are becoming more sophisticated. Serious and organised criminals exploit children and ruthlessly target the most vulnerable in our society, ruining lives and blighting communities.

"We are committed to tackling crime and keeping our streets safe, and I'm glad Sir Craig will bring his significant expertise and experience to this review, which will help to ensure our system is fit for the modern world."

The review is in support of the implementation of the 2018 Serious and Organised Crime Strategy, which set out measures to build



Picture © Ian Dyball / Shutterstock



“ I am looking forward to engaging with the professionals across the system who work tirelessly to keep us safe from these criminals, to understand how we might enable them to do even more to protect the public and bring criminals to justice.”

Sir Craig Mackey

the UK's defences against this type of crime, track down the most dangerous and determined criminals, and bring them to justice.

Speaking at the launch of the review, Sir Craig Mackey said: "Serious and organised crime includes some of the worst offences that people can perpetrate against each other and corrodes our communities. It is a privilege to be asked by the Government to consider how we might improve the response to this.

"I am looking forward to engaging with the professionals across the system who work tirelessly to keep us safe from these criminals, to understand how we might enable them to do even more to protect the public and bring criminals to justice."

We await the outcome of the report with interest, and are eager to see what the NCA role will be following its publication and findings.

Sometimes it can help to cloud the issue...

Throughout 2019, the NCOA fully assisted the Information Commissioner's Office (ICO) during its investigation into the ransomware attack that targeted many law enforcement-related organisations, including the NCOA, last March.

We reacted to the breach extremely quickly, shutting down our entire system within minutes and notifying all members as soon as possible. Our bespoke cloud-based back up, ensured that while limited interruption to NCOA operations was necessary, our entire database was up and running within 72 hours without any data loss. The NCOA stood alone in the speed at which we were able to reinstall all services; some victims of the attack were still suffering the effects months later.

Exonerating the NCOA of any blame and issuing a clean bill of health, the ICO highlighted:

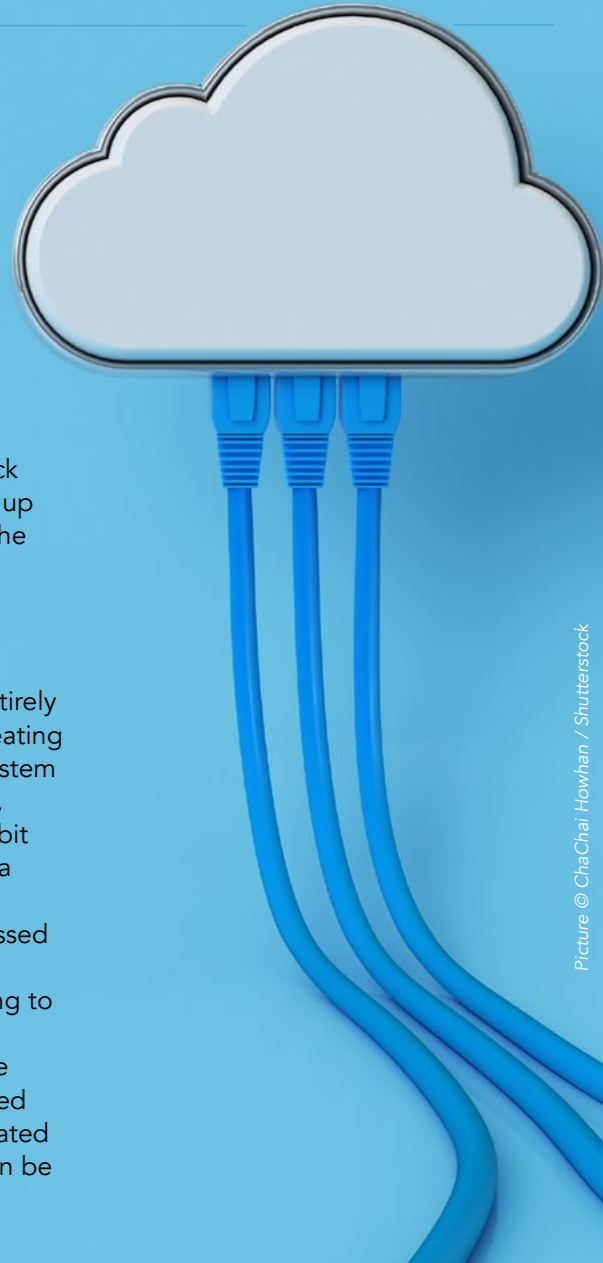
- the nature and seriousness of the breach
- the number of people affected

- the duration of the breach
- the speed in which NCOA reacted to resolve the attack
- the action (additional back up security) already taken by the NCOA.

As part of our ongoing commitment to member data security, January 2020 saw the NCOA innovatively migrate entirely to a virtual private network, creating a highly secure cloud-based system with virtual desktop and server, two-factor authentication with bit defender antivirus, and full data retention.

In February the NCOA addressed other trade union officials at a conference aimed at responding to ICO investigations.

At the conclusion of the entire investigation – which is expected shortly – the outcome of all related parties including the NCOA can be read at www.ico.org.uk



Picture © ChaChai Howhan / Shutterstock

Some progress with on-call review

The review of on-call has seen proposals to move several responsibilities to the NCA Control Centre. This in some ways augments the findings of the independent review of the Control Centre, which will see it taking on greater responsibility for command and control across the Agency.

Subject to the NCA Remuneration Review Body supporting the NCOA recommendations, this enhanced role within the Control Centre will hopefully see NCOA members receive a substantially uplifted shift allowance.

Contingent labour can join NCOA too!

The Agency Worker Regulations 2010 (AWR 2010) entitles agency staff to receive the same pay and basic working conditions as direct recruits once they have completed 12 weeks' continuous service working in the same role. The 'Swedish derogation', as it's referred to, currently provides an exemption to the right to equal pay, if agency staff are employed under a permanent contract of employment with the temporary work agency and are paid by it for periods between assignments.

