

Under Cover

NCOA: Protecting those who protect the public

Issue 13 / October 2020

OPERATION VENETIC

How cracking EncroChat
brought down the gangs

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The Editor reserves the right to amend or edit all material as necessary, and where possible, with the consent of the contributor. **Under Cover Magazine** would like to thank everyone involved in producing this magazine, especially advertisers and those kind enough to make a contribution.

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Where do we start ?

When writing the February edition of **Under Cover**, who could have predicted the six months to follow? Supermarket shelves stripped bare by those who were clearly not essential key workers; face masks, dodgy home haircuts, and utter confusion over social distancing; and a high-profile government COVID advisor breaking his own lockdown rules, to test his eyesight 300 miles from home, while his PM lay dangerously ill in hospital.

If this wasn't enough, any members who are parents to teenagers in their exam year will have experienced the total debacle of teacher assessment versus flawed algorithms, leaving the next generation of NCA hopefuls floundering in the university clearing system... and Brexit is still to come!

So it's even more praiseworthy that our hard-working members managed 'business as usual' at home or in the office, to bring about the fantastic results of Operation Venetic and the continued results at Stovewood.

National Officer Steve Bond describes how the NCOA has been instrumental in finding solutions to work with the Agency following our member-only COVID-19 survey,



while General Secretary Simon Boon pulls no punches in his description of an Agency U-turn on pay that should make uncomfortable reading for those involved.

In contrast, Lissie Harper's humble, heart-rending campaign for justice, to secure life sentences for those who take the lives

of law enforcement and emergency service workers, is a credit to her. Andrew's widow spoke to Simon for **Under Cover**, thanking us for supporting the campaign that's a fitting tribute to the dedication of her late husband.

There will be no Annual Conference in 2020, but our national network of 60 reps continue to work on your behalf. Please feed issues into them, and help us to help you.

Remember, this magazine is for NCOA members by NCOA members so have your say and tell us your stories by emailing the Editor at membership@ncoa.org.uk.

Stay safe.

Simon Bashford

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Sad to report...

Under Cover is sad to report the death of retired officer **David Tattershall**. David, who was a Manager at Calder at the time of his retirement in 2018, was a much liked and respected officer who passed away from a COVID-19 related condition on 31 May.

On leaving school, Dave became an apprentice mechanical engineer at Dodworth Colliery, Barnsley. He left the mining industry and joined South Yorkshire Police in September 1988. During his probation he was on duty within the ground at the Hillsborough disaster, giving CPR to one of the injured fans.

After completion of his probation, a spell in uniform followed before he joined the CID in Barnsley. In 1993 he was promoted to uniformed sergeant, but the appeal of criminal investigation took Dave back to CID as a Detective Sergeant a little later.

In July 1999 Dave was seconded to the National Crime Squad in the old Sheffield Branch Office. He then joined SOCA at its commencement. Having transferred at the start of the NCA, Dave finished his distinguished career as G3 Manager



at the Calder branch office.

When off duty, Dave loved skiing and sailing and even gained his private pilot's licence.

Dave leaves his wife, Lisa; our sincere condolences to her, and David's family and friends.

We were also saddened to learn of the passing of **Kieran Hurley** (pictured above with wife Sandra),

an NCOA IBT member who retired in 2018.

Kieran served in law enforcement for 43 years, starting with the Metropolitan Police Service. At the conclusion of 30 years' service with the Met, he joined British Transport Police followed by SOCA and the NCA.

Some of you will know that following the diagnosis of interstitial lung disease in 2016, Kieran's lungs deteriorated over a two-year period resulting in him requiring a double lung transplant which took place in August 2018.

Due to the traumatic surgery and associated complications, Kieran's ability to lead a normal life was massively restricted. However, he was able to live on for a further 23 months and spend quality time with his wife, sons, and grandchildren – as well as Molly the dog and his closest friends.

Kieran had a long and outstanding career and will be sorely missed by many. Our sincere condolences to Sandra and the boys as we remember a huge character and outstanding officer.

Face time

Having initially declined to provide face coverings for those who use public transport to travel to their workplace, we are glad to report that following lobbying from the NCOA, all NCA officers are now eligible to receive two washable face coverings for use on public transport whilst commuting – provided by their employer.

On your behalf, the NCOA reminded the Agency that at a time when it was providing parking for private vehicles and reimbursement of congestion charges in London, not all NCA officers had access to a car to get to their workplace.

ADC cancelled

With the ongoing uncertainty around COVID-19, the NEC has cancelled the Annual Delegates Conference and Reps Seminar that were due to take place in October.

Matters which would have been brought to Conference for debate can continue to be escalated to your NEC via your Regional Rep. The NEC continues to meet remotely, and the normal trade union engagement meetings with the Agency have been maintained throughout the pandemic period.

It is anticipated that the Annual Delegates Conference will be held in 2021.

Eyes on 3,000

These are strange times with unique conditions affecting all of us.

It is perhaps even more surprising then, that at a time when many trade unions are struggling to hold onto members due to financial constraints, and many others shedding staff and assets in order to survive, the NCOA remains not only buoyant but growing.

NCOA membership topped 2,900 in the summer and is now racing to the 3,000 mark – truly a silver lining in an otherwise 2020 cloud!

A solution to changing quarantine measures

NCOA members will no doubt be mindful of the constantly changing FCO guidance on travelling abroad as the Coronavirus pandemic rumbles on. The NCA initially took a position that if officers travel to a country with a 'travel corridor', but a requirement to quarantine upon return to the UK is implemented while they are abroad, those officers would have to take unpaid leave for the duration of their mandatory quarantine period.

However, after a challenge from the NCOA, the Agency changed its position to allow officers returning to the UK in these circumstances to work from home during their quarantine period. Officers in roles that cannot accommodate home working, will be allowed to take

paid special leave covering their quarantine period.

This will, however, not apply to officers who choose to travel abroad contrary to FCO advice; in these cases, unpaid leave will have to be taken in order to quarantine upon returning to the UK.

NCOA Chair Nick Edwards said: "The NCOA are keen to ensure that members who choose to go abroad in accordance with government guidance are not punished by having to take unpaid leave to quarantine when they get home.

