

Independent Review of the Police Federation of England and Wales

Report 1: How governance and leadership failings
contributed to the pensions challenge judgment

December 2024

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Background

Why is there an independent review of the Federation?

We were set up as an independent Panel in June 2024 by the Police Federation of England and Wales (PFEW) - referred to in this report as 'the Federation'. The Panel was appointed by the Federation after an Employment Tribunal in 2023 found it had discriminated against officers who had previously made claims against the Government after being moved onto pension schemes that reduced benefits.

What will the review do?

The Panel review has two phases.

The first phase of the Independent Review which runs to December 2024 is to:

- Look back at the governance and leadership failings that led to the decision not to fund the original pensions challenge together with the subsequent challenge brought by the claimants to the Federation in relation to paying legal costs.
- The activities which led to the outcomes handed down by the Employment Tribunal in June 2023.
- The cultural, behavioural and other failings which contributed to the situation along with the governance and leadership failings that led to the litigation outcomes.
- Review the implementation of the recommendations of the Normington Review (2014).

The Panel's remit is attached in Appendix 1, page 39.

A second report will follow in early 2025 which will make recommendations on the changes to the Federation's governance, structures, culture and working practices in order to enable it to become a stable and sustainable organisation that truly delivers for all of its members.

The report is to be published on the Federation's website with all member access and sent directly to the Federation's Board and National Council members, those who were interviewed by the panel and the stakeholders in the Federation's work.

How we worked as a Panel

In preparing this report, the first of two we have been asked to produce, we have interviewed all of the senior figures in post at the time who agreed to talk to us, including the CEO, the National Secretary, the Deputy National Secretary, the Chair and Deputy Chair of the National Board. We have met with a total of 13 National Board members.

We have been to all 8 PFEW regions and heard from officials across 26 branches. Through these visits we have spoken to 40 members of the National Council and talked to Branch officials and officers in those regions and branches.

We held meetings with lead claimants and virtual / physical meetings with rank-and-file members of the Federation who wanted to speak with us.

We also established an email inbox where members of the Federation could tell us their perspectives in confidence.

We have listed those individuals we interviewed on a non-anonymous basis in Appendix 2, page 40.

There were individuals who declined to speak to us, and so their views are not contained within this report:

- Martin Westgate – the KC consulted by the Federation throughout this time – was sadly amongst these.
- Jayne Monkhouse, the Federation’s equalities advisor refused to meet the panel.
- The Federation’s solicitor, John Sturzaker, was unwilling to meet and only responded to written questions.

Interviews with some other senior members were not possible because they have either left the Federation or are currently on sick leave.

The constraints on the Panel’s work

We note constraints upon our work that have arisen from the poor formal record keeping of the Federation in the past. Minutes were not routinely taken of meetings other than at formal Boards and Council; there is no indication whether papers promised to be distributed to Boards were in fact sent out; the minutes themselves are sporadically either too detailed or cursory; and departing National Secretaries seem to have kept sole access to their email accounts and so we could not verify exchanges. We have reviewed National Board and National Council minutes from the time, but not all were available due to shortcomings in the record-keeping systems. The Panel has seen no further advice by Mr Westgate to the PFEW after his advice in 2015. The Panel understand from interviews with Mr Andy Fittes, National Secretary 2014-2018 and Mr Alex Duncan, National Secretary 2018-2022 that no further legal advice was sought. Indeed, one of the findings of the Employment Tribunal was: *‘The Respondent’s reliance on legal advice as justifying the measures it took is fatally undermined by the fact that such legal advice was flawed: it was provided in a statistical and evidential vacuum and without knowledge of the basis of the PPC and the parallel litigation. As a result the advice given did*

not, indeed could not, grapple with key questions at all.¹ Equally, the Panel has seen or heard no evidence as to the Federation satisfying itself that any further legal advice, or indeed any other form of advice, was sought in relation specifically to discrimination or indirect age discrimination arising from the actions of the Federation in response to the government's introduction of a new police pension scheme in 2015. Additionally, the Panel has not seen evidence of or heard from those they interviewed of any follow up questions put to Mr Westgate in relation to the advice he gave on age discrimination in his advice of 2012, 2013 or 2015. Nor have we seen the disclosure bundle of evidence submitted to the Employment Tribunal by the Federation.

The Panel's thanks

We would like to thank all those who gave their time generously and shared their views so openly to help address the wrongs of the past and to enable the Federation to move on from the tribunal judgment, with aspirations to become a stronger, more representative membership organisation. In particular we thank Mukund Krishna and Calum Macleod who, together with the Federation staff, supported the project and gave us access to the information and people we needed to ensure our report is independent and robust.

We would also like to thank lead members of the claimants' group and other members of the PCC who spoke so frankly and movingly about their experiences in a spirit of wanting the Federation to move on and better serve its members.

Needless to say, the conclusions reached, and recommendations put forward, are entirely our own.

¹ Mr L Broadbent and Others v Police Federation of England and Wales: 3207780/2020 and Others, Employment Tribunal decision, 2019, page 124.

The Police Federation of England and Wales – a short summary of its purpose, activities and governance structure

The Police Federation (the Federation) is a representative body and staff association, committed to the welfare and interests of police officers – constables, sergeants, inspectors and Chief Inspectors.

There are forty-three police forces operating in England and Wales grouped into eight Regions. Each police force has its own Federation branch with a Branch Council and a Branch Board elected from members of the Council.

The Federation's governance structure and important aspects of its operation are defined in 2017 Parliamentary Regulations. Federation members, police officers, are prevented by law from taking industrial action.

Parliamentary regulations determine the Federation's national governance structure - Including the size and composition of its National Board and National Council; Board members' remuneration; the composition of the Federation's National Council, the use of Federation funds and the size and duration of its national conference.

The same is true of the regional governance structures of the Federation, including the membership, the office holder roles and size of the branch boards.

The Federation's work is important at both local and national level.

At national level the Federation represents its membership to government and other important national stakeholders including the National Renewal Team and the UK Police Remuneration Forum. The Chair, National Secretary and the CEO have regular bilateral meetings with the Home Office.

The Federation provides evidence to the Police Remuneration Review Body through negotiations with government and other stakeholders on a range of important terms and conditions, including pay, pensions, and police terms and conditions.

The Federation also develops and promotes policies designed to promote policing and to advocate for police officers on issues which directly concern their work – including issues of health and safety.

Locally, branch secretaries, branch officers and Federation reps represent and defend their members both individually through case work, and collectively through developing effective working relationships with the Chief Police Constables of their local police force and other

important local stakeholders. Each branch negotiates insurance policies which provide a wide range of cover for Federation members. Branch General Secretaries and Chairs are members of the Federation's National Council.

We have been struck during our branch visits by the extent to which members perceive valuable work being done at a branch level but are not seeing such work being done by the Federation at national level. This will be a key focus of the Panel's second report.

The Employment Tribunal Judgment against the Federation

On 6th June 2023 an Employment Tribunal judgment was handed down against the Federation. The judgment found that the Federation had discriminated against and victimised officers who had previously made claims against the Government after being moved from a final salary to a career average pension scheme with reduced benefits.

The Panel has summarised key points from the judgment below.

The federation was found to have:

- Pursued, promoted and protected a policy which favoured the Government's discriminatory transitional arrangements, and therefore favoured the protection of older police officers.
- Continually refused to support and/or fund the original police pensions claims (PPC) despite the active involvement of approximately 15,000 police officers bringing claims.
- Taken active steps to deter, obstruct and/or penalise the claimants from pursuing the original police pensions claims, in particular through divisive and adverse communications about the claim.
- Misled its members by stating that if the Federation brought a case of age discrimination against the government it would lose the transitional protections. The Tribunal found that 'it was open to the respondent to do both in appropriate circumstances'
- Failed to carry out any financial analysis of the effect of the pensions changes for officers with different lengths of service during the consultation period or thereafter.
- Failed to conduct an analysis of the effects of the pensions changes by age and/or in service profile.
- Failed to conduct a survey of members on their views of the pensions proposals
- Failed to provide clear, direct communications to members of the effects of the pension changes on their pensions.
- Failed to ask the government for, or conduct on its own behalf, an equality impact assessment of the effect of the pension proposals
- Failed to procure sufficient legal advice on age discrimination
- Kept the legal advice it did receive from the National Board and National Council
- For years gave increasingly inaccurate information to its members claiming that the majority were protected under the transitional arrangements. This figure was based on

2012 figures and became increasingly inaccurate as Officers protected by the transitional arrangements retired or left the Police Service.

- Adopted a threatening position regarding the pensions' claimants, claiming that their challenge threatened the transitional arrangements already secured, and claiming, without evidence, that a test case would cost £13 million
- Failed to inform Federation members of the Judges and Firefighters' challenges to the new pension arrangements
- Failed to inform itself of the legal grounds of the Judges and Firefighters cases
- Failed to meet Leigh Day, (the firm acting for the PPC claimants) despite repeated requests from Leigh Day to meet the Federation's representatives.
- Valued its relations with the Home Office above its duty to represent and protect its members
- When the Federation did decide to launch a claim of age discrimination against the Government, it made it as difficult as possible for the PPC members to transfer their claims to the Federation action.