From 6 April 2020, the Swedish derogation will be removed. Once agency workers have satisfied the 12-week qualifying period, they

will be entitled to equal pay to workers who are engaged directly by the employer.

Benefit from services

On or prior to 30 April 2020, agency workers whose existing contracts contain a Swedish derogation provision must be provided with a written notification by the Agency that it will no longer have effect.

Remember, if you are one of the NCA's 'contingent' labour staff, you are entitled to apply to join the NCOA and benefit from all the same member services as a full-time employee. To apply go to www.ncoa.org.uk/application-forms/

No magic answer to terror reoffenders

The Government's adviser on terror legislation has warned that there is "no magic test" to determine the risks posed by a terrorist on release from prison, in further criticism of recently announced proposals to examine them with lie detectors.

In a recent speech Jonathan Hall QC said it was "impossible to guard against all risks" of violent reoffending, and that handing over release decisions to "risk experts" using polygraphs or other methods would be unacceptable.

Hall was partly referring to Usman Khan, the terror offender who killed two people in a knife attack near London Bridge in November, 11 months after being released on licence; this attack prompted a political row over his early release.

Lie detector tests to evaluate a prisoner's rehabilitation remain inadmissible in UK courts due to their unreliability. Many experts say that while they can detect physiological changes, they are not scientifically validated as reliable measures that someone is lying.

The Home Office reports that the Terrorist Offenders (Restriction of Early Release) Act 2020 makes legal provision to end the release of individuals convicted of terrorism offences from prison after serving half of their custodial sentence, but Hall warned that this would only have a limited effect, given that those eligible for release had not usually committed violent acts.

"Many terrorist offences are what we call precursor crimes, for example, possession of a document,



Picture © Standret / Shutterstock

or providing funds to a proscribed group," Hall said, which means that their jail terms would be limited.

Hall called for more research to prevent a repeat of cases such as Khan's, saying that "what makes an individual progress from terrorism in its broadest sense to acts of violence is poorly understood". He also assessed that MI5 and counter-terror police should continue to evaluate and share information about convicted terrorists even after the end of formal investigations, partly to see whether they re-engage in terrorist-related activity.

Hall was recently named as the Government's lead tasked to carry out a review of the way law enforcement and the Probation Service will monitor and manage terrorist offenders.

In his speech to Conservative think-tank the Henry Jackson Society – which coincided with the police shooting of another recently released prisoner, Sudesh

Amman, in a frenzy of knife attacks in Streatham – Hall said that section 49 of the Regulation of Investigatory Powers Act (RIPA) 2000 is too "difficult" for police and others to work with. The section is the part of UK law that lets police and others legally order suspects to hand over passwords for encrypted information.

He called for the creation of a new offence of failing to hand over a password during a terrorism investigation, although it was unclear whether the barrister was calling for the word 'terrorism' to be inserted alongside 'child indecency' and 'national security' in RIPA section 53(5A)(a), which sets longer sentences for refusals to decrypt in certain types of case.

Hall appeared to suggest that opposing an expansion of forced-decryption powers could lead to "longer and longer periods of pre-trial detention being sought" by law enforcement agencies.

Disappointing NCA response to minimum staffing levels

It is disappointing, that after almost two years, the NCA has yet to share any firm proposals on overall minimum staffing levels with its trade unions.

While initial engagements were a little fractious, by working through the issues in a constructive way the NCOA was able to reach a compromise of minimum

staffing levels as part of the planning for a potential no-deal Brexit.

However, the Agency has made a pragmatic decision to allow its staff affected by the 2019/20 no-deal Brexit leave restrictions, to carry over an additional five days annual leave into next year.



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Collective bargaining – **strength** through **unity**

National Officer Steve Bond explains what collective bargaining is, and how it helps to improve your terms and conditions

As I travel to various NCA sites, I often get asked whether the NCA is a good employer. I answer “Yes” and give the following reason, which comes from page one of the NCA Employee Relations policy:

“The NCA values and supports good employee relations with its officers. The Agency recognises the NCOA for the purpose of collective bargaining and encourages officers to belong to a recognised trade union as an avenue of ensuring that officers’ views are represented.”

Good employers understand the benefits that come from trade union recognition, such as being able to collectively negotiate wages and other terms and conditions for large groups of workers. The NCA recognises the NCOA for just such purposes.

When workers unite to call for better wages and improved terms and conditions, the employer is much more likely to listen. Since its inception, the NCOA has shown that it can achieve more for its members than when officers stand alone.

Collective bargaining is the official process by which trade



unions negotiate with employers, on behalf of their members. In the last 12 months, our engagement has resulted in changes in the NCA at both local and national level, including:

- a minimum 10% uplift in pay for officers promoted
- an increase in the shift allowance for officers in the Operational Services Team
- a strong commitment from the Agency to tackle mental health by the recruitment and training

of a cadre of mental health first aiders

- a review of Misconduct and Discipline Procedures
- welcoming access to officer treatment centres facilitated by the NCOA.

The NCOA has never sought to change the balance of power in the Agency, nor has it sought to create a ‘closed shop’, but it has pursued a joint problem-solving approach with the NCA to deal with emerging issues. Of course, jointly acceptable solutions cannot be found for all issues; but the ability of the NCOA to speak on behalf of the vast majority of NCA officers enables us to consistently negotiate from a position of strength.

While in wider society inequality is sky high, many parents and grandparents know that their children are likely to have a less comfortable working life than they did. They see the gap between average wages and house prices widening and for many, breaking the link between work and home ownership.

For NCA officers, the collective bargaining undertaken by the NCOA, together with the well-evidenced arguments we make to the Remuneration Review Body (NCARRB) is the best way for us to secure better wages and improved terms and conditions for NCA officers.

If you’re not already an NCOA member, it’s a good idea to join!