"Following the short-notice removals of UK 'travel corridors' to Spain and France during the summer, it remains likely that booking a foreign holiday will carry an enhanced level of risk for some

time – a risk beyond the control of NCA officers if the situation changes while they are abroad. Taking holidays is important for the welfare of many NCOA members who have worked hard to continue protecting the public throughout the Coronavirus pandemic.

"I am pleased that the NCA has adopted a pragmatic position on this issue, which will allow officers to have one less additional worry when taking their well-earned leave."

Remember – check your insurance before you travel

The NCOA IBT provides members with a fantastic family 24/7, 365 days a year travel insurance policy as standard, but these are strange times and you are advised to check before you undertake any travel, including to countries with an 'air-bridge'.

In the first instance you should obtain and follow advice given by the Foreign and Commonwealth Office (FCO) and local or UK health authorities.

Where you have a query that relates to your travel plans, you must contact your tour operator, airline, accommodation provider or other travel companies to discuss options such as refunds, amendments or postponements if you suffer disruption. FCO advice can be found at www.gov.uk/foreign-travel-advice.

For trips involving a stopover in an area for which there is an FCO directive in place, you should check with your travel provider to see if they can change your itinerary.

For trips to countries where there has been an outbreak of Coronavirus, but for which no FCO directive is in place, you must contact your travel provider to see if they can assist you with amending your trip.

While some members may no longer wish to travel, your insurance will not cover a cancellation claim in these circumstances.

Check your policy terms and conditions to see what cover applies and how much you may be able to claim.

248 years in prison, with more to come

It's been part of our lives for so long it's sometimes easy to overlook, but the work of the team at Operation Stovewood is truly worthy of note.

Stovewood was commissioned following reports from Professor Alex Jay and Louise Casey in 2014/15 relating to child sexual exploitation in Rotherham between 1997-2013. It's the UK's single largest law enforcement investigation into non-familial child sexual exploitation and abuse.

The HOLMES-based major investigation is consistently listed in the top 10 operations of the NCA and has been widely praised by the DG, Parliament and the media.

Busy NCOA Case Coordinator and Stovewood



Exhibits Officer, Andy Myers (pictured), told *Under Cover* that he is rightly proud of the dedication shown by the 194-strong team: "We [Stovewood] currently have 34 ongoing operations with just over 900 victims and nearly 250 designated suspects," said Andy.

"Since its inception this devoted group of employees, contractors and secondees have ensured justice for its victims in realising 41 successful convictions totalling 248 years in prison."

Andy and a colleague are currently managing over 13,000 evidential exhibits, but the unassuming officer added: "Like many NCOA members working in the agency, it's all in a day's work!"

“ Since its inception this devoted group of employees, contractors and secondees have ensured justice for its victims in realising 41 successful convictions totalling 248 years in prison.”

Andy Myers, Stovewood Case Coordinator & Exhibits Officer



Picture © Tero Vesalainen / Shutterstock

A refreshing change after 14 years

Following pressure by the NCOA, members have finally seen the first uplift in subsistence rates since the inception of the NCA's precursor SOCA in 2006. The changes to the rates see the 5-10hrs claim rise to £5.50, 10-12hrs to £11 and over 12hrs rises to £16.50.

The mileage rate for the use of your own vehicle for NCA purposes rises from 40p per mile to 45p per mile. Claims at the new rates became effective from 3 August 2020.

There is still more

work to do in order to bring NCA subsistence rates in line with other public sector bodies. The Agency has agreed to an annual review of travel and subsistence rates going forward, and the NCOA pay team are committed to ensure that it won't be another 14 years before a further rise!



State of independence

The NCOA has always valued its independent means of communicating with members. This is never more important than when a union is representing you at work. The ability to communicate in confidence, outside of any 'employer-owned' computer system, is essential to maintain member confidence.

All NCOA reps have their own bespoke NCOA email addresses which members are encouraged to use to contact their workplace representatives, from your own personal email. If you don't know it yet, please ask your workplace rep and keep it safe... your privacy is our concern.

Derek departs – and that leaves three!

Derek Lloyd, NCOA Treasurer and founder member, has taken his pension and headed for the hills (or rather motorhome campsites!)

Derek joined Greater Manchester Police in April 1990, becoming a detective after just five years, investigating serious crimes and murders. He joined the newly formed National Crime Squad in April 1999, and has received a number of Commendations for his investigation work over the years in the NCS, SOCA and the NCA.

In April 2006, Derek transferred across to SOCA after spending time supporting the Security Services following the Madrid bombing. He continued his investigative work into Manchester gangs when the city had been nicknamed 'Gunchester', which culminated with the capture of the principal subject (admittedly with a little help from Spanish and Portuguese colleagues).

Tenacity and trade unionism

In SOCA Derek hung up his surveillance binoculars and changed direction to become a financial investigator. With similar tenacity to his earlier work, he soon got to grips with financial crime and secured the conviction and confiscated assets from a high-ranking 'untouchable' Manchester criminal.

It was during his time in SOCA that Derek's interest in trade unionism started and he became a Workplace Representative.

During the preparatory negotiations and discussions around the formation of the NCA, Derek was committed and supportive of introducing a new and bespoke law enforcement trade union to the Agency workforce, thus becoming one of the founding members of the NCOA. He was also a natural fit for the Treasurer



role due his background in the financial world, and held this position until his retirement.

Derek's role has seen him balancing a 'day job' with that of Treasurer, which involves him reconciling financial transactions, production of short & long-term financial plans for the NCOA, and annual reporting to the certification office. NCOA Reps will know also Derek from his presentations of the annual spending report to Annual Delegates Conference.

In 2013, Derek moved to the UK International Crime Bureau. It

was here he took the lead in the developing field of International Biometrics, representing the Agency at numerous national and international forums. His responsibilities included being the UK representative at the EU Commission's SIRENE network.

Derek's departure leaves just three remaining NCOA founder members. He leaves behind him a career to be proud of, and a union that has surpassed all expectations in terms of growth and financial stability. Enjoy the rest Degsy!