The Federation's response to the Tribunal Judgment

On the 18th July 2023 the Federation announced that it would not pursue an appeal against the judgment issued by the Employment Tribunal. The Federation issued an unreserved apology to the claimants for the distress caused to them by its actions.

At the Federation's Conference in October 2023 Mr Mukund Krishna, the then newly appointed CEO of the Federation, said: *'The judgment was a hammer blow to the Federation. There is no way of sugar coating the fact this was an extremely damaging judgment. There are no excuses. This was a monumental failure. And I am deeply sorry to those members who have been impacted by the decision not to challenge the Government's change in pension policy.'*

The background to the police pension failures – the internal battle within the Federation over the implementation of the Normington Review (2014)

It became increasingly clear to the Panel as a result of multiple witnesses' evidence that the Federation was undergoing significant internal upheaval at the same time as the pensions challenges to the government and, later, the PPC challenge to the Federation, were occurring as a result of the Normington Review (2014).

The review of the Federation conducted by Sir David Normington, highlighted the dysfunctional nature of the Federation's governance structures and recommended major

reforms of the organisation - both centrally and locally. Normington sought to establish a revised core purpose for the Federation based on transparency and argued that the Federation should aim to ensure that members were fully informed about its work. Normington proposed that the Federation should be an organisation with exemplary standards of behaviour and conduct, integrity and professionalism, accountability and partnership.

Normington warned: *'Too often...the Federation has become fixated with rules, regulations and structures rather than the actual content of decisions and how this relates to purpose. Any new governance and decision-making structures have to support the creation of real value for members in terms of their own welfare'*.²

Those words are particularly prescient in the light of the Federation's inaction over the PPC's case.

In 2017, as a result of the Normington review recommendations, the Constables, Sergeants and Inspectors rank committees were abolished along with the Joint Central Committee. These were replaced first by an interim and then permanent National Board and National Council which constitute the current national governance structure of the Federation.

We have heard repeatedly from members of the National Board and local officials of the internal resistance to the Normington recommendations. One witness told us that Normington was 'accepted under duress'. Andy Fittes (General Secretary of the Federation from May 2014 to September 2018) told us that he went through 'five years of hell', taking post immediately after the Normington review to implement the review recommendations. This should, he argued, have taken 6 months.

At the centre of this was resistance to the abolition of the rank committees – arising in particular from the Constables Committee which, up till its abolition, had the largest budget and the most power in the Federation. We heard of rank committee '*walk outs*'; of deals being done with different committees; and standards of behaviour which were anything other than exemplary.

The uncertainty created by Normington may have also led to a general reluctance to stand for elected national positions. One witness told us: *'When I came onto the Joint Central Committee it was in a state of flux. Normington had just been announced. There was internal disharmony. There weren't many aspirational people wanting to take positions because they didn't know whether they were going to be there for three months or five years so they took local roles.'*

² Normington report, p. 36.

It has become clear to the Panel that during this period the Federation was intensely focused on internal structural and governance issues and not on the police pensions claim which, in a well-governed organisation, would have been seen as a major challenge and a key risk.

It is also important to recognise the limitations on the Police Federation's ability to challenge Government policies that are against the interests of its members. In particular – and unlike all other bodies affected by the changes – police officers do not have the right to take industrial action in support of their position, robbing them of a major tool used by other unions to secure changes.

Public Service Pension Reform 2011 to 2015 – a brief summary

In 2011 the coalition government embarked on a significant reform of public service pensions. These reforms provide an important context in which some of the actions of the Federation in respect of the PCC claimants can be evaluated.

On 10th March 2011 the final report of the independent Public Service Pension Commission was published. The Commission, chaired by John Hutton, undertook a fundamental structural review of public service pension provision.

Responding to the Hutton review the coalition government proposed to replace the then existing public service final salary pensions with career average earnings and increased the pension age to the State pension age in all schemes except for the uniformed services of the armed forces, police and firefighters which would have a pension age of 60.

The proposed changes to public sector final salary schemes were opposed by the Trades Union Congress and its affiliated unions. The TUC coordinated strike action across a range of public sector unions, affecting public sector services across education, health, councils, and the civil service which took place in June and November of 2011.

The TUC affiliated unions negotiating positions were coordinated by the TUC. General Secretaries and union pension negotiators attended a weekly meeting at the TUC's Congress House.

Representatives of the Government connected to the Cabinet Office also attended the TUC meetings at times in order to hear directly from different unions about the progress of pensions negotiations in their sector. It was at these meetings that General Secretaries and senior union officers, including their pension leads, kept themselves informed of the negotiating environment between unions, civil servants and government ministers in different departments.

The Federation is not an independent trade union. It is not affiliated to the TUC, was not invited and did not attend the TUC coordinating meetings.

As a result of industrial action and negotiations the TUC affiliated unions were able, by the end of 2011, to secure a Heads of Agreement with the Coalition Government which set out the reference design of the reformed public sector pension scheme.

Amongst other improvements negotiated by the TUC affiliated unions were better pension accrual rates than those in the original reference scheme and pension contributions tiered by income, to protect lower paid workers.

In relation to transitional protection for scheme members within ten years of retirement in November 2011 Danny Alexander, then Chief Secretary to the Treasury, indicated in a ministerial statement that the TUC had *'pressed forexplicit protections for those workers nearest to retirement'* and that he had made an offer that scheme negotiations would be given flexibility outside the cost ceiling *'to deliver protection so that no-one within 10 years of retirement will see any change in when they can retire nor any decrease in the amount of pension they receive.'*

In December 2011, Mr Alexander announced that agreement with the TUC had been reached and that there would be protection for those 10 years from retirement.

The Police Pension negotiations with the coalition government 2012

On the 27th March 2012 Theresa May, then Home Secretary, wrote to the Pensions Negotiation Board setting out the government's proposed design for a new police pension scheme.

The key changes to the existing (1987 and 2006) schemes were:

- Final salary police pensions to be replaced by a Career Average Related Earnings (CARE) scheme
- A notional pension age of 60 which replaced the 1987 pension scheme which allowed pensions to be payable after 30 years of service at any age, or after the age of 50 with 25 years service. Or under the 2006 scheme, the earliest pension age was 55.
- Officer contributions to increase to 13.7%

The negotiations over pension reform between the Home Office and the Federation did not begin until September 2012, months after the negotiations with the TUC affiliated unions had been completed. This meant that by the time the proposals were put to the Federation the core features of the pension proposals – the move from final salary to career average, the accrual rate and the transitional protections for members within ten years of retirement, had

been agreed to for all NHS staff, civil servants, teachers and other members of the main public sector schemes.

The consultation over the reform to the Police Pension Scheme was concentrated into a period of 12 weeks. Mr John Sturzaker, who provided legal advice on pensions to the PFEW at this time, stated in his written answers to the Panel's questions: *'I also recall that because negotiations in the main public service pensions schemes had already concluded the Home Office was under pressure to deliver a quick conclusion in relation to the police scheme.'* And: *...this all meant that the PFEW had twelve weeks to digest and respond to the design of a new pension scheme which was a critically important part of its members terms and conditions.'*

As the Tribunal judgment recognised, *'the means available to the Respondent (the Federation) in any negotiation with the Government on matters affecting their members were limited in certain respects. It had no power to take industrial action. When it came to pay, it had the right to arbitration, if agreement could not be reached. Arbitration was not available when it came to pensions.'*³

Legal advice procured by the Federation concerning the possibility of a challenge to the government's 2015 pension proposals on the basis of age discrimination

The Federation procured three sets of legal advice from Mr Martin Westgate during the period of the pensions' negotiations and the pensions challenge. The advice was clear that there was little chance of success in a challenge against the 2015 scheme based on age discrimination.

In **2012** Martin Westgate advised:

'I do not think there are likely to be any viable challenges on the grounds of age discrimination...the transitional provisions do discriminate on the grounds of age, both directly and indirectly. But it is well established that it can be a legitimate aim to cushion the blow for people who may find it more difficult to adjust at the end of their employment or during a period of transition. Once that aim is accepted then there is nothing unreasonable about drawing the lines where the Home Office proposes to do. Transitional protection must end somewhere and this solution is well within the permissible range.'

In **2013** Martin Westgate concluded:

³ Mr L Broadbent and Others v Police Federation of England and Wales: 3207780/2020 and Others, Employment Tribunal decision, 2019, p. 11.

'Nothing in the more recent cases makes me think that a challenge has any prospect of success'

In **2015** Martin Westgate advised:

'It is plain that as a matter of fact these arrangements discriminate on the grounds of age. In some cases the transitional protection is, at least in part, directly linked to an individual's age and in other cases the service criterion is indirectly linked to age because benefits linked to long periods of accrued service necessarily benefit older workers.

