



# Cabinet Policy Committee

POL Min (07) 22/6

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## Minute of Decision

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### Police Act Review: Employment Relations Arrangements

On 19 September 2007, the Cabinet Policy Committee (POL), having been authorised by Cabinet with Power to Act [CAB Min (07) 34/9-14]:

#### Background

- 1 **noted** that in August 2007, the Cabinet Social Development Committee noted that the Minister of Police intended to submit, in September 2007, a suite of Cabinet papers seeking decisions on new policing legislation [SDC Min (07) 13/3];
- 2 **noted** that the submission under POL (07) 330 is one of a suite of papers on the Police Act Review, and should be read in conjunction with the papers under POL (07) 356, POL (07) 328, POL (07) 329, POL (07) 331 and POL (07) 357;

#### Proposals

##### *Aligning with mainstream employment arrangements*

- 3 **noted** that the companion paper under POL (07) 329 proposes that the Police's future human resources framework should be guided by general employment legislation, unless there are compelling reasons for departing from the State sector norm;
- 4 **agreed** to extend the application of the Employment Relations Act 2000 to all Police employees, to ensure Police staff generally have the same employment rights and responsibilities as other State sector employees;

##### *Specific arrangements to cater for limits on industrial action*

- 5 **noted** that, despite the proposal in paragraph 4, some special features of Police's employment arrangements must be preserved to safeguard the continuity of policing services;
- 6 **agreed** to retain the legislative prohibition against industrial action by constables;
- 7 **agreed** to reflect the public safety obligations of Police employees who are not constables through:
  - 7.1 the specification of policing as an "essential service" under Schedule 1A of the Employment Relations Act 2000;

- 7.2 the inclusion of public safety components in a tailored code of good faith, similar to that found in Schedule 1B of the Employment Relations Act 2000;
- 8 **agreed** to balance limits on constabulary employees' rights to take industrial action by continuing to provide recourse to final offer arbitration, after relevant Employment Relations Act processes have been exhausted;
- 9 **agreed** to better reflect the good faith negotiating environment in which any future arbitrations might occur, by specifically allowing any party to bring to an arbitration any matters it considers relevant, provided such matters do not impinge on the Commissioner of Police's responsibility to set appropriate standards of conduct and integrity for Police employees;

#### ***Union coverage***

- 10 **agreed** not to continue to define in legislation representative staff associations for Police employees that may take part in wage bargaining negotiations and any resulting arbitrations, in order to emphasise the contestability of representation rights;

#### ***Appointments***

- 11 **agreed** to carry forward in legislation the current provisions in the Police Act 1958 relating to appointments, subject to any updates required to achieve greater alignment with equivalent provisions in the State Sector Act 1988;

#### ***Reviews***

- 12 **agreed** that it is not necessary to carry forward in legislation specific provisions in the Police Act 1958 relating to reviews of employment decisions, by providing that:
- 12.1 all Police employees can access standard appointment review procedures approved by the State Services Commissioner;
- 12.2 staff refused permission by the Commissioner of Police to voluntarily disengage on medical grounds can take a personal grievance action;

#### ***Resignations***

- 13 **agreed** to carry forward in legislation the current provisions in the Police Act 1958 relating to the process for notifying a resignation, subject to any updates required to reflect Police's new inclusive workforce model;

#### ***Grievances***

- 14 **noted** that the proposal in paragraph 4 will mean that the specific section in the Police Act 1958 dealing with personal grievances will become redundant;
- 15 **agreed** not to maintain in legislation a Police-specific grievance procedure, and not to carry forward in legislation the Commissioner of Police's current statutory defence to grievance actions under section 87(2) of the Police Act 1958;

***Disciplinary arrangements***

- 16 **noted** that on 15 August 2007, the Cabinet Social Development Committee noted that the Commissioner of Police was finalising a draft Code of Conduct for Police employees, and agreed that the Police Regulations 1992 be amended to allow for the final Code of Conduct and associated disciplinary procedures to apply to all members of the Police [SDC Min (07) 13/2];
- 17 **agreed** to help complete the move to the Code of Conduct environment by not carrying forward in legislation the following provisions of the Police Act 1958:
- 17.1 section 5A (which provides a specific power to dismiss a Police employee for “incompatible behaviour”, following a statutory inquiry);
- 17.2 section 12 (which provides for an inquiry process to be followed before the Commissioner of Police can take disciplinary action against staff);

***“Good employer” principle***

- 18 **agreed** to confirm in legislation the Commissioner of Police’s obligation to operate a personnel policy which complies with the principle of being a good employer, in line with sections 56 and 58 of the State Sector Act 1988;

***Superannuation***

- 19 **agreed** to continue the Commissioner of Police’s statutory discretion whether to make superannuation compulsory for constabulary staff;

***Standards of fitness***

- 20 **agreed** to confirm in legislation the Commissioner of Police’s ability to prescribe standards of medical, psychological or physical fitness for certain employees, and to be able to exit staff for failing to meet those standards;

**Legislative implications**

- 21 **noted** that the Appendix to the paper under POL (07) 330 sets out a summary of proposed legislative continuations and updates, which map current human resource-related sections in the Police Act 1958 across to the proposed new Policing Act;
- 22 **noted** that a Policing Bill holds a category 5 priority on the 2007 Legislation Programme (instructions to be provided to Parliamentary Counsel Office in 2007);
- 23 **invited** the Minister of Police to issue drafting instructions to Parliamentary Counsel Office to give effect to the above proposals.

Janine Harvey  
Secretary

Reference: CAB (07) 473; POL Min (07) 21/15

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Copies to: (see over)

**Present:**

Rt Hon Helen Clark (Chair)  
Hon Dr Michael Cullen  
Hon Jim Anderton  
Hon Steve Maharey  
Hon Phil Goff  
Hon Annette King  
Hon Pete Hodgson  
Hon Parekura Horomia  
Hon Mark Burton  
Hon Rick Barker  
Hon Damien O'Connor  
Hon David Cunliffe

**Officials present from:**

Office of the Prime Minister  
Department of the Prime Minister and Cabinet  
Law Commission  
New Zealand Police  
Ministry of Justice

**Copies to:**

Cabinet Policy Committee  
Chief Executive, DPMC  
  Director, PAG, DPMC  
  PAG Subject Advisor, DPMC  
Secretary to the Treasury  
  Solicitor-General  
State Services Commissioner  
  Commissioner of Police  
Minister Responsible for the Law Commission  
  Secretary for Justice  
Minister of Labour  
  Secretary of Labour  
Chief Parliamentary Counsel  
Legislation Coordinator