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When the **sales pitch** doesn't deliver on the **promises...**

General Secretary Simon Boon provides an in depth look at the Agency's recent Pay Case

When the Agency first rolled out its long-awaited Pay Reform proposals in 2017, very few of us could predict the twists and turns along the way. Repairing and realigning a spluttering pay structure which had its roots in a 2006 Serious Organised Crime Agency (SOCA), having been largely ignored and brushed under the carpet, would be no mean feat.

Of course, years of public sector austerity did little to assist, but then again nor did the Agency's insistence on pay grade capping which saw the pay for SOCA – and then the NCA – drift further and further behind its main police comparator.

Internally this caused widespread damage in terms of the morale of staff, who were frustrated at huge pay disparity within grades, and inconsistencies with regards to overtime and the recruitment of experienced investigators.

As you would imagine, a lot of time and effort goes into producing the Agency's pay case and with affordability being the main driver, breakdown costings and the overall financial impact are scrutinised in



minute detail. Over the past few years, the NCOA has sought a more inclusive and involved relationship with the Agency at the pay case development stage.

While this is not something the NCA felt comfortable for the 2019/2020 round – we were declined any consultation at the development stage – the NCOA was

subsequently given reassurances that moving forward we would experience greater levels of transparency and inclusion to deliver a true consultation on pay, rather than being given a fait accompli.

Looking ahead at the 2020/2021 round already, we are hoping the Agency will honour this commitment for increased NCOA engagement during the development stage.

Along the way, we were made aware of some of the principal elements of the Agency's pay case, which included Spot Rates being introduced at grades beyond the original Officer and Senior Officer grades (G4 and G5).

While this is something we have been pushing for since they were first introduced, greater scrutiny by the NCOA pay team exposed several areas which the Agency had every opportunity to resolve prior to

Repairing and realigning a spluttering pay structure which had its roots in a 2006 Serious Organised Crime Agency (SOCA), having been largely ignored and brushed under the carpet, would be no mean feat.



submission to the Pay Review Body.

Just before Christmas we wrote to the Agency, at a very senior level, challenging it on the decision to open up Spot Rates for G3 Managers – but only on the proviso that they increased their working week, and forfeited all rights to overtime and therefore devalued the actual offer being made.

The NCOA asked that the Agency share with its staff, at an early stage, those likely to be in scope, the

this off at the pass for this pay round, our pleas were met with silence from the Agency.

In due course, the NCOA was given the opportunity to outline our pay case to the NCARRB in both written form, and at a remote presentation in May. As we know, this forms the basis for pay awards for all NCA officers within the Agency, despite its specific remit to recommend pay awards for NCA officers with powers.

NCOA pay team met with NCA counterparts to thrash out issues relating to implementation across the workforce (both with powers and without), and to negotiate some contractual issues which formed part of the Agency's pay case.

Enhanced flexibility

Following a formidable challenge by the NCOA, we were again able to secure the removal of contractual enhanced flexibility for any Senior Officers choosing to accept Spot Rates. Why? Because, after much pushing, the Agency were simply unable to define what it was they were seeking to secure. With no definition, the position in 2018, where it was thrown out during formal negotiations affecting junior spot-rated grades, along with an Agency intranet article at that time which made it very clear, 'enhanced flexibility' had been 'dropped', they had nowhere to go. Quite rightly (in our opinion) the Agency was rather embarrassingly left with no option but to remove it from the negotiating table.

Whilst there is of course due recognition of how hard you have all worked during the COVID-19 crisis, I can assure you that no discussions took place which led to enhanced flexibility being withdrawn for this reason. We believe it was included within the NCA pay case due to a lack of corporate knowledge of what had passed before; it's a pity the Agency didn't remove it from the pay case when it was first highlighted several months ago.

Of course, seeing this successfully removed was

“ This is particularly troubling for us when reflecting on a G6 attrition rate last year of 15%, and despite previously repeated assurances from the NCA that they were firmly on the radar for pay reform beyond range compression.

associated salary structure, and – more importantly – the Skills Matrix definitions which would clearly lay out eligibility and salary movement within Spot Rated Roles. Some nine months later, it is disappointing to inform you that the Skills Matrix at Senior Grades still does not exist. Although perhaps learning from its earlier mistakes, the Agency has very recently invited the NCOA to be involved in its development.

As a result of its very specific targeting, every grade below Senior Civil Service Grades (DD's and above) would benefit from a Spot Rate structure – except sadly G6s who, in the Agency's words “have no direct policing comparator”. This is particularly troubling for us when reflecting on a G6 attrition rate last year of 15%, and despite repeated assurances from the NCA that they were firmly on the radar for pay reform beyond range compression.

We were also alarmed to see reference to the re-inclusion of 'enhanced flexibility' which had firmly been kicked into the long grass during previous Spot Rate negotiations affecting G4s and G5s. Despite several attempts to head

With strong evidence of considerable reflection on the NCOA's submissions, the subsequent recommendations of the NCARRB supported Spot Rate inclusivity at Senior Grades and continued compression of pay grades from the bottom up.

Thankfully (and consistent with previous years) the NCARRB supported our position that the Agency's flawed strategy to lock the pay grade max further widens the pay gap with policing. The message from the NCARRB is clear, and we sincerely hope this unwelcome element will not form part of any future Agency pay proposals.

It was also great to see that the Agency had (for the first time!) provided a clear and unambiguous intention to deliver a minimum 90% pay match with policing counterparts – hurrah!

Having seen the recommendations ratified by the Home Secretary, the



particularly important in terms of fairness to our Senior Grades who at G2 and G1 are not entitled to overtime or on-call payments beyond their normal working day. In simple terms, if enhanced flexibility doesn't exist at G6, G5 or G4, how could we stand by and allow its introduction at G3, G2 and G1?

The inclusion of enhanced flexibility in the Agency's pay case was a surprise to us. Spot Rate introduction at more Senior Grades was not – until the implementation stage that is.

In the Agency's own pay submission (both written and oral) they relied on the following information in the table below to influence the Pay Review Body of the costed merits of their case following any successful introduction of Spot Rates:

Table Eleven: Officers in scope for and potentially accepting Spot Rates

	No. - In Scope	No. - Accept	Average Inc.
Grade 1	18	17	£8,014
	94%		
Grade 2	44	43	£8,529
	97%		
Grade 3	176	134	£3,819
	76%		

This would cost the NCA £1.02 million and was clearly referenced within its overall costings laid out in its detailed pay submission.

