

LANCASHIRE CONSTABULARY

A VIEW FROM THE TACTICAL ETHICS COMMITTEE

Report for the Joint Audit and Ethics Committee

Date of meeting: 25/05/2022

Time: 1pm to 3pm

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PURPOSE OF THE BRIEFING NOTE

The purpose of this note is to document responses from the Tactical Ethics Committee in respect of two ethical dilemmas. The first section will cover background to both questions and outline the context provided to the Committee on the 25th of May 2022. The second section will provide the Committee's initial views.

BACKGROUND

Ethical Dilemma for discussion:

'Should the organisation provide courses/training/positive action for new recruits/staff after joining to upskill their English language skills?'

An overview of the question posed was provided. It was explained how this ethical dilemma links to the work undertaken by the Workforce Representation Team and the investment that the Force has made in recruitment of officers and staff from diverse communities. It was noted that this dilemma will become more and more prominent in the future, given the changing demographic of Lancashire and the settling of communities who speak English as a second language. It was also noted that there are many potential candidates out there who are more than capable of carrying out roles within policing (due to having achieved a higher education degree, for example) who may find speaking English as not 'natural' to them and come across communication issues, for example when dealing with people in crisis. An example was also provided of the difficulties faced by officers who sit force examinations and run out of time due to taking longer to translate the exam questions into their native language.

The second Ethical Dilemma for discussion:

'Is it appropriate to undertake business interests whilst on long term sick leave?'

An overview of the dilemma was provided by a member of the Committee. The Professional Standards Department have previously dealt with complaints from staff who have reported their colleagues for undertaking business interests whilst on long term sick leave or being subject to attendance plans. This is often found as a result of officers and staff posting content related to their business interests on social media. The department understand the need to

focus on staff wellbeing, this applies to both sides (the complainant and the subject of the complaint), which means that the Constabulary must carefully strike a balance. It was noted that there is a business interests policy in existence and it can be somewhat tricky to police this whilst staff are off work.

VIEW OF THE COMMITTEE

‘Should the organisation provide courses/training/positive action for new recruits/staff after joining to upskill their English language skills?’

A Committee member proposed that for officers sitting force examinations a reasonable adjustment, amounting to additional 20 minutes of time, would be acceptable.

Another Committee member stated that speaking English as a second language could potentially be viewed the same way as dyslexia – due to the fact that it impacts on reading, writing and understanding of language. This was agreed by another member, who expressed that this dilemma should be dealt with via the Equality Act and is already recognised in other sectors, for example in education.

A point was raised around the fact that due to regional accents of members of the public, sometimes even officers whose first language is English can encounter difficulties in understanding.

A suggestion was then made that to develop officers’ confidence it may be beneficial to involve the Supported Development Units (also known as Student Tutor Units) and share information relating to individuals who have highlighted issues whilst in training with their future line management in division and possibly aid them further through double crewing. Now that the force is delivering face to face training this dialogue between trainers and tutors should be already happening – this needs to be checked.

The ‘Understanding Me’ form was mentioned as a way to provide an opportunity for officers and staff to highlight issues such as lack of confidence or struggling with language.

The Committee agreed that the benefits of employing officers and staff whose first language is not English far outweigh the necessary adjustments and that reasonable adjustments should be widely used in these cases.

It was mentioned that not having the necessary language skills can pose a problem from an officer safety point of view, however it was quickly recognised that the assessment centre and

interview process verify these skills as a condition of entry into policing, therefore we can be comfortable that only candidates with an acceptable level of English are recruited. This in turn means that the skill gap which needs closing is not as wide.

A Committee member suggested that the issue relating to examinations is likely to be also disproportionately affecting officers in other forces and that it would be useful to obtain statistics regarding failure rates for officers whose first language is not English.

An example was provided in relation to application forms, whereby it can be obvious from the structure and grammar of answers that the candidate's first language is not English, therefore possibly placing them at a disadvantage due to an unconscious bias from the assessor.

The difficulty can be in assessing the level of adjustment needed in these cases and deciding who can and cannot qualify for this.

The Committee agreed that as a force we must form an evidence base relating to statistics to failure rates. However, one member noted that a broad database is not necessarily required as Equality legislation can apply to just one individual and does not need to affect the wider workforce in order to be enforceable.

It was also agreed that the governing body for examinations should be contacted directly and asked for justification for why reasonable adjustments are not allowed in this case.