When I last advised on this issue I considered that this discriminatory impact would be justifiable because it was a proportionate approach to a legitimate aim to cushion the blow for people who may find it more difficult to adjust to change at the end of their employment or during a period of transition. The case law has continued to develop in relation to the justification of age discrimination but nothing in the more recent cases makes me think that a challenge on age discrimination grounds will stand any prospect of success.'

We are not in a position to challenge the legal advice given by Martin Westgate. Indeed, his advice mirrors that given in 2011 to TUC affiliated unions - that a challenge on the grounds of age discrimination would be unlikely to be successful and that the Government had the legal right to pursue a legitimate vocational aim.

Given this context it is understandable that the National Secretaries involved in the negotiation of the PFEW pension scheme and then the implementation of the scheme, including detailed negotiations on the scheme regulations judged, in the first instance, that there was little chance of success in the Federation mounting a legal challenge to the Government's proposals for pension reform based on age discrimination.

What is not understandable, however, is the Federation's apparent inability to alter this initial position when the facts changed. In particular, during the period where its own membership were joining the Police Pensions Claimants challenge and the FBU and the Judges were taking (ultimately successful) legal action against the government's 2015 public sector pension schemes on the grounds of age discrimination.

We find that the Federation's inability to recognise that it could not maintain its initial stance against taking a challenge, its lack of detailed examination of the options available to it, the failure to secure a second legal opinion on the issue of age discrimination and the poor operation of its leadership and governance structures, has cost it - and therefore its members - dearly. It is to these matters which we now turn.

The growing legal challenge to the government on the grounds of age discrimination

It was always incumbent on the Federation to examine and to carefully consider the implications of the subsequent legal challenges to the transitional protections negotiated in 2011 and 2012.

In 2014 the Fire Brigades Union (FBU) and the Judges took legal action against the government's pension reforms. They argued that the transitional protections only applied to certain older members and thus amounted to unlawful discrimination – that they, the claimants were treated and continued to be treated less favourably because of their age.

In 2015 the PPCs began a legal challenge of age discrimination against the government. They were represented by the law firm Leigh Day.

Lee Broadbent, a lead claimant, worked tirelessly and impressively to advance the case. Working with a small group the lead pensions claimants set up a face book page to publicise the merits of the case to Federation members. Lee Broadbent organised meetings in late 2015 to allow members to meet representatives of Leigh Day so that their questions could be answered.

Lee Broadbent got the Home Office data on the characteristics of the police workforce and used this to calculate the prospects of members who were affected and unaffected by the transitional arrangements – something that the Federation did not appear to think was necessary, reliant as it was on the increasingly out of date 2012 workforce figures which misleadingly (because older members retiring and leaving the police service before retirement) purported to show that 50% of police officers were protected by the transitional arrangements.

Support for the PPC's action grew exponentially in 2015 as the numbers of Federation members signed up to the claim rose from 30,000 to 55,000 in a few months. In 2014 and 2015 members of the judges and firefighters pension schemes took legal action against the Lord Chancellor and the Secretary of State for Justice and the Ministry of Justice in the Employment Tribunal. The claimants argued that the transitional protections only applied to certain older members and thus amounted to unlawful discrimination, that they, the claimants were treated and continued to be treated less favourably because of their age.

In the litigation on behalf of judges in January 2017 the Employment Tribunal found that the transitional protection did constitute unlawful age discrimination, and that the government had

failed to show that its treatment of the claimants had been a proportionate means of achieving a legitimate aim.

In 2018, following an appeal by the government, the Court of Appeal in England and Wales ruled that members of the judges' and firefighters' schemes had been directly discriminated against on the basis of age.

In 2019 the government accepted liability in the PPCs' litigation on age discrimination. The Federation was then given permission by the Employment Tribunal to join the PPC claim as an interested party.

In November 2020 the Employment tribunal declared that 'all existing claimants (including the PPC) had been entitled to full transitional protection for the purposes of the Police Pensions Regulations 2015 with effect from 1 April 2015.'

In September 2020 proceedings were issued against the Federation in the Employment Tribunal by eight lead PPC claimants, representing a total of nearly 10,000 serving or former police officers. Following a hearing in the Employment Tribunal in 2022 and 2023, in June 2023 the Employment Tribunal delivered a judgment that the claimants' claims of direct age discrimination and claims of victimisation succeeded in part.

The judgment of the Employment Tribunal in respect of the treatment of the PCC claimants is, in the Panel's opinion, damning. (The 'Respondent' in the following paragraph refers to the Federation.)

Paragraph 675

*'We have already concluded that the Respondent (the Federation) sought to deter and obstruct the Claimants from pursuing the PPC; created divisions and ill-feeling towards them... and communicated a distorted, misleading and inaccurate assessment of the PPC. We are satisfied that this conduct was not merely significantly influenced by the Respondent's policy of supporting/protecting the transitional provisions, it was primarily driven by it. Hand in hand with that policy went a policy of opposing the PPC at every term. That included refusing to recognise the role of the PPC group in pursuing the PPC. We have concluded that the Respondent took the view that to legitimise the PPC in any way would undermine its own policy.'*⁴

Paragraph 702

⁴ Mr L Broadbent and Others v Police Federation of England and Wales: 3207780/2020 and Others, Employment Tribunal decision, 2019, p. 118.

*'The Respondent's failure to conduct any proper exercise to establish what each age group stood to lose and gain by the Transitional provisions, and therefore how they impacted on the membership as a whole, together with the absence of an EIA, is not a promising starting point for the exercise of demonstrating that it was 'acting in the interests of members as a whole.'*⁵

These are very serious findings against the Federation. They have had a nearly catastrophic impact on the Federation's reputation. The financial consequences of the judgment have had a major impact upon the Federation's operations both in the immediate and the longer term

The isolation of the Federation

Those interviewed the Panel, including Board members and former National Secretaries, referred repeatedly to the mantra within the Federation that that it had an 80% chance of successfully defending itself against the PPCs.

This proved to be incorrect.

We consider that during this period the Federation, facing increasing criticism and disaffection from a large section of its own membership, became increasingly isolated and inward-looking. Preoccupied with internal dissent and division, the Federation showed little interest in investigating, and then carefully considering, the legal case made by the PPC, the judges and the firefighters.

We were struck by the fact that no representative from the Federation attended the judges' hearing at the employment tribunal. In contrast, Lee Broadbent, one of the leading pensions claimants, gave up ten days of leave to attend the hearing to learn at first hand of the implications of the judges' case for the PPC.

We note that from the point between Mr Westgate's last advice of 2015, the PPC issuing its own litigation in December 2015, the decision of the Employment Tribunal in 2017 in the McCloud case (judges) and the Sargeant Case (firefighters), and the decision of the Court of Appeal in 2018, the Federation did not seek fresh legal advice specifically on the issue of age discrimination.

We find it astonishing following these events that the Federation further failed to seek new legal advice. Even if the Federation was convinced that Mr. Westgate's opinion would not have

⁵ Mr L Broadbent and Others v Police Federation of England and Wales: 3207780/2020 and Others, Employment Tribunal decision, 2019, p. 102.

changed the matter was so important to its members that it should have sought a second opinion from another counsel.

We note that at some point (it is not clear when) Leigh Day solicitors approached the Federation with an offer to join with the Police Pension Claimants' litigation or to pursue its own litigation. Based on the evidence provided to the Employment Tribunal (an internal briefing note circulated by Mr Fittes on 7th September 2015) it is evident that the perceived cost of such a challenge was a determinative factor in the decision by the Federation not to pursue litigation against the Government on its members' behalf. The briefing note stated: 'If the PFEW decided to run a test case we would inevitably be accepting the full costs of the legal fight which would last years and which all our advisers are stating we will lose. It would be likely to utilise our total legal costs for a whole year (£13m).'

The tribunal judgment notes (paragraph 218) 'There is no evidence that a test case... would cost £13 million.'⁶

This misleading information was combined with a refusal to engage with Leigh Day Solicitors because they were representing Federation members who were acting in a private capacity. Mr Fittes' briefing note states 'Please remember Leigh Day is a commercial enterprise who is in this to make money.'

As the Tribunal judgment notes (paragraph 216) '....the reminder that Leigh Day was a Commercial enterprise implied that they were doing something wrong by representing members, which they were not;'⁷

Consequently, only one meeting took place between the Federation and Leigh Day despite a number of attempts by Leigh Day to engage with the Federation. We find this to be an inexplicable stance on the part of the Federation and one which continued not only after the judgment in 2017 but also the Court of Appeal's decision in 2018.

A similar refusal to engage was undertaken by the Federation towards the group of members who constituted the Police Pensions Challenge.

This is indicative of an organisation that 'hunkered down'. The Federation had dug a trench for itself in defence against its own members and was unwilling to consider changes to its position despite obvious changes in external circumstances. The response of National Secretaries to claimants was not to engage with Leigh Day and the PPC to work out a solution

⁶ Mr L Broadbent and Others v Police Federation of England and Wales: 3207780/2020 and Others, Employment Tribunal decision, 2019, p. 35.