However, despite our ignored very early challenges, it would appear that while the ink was barely dry on the ratified recommendations of the NCARRB, the Agency did a complete U-turn on its target G3 group – 'Grade 3 officers in scope for this reform are primarily Senior Investigations Officers (SIOs)' –

as far as we are aware, not one G3 SIO has been offered

“ In what the we can only describe as the most jaw dropping pay move of our time, despite earlier assessments on eligibility, the Agency signalled its intention to divert all of this newly released and accessible funding into additional G1 and G2 roles.

Spot Rates. The memories of Tech Ops officers in the first phase of pay reform instantly come flooding back!

While we believe the concept was flawed at the outset, the fact that only 13 of the intended 176 Grade 3 officers previously deemed in scope, have actually been offered Spot Rate opportunities, effectively released £454,000 back into the mix.

The Agency has been very clear that its case was, and continues to be, driven by affordability and 'self-funding', so what would it do with the realised savings? Would it increase Spot Rated Roles at junior grades? Bail out the creaking Recruitment and Retention Allowances? Identify further G3 roles suitable for Spot Rates? Or simply raise pay awards across the piece to ensure the meticulously accounted for funds were used effectively and fairly?

Unfortunately, none of the above, although of course the money was swiftly spent without any consultation with the NCOA. In what we can only describe as the most jaw dropping pay

move of our time, despite earlier assessments on eligibility, the Agency signalled its intention to divert all of this newly released and accessible funding into additional G1 roles (to 44 roles in scope) and G2 roles (to 139 in scope) – roles previously deemed to be ineligible for Spot Rates due to role, available funding or a combination of both.

Mind-blowing move

What more can we say? Well, to make it very clear, we genuinely value the role and contribution made by our most senior grades but, once Spot Rate assessments (at any grade) are carried out, there will always be winners and losers. So long as the process is transparent, consistent, and fair, most people will accept the outcome. However, when almost half a million pounds ringfenced for G3 pay suddenly became available, the only thing the Agency could think of doing was offering it in its entirety to Senior Managers the NCA had very recently ruled ineligible.

Does the Agency really think this was the right thing to do, especially when they consistently balk at consolidated rewards of more than 1% for our most experienced officers at the top of pay grade? When numerous other grades have previously been excluded from Spot Rate roles and when Grade 6s are largely poorly paid and walking out of the door?

I'm sure you can make your own mind up on this mind-blowing move, perhaps while reflecting on the Agency's 'Offer' to their employees today through 'Empowerment' in particular...



COVID-19: we're still

National Officer Steve Bond tells *Under Cover* just how the NCOA has driven forward member concerns

There's no doubt that the COVID-19 pandemic brought new challenges to both the NCA and the NCOA. It was also clear from the start that in these unprecedented times, the most effective way for the NCOA to ensure the wellbeing of our members was to challenge the Agency where necessary, but to work with Agency, offer guidance, and guarantee that examples of good practice were raised with senior officers.



working at speed with the Agency to develop COVID-19 policy and operating procedures, as well as providing that much-needed clarity for officers. At the height of the pandemic, the NCOA was attending daily 'checkpoint' meetings with the Agency.

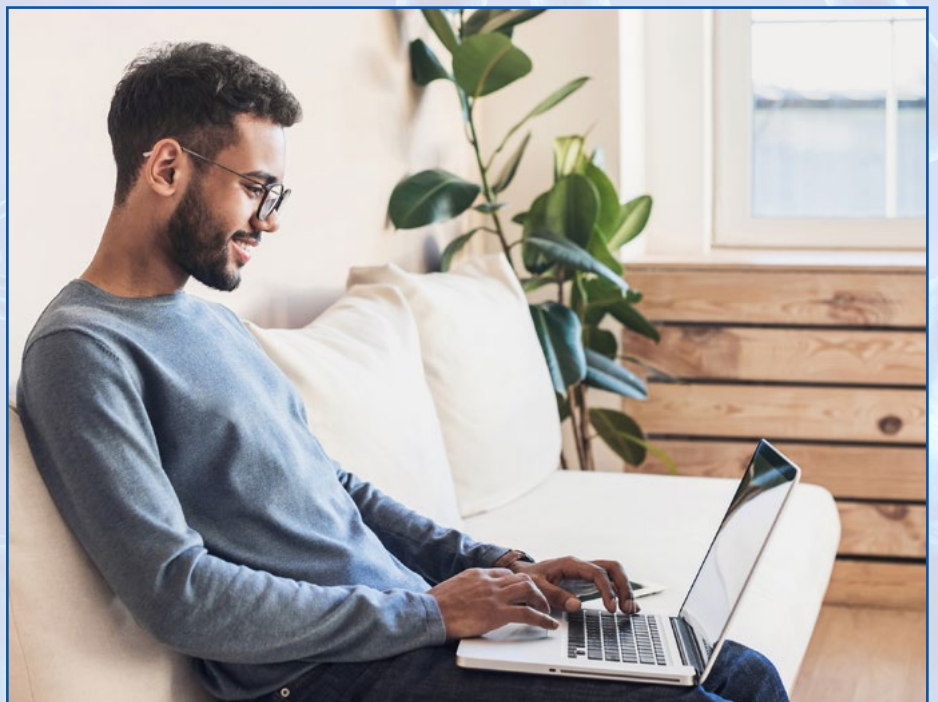
In early May, the NCOA published the results of our COVID-19 survey. Contrary to a perception that – with over 3,000 working from home – some officers were 'under employed', we were able to provide evidence on your behalf that many of you had seen a marked increased workload. Of course, only a matter of weeks after the publication of our survey, it became clear that many of our members had been working hard on Operation Venetic.

The NCOA published the themes

“The NCOA will continue to focus on the needs of our members both locally and nationally by collaborative working with the Agency to ensure that safety remains the key ingredient to a confident and successful workforce.”

The NCOA was the only trade union to represent NCA staff at Operation Talla engagement meetings, ensuring that your voices were heard at this pivotal national police and law enforcement forum. This provided your NEC with insight on developing good practice across the law enforcement community, and in particular the availability of PPE – information which we were happy to share with the Agency.