“When workers unite to call for better wages and improved terms and conditions, the employer is much more likely to listen. Since its inception, the NCOA has shown that it can achieve more for its members than when officers stand alone.”

Post-incident procedures



NCOA Chair Nick Edwards explores the potential impact on members of the implementation of post-incident procedures (PIP) for death and serious injury (DSI) incidents.



If you are travelling in an NCA pool car and are involved in a road traffic collision that leaves someone seriously injured, you could be subject to PIP

If you hear the term 'post-incident procedures', you could be forgiven for thinking: "Those are just for firearms officers, aren't they?" Well, you couldn't be more wrong!

In 2020 the College of Policing (CoP) is set to publish a new set of post-incident procedures (PIP) for incidents where a death or serious injury (DSI) has occurred after contact with police – a definition that includes the NCA.

Which means that any NCA Officer could find themselves subject to a PIP. For example, you could be in an NCA pool car travelling to a meeting, when you are involved in a road traffic collision that results in someone being seriously hurt. Or, with the increasing numbers of NCA officers involved in the investigation of child sexual abuse and exploitation (CSAE) matters, incidents where a suspect chooses

to self-harm or worse after their arrest could lead to officers involved in the investigation coming under greater scrutiny. In both of these examples, you could very well find yourself being asked to attend a post-incident management (PIM) suite and provide an account as to what happened.

The above examples are not designed to put fear into you – PIP, when done properly, is designed

it could be **YOU!**

with the best interests of all parties in mind. It protects the Article 2 'Right to Life' of those who die or are seriously injured following contact with the UK state, including the NCA. It's designed to ensure that the evidence in relation to the incident is as accurate, timely and comprehensive as possible, and that the UK state is accountable for its interactions with the public.

But the procedure is also designed to protect those who engage in it – who are, by the very nature of the procedure being applied, witnesses and not suspects. PIP has been used in the police and NCA firearms world for many years now and has developed during this time in conjunction with stakeholders (including trade unions and the Police Federation) to ensure that the process is not oppressive to those involved.

Essentially, PIP is a multi-stage process whereby accounts are provided by key witnesses of various aspects of the incident. The initial procedure aims to safeguard the welfare of all involved and obtain an initial account of events, including things that can be misremembered with time (such as an honestly held belief in respect of the use of force).



PIP-trained reps across the country, ready to assist in the event of PIPs being implemented by the NCA.

Trade union reps perform a key role as part of a PIP; at a time when you may have witnessed something distressing, the NCOA will be there to protect you. Our reps will attend the PIM suite, safeguard the welfare

Conduct and other key stakeholders as needed, and ensure that the process is being run in a fair and non-oppressive way.

A crucial part of any PIP is the fact that key witnesses are entitled to legal advice, but the last thing anyone would want in that situation is the prospect of costly legal bills on the horizon. While the NCA does not provide staff with a lawyer during the process, our members are the only NCA trade union members to benefit from free legal representation, as part of standard membership. This will be provided by expert PIP lawyers who can attend the PIM suite and safeguard your legal rights throughout the process.

So, as the CoP gets ready to publish its PIP procedure for DSI incidents, the NCOA are already prepared to do what we do best – protect you while you get on with your job of protecting the public.

“ PIP, when done properly, is designed with the best interests of all parties in mind. It protects the Article 2 'Right to Life' of those who die or are seriously injured following contact with the UK state, including the NCA.”

So how can the NCOA help me? In January 2020, a further eight NCOA reps (pictured above with trainers) were trained and accredited to deal with PIP. As a result, the NCOA now have no fewer than 17

and basic needs of our members who are there as key witnesses, liaise with the post-incident manager, the investigating officer from the PSU, the investigators from the Independent Office for Police

Home Office introduces reforms to the **Police Complaints System**

The Home Office is introducing legislation that will shake up how complaints made against the police are handled and improve the discipline system for officers.

The changes, which came into effect on 1 February, ensure that complaints can be dealt with quickly, effectively and proportionately, not just for the benefit of the public but also for the police.

There have been growing concerns about the number of Independent Office for Police Conduct (IOPC) investigations that have gone on for several years before matters are concluded. The IOPC, along with Police Ombudsman for Northern Ireland and the Police Information Review Commission, oversee complaints about the conduct of NCA officers. The Home Office believes that these new measures will increase the effectiveness and independence in investigations of serious and sensitive matters referred to them.



Speaking in January, the then Policing and Crime Minister Kit Malthouse (pictured below) stated:

“The reforms will deliver a more efficient system for dealing with police misconduct, making the investigation processes simpler and therefore quicker, including a requirement to provide an explanation where investigations take longer than 12 months.”

He added: “Importantly, the reforms aim to make the discipline system more proportionate and encourage a much greater emphasis on learning from mistakes.”

to focus on improving individual learning and behaviours in response to lower level conduct matters – based on a new ‘Reflective Practice Review Process’

- new provisions to improve the efficiency and transparency of misconduct investigations
- increasing the transparency of appeals against misconduct findings by replacing the current retired police officer as a member of the panel with an independent layperson, and introducing new provisions to

“**The reforms will deliver a more efficient system for dealing with police misconduct, making the investigation processes simpler and therefore quicker, including a requirement to provide an explanation where investigations take longer than 12 months.**”

The Home Office package of reforms include:

- simplifying the complaints system, making it easier to navigate and putting a greater emphasis on handling complaints in a reasonable and proportionate manner
- an enhanced role for police and crime commissioners to strengthen independence
- further measures to increase the IOPC’s effectiveness and independence in investigating all serious and sensitive matters involving the police
- focusing the formal discipline system on breaches of professional standards that would result in formal disciplinary action, enabling line managers

improve the timeliness and efficiency of proceedings.

The College of Policing, as the professional body for the police in England and Wales, has developed training for all officers, HR teams and professional standards departments to support the service in implementing the reforms.