⁷ Ibid.

but almost to be affronted that they dare challenge the Federation's position. This evolved into the victimisation and bullying that the Employment Tribunal condemned. We find that the Federation had a poor understanding of risk. Faced with internal and external challenges it doubled down on its original (2012) position and failed to consider the key question – what if we are not right? And then the subsequent question: what will be the consequence of being wrong?

At no point, as far as we can ascertain, did the National Secretaries sufficiently consider the possibility that the PPCs might win their case against the Federation. They failed to consider the possibility that the legal advice they had procured was insufficiently focused narrowly on the question of whether the transitional arrangements for officers within ten years of retirement constituted age discrimination against officers who received no protection as a result of the transitional arrangements.

This lack of curiosity has led to a devastating conclusion for the Federation. The cost to have settled with the claimants before the Employment Tribunal would have been high, but nowhere near as high as the Federation now faces

The non- involvement of the Federation’s national governance structures during the pension negotiations, the implementation of the 2015 police pension scheme and the growing challenges of the PPC, the Judges and the FBU

Crucial to the operation of any Board is the principle of transparency and code of confidentiality that operates within that Board. Yet Board members were consistently not given the legal advice acquired by the Federation. At certain times Board members were allegedly told they could see the advice if they wished although some Board members deny this, but the advice was not circulated to Board members for reasons of confidentiality. It was rather kept under lock and key in the National Secretary’s office. One Council member told us that to see the advice Board members were given two days to go to Leatherhead, times which also coincided with them all being at the National Bravery Awards.

A thorough reading of the National Board minutes reveals that there was one meeting of the Interim National Board, held in April 2015, where there was a break in the meeting to consider information on the pensions challenge which was circulated in confidence. This suggests that the Board did receive some confidential legal papers.

Board members, it is recorded, did raise questions about using the same KC for all three sets of advice and were told that this was ‘the most expeditious and legally sound option’.

In September 2015 the board had a long discussion on the pensions issues which was informed by the advice received by the TUC, the Federation and advice received by Region 2, all of which advised against the possibility of a successful legal challenge on the grounds of age discrimination. This minute also refers to ongoing dialogue with the FBU. The Board were told that the Federation had already spend £1 million ‘*speaking to several counsel on this matter.*’

Minutes of the 2016 and 2017 Interim National Board meetings show no reference to the pension claimants’ challenge.

A sentence in the minutes of the March 2018 meeting records that ‘*Mr Fittes also mentioned the Pensions Challenge, Fire fighter services and the pensions calculator and thanked everyone involved in this.*’ There is no follow up to this minute and no explanation of what the actions of those being thanked entail. There is no other reference to the pensions challenge in the minutes in 2018.

In January 2019 Alex Duncan, the then General Secretary, gave a brief update on the judges' and firefighters' pension challenges. This meeting was held shortly after an appeal by the government against the original employment tribunal judgment of 2017 had failed as the Court of Appeal in England and Wales ruled in late 2018 that members of the judge's and firefighters' pension schemes had been directly discriminated against on the basis of age.

The minutes of the January 2019 meeting of the National Board record that Alex Duncan confirmed that a decision as to whether the Supreme Court would allow the Government to appeal against the Court of Appeal judgment was awaited. Mr Duncan also stated that the Government could negotiate a satisfactory outcome rather than go to E.T. And that should the Government lose '*they have been very clear that they would pull the transitional arrangements*'

From the minutes we have seen, we conclude that in 2015 Andy Fittes probably did share information on the legal advice received by the Federation with the Interim National Board and that there was a discussion about the viability of the PCC case.

There was then a seemingly inexplicable disengagement of the Board until 2018 – and then until the January 2019 meeting, and then no further sign of Board engagement until the beginning of 2020.

Similarly, from the Council minutes we have seen (November 2014 – November 2017) we can find only one substantive reference to discussion of the pensions dispute, again in September 2015.

We conclude from this evidence that the National Secretaries failed in their responsibility to properly and regularly update the Board on the judges' and firefighters' and the PPC challenge to the Government on the grounds of age discrimination. The evidence of engagement is sparse and the level of engagement appears to us to be wholly unsuited to the complexity of the pensions challenge.

We also find that the Board collectively and the Board members individually failed in their responsibility to demand regular and comprehensive updates from the National Secretaries on this issue of fundamental importance to the Federation and, more importantly, the Federation's members. The same accusation can be levelled at the members of the National Council.

The Rank Committees, the Interim Board, the National Board and the National Council failed in their duties to ensure good governance. They took a subordinate role in relation to a matter – the PPC legal challenge first against the government, and then against the Federation -

which should have been amongst the forefront of their concerns. We were told by Board members that the Interim National Board and then the National Board were, in the words of one Board member, 'kept out' of the PPC challenge.

The Panel's interviews with National Board members who held those positions during the relevant period reveal that Board members felt that the National Secretaries were unchallengeable and unquestionable. They expressed regret that they had not done more, as a Board and individually, to become involved in the pensions issue and had not held the National Secretaries more to account.

Board members should not have allowed themselves to be excluded from these vitally important matters which, ultimately, had such a devastating effect upon the finances and the reputation of the Federation. They failed to exercise effective and appropriate governance of the Federation during the period of negotiation of the police pension scheme, the subsequent challenges made by the judges and the firefighters and by the PPC.

The Board should not have enabled the National Secretaries to act without appropriate checks and balances. We find that the Normington Review's criticism of the governance of the Federation did not alter their subsequent understanding of their role, nor their behaviours.

The National Chairs of the Federation have a unique role in the structure, being directly elected by the membership and therefore, one would imagine, feeling a particular responsibility to represent the views and interests of all members. They also chaired the meetings of the Interim/National Board. Yet the National Chairs of the Federation appear to have been invisible during this period. We could find no instances of the National Chairs challenging the National Secretaries in this period, seeking to reach out to claimants and raise growing concerns, or in short fulfilling their responsibilities. It makes us question what is the role of the National Chair if not to ensure that the members' voices are put front and centre of Federation discussions?

Poor communication with Federation members

Effective member organisations make every attempt to engage with and listen to their membership using in person meetings, social media, surveys, snap polls and increasingly new and innovative uses of technology, to gauge member opinion. They are, as Andy Fittes acknowledged, '*close to their membership*'.

In the view of the Panel:

- (i) The Federation was not close to its membership in respect of their feelings and views about the effect on them of the 2015 police pension scheme;
- (ii) Its communications with members throughout the negotiations and implementation of the scheme were poor; and
- (iii) Inadequate efforts were made by the Federation to explain the 2015 pension scheme and to demonstrate what effect it would have on serving police officers.

When asked about member communications Ian Rennie replied that '*everything was on the website*'. We were astonished at this statement. Pensions are, as Mr Rennie repeatedly reminded us, a very complex issue. He is clearly of the view that police officers could not understand pensions now and did not then. When asked where Federation members would go to get information on what the revised pension proposals would mean to them individually, Mr Rennie said that he thought there was a pensions calculator on the Home Office website.

Mr Rennie justified his decision not to put the revised pension proposals to a vote of the serving Federation membership on the grounds that the membership did not understand the complexities of the pension proposals. Another reason he gave for not gauging member opinion was: '*I don't need to survey the members to know what they think.*'

We saw evidence in our interviews of an attitude that we have come to recognise pervades too many in the Federation – which is what the Panel perceives to be a disdain, sometimes bordering on contempt, for the rank-and-file officers who make up the Federation's membership.

The lack of communication and listening to the membership during this period contrasts strongly with the actions of the TUC-affiliated unions who used every communication source available to them to inform their members about the effects that the 2015 public sector pension scheme would have on them both collectively and individually.

This typically involved, amongst other things, regular articles in member magazines; direct mailings to members pointing them to information on the union website; regional meetings organised throughout the country and attended by the most senior union staff, supported by

staff with pensions expertise, in order to inform and engage with members in person and the development of a pensions calculator hosted on union websites which enabled individual members to calculate what the effect of the pension settlement would be on them.

Crucially, all the TUC affiliated unions involved in the 2011 pension negotiations conducted individual member votes with all affected members on whether they were willing, or not willing, to accept the new pension settlement.

The Federation should have been similarly engaged with its members during this period. It should have put the pension proposals to the membership in order to gauge their views which may have provided strong support for the Federation to negotiate better terms and conditions with the Government on this key issue. The complexity of the issue should have galvanised the Federation into a major communication and listening exercise.

Inexplicably, this did not happen. Rather, the Panel concludes from the evidence that the matter was considered too complicated for police officers and little effort was made to explain what the pension changes would mean for individual members of the Federation.

It is our contention that this failure to secure members' views and support was a key factor in the Employment Tribunal's judgment being so damning.

Current Federation member views

As mentioned in our introduction, the Panel has sought to ascertain the views of officers and members of the Federation by a variety of means. We have interviewed all of the main players involved at the time of the pensions' issues, with a few exceptions where individuals regrettably chose not to speak to us. We have previously detailed our visits to regions to hear Federation Officer and Rep views.

We have begun a process of branch visits which will continue into the second phase of our work, giving rank and file Federation members the chance to put their views directly to us. We have held virtual 'listening sessions' with officers and one with rank-and-file Federation members. We have also established a private email account where members can send their views on each phase of the review, with only members of the Panel and the Secretariat having access to these emails.