We have worked hard to ensure all our members had a voice at national and local level. Workplace Reps were consulted on the content of their office risk assessments and return to workplace plans. The NEC met with the Senior Responsible Officers for every premises and continue to have weekly meetings with senior NCA Leaders, often



all in this together



Picture © Yau Ming Low / Shutterstock

from our survey and worked with the Agency on finding solutions, such as:

- Encouraging the Agency to set up a network of SPOCs to deal with the distribution of PPE. The NCOA now receives regular updates on PPE stocks.
- Ensuring the safe return of vulnerable officers and those with caring responsibilities, to the workplace. We pushed the

Agency to develop individual risk assessments, and arrange for dip-sampling to ensure you were treated fairly and consistently.

- Ensuring that the Agency makes more use of Mental Health First Aider network.
- Seeking oversight on the 'footfall' data from all NCA sites, and challenging the Agency when social distancing protocols could be compromised owing to

increased attendance by officers.

- Ensuring that NCOA members affected by the changing FCO guidance on safe air corridors were treated consistently with other law enforcement officers, especially if the FCO guidance changes while they were already abroad on leave.
- Raising NCOA members' concerns on the 'Bring Your Own Device' protocols.
- In partnership with the Agency, developing COVID-19 safe guidance for discipline, grievance and capability panels.
- Prioritising the widespread availability of hand sanitising and cleaning products.
- Securing the provision of face coverings for those using public transport to commute.

It's clear we will need to live and work with a risk of COVID-19 for some time. Some have already said that social distancing and widespread use of face coverings will be the 'new normal'.

As we approach winter, the NCOA has reminded the Agency of its request to secure flu jabs for all officers who want them. In now supporting this, the Agency is on a par with the good practice of some police forces and other civil service departments.

To be clear: the NCOA will continue to focus on the needs of our members both locally and nationally by collaborative working with the Agency to ensure that safety remains the key ingredient to a confident and successful workforce.

If you're aware of any issue not mentioned in this article, contact your NCOA workplace rep or email membership@ncoa.org.uk in complete confidence.

Operation Venetic

The NCA's infiltration of an encrypted communication platform leads to UK's biggest ever law enforcement operation

The National Crime Agency together with UK law enforcement made a massive breakthrough in the fight against serious and organised crime in July, with the takedown of a bespoke encrypted global communication service used exclusively by criminals.

'EncroChat' was one of the world's largest providers of encrypted communications and offered a secure mobile phone instant messaging service – until an international law enforcement team cracked the company's encryption.

60,000 criminals worldwide (up to 10,000 of those in the UK) used EncroChat for coordinating and planning the distribution of illicit commodities, money laundering and plotting to kill rival criminals.

Partnership working across borders

Since 2016, the NCA has worked with international law enforcement agencies to target EncroChat and other encrypted criminal communication platforms by sharing technical expertise and intelligence.

The UK's collaboration with international partners resulted in authorities in France and the Netherlands infiltrating the platform. The data harvested was shared covertly so that the NCA and the police monitored the criminals' every move. Simultaneously, European law enforcement agencies also targeted organised crime groups in their own countries.

Since the operation has started, the NCA and wider law enforcement has:

- made 989 arrests

- recovered 324 EncroChat devices
- seized 81 firearms and four explosives
- recovered over £56 million, and over €1 million
- seized more than 2,000kg of cocaine, 750kg synthetics, 194kg of heroin and 365kg of cannabis.

In addition, a specialist NCA team, working closely with policing partners, successfully prevented rival gangs carrying out kidnappings and executions on the UK's streets by successfully mitigating hundreds of threats to life.

A momentous opportunity to pursue criminals

Director General Operations, Steve Rodhouse, told **Under Cover**: "Operation Venetic is the largest serious and organised crime operation ever undertaken in the UK, and was run throughout the height of the Covid-19 pandemic.

"It presented a momentous opportunity to dismantle and pursue criminals who thought they were using technology that made them untouchable.

"Our technical, intelligence and investigative skills, together with outstanding collaboration with UK and international law enforcement, enabled us to achieve the outcomes. While the operational results are astounding – it is not over: we are building upon our achievements, anticipating the behaviour of the criminal groups involved so we can continue to intercept them. For the NCA, policing and other operational partners at home and abroad, it is a landmark moment."





“I know that a great many officers view their participation in this operation as a career highlight, I certainly feel that way. The impact of this operation is huge, and we are still actively investigating.”

**Matt Horne,
Gold Commander,
Operation Venetic**

Matt Horne, Gold Commander for Operation Venetic, said: “I feel extremely proud to have guided the combined efforts of our fantastic teams across both the NCA and UK law enforcement in the largest and most complex operation against serious organised crime that I have had the privilege to work on.

“The operation presented us with a wide range of leadership and operational challenges, which have only been overcome thanks to the professionalism, ingenuity and sheer hard work of everyone that has contributed. I know that a great many officers view their participation in this operation as a career highlight, I certainly feel that way.

“The impact of this operation is huge, and we are still actively investigating. It was made possible by the NCA working in collaboration with European partners, coupled with the fantastic work carried out by all police forces in the UK. We know it will have a lasting, detrimental effect on the criminal underworld that has become reliant on encrypted communication.”

So what is EncroChat?

Organised crime groups in the UK have been using EncroChat, communicating freely, believing the technology made them secure. The criminal group behind EncroChat operated from outside the UK. On 13 June EncroChat realised the platform had been penetrated and sent a message to its users urging them to throw away their handsets.



The phones – which have pre-loaded apps for instant messaging, the ability to make Voice over Internet Protocol (VOIP) calls, and a kill code which wipes them remotely – have no other conventional smart phone functionality and cost around £1,500 for a six-month contract.

Recent messages from some of the UK handsets included:

- ‘This year the police are winning.’
- ‘NCA as u know well are sophisticated and relentless.’
- ‘If NCA then we have a big problem.’
- ‘The police are having a field day.’

The NCA created the technology and specialist data exploitation capabilities required to process the EncroChat data, and helped identify and locate offenders by analysing millions of messages and hundreds of thousands of images.



NCOA

National Crime Officers Association
The Trade Union of the NCA

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The **lights** are on again at **Flint House**

Some promising news from Flint House as they start to re-admit physiotherapy patients.