With these much-awaited changes now being published, the NCOA hope that the Home Office shifts its attention to an equally important review of the NCA Complaints and Misconduct Regulations 2013. As reported previously in *Under Cover*, the emphasis of any review should focus on ensuring timeliness and consistency in the manner in which discipline and misconduct matters are dealt with.

Pay update: **Spot** the difference

The National Crime Agency's pay submission has been widely shared, and many of you will have scoured the document to see just how you will be personally affected.

You will also have spotted those who are likely to see some big uplifts in pay which, without some clear comms from the Agency, may invoke some pretty strong opinions.

Early indications of a 'run of the mill' submission this year have not surfaced and although surprised, we are pleased to see that the Agency has pressed forward with its earlier commitment to introduce Spot Rate structures across the rest of the workforce. What is missing though, is any desire by the Agency to include Grade 6s, who at this stage have simply not been invited to the party.

No matter what others may think, we believe they are an intrinsic element of the NCA 'front line' and although not bestowed with powers as such, are all operating to different degrees, skills and exposure. To introduce a Spot Rate scale at this grade would be wholly achievable, and would complete an end-to-end pay structure that officers across all grades understand. Align this to proper career pathways and it would also open up this particular Grade to moves and development beyond the current 'lockdown' for these valued members of staff, many of whom have career goals and aspirations beyond their current role.

Spot Rates remain contentious, but they are here to stay, and further expansion is

necessary to provide equitable opportunities across the workforce. In contrast to G4s and G5s who are already subject to Spot Rates, if the NCARRB makes recommendations in support of the Agency's case, G3s who move to Spot Rates will no longer be entitled to overtime. Although this group are a relatively small part of the workforce, such contractual changes are worthy of consultation in the first instance and an early 'heads up' to staff before publication obligations – one would think. Sadly, the Agency has declined both and we will use the oral presentation to the NCARRB to articulate our concerns.

Ignoring early opposition to capping the pay grade max even before the Agency put pen to paper, the NCA marches on – despite our position being strongly supported by the NCARRB. This tactic undoubtedly contributes to the further widening of the gap with police pay, and raises the question whether this older demographic, who consistently receive below inflation pay awards, are being discriminated against in the face of trade union and independent advice.

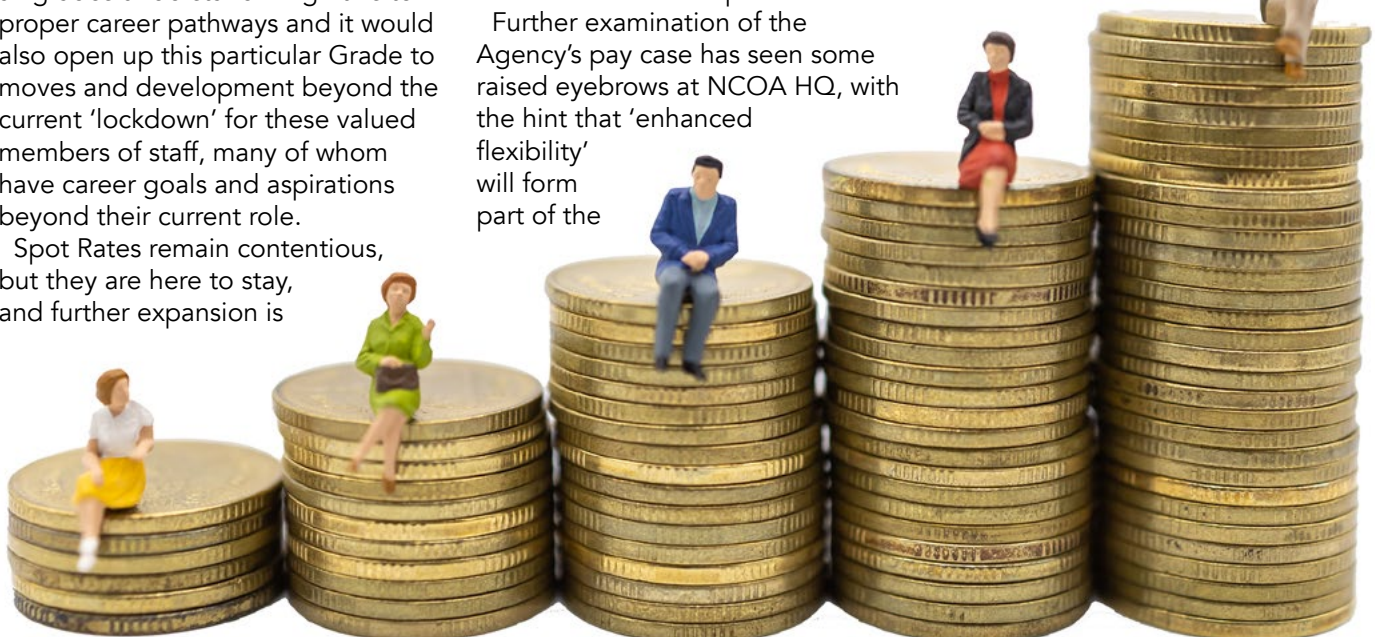
Further examination of the Agency's pay case has seen some raised eyebrows at NCOA HQ, with the hint that 'enhanced flexibility' will form part of the

Spot Rate programme at Senior grades. This previously formed no part of any contractual changes for those moving to Spot Rates in 2018. The Agency has never been able to define 'enhanced flexibility', and until it does, how could we support it – particularly in the wake of a loss of overtime?

While it may seem quite natural for a trade union to oppose the employer's pay case, the NCOA is heartened by a change of direction from previous submissions, where the NCA now concedes it has a retention problem and documents as a 'Pay Goal' the desire to match police pay in a staged process. This will see G5-G3 at 100% and G2-G1 at 90% of police pay.

Whether this is achievable on a self-funding basis remains to be seen. Our position remains constant; 'ask for what you need and not what is affordable under current budgets' or the officer retention problems will never be resolved – RRA's are testament to that!