This email account has given a shocking insight into the attitude of at least some members to their own representative body. If these reflect the (unspoken) views of the bulk of the membership then the Federation still has severe cultural problems to overcome and an

enormous deficit of trust to rebuild. A few unattributed quotes from emails vividly illustrates the anger felt by members:

- “I feel betrayed and continue to feel this way. Disgusted. Livid.”
- “The Federation has been letting its members down for years with no apparent appetite to fight for members’ rights and entitlements”
- “They do not represent me, achieve nothing, and are not fit for purpose”
- “It is a disgraceful organisation that hides and squanders our money. They provide little or no benefit to the members, only themselves”
- “The degree of support that officers have received from the Fed is nothing short of atrocious”
- “Rotten to the core”
- “Blatant lying, deception and feathering of their own nests shown during the whole pensions debacle”
- “The PFEW are a disgrace and I’m ashamed to be a member”

These comments are made about the way the Federation dealt with members during the ten years of the pensions issue, but also about how it continues to deal with the membership today – in particular by not funding the legal fees of the Leigh Day claimants, and due to the significant sums individuals are being asked to provide at short notice to address underfunding of their pensions.

The individual emails also raise a number of questions and challenges about broader issues that concern these members – notably a lack of transparency around the organisation’s finances, a lack of awareness of how the Federation’s finances appear to have declined so significantly in a short period of time, the governance of the organisation (e.g. the operation of the National Board, leadership of the organisation, the role/ appointment/ remuneration of the CEO). Some of these will be considered in the second part of our review, but they talk to the same issue of many members having a lack of confidence and trust in the past and current leadership of the national organisation in terms of both structure and people.

We make no comment on the validity of these views, and it is, of course, important not to assume that these views – whilst genuinely held – are representative of the broader membership, but they do indicate a distance between the leadership and at least parts of the membership as well as a mistrust that is pertinent to the question of could the pensions debacle could happen again. We have also heard such views extensively in our regional visits and other listening exercises.

The emails we have received specifically about the pensions issue indicate that these members still feel bitter and badly let down by their representative body. They believe the Federation did not fight for their rights but rather caved in to Government pressure and that the leadership of the Federation persistently misled and even lied to their members and looked after their own interests and not the interests of those they were elected to serve.

We heard repeatedly about bullying behaviour by officers protected under the transitional arrangements attempting to prevent other officers joining the PPC. We were told of an Inspector walking into a room with other officers and saying *'I'll punch anyone in the face who signs up to this challenge because it'll screw my pension'*.

This is still viewed as the situation today with the Federation not being seen to address key issues, particularly of younger and more junior officers, as they struggle with household finances in the context of severely constrained pay settlements, distant retirement dates and the need to top up their pension contributions.

If the Federation is to be the representative body of police constables, sergeants and inspectors it has to be seen to represent all of them, to fight for their individual needs and to ensure that all members feel supported and valued.

In our visits to the regions of the Federation we have met many highly committed and effective branch officials and reps. They are working hard to improve the working lives of their members locally and to support them when they encounter professional difficulties. In particular, much of their time is taken with advising and defending the increasing numbers of police officers being investigated for misconduct at a scale in which the investigation process is taking months or years, and through which the officers affected suffer stress which is having a major, and sometimes devastating effect on their lives. In our regional visits we met one Federation rep who represented two officers charged with gross misconduct charges who committed suicide in the past six months. The effect on her, personally, of supporting these officers through the investigation process has been profound.

One Police Federation – England and Wales

The Panel has also been struck in our regional visits by the divide that exists between too many of the Federation branches and the National Federation.

Branches fiercely protect their financial resources, membership lists, independence of action and right to speak in local and national media. We have heard that one problem with communications during the pensions' dispute was that the central organisation could not write to all members with a common communication because the branches held the lists of members and decided what would or would not go out to them, even changing communications lines they did not like.

The consequence of this sort of behaviour is confusing communication with members which can vary depending on where they work.

Similarly, the resources that can be devoted to supporting officers varies widely between branches according to their resources with the result that a member in one area is not equal to a member in another. We have also seen the branches distancing themselves from the actions taken in the dispute, blaming the centre for the debacle even though these chief officers and Board/Council members at the centre are themselves put there by the branches through the election and nomination process.

It is our view that the Federation needs to start seeing itself as one organisation, not 43 plus 1. The branches need to see themselves as part of the Federation as a whole, thriving or suffering in common with other branches and with the fortunes of the central operation. The branches need to be trained and resourced to deliver their activity on behalf of members locally. The centre needs, in turn, to see itself as serving the needs of members in the branches, building its strength and credibility from the service it provides locally as well as nationally. It needs to be resourced and led professionally in order to fulfil its functions, including negotiating on behalf of all members, policy development, and generally safeguarding the financial viability and reputation of the organisation as a whole.

The National Federation must forge much closer working links with branches, and the branches with the centre, so that a culture and practice of information sharing is developed which is concerned with, and responsive to, member needs and priorities and how these inevitably change according to the context and challenges in which they work.

The good use of up-to-date, high-quality information and data should be used by the Federation, locally and nationally, to work in the members' interests, through local and national

campaigns, negotiations and representations which are evidentially based, well focused and properly resourced.

We will return to the question of the role of the branches, the part they can play, and the notion of a single Federation in phase 2 of our report.

Where has the money gone?

One of the questions that has been put to the Panel regularly from members is where has the Federation's money gone, such that from being perceived as a wealthy organisation it is now struggling to meet the financial obligations arising from the Employment Tribunal settlement. Members made the following statements to us:

- *"In 2015 the Federation had £70m in the bank"*
- *"At the end of 2013 a report to the Home Affairs Select Committee said we had £107m in assets"*

We have examined the audited accounts from December 2017 to December 2022, together with draft accounts for December 2023. Prior to 2017 accounts were not consolidated between the branches and the Head Office, which makes comparisons difficult.

In December 2017 the Federation did indeed have accumulated reserves (not just cash, but other assets such as buildings and investments, held centrally and in branches) of £73m. The same figure (unaudited) for December 2022 is £60m. Most of this reduction can be attributed to reductions in the value of investments and the 2021 revaluation of the pension scheme.

However, we understand that since then a revaluation by leading surveyors CBRE of the Leatherhead Head Office values it at £9m, compared to a figure of £24m in those 2022 accounts. We are not qualified to judge the suitability of either valuation, and indeed commercial valuations can swing wildly with the overall market. **However, this would lead to the Federation's accumulated audited reserves (National Office and branches) now being nearer £46m. Of this sum, £23m is held by the branches as investments, cash and other assets, which reduces the national Federation's 'real' reserves to nearer £23m.**

The period from December 2017 to December 2022 shows a healthy growth in subscriptions income (from £29m to £37m), but an equivalent growth in National Board expenditure (from £14m to £22m). Control of other expenditure and improvements in other income, however, have resulted in the Federation breaking even for the last year.

An examination of that National Board expenditure shows that much of this can be attributed to an investment of £4.5m in IT hardware and accessories in 2021 following cyber incidents, the effect of which is being seen in the depreciation charges in subsequent years. This dramatic increase in investment in IT is not untypical in organisations, indeed it could be said that the Federation may have underinvested in this area in previous years. National Board payroll also increased over the period (2017 £4m, 2022 £8m), in part by a steady increase in headcount (Dec.2017 131, Dec.2022 157).

Historically the branches collected subscriptions, 70% of which was passed to the centre to fund national costs. The branches did not generally spend all this income, however, so simply used it to build up investments and properties. This explains the fact that that branches hold such a large amount of investments compared to the centre. Arguably this could be made to work harder for the organisation as a whole. Furthermore, branch investments are managed locally, which denies the Federation as a whole the opportunity to negotiate bulk discounts on the likes of investment fees and risks these investments not being managed with sufficient expertise.

In addition, many branches (notably excluding the Met) have No.2 Accounts, which collect the likes of fees from the sale of insurance products to members. These are not declared to the National Officers, are managed locally, are not audited along with the rest of the Federation accounts, and are potentially not managed in accordance with the complex and changing regulatory requirements. The funds held by branches are therefore considerably in excess of those shown in the table below, anecdotally twice the number shown.

| £m | y/e Dec. 2017 | y/e Dec. 2018 | y/e Dec. 2019 | y/e Dec. 2020 | y/e Dec. 2021 | y/e Dec. 2022 |
|---|---------------------|---------------------|---------------------|---------------------|---------------------|---------------------|
| Subs. Income | 29 | 29 | 29 | 30 | 33 | 37 |
| Other income | 3 | 3 | 5 | 3 | 5 | 0 |
| | | | | | | |
| Member legal fees | 10 | 10 | 13 | 11 | 14 | 13 |
| National Board expenditure | 14 | 15 | 15 | 16 | 21 | 22 |
| Branch expenditure | 9 | 11 | 7 | 7 | 8 | 10 |
| | | | | | | |
| Operating surplus /(deficit) | 0 | (5) | 0 | 0 | (4) | (8) |
| | | | | | | |
| Investments - National | 17 | 14 | 10 | 9 | 8 | 7 |
| Investments - Branches | 13 | 13 | 15 | 16 | 17 | 15 |
| Investments - total | 31 | 27 | 25 | 25 | 25 | 22 |
| Cash - National | 1 | 1 | 1 | 1 | 0 | 0 |
| Cash - Branches | 11 | 8 | 8 | 7 | 7 | 7 |
| Cash - total | 12 | 9 | 9 | 8 | 7 | 7 |
| | | | | | | |
| Accumulated reserves | 73 | 71 | 72 | 70 | 68 | 60 |

The aftermath of the tribunal judgment

The 2023 tribunal judgment which found that the Federation had discriminated against and victimised Police Pension Claimants (PCC) was indeed, as the Federation acknowledged, a “*hammer blow*”.