For those who already enjoy the benefits of Flint House membership or who wish to join, the application processes are the same as before lockdown, and can be completed at www.ncoa.org.uk, or www.flinthouse.co.uk/attending/application-form.

The team have been working hard to ensure that it's safe to admit patients for treatment. This has been challenging, as they strive to comply with the COVID-19 guidelines across the various sectors of hotel and catering, bars and pubs, gymnasiums and healthcare, while simultaneously accommodating patient officers from a wide range of geographical areas



and organisations.

Currently the centre is only offering residential physiotherapy treatment, but hopes to restart its mental health programme as soon as practicable.

As before, the Flint House clinical team will assess the benefits of a five-day residential stay for each applicant, determining whether residential treatment is suitable in light of the COVID-19 risks.

Some patients have already been

contacted directly by the centre to re-institute treatment. Initially the numbers have been small, but with a commitment to expanding within the limits of safe social distancing. Stringent pre-admission protocols and daily screening regimes have been developed to ensure the safety of all patients and staff.

For more information call 01491 874499 or email reception@policerehab.co.uk

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Is the **NCA** always vicariously



Simon Bashford reports on how the Supreme Court made a significant judgment addressing the extent of an employers' liability for data breaches maliciously committed by an employee.

Earlier this year the Supreme Court held that previous judgments of the High Court and Court of Appeal had misunderstood the principles governing vicarious liability when assessing appeals by Morrisons Supermarket.

The Supreme Court recorded that the correct interpretation of the 'close connection' test is that an employer will only be vicariously liable for the wrongful acts of an employee where the wrongful conduct is so closely connected with acts which the employee is authorised to do, and that the acts may fairly and properly be regarded as done by the employee while acting in the ordinary course of his or her employment.

In applying this test, the courts must consider:

- what function or 'field of activities' the employer has entrusted to the employee; and then
- whether there was enough connection between the position in which he was employed and his wrongful conduct to make it right for the employer to be held liable under the principle of social justice.

Whether an employee is acting on his or her employer's business or for personal reasons is important. The reason why he or she commits the wrongdoing is not.

Background to the case

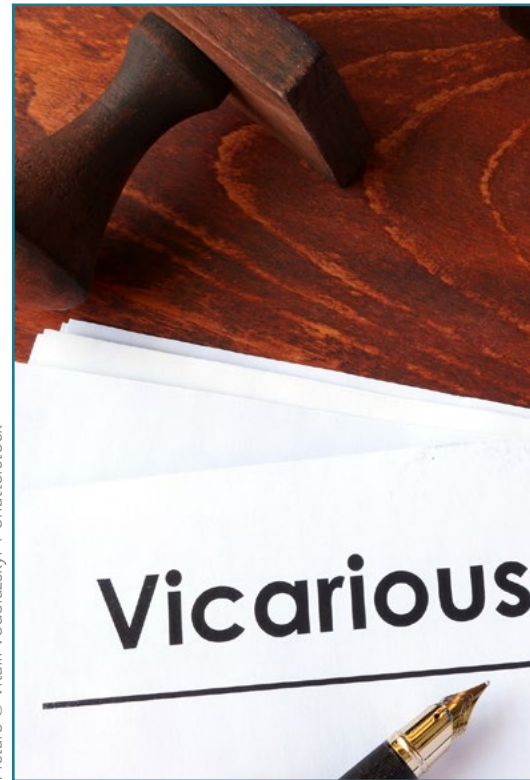
In November 2013, an aggrieved Morrisons employee, Andrew Skelton, obtained payroll data which he then shared with newspapers.

Over 5,000 employees' personal data was unlawfully disclosed, and those employees then issued a joint action against Morrisons, claiming that their employer should be held vicariously liable for the misuse of their personal information, breach of confidence, and breach of statutory duties under the Data Protection Act 1998 (DPA), which was then in force.

In 2018 the Court of Appeal upheld the High Court's finding that Morrisons had not breached its primary duties owed to its staff as a data controller under the DPA, but that it was vicariously liable for the criminal actions of Skelton.

Morrisons took the case to the Supreme Court, which was asked to determine:

- whether the Court of Appeal erred in concluding that the disclosure of data by Skelton occurred in the course of his employment, for which Morrisons should be held vicariously liable; and
- whether the DPA excludes the application of vicarious liability to a breach of that Act, or for misuse of private information or breach of confidence.



Picture © Vitalii Vodolazskiy / Shutterstock

Vicarious Liability is 'fact specific', but an employer can generally be held liable for torts (such as negligence or breach of confidence) committed by an employee where there is a 'sufficient' connection between the employment and the wrongdoing. However, the Supreme Court upheld Morrisons' appeal, finding that it was not vicariously liable for the acts of its employee because he [Skelton] had acted unlawfully in stepping outside of the duties for which he was employed.

Implications for employers

First and foremost, it is worth bearing in mind that the judgment focused exclusively on vicarious liability only because Morrisons was able to successfully prove on the facts of the case that it had met the legal standard of care for security and processing of personal data under the DPA. Had Morrisons not

liable for our actions?



“ For NCOA members, this ruling continues to provide protection from personal liability if they are acting in line with their role and its responsibilities or, if acting in addition to their normal duties, they do so with the knowledge and support of the National Crime Agency.

Thirdly, this judgment leaves many important open questions of law. In particular, there remains very limited judicial consideration as to how quantum of loss should be calculated for compensation claims under the DPA 1998, the DPA 2018 and GDPR.

Coupled with this there is also the prospect of US-style class actions with the test case of *Lloyd v Google* due to come before the Supreme Court later this year. The lawyers funding the litigation clearly have significant resources available to facilitate mass class claims. This

emphasises the need for appropriate controls of information governance and insurance to be implemented to mitigate the risk of these claims arising in the first place.

For NCOA members, this ruling continues to provide protection from personal liability if they are acting in line with their role and its responsibilities or, if acting in addition to their normal duties, they do so with the knowledge and support of the National Crime Agency.

been able to prove compliance with the legal standard of care under the DPA, it would have faced direct liability for compensation claims.