For full details of the NCOA submission, visit www.ncoa.org.uk/news



Picture © Monti Thripson / Shutterstock

Is DISMISSAL ever CONS

NCOA President Simon Bashford clears up some myths around the often-confused subject of constructive dismissal

The statement “I am not being treated well and may leave the Agency” is one that the NCOA hears far too often for my liking. It’s often followed by something like: “This is constructive dismissal and I want to speak to our lawyers.” Of course, any NCOA member may speak in confidence to our bespoke panel of lawyers – that’s why you’re a member – but to save many a phone call, I have some myth-busting advice.

Constructive dismissal occurs when an employee resigns (with or without giving notice) because of a fundamental or repudiatory breach of their employment contract by the employer; but in order to bring a claim, an employee still needs to meet other eligible criteria.

Before resigning, an employee needs to consider which contract term the employer has broken. Your contract consists of ‘express’ terms (mostly written) and unwritten ‘implied’ terms, which can be uncertain but may include behaviour amounting to:

- a break in trust and confidence
- subjecting the employee to capricious, arbitrary or inequitable treatment
- failing to take reasonable care for the employees’ health & safety.

So what is a repudiatory breach?

A repudiatory breach is a very serious breach, and must be more than just unreasonable behaviour by the employer. It must be a breach of an express term of your employment contract (for example, in relation to pay, benefits or grade) or, more commonly, the implied term of ‘trust and confidence’.

Trust and confidence is extremely wide in scope; there is an almost limitless amount of ways in which an employer can breach this term. It could, for example, relate to the way in which an employer has dealt with a workplace matter such as a complaint of bullying or sexual harassment.

Whether or not there has been a repudiatory breach is something that an employment tribunal will ultimately decide based on the facts of each case. It is advisable to ask yourself whether your employer has made your position untenable, or whether it is simply intolerable for you to be in the working environment as a result of their actions (or lack of action).

Where an employment tribunal decides that the employer has not committed a fundamental breach of contract (whether an express or implied term), a claim of constructive dismissal will fail. It will come down to whether an employment tribunal thinks the employer’s conduct – or its effect – is really serious enough to amount to a breach.

Examples of contract breaches

The sorts of breaches of contract which could make an employee consider resignation and found a constructive dismissal claim may include:

- a significant reduction in salary (or threatened reduction) without your agreement



CON

CONSTRUCTIVE?

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- removal of a contractual benefit without your agreement
- reduction in grade for no good reason
- completely changing the nature of your job
- unreasonable performance management (eg imposing unrealistic targets)
- disciplinary proceedings which are obviously unfounded
- seriously undermining your authority (eg disciplining you in front of lower grade colleagues)
- failing to observe health and safety laws
- regularly requiring you to work excessive hours which affects your health
- harassment or bullying
- failing to address legitimate concerns you have raised about your workplace/working conditions or rejecting a flexible working request for no 'legitimate' reason.

It's important to understand that, when an employer indicates an intention to commit a fundamental breach, while this may constitute an 'anticipatory breach' giving way to a claim to an employment tribunal, an employee should be careful not to resign prematurely where the employer has not finally decided to commit the breach.

Must I lodge a grievance before I resign?

There's no rule that says you MUST lodge a grievance before your resignation and claim constructive dismissal. However, people usually do, and there may be consequences for the amount of award (compensation) which is recovered in the employment tribunal if you don't resign promptly (potentially a reduction of 25%).

Conversely, an employee will not normally be prejudiced if they raise a grievance and delay in resigning until the employer's response is provided. In these circumstances however, the employee should make it clear that they object to the actions about which they complain and are continuing to work under protest in the period while they wait for the employer to deal with their grievance.

What could I expect as an award?

Many of us unwittingly believe that being successful in a constructive dismissal claim will bring significant riches, but beware! If you resign and can show that you did so because of your employer's breach of contract, and you have two years' service, then your compensation will be made up of a basic award calculated in a similar way to the statutory redundancy payment formula, and a compensatory award, which is a calculation of the money you have lost as a result of the constructive dismissal. This is capped at a maximum of one year's salary or the current statutory cap of £80,541, whichever is the lower.

If you started a new job during your notice period, the tribunal would take account of this in a constructive dismissal claim award

Employment law around contracts (and what constitutes a breach) can be a detailed and complex subject. This article is intended to raise awareness, but there is no substitute for professional advice, and I would strongly advise any member to take advantage of NCOA panel lawyers (LIM) well before consideration is given to resigning. Contact numbers for LIM can be found at www.ncoa.org.uk/membership or from your workplace rep.

How **money** worries damage your **mental**

There's often a link between struggling with money and suffering from poor mental wellbeing. Feeling low can make it tough to manage money – and worrying about it can make you feel even worse!

You can have poor mental wellbeing at any time, and for any length of time. Your financial situation or worries about money might be the cause, but whatever the reason, it can happen to anyone. The effects can include:

- feeling worried, anxious or nervous about day-to-day financial decisions, and so avoiding making them
- feeling anxious or stressed about doing seemingly simple things such as talking on the phone, going to the bank or opening your bills
- facing further reduced income if you take too much time off work
- spending money you don't have on things you don't need to make yourself feel better, and immediately regretting it
- not having enough money for essentials
- forgetting the things that you need to do.

All the of above impact on people's ability to function daily, and the level of contact with the NCOA office regarding practical financial assistance demonstrates that money and debt is a real problem for staff in the National Crime Agency.

In the recent NCA staff survey, 51% of respondents felt their pay was inadequate compared with their performance. More worryingly, 27% of those surveyed reported

anxiety feelings over the 24 hours preceding the survey, and 9% responded negatively to the question: 'Overall, to what extent do you feel that the things you do in your life are worthwhile?'