The judgment has affected the Federation in two crucial ways. The total amount of compensation to the PPC poses an acute risk to the future existence of the Federation as a going concern. Raising the sums required has involved very difficult choices and actions which will affect the Federation in the foreseeable future and will likely involve selling the Federation’s headquarters.

Even more serious, however, is the damage that the judgment has done to the Federation itself. An organisation whose purpose should be to protect its members’ interests and fight for their professional well-being has been found to have misled its members, to have failed to communicate with them and to have victimised those who were forced to take action on their own and their colleagues’ part in order to prosecute the case against the government’s 2015 pension reforms on the grounds of age discrimination.

It took the Police Pensions Claimants (PPCs), without the resources or the professional backing of the Federation, to do what the Federation should have done – explored every avenue and be prepared to take action to protect their members’ pensions.

As a Panel we have been struck by the deep hurt and dismay expressed by the Police Pension Claimants who we have met and who have contacted us. They fail to understand why the Federation seemed so determined to ignore them and to put barriers in their way. The final straw which, according to a lead claimant, ‘*was another slap in the face*’ was the Federation’s stance towards the claimants when it did, belatedly, become an interested party in the age discrimination claim against the government.

Insult was added to injury when the Federation made it difficult for the PPC to become part of the Federation’s claim – even though these claimants had already made a substantial personal financial contribution to the pursuit of their case, were or are members of the Federation, and, in effect, are being required to pay twice for legal representation.

In our interviews with Board members and senior officers of the Federation we frequently heard the view expressed that the Federation had been failing for a long time. We heard, repeatedly, of a dysfunctional culture which pervaded the central governance structures of the Federation, including the principal officers, the Board and the Council. This issue is, we

believe, central to the reasons why the Federation failed so spectacularly, and sadly, to the question of whether it could happen again.

Having reviewed the evidence we find that the Federation's lack of involvement in broader TUC discussions and information flows; the lack of attention being paid to cases brought by the firefighters and judges; the unwillingness to seek new legal advice as the situation changed; the poor and misleading communication with members and reluctance to seek their views; the active efforts to discourage challenge both internally and externally; the deliberate actions of National Secretaries and others to stifle discussion and opposition; and governance structures – in particular the Interim and National Boards – that failed to hold the senior leadership to account.

This all smacks of an arrogant and inward-looking culture born of a centralist mindset and a feeling that the interests and views of rank-and-file members do not matter. Whilst much has changed since the Employment Tribunal judgment of 2023, we believe that until the culture of the organisation changes radically and senior leadership recognise the roles of service they perform the failings of the past could happen again.

Implementation of the Recommendations of the Normington Review

We were asked to extend our original terms of reference to include consideration of the recommendations from the Normington Review and which have been implemented by the Federation.

Our conclusions are detailed in Appendix 3, page 41. In summary, implementation has been patchy. Two recommendations were rejected – the introduction of tenure limits for National Board members and Principal Officers, and a one-off 25% reduction in subscription fees. We have repeated the recommendation to introduce tenure limits, and consider it a fundamental part of the essential reform process. Without this not enough will change. Indeed, we would speculate that tenure limits may have prevented some of the difficulties the Federation has since experienced. The recommendation on subscription fees is not viable today due to the state of the Federation's finances as a consequence of the pensions dispute.

Some recommendations were accepted but simply not introduced. Chief amongst these were the recommendations around transparency, and in particular financial transparency, notably at a local level. Nationally the annual report and accounts have still not been published for 2022 and 2023. The branch No.2 accounts are still not combined in the national accounts or even detailed in them, nor are other accounts held at a branch level. We have no evidence that this is in any way due to financial irregularities, but is symptomatic of the cultural separation of the Federation into 43+1 organisations we referred to earlier. Recommendations around transparency of minutes and papers have again been agreed and to a degree implemented, but in the past not in a manner that made them helpful – as our own attempts to track decisions and discussions at the National Board and National Council illustrate.

A number of other recommendations were initially implemented, but then fell by the wayside over time. A national Public Value Report was produced in 2018 but then not until recently has it been refocused as a Member Value Report. Our limited desk-top research indicates that local branch reports were not introduced systematically, and those branches that did so have not regularly continued in the process. For example, we found a report by Merseyside in 2018, Kent in 2019, Northumbria and Cheshire in 2021, Devon & Cornwall in 2022, and by the West Midlands in 2023. The Independent Reference Group was convened as recommended and with appropriate membership, but we can see no record of a report from them having been included in the annual report, nor were new members recruited as others left, such that there is now just a single advisor.

The structural recommendations were implemented, in the face of considerable opposition from parts of the Federation. Rank Committees were abolished, rank representation at national and local level has fallen away, and the National Board has been introduced. Thus one significant cultural divide that existed within the Federation – that between ranks – has been removed, at least in the open. The Federation did, as recommended, employ an external firm of consultants to assist with the implementation. We recognise that the Federation at the time and to decreasing degrees up till now was not equipped to implement this degree of change using internal resources alone. We would express concern, however, that the consequence of this (and subsequent use of consultants) is that Federation staff are not upskilled in a way that enables them to run an organisation of the Federation's size and complexity. We welcome more recent moves to professionalise the Federation's national staff operation to address this, and enable a reduction in the use of consultants.

The Panel's Initial Recommendations

We make the following initial recommendations as a result of our findings and conclusions. These will be reconsidered and built upon in phase 2 of our report. We ask the Federation to consider them seriously, even when they appear to be challenging. We are clear that it is extremely important that the Federation continues to work on behalf of its members, and of policing in general. The initial recommendations below, in our opinion, provide a way ahead for the Federation to acknowledge the wrongs of the past and to secure a forward-looking membership organisation, in touch with its members and acting effectively on their behalf.

1. The Federation needs to reunite, to bring together the Leigh Day claimants' group with the rest of the membership and to bring the branches together with the centre. We will make a number of recommendations as to how to heal these divisions in phase 2 of our report. In looking back, however, we would observe that all in the Federation – the Principal Officers at the time, the National Board, the National Council and the regions/branches must take responsibility for the failings of the Federation in its response to and treatment of the PPC claimants. Centrally there was a failure to respond to changing circumstances, an assumption by National Secretaries that they were right and not to be called into question, a failure to challenge; locally there was bullying and intimidation of claimants and a failure to hold those elected to account. No one part of the Federation is solely responsible for the problems it faces. **The Federation must move forward thinking of itself as one organisation, with shared responsibility for resolving these issues.**
2. **All Principal officer and National Board roles should have tenure limits and individuals be prevented from simply shuffling into different but equivalent roles.** This would introduce a freshness of approach to decision-making and prevent the sense of 'jobs for life' in senior Federation roles, as well as ensuring that individuals in these roles remain connected to the current experience of front-line policing and their regions. We recognise the disruption that moving immediately to this would cause to the composition of the National Board and to the individuals therein, and so recommend that this should be introduced for the 2028 election cycle. We will propose the specific rules around tenure limits in our second report.
3. Those in Principal Officer, National Board and National Council positions during the pensions dispute (2012– 2018) failed badly in their governance duties. **The Federation needs to provide immediate training and support** for all those in such

positions in their governance responsibilities to prevent this happening again. Furthermore, **individuals should reflect on what role they personally played in the pensions dispute period and whether they should have behaved or acted differently, and be prepared to discuss these questions openly with their electorate during the forthcoming elections.** This would help the organisation to recognise the responsibility that comes with such roles and to move on.

4. **We recommend that the Chair of the National Board be formally responsible** for the maintenance of Board/Council files, the minuting of formal and informal decision-taking meetings and the circulation of papers promised to such bodies, and that an independent secretariat function reporting to the Chair be established for that purpose.
5. **We recommend that the Federation is the data owner and controller for all data generated by Principal Officers and staff in the course of their duties, including email exchanges, and that this is made clear in their letters of appointment.**

Looking Forward

We now move on to the second phase of our report, which we aim to complete by early in 2025.

This report will consider what changes are needed to the structure, culture, governance and operation of the Federation in order for it to become an effective, member-led organisation which is held in high regard by its members. What will it take for the Federation (both nationally and locally) to be recognised as a member organisation which is doing good work on its members' behalf?