It is vitally important for employers to ensure that there are appropriate controls and information governance in place to protect personal data. Failing to do so may expose the employer to the risk of revenue-based fines under GDPR and the UK DPA 2018, and compensation claims for breach of the GDPR and UK DPA 2018 principles and requirements. These controls should include measures to detect and prevent malicious actions by rogue staff.

Secondly, the DPA 1998 (and in the view of [Under Cover](#), the GDPR) do not create a blanket exclusion of no-fault vicarious liability. Vicarious liability could still be imposed depending on the facts of each case even where there is no breach of the – fault based – DPA 2018 or GDPR.



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'Harper's Law' would be a fitting legacy for Andrew'

Lissie Harper speaks to NCOA General Secretary Simon Boon about her fight for justice and Harper's Law

As members of the UK law enforcement community, the death of a police officer will always stir our emotions, and never more so than when that officer is killed in the line of duty.

Last year the horrific death of Police Constable Andrew Harper rocked the nation, given the circumstances and needless loss of life as a consequence of responding to a relatively petty crime in a quiet Berkshire village.

We – the NCOA – stand united in grief, and in our disbelief at the sentencing of the grinning teenagers who callously, and without any remorse, took the life of a 28-year-old police officer in the prime of his life, loving his career and married barely four weeks earlier.

The subsequent sentencing at the Old Bailey on 31 July made a terrible situation even worse, given the leniency meted out to the convicted killers, despite the dreadful nature of Andrew's death.

Shock and disbelief

The shock and sheer disbelief at the incredibly low sentencing caused uproar across the UK. Yet despite the unimaginable personal pain experienced, it was Andrew's wife Lissie who decided to challenge the lenient sentences of her husband's killers and fight for true justice for any police officers killed in the line of duty.

Lissie's campaign – 'Harper's Law' – has captured the nation, recently securing cross-party support and face-to-face meetings with the Home Secretary. The NCOA regularly work side-by-side with



police colleagues, and we therefore would also like to demonstrate our overt support for Lissie's work in ensuring that the only sentence for killing a police officer (and other emergency workers) is life.

Lissie told me: "I would like to thank the National Crime Officers' Association for their support for Harper's Law. I have been overwhelmed by the support for our campaign since I began this journey from Andrew's colleagues and the police family as a whole. I know the NCOA and its members are a huge part of that.

"I know that if he could, Andrew would be right by my side fighting for Harper's Law with me; he would want me to get this law passed for all who deserve it.

"Emergency services workers require extra protection. They are put at risk and into the depths of danger on a regular basis on behalf of society, therefore it is only right that there is a specific law there to protect them.

"Harper's Law will mean a person found guilty of killing a police officer, firefighter, nurse, doctor, paramedic or prison officer as a direct result of a crime they have committed would then be jailed for life. This means that a life sentence would be imposed, asking for a minimum term in prison. We are delighted to have started this conversation with the policy makers in the Government and look forward to continuing that.

Appropriate punishment

"We need an appropriate punishment for heinous crimes. But just as vitally we would hope beyond hope that Harper's Law may act as a deterrent in the future – thus resulting in fewer incidences of death among emergency services workers due to crimes being committed as those responsible will finally face serious consequences.

"The people of Britain are tired of witnessing the leniency of our courts against the evil in our society. The support that we continue to receive from hundreds of thousands of people highlights the disapproval and outrage over these injustices we all are made to accept."

As General Secretary of the NCA's Trade Union, I hope you will join me in supporting Lissie's campaign. As she rightly says: "Let's get this changed. This would be a fitting legacy for Andrew."

McCloud becomes clear

For many of us the security of having a pension enabled us to plan to ensure at least some of our bills were paid when we finally walked out of the door, clutching our retirement cards and gold watch.

Beyond our workplace schemes, anger rose in response to successive shifts in the national retirement age, pushing back access to the state pension. Thank goodness we had our work-based pensions, we would be fine... wouldn't we?

Despite our best plans and the personal financial sacrifices made to fund our own pensions, Lord Hutton had other ideas, and in 2011 the Government pushed forward with proposals for long-term reform to public sector pensions.

Existing public sector pension members as at March 2012 were moved to the new Civil Service Alpha pension on 1 April 2015.

This transition was immediate for those with considerable pension contributions ahead of them. For those who were 10 years or less from retirement, they were fortunate to be given 'transitional protection' which meant they would move across a little later – but still ahead of any planned retirement date under original schemes.

New pension arrangements saw accrued benefits up to 1 April 2015 'banked' as a block which could be accessed at the original pre-reform pension age; but thereafter, pension contributions would only be paid into the Alpha scheme – with its extended retirement age and reduced values. The net result still delivered a portion of your pension at the earlier age, but only after it had stagnated and never realised

its originally intended financial potential.

The transitional protection offered to a group of employees within the public sector schemes became the Government's undoing and was challenged on the grounds that it discriminated against individuals with less service and by default favoured, and was only applied to older members.

The legal case was brought to the high court by a group of judges (Sargeant) affected by this discriminatory act, and they were joined

(independently) by members of the Fire Brigades Union (McCloud).

The Supreme Court eventually ruled in favour of the judges in what is now commonly referred to as the 'McCloud judgment' which has seen the Government forced to remove the age discrimination elements of its pension schemes. So surely that's fantastic news for those affected – they can go back to their old pre-2015 terms, can't they?

Well, not quite. Although the Government has stressed that there will be 'no detriment', their solution is to fix the age discrimination that has already happened but then move forward to introduce their pension reforms in a manner which treats everyone equally.