Sadly, there was no question in the survey asking how the lack of financial reward is affecting individual's stability or mental health, but NCA staff are not alone. In a recent survey of police officers, 36% admitted to seeking financial support just to cover day-to-day expenses.

Daily struggle

NCOA President Simon Bashford said: "These figures demonstrate exactly how some members are frustrated at their daily struggle to keep their heads above water, while balancing a career that most still feel proud to be associated with. It's simply not good enough that staff who are charged with tackling some of the most organised and complex criminality, are having to deal with personal anxiety caused by money worries at home."

The NCOA has once again submitted a qualified claim that all staff deserve at least a 5% pay uplift across the board, and the same for those receiving London Weighting, just to claw back many years of financial erosion of pay and benefits. The results of the NCARRB outcome are eagerly anticipated.

Simon continued: "Wellbeing can mean many things to many officers, but coming to work in the knowledge that your home life is free of financial anxiety is something that can be easily sorted by the



Agency, by agreeing with the NCOA to a meaningful and appropriate salary uplift for all."

The NCA provides support to officers via the Employee Assistance Programme HELP, offering free 24/7 confidential support on debt, family matters, counselling, relationships and benefits and tax credits. Support is extended to family members over the age of 16, living in the same household, who can contact HELP

can health



Picture © Shining Art / Shutterstock

for an initial telephone consultation for advice and guidance. For confidential, independent and unbiased information and guidance from a team of trained wellbeing and counselling practitioners, contact the team on 0800 0217 817 using organisation code OHW1.

The NCA is also recognised by the Charity for Civil Servants, www.foryoubyyou.org.uk; you can access assistance via 0800 056 2424.

WORK-RELATED STRESS – THE REAL PICTURE

Traditionally, health and safety concerns have focused on safety matters, such as physical accidents. However, while physical accidents have reduced significantly since the introduction of the Health and Safety at Work Act 1974, the same period has seen an exponential increase in work-related stress.

In October 2019, the Health & Safety Executive (HSE) released their stress figures, collated from the Labour Force Survey (a survey of around 37,000 households per quarter across Great Britain).

The results demonstrate that work-related stress, depression or anxiety continue to represent a significant ill-health condition, accounting for 44% of work-related ill health and 54% of working days lost per year. Occupations in the public sector report the highest rates of work-related stress, depression or anxiety. The main reasons given were excessive workload, lack of managerial support and organisational change.

The HSE recognises that work-related stress can have a significant impact on employees, and is committed to holding employers to account where there is evidence that a number of staff in a workplace are experiencing work-related stress or stress-related ill health. It might be surprising that excessive workload, lack of managerial support and organisational change can be health and safety issues, but they are covered by legislation and have a greater impact on NCOA members than injury caused by safety hazards.

If you feel that you are experiencing ill health due to excessive work-related stress, it's important that you seek support.

Your GP might be the best place to start. If you feel comfortable, have a conversation with your line manager and, if appropriate, seek an Occupational Health referral. You can also access the 24/7 helpline 'HELP' by calling 0800 0217 817, using the organisation code OHW1 (please do not refer to the NCA).

Please don't forget your NCOA Representative. They can offer a listening ear and specific advice, and help you to document your experiences and gather evidence, maybe through diaries or meeting notes. The NCOA National Executive Committee will pick up patterns of work-related stress and engage with the Agency on a strategic level.

The NCOA has a track record of highlighting the importance of mental health issues and work-related stress. In 2019 the NCOA conducted a bespoke Mental Health Survey and developed relationships with Police Care UK, which led to the NCA taking part in the pilot and first trauma survey in law enforcement.

Our reps are well equipped to provide advice and support to members in relation to mental health, thanks to presentations such as Oscar Kilo, and working with organisations including the Police Firearms Officers Association and Flint House. We highlight the challenges facing members at events such as the Emergency Services Show, UPBEAT (Police Care UK's annual well-being conference) and Police Care UK's suicide workshops. We were of course instrumental and worked with the Agency in developing its cadre of Mental Health First Aiders.

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If you would like to know more about how Chorus can support you, then please contact your account manager Mark Bedding | Ex-G4 NCA Investigator | m.bedding@chorusintel.com | 07585 304665

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Will **opposite-sex** civil partnerships affect **pension inheritance**?

Lawyer & Partner at McAlister Law, Chris Fairhurst, explains how couples can now protect defined benefits following recent legislation

Civil partnerships were brought into existence following the Civil Partnership Act 2004, and allowed couples of the same sex to enter into a recognised civil union, as a result of which they obtained equivalent rights and responsibilities as a married heterosexual couple including (but not limited to) inheritance tax, social security and pension benefits.

In 2014, the coalition government legalised same-sex marriage in England and Wales, after which new civil partnerships dropped from an average of more than 6,000 a year to under 1,000 by 2016. This led to a government review as to whether civil partnerships would remain available, considering the ability to convert them into a marriage.

Following a landmark legal battle concluding in the Supreme Court towards the end of 2019, where it was successfully argued that the legislation was discriminatory, parliament enacted the Civil Partnership (Opposite-sex couples) Regulations 2019 which amended Section 1 of the Civil Partnership Act 2004. Instead of saying that “two people of the same sex” can form a civil partnership, the Act now simply states that “two people” can form a civil partnership.

The Regulations also update Section 3, which relates to eligibility to form a civil partnership. These changes have the effect of allowing both same and opposite-sex couples to form a civil partnership, which has prompted pension experts to suggest the move could have a huge impact in the pension and benefits

sector. But is this really the case?

The Government has estimated that up to 75,000 opposite-sex civil partnerships will be registered each year going forward, although whether that is close to reality depends on whether there are sufficient numbers willing to forgo a ‘marriage’, in light of the evidence that same-sex couples have increasingly shunned civil partnerships since marriage has been available to them.