By preventing lateral movement of officers and staff (having failed examinations) they can be blocked from gaining valuable experience and achieving promotion later on, which is why this issue is so important to tackle.

A mention was made of a Code of Practice document which exists to prescribe how public sector institutions should assist their workforce in improving their language skills. It does, however, appear that the document only mentions "spoken" English which can be an obstacle.

Members agreed that the examinations body should be approached directly and asked to clarify the timeline for the work in relation to this which is said to already be ongoing (although with a distant end date at present) and the official stance in relation to this matter. One Committee member stated that things will not change if we do not try and influence this.

Conversation then moved on to exploring if there is anything within the Constabulary's gift in terms of the examinations locally. However, it was noted that most exams now take place online and are therefore governed by the College of Policing with little input from the Constabulary.

An issue of a lack of reasonable adjustments in this area internally, here at the Constabulary, was also mentioned, in relation to day to day lateral and promotion interviews – it was pointed out that as a force we also have some work to undertake in this area. The current application forms do not lend themselves to explain certain conditions, for example.

The Committee Chair suggested that the topic of adjustments in internal processes should be raised at the Staff Networks workshop to discuss with HR in attendance.

It was also suggested that this dilemma should be added to the agenda for the strategic level Joint Audit and Ethics Committee on the 13th of June 2022.

The last point raised was in relation to a Reasonable Adjustments Toolkit which has been developed by force's Health & Safety officer. There may be some further work already ongoing so it will be useful to liaise with the H&S department to check.

In summary, the Committee felt strongly that the Constabulary should assist and develop its staff where possible and provide reasonable adjustments where requested. It was recognised that this is a large piece of work which will involve significant stakeholder engagement but numerous ideas were put forward to try and resolve the issue.

Actions following on from the discussion:

1. Hamza Foy to check what provision is in place for dialogue between the Training School and Tutor Units in divisions for supporting new officers coming out of training
2. PS Strug to try and obtain statistics relating to failure rates for officers whose first language is not English to establish if this issue affects the workforce disproportionately in Lancashire
3. PS Strug to contact the College of Policing and request a written rationale on CoP's stance in relation to reasonable adjustments in circumstances as discussed
4. Hamza Foy to include Reasonable Adjustments in internal processes (lateral movement and promotion) as an agenda item at the next Staff Networks workshop w/c 6th June 2022
5. PS Strug to contact the Health & Safety office to enquire about the Reasonable Adjustments Toolkit

'Is it appropriate to undertake business interests whilst on long term sick leave?'

Firstly, a Committee member stated that there is national guidance on this matter and that an internal policy has been rewritten. There is therefore a benchmark for forces to follow. However, there is still room for discretion. An appeals process is also in existence. It was acknowledged that there is inconsistency in this area as the Professional Standards Department is not always notified of officers/staff undertaking business interests and this is often done via the Integrity Line which is an anonymous reporting mechanism.

A Committee member noted that if an officer or a member of staff undertake a business interest whilst claiming to be recovering from an injury and it is clear that the business interest is not compatible with recovery then this will fall into the remit of misconduct proceedings.

A point was raised that both in policing, as well as in the NHS, a distinction exists between being unfit for duty and unfit for work in general.

Views were then fed on behalf of an absent Committee member, who said the following: this type of circumstance should be reviewed on a case by case basis due to different activities undertaken by staff and different reasons for being away from the workplace in the first place. We should not have a 'blanket' approach and we must be cognisant of those business interests which simply cannot be stopped overnight, such as renting out properties, selling produce or owning dog kennels.

It was noted that the new PDR system is now equipped to ask questions regarding business interests and there is an expectation that line managers should be sighted of the contents of the PDR. Line managers are therefore equipped to make their own decisions, taking this responsibility away from the Professional Standards Department who would become overwhelmed if they were expected to manage this instead. Consistency of the approach is key to ensure that all members of staff are dealt with fairly.

For long term absences data is received from HR and discussed in People & Business Meetings, this provides an opportunity for a discussion with Heads of Departments and HR where necessary, thus widening the audience and reducing possible line manager bias.

In summary, the Committee are in support of having in place a notification or monitoring system for consistency. There may be an opportunity to establish a link between HR and PSD and work will be needed to formalise this arrangement.

Actions following on from the discussion:

1. Det Insp Eugene Swift to liaise with the Head of Professional Standards Department, Det Supt Zoe Mainey, to discuss this matter

NEXT STEPS

The next Committee meeting has now been arranged and it will place on the 7th of September 2022.