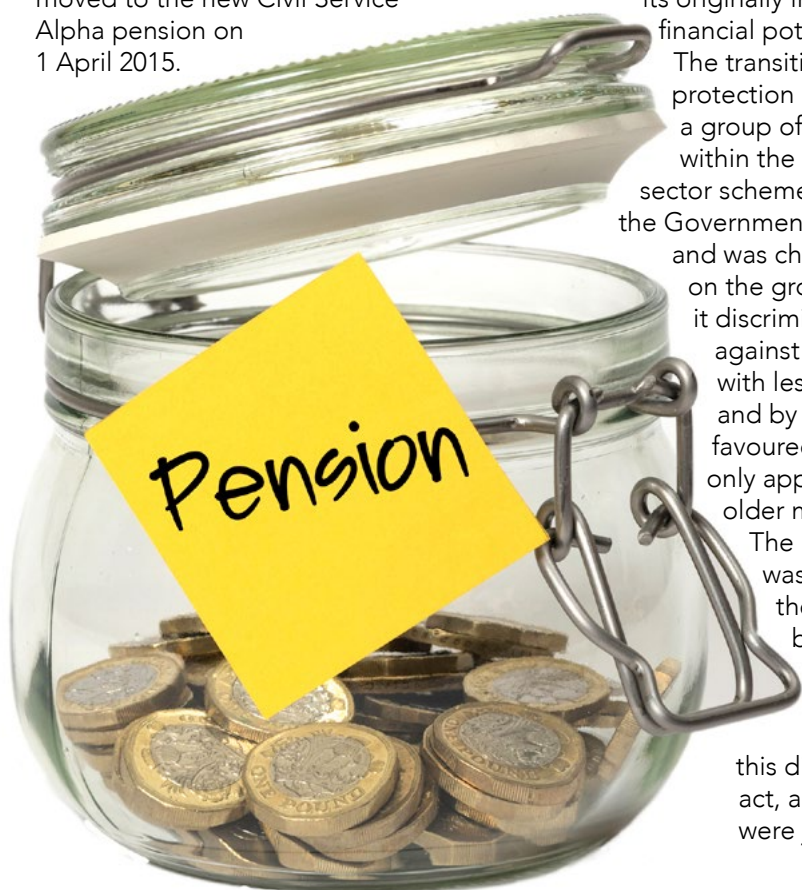
In essence, if affected by the judgment you will be invited to remain as you are in Alpha or move back to your old Classic (or whatever you were on before), with all post-April 2015 contributions transferred back in to your original scheme.

While this sounds great, the Cabinet Office has signalled its intention to then move everybody who has not retired by April 2022 into the Alpha scheme. So, it appears that the benefits of McCloud are simply that you will be given the opportunity to boost your original pension benefits with an additional seven years' worth of contributions (which can be taken at your original retirement date) before re-commencing membership of the Alpha scheme.

The outcome is not quite the panacea we all envisaged, but does deliver legally compliant pension reform which sees no one treated more favourably than anyone else.

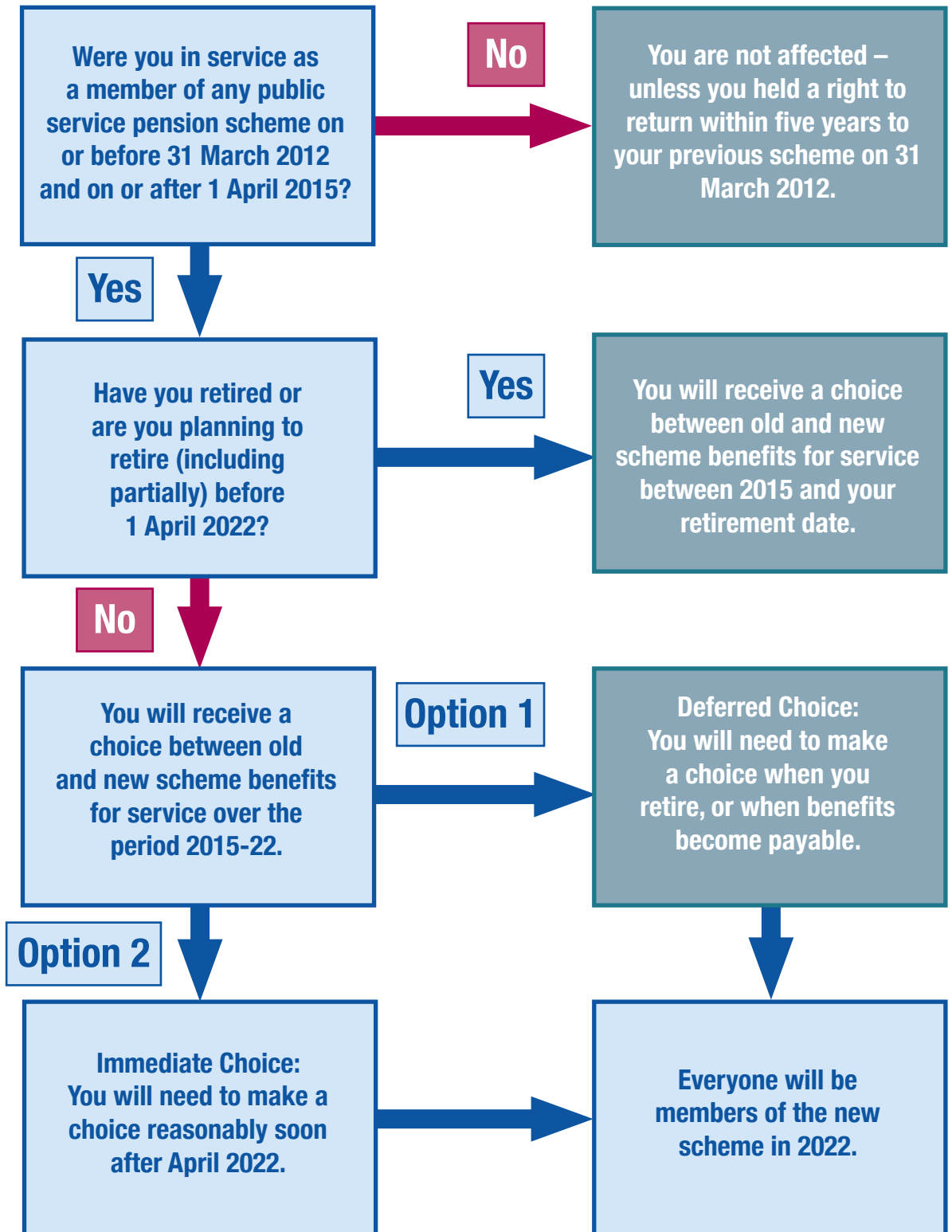
As the NCOA previously advised its members, the public consultation exercise closed on 11 October 2020.

Picture © Sharrocks / Shutterstock



... but no **silver lining**

So, as an NCOA member currently working for the National Crime Agency, what does that mean for me and will everyone be affected in the same way? Lets take a look...





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