Whatever transpires, those choosing to become civil partners



“The changes have the effect of allowing same and opposite-sex couples to form a civil partnership, which has prompted pension experts to suggest they could have a huge impact in the pension and benefits sector. But is this really the case?”

will become entitled to death benefits under defined benefit pension schemes – which means the rules of many, if not all, schemes will need to be amended to ensure they comply with the law and provide for death and other pension benefits to be paid to both opposite-sex and same-sex civil partners.

It has been argued that this could have a significant impact on those pension schemes which currently

only provide survivor benefits to spouses and surviving same-sex civil partners. However, this will very much depend on whether there is an increase in non-married couples formalising their relationship, when the evidence appears to suggest more couples are simply co-habiting, without any of the protections afforded by civil partnerships or marriage.

*Chris Fairhurst has more than 20 years' experience specialising in financial and children arrangements following divorce and separation, and is regularly in demand by radio and TV shows for his expertise in this field. McAlister Law are a valued partner of **Under Cover**, offering bespoke fixed-fee divorce and pensions expertise for NCOA members.*

SLASH RESISTANT CLOTHING

EFFECTIVE COVERT PROTECTION

MORE VICIOUS AND MERCILESS INDIVIDUALS ARE TURNING TO EDGED WEAPONS. WHY?

1. Buying or selling, importing or exporting, carrying or transporting firearms is risky. Today, government agencies are keeping a very close eye on everything that is capable of firing rounds aiming to kill people. The risk of being arrested during the planning stages is high.
2. Determined terrorists understand that keeping a low profile, working alone, staying under the intelligence radar during the planning stage, choosing a weapon which will go unnoticed and picking a busy location will ultimately increase their chances of 'success'.
3. Edged weapons are commonly available. We cannot stop extremists, fanatics or radicals from walking into the kitchen or local hardware store, grabbing a knife and attacking members of the public.
4. Knives are more concealable, which reduces the risk of detection prior to any planned attack.
5. Knives don't require any training. Firing a gun and hitting moving targets from a reasonable distance is much more complex than grabbing a knife and randomly stabbing people.

'SLASHING' VS 'STABBING'

Many risk assessments in the past have been based on an incorrect understanding of knife attacks, the incorrect reporting of it, as well as incorrect interpretation of medical statements.

Attackers typically want to stab their targets, however, due to the motion and movement of both the attacker and the defending person that strike will most likely result in a SLASH injury... not STAB injury!

I. Horsfall and M. Arnold (Impact and Armour Group, Department of Engineering and Applied Science at Cranfield University) wrote a comprehensive piece on 'Protecting From Slash Knife Attacks'. A statement within this article reads:

"... a retrospective survey of hospital admissions data that contributed to the development of the standard suggested that 63% of wounds attributable to sharp edged weapons were SLASH events."

An extract from the article 'Wounding patterns and human performance in knife attacks', written by A. Bleetman, C. H. Watson, I. Horsfall and S. M. Champion ('Journal of Clinical Forensic Medicine') reads:

"... it is clear from the distribution of wounds in real-life knife attacks that anti-slash protection is required for the arms, neck, shoulders, and thighs. It will clearly not be possible to provide armour of any standard to protect the face and head for routine wear."

Strategic decisions are made on operational applicability of a product. Based on above findings and on an up-to-date risk assessment SlashPRO® Slash Resistant Clothing is 'operational applicable'.

The cutting of a key artery will most likely lead to rapid blood loss, subsequent shock and potential death. The cutting of a specific muscle or tendon will lead to instant immobility and leave the officer in a totally defenceless position.

Slash resistant clothing can make a real difference, significantly improving the personal safety of undercover operatives.

Robert Kaiser, CEO
PPSS Group

'Listen up – whatever you do, please **don't ignore** the **signs!**'

NCOA member and former rep Richie Walden urges everyone to be aware of what your heart is telling you

"There I was enjoying semi-retirement as a healthy 54-year-old and before I knew it, I was in A&E being told by a very nervous junior doctor that I'd just had a heart attack," explained Richie.

"Approaching retirement, I started volunteering with a disabled children's charity as a swim assistant, which progressed to qualifying as a swimming instructor. When retirement was taken, I continued this role and mixed it with some other ad-hoc work. I was also fortunate enough to spend a whole season skiing in Andorra and spending time in Australia and many trips to Spain. You could say life was pretty good.

"Then at 9.40am on Saturday, 3 August, while having a gentle two-mile stroll, the pain came on. My chest became tighter and I immediately tried to put it down to having twisted in my sleep, indigestion or some other random reason, but I knew what it was.

“I was feeling guilty for taking up the time of the busy A&E staff, but a few short tests later a nervous young doctor told me: ‘You’ve had a heart attack.’ That was quite an emotional moment for my wife and I.”

"However, I continued to walk and started to get warm and clammy. As I unlocked my phone to call for help while still reasoning what was happening, my throat had a burning sensation and a sharp pain intensified either side of my left elbow... phone call made, my wife picked me up (in her pyjamas), and took me to hospital.

"I was feeling guilty for taking up the time of the busy A&E staff, but a few short tests later a nervous young doctor told me: 'You've had a heart attack.' That was quite an emotional moment for my wife and I, as I thought I was in pretty good condition and a heart attack was definitely not on the agenda. The registrar duly obliged and I was admitted to the cardiac care unit.

"I spent a few weeks recuperating in Spain – it had to be done – I could start again to swim and walk without difficulty; I soon felt as good as new!



"It would have been easy to ignore the symptoms and carry on without going to hospital. Having spoken to several nurses and consultants there's no doubt they would rather you go to them for a false alarm than suffer a further episode and possibly not get there at all!"

For the record, Richie does not smoke or have high blood pressure or cholesterol, maintains a good diet, exercised regularly and is not overweight. He warned: "This can happen to women and men of any age. Look after yourselves. If you have any of the signs, no matter how irrelevant you think they are or what 'important' things you have to do, please don't ignore it – call 999 (which I didn't, and for which I was admonished by the NHS staff). Big thanks to all the NHS staff at Nevill Hall and Heath Hospitals. They were fantastic!"