The same should be true of important stakeholders for whom the Federation should be a trusted source of information and, when needed, an organisation which is able to provide significant challenge and scrutiny of those stakeholders through its detailed knowledge of the current state of policing and its advocacy of policies and which would improve police practice and the status of the policing profession.

Terms of Reference

The PFEW has appointed an independent panel to undertake a review of its internal workings, structures, accountability to membership, and effectiveness. The review will be split into two phases comprising: Phase 1 looking back at the failings which led to the litigation outcomes (the "Look Back Review") and Phase 2 which will present future facing recommendations for the PFEW arising out of the Look Back Review (the "Look Forward Review").

Within 6 weeks of the completion of the Look Back Review, the findings of the Look Back Review will be made publicly available and will be sent to the Home Office. Within 6 months of the publication of the Findings of the Look Back Review the PFEW will commission the Look Forward Review which will be conducted by an independent panel which may comprise members of the Look Back Review panel.

The terms of reference, for the Look Back Review will include the following:

- To understand and examine what went wrong in relation to the decisions and actions taken by PFEW which led to the proceedings and judgment in Broadbent & Others v PFEW in order to identify the key lessons to be learned from that Judgment, including an examination of historic governance controls.
- To review whether Sir David Normington's recommendations from 2014 were or have been properly implemented and to identify where there were failings which contributed to the complaints raised in the Broadbent proceedings.

The Terms of Reference for the Look Forward Review will include the following:

- To undertake, and report on, an assessment of whether PFEW's processes, policies and communications are focussed primarily on its duties to its members and its wider statutory duties, and whether any amendments are required, taking the findings in the Judgment into account;
- For the appointed panel to consult with the membership on matters arising from the terms of reference in order to enable members to propose any recommendations they would like the panel to make, and for the panel to consider such proposals as part of its review.

Appendix 2

Non-anonymous Interviewees

| <u>Person</u> | <u>Role</u> |
|---|-----------------------------------|
| Mukund Krishna | CEO |
| Calum Macleod | National Secretary (on leave) |
| Gemma Fox | Deputy National Secretary |
| Hayley Aley | National Board Member |
| John Partington | National Board Member |
| Zac Mader | National Board Member |
| Ian Saunders | National Board Member |
| Simon Kempton | National Board Member (Treasurer) |
| Steve Hartshorn | National Chair (Suspended) |
| Tiffany Lynch | Deputy National Chair |
| Dawn Troman | Lawyer (Osborne Clarke) |
| Jonathan Keighley | In-house counsel |
| Ian Rennie | Previous National Secretary |
| Andy Fittes | Previous National Secretary |
| Alex Duncan | Previous National Secretary |
| John Sturzaker (via email) | Lawyer |
| Lee Broadbent | Claimant in Leigh Day case |
| Darren Deex | Claimant in Leigh Day case |
| John Phelan | Finance director |
| Melissa Dalton | HR expert |
| Mark Lake | Pensions expert |
| Paul Turpin | Pensions expert |
| Chief Constable Amanda Blakeman (North Wales) | Chief Constable, N. Wales |
| Mark Jones | Previous Secretary North Wales |

Appendix 3

Implementation of the Normington Review

| | Recommendation | Status | Comment |
|---|--|---------------|--|
| 1 | The Federation should adopt immediately a revised core purpose which reflects the Police Federation's commitment to act in the public interest, with public accountability, alongside its accountability to its members. This should be incorporated in legislation as soon as practicable. | Completed | |
| 2 | An independent reference group of four to six members should be established with a range of expertise ranging from public policy, to law, to policing, to organisational management. This group would be to provide 'a critical friend' to the Federation. Its purpose would be to examine and assess the degree to which the Police Federation is meeting its public interest obligations. The group would ensure that there is some external impetus for the Federation to focus beyond its own internal issues on matters of public concern and interest. At least 50 percent of the membership of this body should be from outside the world of policing. The positions would be advertised and the members would be selected by a panel of the Police Federation with an equal number of local and national representatives... We suggest that the group should be required under the Federation's rules produce a short report for inclusion in its annual report. | Partial | Group established but not maintained, report not included in annual report and accounts, currently in abeyance (1 adviser) |
| 3 | A new requirement at national level to publish online an annual public value report alongside a short assessment of | Partial | Completed by some branches in some years. No national report from |

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| | progress by the independent reference group. Branch annual reports should also report on the value the branch is bringing to its members and to the public. | | 2016/17 until 2024 (now Member Value Report) |
| 4 | National guidelines for all expenses, honoraria and hospitality policies should be agreed and local force branches will be required to comply with these – a requirement embedded in regulations. All individual expenses, honoraria, and hospitality received should be declared by and then published online. | Partial | Published for National Board. Not done for National Council or branches. |
| 5 | An openness commitment should be signed by all local force branches and the national Federation which will establish the principle that all committee papers and minutes should be available to members unless there is genuine commercial, political, or negotiation sensitivity. | Completed | |
| 6 | All accounts from which the Police Federation derives income or contributes revenues should be published and be publicly available. This includes Number 2, member services, group insurance trusts, accounts or funds. These should be included in the F45 return. | Not implemented | No.2 and other accounts not published nor included in F45 return. |
| 7 | Guidance to be agreed by local force branches and the national Federation for publication of all committee papers (with a few exceptions), and decisions taken. | Completed | No guidance issued but publication happening anyway |
| 8 | The completion of local and national databases. Where these are currently incomplete we request that the Association of Chief Police Officers (ACPO) and the Home Office agree to the | Completed | |

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| | transfer of email addresses to the local Federations and the national Police Federation. The national database cannot be used to promote commercial services in competition with those provided by the branches | | |
| 9 | A Director of Equality and Diversity should be appointed to oversee the Federation's progress on managing equal opportunities as well as liaising with support groups and networks for minority officers and others. | Completed | Title is HR Director instead. |
| 10 | A rolling three year equality plan should be prepared with measurable benchmarks for improvement of representation, support, and public engagement monitored by an Equality sub-committee of the National Board. This sub-committee should contain members from external minority associations. | Completed | Prepared up till 2023. |
| 11 | New networks of support for 'protected characteristics' and other groups such as young-in-service officers need to be established. | Completed | |
| 12 | Equality assessments should be undertaken in each local force and at national level to determine the need for reserve seats for the 'protected characteristics' | Completed | |
| 13 | A new performance and standards agreement will be drafted, consulted upon, and then signed by all representatives. It will comprise expectations of a Police Federation representative. | Completed | |

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| 14 | An ethics, standards and performance process to be established on the lines of that introduced in Scotland. | Completed | |
| 15 | Both the performance and standards agreement and the process should be published on local branch and the national Police Federation websites | Completed | |
| 16 | The provisions in regulations for equal representation of ranks at local level should be repealed. | Completed | |
| 17 | Regulations should be amended to establish a national framework within which local negotiations on representation levels should take place | Completed | |
| 18 | Increase the profile and capacity of professional staff in HQ with a focus on the research capacity to support branches and influence the pay review body, professional management, member support and training, communications and public policy. | Partial | On appointment of CEO process of reform of executive team begun, but not yet completed. |
| 19 | Appoint an experienced project director and an implementation team to implement the change programme recommended in this final report. | Completed | |
| 20 | Create a senior executive team and the additional posts of Director of Finance to oversee the reform and management of the Federation's budgets; Director of Policing Policy with a view to engaging in debates about the future of policing; a Director of Equality and Diversity. It is likely that Directors of Communications, | Partial | On appointment of CEO process of reform of executive team begun, but not yet completed. Precise roles need to be determined in light of needs at the time. |

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| | Research, and Legal would also be part of this team. | | |
| 21 | Unify the staffing of Head Office under the General Secretary, as de facto Chief Executive. Create job descriptions for the General Secretary and other post-holders that recognise the need of the Police Federation to be credible, authoritative, expert and professional. Individuals will be assessed in relation to the degree to which their skills match this job description and appraised on that basis also. | Partial | CEO appointed instead. Job descriptions prepared, but need changes. |
| 22 | Rank committees at local and national level should be removed from the governance and decision-making structure of the Police Federation. | Completed | |
| 23 | A new Branch Council of workplace representatives in each local force area and a Branch Board should be established as the main body governing Federation Branch affairs. These will be conducted on the basis of the principles and process outlined in this final report. | Completed | |
| 24 | The current 10–10–10 default membership of Branch Boards should be abolished and replaced with a new 50–20 rule at local level: no rank can have more than 49 percent of the membership of a Branch Board and no rank can have less than 20 percent. ‘Protected characteristics’ should be safeguarded in accordance with local independent equality assessments. Branch Boards will be considerably smaller than is currently the case in accordance with the numbers related to force size outlined in this final report. | Completed | Branch Boards were 24, now reported as being average of around 7. |