Good to have you back Richie.



"The stress has gone. Now I can concentrate on the important stuff."

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The NCOA Insurance Benefit Trust – designed with you in mind

The NCOA is six and a half years old, and it was the intention from its very inception that bespoke member protection must always be the key to any successful union. A union understands what's important for members, and protection doesn't start at 9am and stop at 5pm! Which is why the NCOA Insurance Benefit Trust (IBT) is such an important piece of the membership jigsaw.

The past 12 months have again seen our members receiving support from both the Group Insurance Scheme and the insurance elements embedded into NCOA Membership.

Life cover

Sadly, in the last year the scheme has paid out £300,000 in death benefit to the families of deceased colleagues. Since the NCOA started providing this support, we have paid over £1.5m to the beneficiaries of now-departed colleagues.

Critical illness

In 2019 the IBT paid out £90,000 in critical illness payments to NCOA members, bringing the total for those facing potentially life-changing conditions since 2013 to £430,500.

But the NCOA recognises that not all of us will suffer a critical illness or death during our membership, which is why so many other benefits have been built in to the scheme, protecting us all – and our families – away from work as well as on duty.

Personal accident, hospitalisation, sickness benefit (to those on NCA reduced pay) and dental claims have seen members claim more than £294,000, negating financial hardship in times of need. In addition, travel insurance, home emergency and mobile phone loss/breakage cover has reimbursed our claimants nearly £460,000 over the same period.



£90,000 paid out in critical illness cover in 2019



£8m paid in personal injury damages by the IBT



£277,000 paid out in 'legal cover' claims



£156,600 paid in breakdown cover

NCOA members have received an astonishing £8m in damages for personal injury following accidents since the IBT has been accessible.

Standard Membership

The IBT figures are quite staggering over a relatively short period, but NCOA Standard Membership also delivers a fabulous package of bespoke and unique benefits for those who decide not to extend their cover beyond the essentials.

This 'standard' cover extends far beyond employment issues. A valuable aspect for all our members is the uninsured loss recovery and personal injury cover (often referred to as 'legal cover' on motor vehicle insurance) which is included for each member, as well as all partners and children residing in the member's home. This can save you up to £50 per policy renewal. We have processed 253 applications for assistance and paid out over £277,000 in support of those claims.

With 1,305 attended call-outs, motor vehicle breakdown has provided NCOA members with £156,600 worth of cover to get them safely home and their vehicle repaired or delivered to an appropriate garage.

The recently added GP24 provides 24/7, 365 days a year access to a UK-based general practitioner from anywhere in the world for you and your family. Overall use of this service is yet to be assessed, but it is already starting to be recognised as an essential element to those of us with busy working lives who may not be able to get a local appointment.

This is just a brief summary of the support available to you and your family as a member of the NCOA. We would like to see all NCA staff similarly protected.

All figures correct as of February 2020

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*Conditions apply. See website for details.



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The **NWPBF** never looked better!

The North West Police Benevolent Fund (NWPBF) has been a key partner of the NCOA for several years – initially as part of the Insurance Benefit Trust (IBT) Scheme, and now as an independent supplier of well-being provisions to all NCA staff.

The NWPBF was set up in 1974 by three of the larger north-west police forces (GMP, Cheshire and Merseyside), which combined their independent welfare funds. Later the Fund was joined by Lancashire and Cumbria constabularies, as well as the NCOA (before handing over the reins to the NCA).

The purpose of the Fund is to assist members when they are in need. Of course, none of us know when we, or our families will find ourselves in need. A family crisis, a sudden bereavement or an unexpected illness – such things do not just affect the older generation, we can all be vulnerable to what life presents us, so it's comforting to know that the NWPBF is there to care and support.

The NWPBF provides the following services for subscribing members and their dependant families:

- convalescence
- holiday lodges at White Cross Bay, Cumbria and South Lakeland Leisure Village, Carnforth
- financial loans and grants
- death benefit



- counselling services
- wheelchair loan.

The main treatment centre at St Michael's Lodge in Lancashire was recently transformed into a state-of-the-art holistic treatment facility with first-class services for members including physiotherapy, counselling, holistic therapy, hydrotherapy, Pilates classes and much more.

It has with 30 well-proportioned bedrooms

(two of which are adapted for wheelchair users), all equipped with remote control TV, tea and coffee making facilities, fridge, hairdryer and en-suite shower rooms. There's also a comfortable TV lounge with internet access, and the peace and quiet of the orangery, looking out over the beautiful Ribble Valley.

The Trustees of the Fund understand and recognise that some members cannot take time

away from their families, caring responsibilities and workplace, so individual tailored solutions are available once assessment has been completed, offering physiotherapy and counselling on an out-patient basis. These are also delivered at several sites within the individual north-west forces (GMP, Cheshire, Merseyside, Cumbria and Lancashire).

Membership of the NWPBF for serving officers costs just £4.95 per month, and is deducted from your salary at source. If you don't know whether you're currently a member, check your NCA wage slip for a deduction of this amount listed as Benevolent Fund.

The NWPBF holiday lodges are also a popular benefit with members. The Fund owns nine holiday lodges at White Cross Bay, Cumbria (seven three-bedroom and two two-bedroom), two of which are fully modified for disabled access. Seven of the lodges are available to rent, the other two being reserved for convalescence use.

The Fund also has four, three-bedroom lodges at South Lakeland Leisure Village in Carnforth, one of which is fully modified for disabled access. Two of the lodges are available for rent on a paying basis, and two are reserved for convalescence use.

For more information about the Fund and the benefits to members, visit www.nwpbf.org



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*For a couple or family, rates will be based on the main applicant's age. Rates will be reviewed on 30 November 2020 and any changes will then apply to renewals and new quotes taken out after that date. Quotes are valid for 14 days. T&Cs apply.

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