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| 25 | The Branch Chair should be elected by all members and the Secretary should be selected by the Branch Board. They should be from different ranks. | Partial | Election/selection happening, but don't have to be from different ranks. |
| 26 | The Branch Chairs and Secretaries meeting should be established as a new National Council with formal powers. This will be the main national forum representing local force branches. It will be a co-decision maker with the National Board on major strategic decisions, national budgets, a consultee on subscription rates and negotiation strategy, and will have a formal role in selecting nominees for General Secretary. | Completed | |
| 27 | A new National Board should replace the Joint Central Committee. This will be a slimmed down body both in terms of numbers and the amount of time that representatives will devote to national level business. It will still have regional representation, some rank representation and better representation of 'protected characteristics'. Its role will be to safeguard the organisation, make day-to-day decisions as required, formulate strategic direction, monitor the budget, oversee communications, oversee national elections, and ensure that the standards and performance process is in place and effective. | Completed | The JCC at the time of Normington was 30, National Board is 24. |
| 28 | A new professional means of selecting the General Secretary. The Chair will be elected by the membership. | Completed | |

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| 29 | National Conference should be slimmed down in terms of time and numbers. | Completed | |
| 30 | There should be limits on tenure for all post-holders of two terms of three years with potentially two terms of five years for the General Secretary | Rejected | |
| 31 | All accounts including Number 2, group insurance and member services accounts, funds, and trusts to be published. A general financial transparency clause is needed in regulations including a requirement to publish and report all income that derives from and funds Police Federation activity | Not implemented | Accounts no published. |
| 32 | The market for members' service and group insurance products should be reviewed and collective provision between a number of Branches, potentially facilitated and negotiated by the national Police Federation, to gain from possible economies of scale, should be explored. The National Board will not seek to replace Branch commercial relationships other than by joint agreement with the branches affected. | Partial | Has been some joint provision initiated by individual branches, but not process of collective provision review nationally. |
| 33 | A new fund should be created from some of the surpluses and reserves of the current rank committees to support smaller branches in deficit. | Completed | |
| 34 | All resources to be routed via the centre and distributed to branches on the basis of agreement in the National Council. This step will be agreed to within three years once the National Council and | Partial | Subscriptions revenue is routed and distributed via the centre. |

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| | National Board have found a constructive way of working | | |
| 35 | The new National Board to commission in 2017 a review of the options for Leatherhead after 2019 | Completed | |
| 36 | There should be a 25 percent reduction in subscription levels for one year in 2015 | Rejected | |

Appendix 4

Timeline of Pensions Liability Issue

| <u>Date</u> | <u>Event</u> |
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| March 2011 | The final Hutton report was published; this recommended both short and long term reform of public service pensions. |
| 18/07/2012 | PFEW received the first advice from Martin Westgate KC |
| 04/09/2012 | Reform Design Framework (RDF) (for a new police pension scheme) was published and presented to the Police Negotiating Board (PNB). |
| 24/04/2013 | Enactment of the Public Service Pensions Act 2013 (PSPA). Section 18 of the PSPA prevented further pension being earned in the previous pension schemes from 1 April 2015 other than in accordance with 'transitional arrangements'. |
| 30/09/2013 | PFEW received the second advice from Martin Westgate KC |
| 23/05/2014 | Ian Rennie retired as General Secretary of PFEW. |
| 24/05/2014 | Andy Fittes became General Secretary of PFEW |
| 01/04/2015 | The Police Pension Regulations 2015 came into effect. Depending on length of service, some members were offered full or transitional protection in the legacy pension schemes. Those officers within four years of qualifying for full transitional protection in either of the legacy schemes were given tapered protection which had the effect of delaying their transfer into the new pension scheme. The tapering process lasted for seven years and ended in April 2022. |
| 14/04/2015 | PFEW received the third advice from Martin Westgate KC |

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| 06/08/2015 | PFEW released a statement confirming that, on the basis of the legal advice it had received, it was not intending to fund a challenge of the new police pension scheme. |
| 06/10/2015 | Meeting between Leigh Day Solicitors and PFEW to discuss the potential of a legal challenge. |
| 11/12/2015 | Leigh Day solicitors launch the Police Pensions Challenge against the Government on behalf of around 15,000 officers. The claim was stayed on the basis that the same or similar arguments were being raised in the McCloud and Sergeant cases (i.e. the firefighters and the judges cases). |
| 31/09/2018 | Andy Fittes retired as National Secretary of PFEW. |
| 01/10/2018 | Alex Duncan became National Secretary of PFEW. |
| 20/12/2018 | The Court of Appeal delivered its judgment in the McCloud & Sergeant case – it found in favour of the Claimants and against the Government. |
| 27/06/2019 | The Supreme Court refused the Government permission to appeal the McCloud & Sergeant decision. |
| Aug 2019 | The Government conceded liability on the Police Pension Challenge and the stay on those proceedings was lifted shortly thereafter. |
| 07/10/2019 | PFEW (and other police staff associations, applied to become interested parties in the Police Pension Discrimination case) – this was granted at a preliminary hearing on 28 October 2019. |
| 15/05/2020 | PFEW announced that it would launch its own Pension Compensation Claim, and appointed Penningtons Manches Cooper solicitors to conduct this on behalf of members – this litigation is ongoing. |
| 01/10/2020 | Leigh Day commenced the Pension Discrimination Claim against PFEW on behalf of around 10,000 of its members. |
| 30/06/2022 | Alex Duncan retired as National Secretary of PFEW. |

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| 01/07/2022 | Calum McCleod became National Secretary of PFEW. |
| 06/09/2022 – 27/01/2023 | The final hearing in the Pension Discrimination Claim commenced before Employment Judge Massarella – the hearing dates were split and the matter returned to the ET on 20/01/2023 until 27/01/2023. |
| 06/06/2023 | The ET delivered its judgment in the Pension Discrimination Claim – PFEW comprehensively lost the claim. |

Appendix 5

About the Panel Members

Professor Mary Bousted, Chair

Mary Bousted has over 25 years of experience leading major trade unions representing teachers, leaders and support staff and workers in the public sector. She was elected president of the TUC in 2017 before becoming joint general secretary of the National Education Union, a position she held until August 2023. She is currently a member of the World Board of Education International. Prof Bousted was granted an Honorary Professorship with the Centre of Teachers and Teaching Research from UCL.

Mr Peter Vicary-Smith

Peter Vicary-Smith spent 14 years as chief executive of the consumer membership organisation Which?. He advises both established companies and digital start-ups on engaging with their customers and members and putting their needs front and centre of decision-making. Mr Vicary-Smith is the chair of the BMJ Publishing Group and a non-executive director of its parent the BMA. He is also an independent non-executive director of Northumbrian Water and has just finished his term as chair of Oxford Brookes University.

Appendix 6

Additional notes

Concerns have been raised during the preparation of this first Phase of the Report by Leigh Day regarding a potential conflict of interest for Prof. Mary Bousted in conducting her role as the Chair of this Panel. Those concerns focused on Prof. Bousted's previous role as Joint General Secretary of the National Education Union (NEU) at a time when the pensions matters discussed in this Report, and which were integral to the claims brought by the PPC Claimants against the Federation, were ongoing. The PFEW was aware of Prof. Bousted's previous role when she was appointed to the Panel and her union experience was considered a desired skill set for the Panel, bringing an understanding of the nature and workings of an organisation similar (although not akin) to the PFEW. The PFEW openly sought a panel member with a proven track record of leading change within membership organisations.

The ATL (the union led by Prof. Bousted prior to its 2017 merger with the NUT to form the NEU) adopted a very different strategy than the PFEW in consulting its members on the pension settlement of 2011. Members were informed by individual post, on the website and in pension meetings throughout the country, what the implications of the government's pension proposals would mean for them. A pensions calculator was developed and featured prominently on the ATL website which enabled individual members to make calculations on the effects of the proposals on their pension.

This culminated in a one member one vote on the government's proposals for teacher pensions. This resulted in a 96% acceptance of the pension proposals.

On July 2019 the then Chief Secretary to the Treasury released a Ministerial Statement which clearly stated that once there was a final decision of the employment tribunal as to remedy this would be paid automatically to affected members of all public sector pension schemes. This was reiterated by a letter to the TUC from the Chief Secretary to the Treasury and a statement issued by the Teachers Pension Scheme. On that basis senior staff at the NEU reached an agreed position that it was not necessary to issue tribunal proceedings for NEU members. Prof. Bousted was not involved in those discussions or that decision.

There were no requests from NEU members to issue a claim on their behalf. Members were advised via the website that the NEU was satisfied the government would resolve the issue and this has proved to be the case.

As such, the Panel and the PFEW are satisfied that there is no conflict of interest in her appointment to the Panel and that Prof. Bousted remains independent and able to conduct

the Phase 1 review, and the Phase 2 review, on an objective and fair basis, without a conflict of interest.

When the Panel was originally constituted, Dr. I. Stephanie Boyce was appointed as a third member of the Panel. Dr. Boyce participated in the initial work of the review panel but stepped down from the Panel prior to the conclusion of the review. As such the views and contents of this Phase 1 Report are the work of the remaining members of the Panel, Prof. Bousted and Mr Vicary-Smith and cannot and should not be attributed to Dr. Boyce.