

## Strategic Board

**Report to: the Office of the Police, Fire and Crime Commissioner for Essex**

<b>Title of Report:</b>	Special Constable One Off Payment Proposal
<b>Agenda Number:</b>	12
<b>Chief Officer:</b>	ACC Rachel Nolan
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<b>Date Approved by Finance</b> <i>(Colin Cooper/Matthew Tokley/Kate Whittaker)</i>	
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*All papers must be presented to COG unless otherwise agreed by the DCC*

## 1. Aim and Purpose

The purpose of the paper is to provide members of the Strategic Board with the proposed road map to achieve the Special Constable One Off Payment as per the Chief's announcement on 8 January 2021.

## 2. Summary

On 8 January 2021 Chief Constable Harrington announced in recognition of the impact COVID-19 has had on Police Officers, Police Staff, and their families a £100 one-off payment would be made to those who were in service on the 17 December 2020 and are eligible to receive the payment (exceptions listed within Connexions message <http://connexion.ecis.police.uk/about/news/2021/jan/20210108-op-talla-payment.html>).

The 'Home Office Guidance on Special Constable expense and allowance rates', April 2014 defines the payment of allowances approved by the Secretary of State under Regulation 4(2)(b) and (3) of the Special Constables Regulations 1965 (Appendix 1).

The tax rules mean that a one-off payment will have tax implications for the Specials as the payment of any award or bounty (regardless of the description) creates an element of profit, the SC would become subject to the normal rules for tax and NICs on all the payments they receive, including any reimbursed expenses.

The proposal is to work with the Home Office to seek an exemption for the one-off payment to Specials for Op TALLA support. The force will also need to approach HMRC for their permission to make such payments and ensure that the individuals volunteer status is preserved.

## 3. Eligibility

The December 2020 Special Constabulary monthly management report indicates that there were 448 attested officers in that month all of them having been attested and available prior to 17 December 2020.

Applying the exemption criteria set within the Chief's message reduces eligibility to 313 SCs.

## 4. Finance implications

The 'Home Office Guidance on Special Constable expense and allowance rates', April 2014 defines the payment of allowances approved by the Secretary of State under Regulation 4(2)(b) and (3) of the Special Constables Regulations 1965.

As summarised above, this means that a one-off payment will have tax implications for the Specials as the payment of any 'award or bounty' (regardless of the description) creates an element of profit, the SC would become subject to the normal rules for tax and NICs on all the payments they receive, including any reimbursed expenses.

HMRC state that the general principle for out of pocket expenses for office holders is that if there is genuinely no element of profit from performance of duties then the allowance may be paid, or the expense reimbursed, tax free.

However, the position will be different if the office holder receives other forms of payment or benefit-in kind or if total expenses payments, together with the values of any benefits and other payments, comes to £8,500 or more for a year. (The figure of £8,500 is proportionately reduced if the Special Constable is in post for less than a year).

If a Special Constable receives other forms of payment or benefit-in kind the force will be liable for paying National Insurance Contributions on all subsequent payments to the Special Constable.

The impact would be to all Special Constables as the payment would alter their volunteer status and that all expenses claimed from Essex Police would be taxable (this financial year) and in most cases would cost the Specials more than £100 in tax and national insurance.

A bounty (or other payment) would alter the terms of the Special Constable office to holding an 'office of profit' and, as a result of this, all payments they receive would become subject to income tax and national insurance claims. This means their expenses and allowance payments previously not subject to income tax and national insurance become liable to the extent that they are not otherwise exempt.

Essex Police Corporate Finance Department is working with the force tax advisors, PS Tax, to approach HMRC to seek authorisation to make such payments or council tax discounts for Specials without impacting the volunteer status. Any agreement from HMRC would require the force to meet the tax liability of the payments on a grossed-up basis.

## 5. Options presented to Chief Officers Group

The following options were presented to the Chief Officers Group on 10 February and concluded progress for variant of option 2 whereby total cost including tax & NI liability is set at £100/Special (Option 2b).

Option	Cost*	Risks	Benefit	Requirement
1. Rescind on payment	£0	Demoralisation of Specials	Simple Completion	Comms
2. Herts model – purchase of Amazon vouchers to the value of £100/person	Basic cost of £31,300 Tax & NI liability approximately £15,650 Total cost as c£47k.	Additional cost for tax & NI liability	Deliver on announcement Value of Specials Retain volunteer status	HMRC endorsement Force to meet the tax liabilities for the payments on a grossed-up basis Establish criteria Establish opt out mechanism Payment of £100 Establish appeal mechanism
3. No mitigation & transfer of	Basic cost would include ERS NI and Apprenticeship levy costs of	Demoralisation of Specials	Simple	Establish criteria Establish opt out mechanism

implications to individuals with opt out	£4,444.60 making the total of £35,744.60. Essex Police would also have significant liabilities for ERS NI and Apprenticeship levy for all payments made to the Specials – this has not been calculated as would be on opt out basis, but the basic total cost would be as above.	Increased exits	Reduced cost due to opt out numbers No HMRC resolution for EP as transferred to individual	Payment of £100 Establish appeal mechanism
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\*Based on 313 Specials eligible for payment

**6. Additional and next steps**

Essex Police Corporate Finance Department advise that the provision of a voucher rather than cash removes the income tax liability, but Class 1A NI of 13.8% still exists. Our tax advisers have now been instructed to approach HMRC for their permission to apply the “Herts” model to Essex with the force meeting all liabilities via a PSA (PAYE Settlement Agreement) and they have confirmed that they are progressing with our instruction. Essex Police cannot proceed until we have permission from HMRC. If the intention of the force is to pay the net value to the Specials rather than the £100, then the actual voucher value to the individuals will be approximately £85, with the remainder accounting for NI due. The Force tax advisers are clear in that the wish of the force is to reward our Specials whilst preserving their volunteer status.

7F Procurement has been consulted and advises as Amazon are the sole provider, a Single Tender Action submission is required for sign-off and then a purchase order can be raised for the £26,605\* worth of vouchers.

Essex Police Federation have been consulted and are fully supportive of the payment to Special in recognition of the work they have undertaken during Covid.

**8. Appendices**

Appendix 1: Home Office Guidance on Special Constable expense and allowance rates’, April 2014  
[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/304488/GuidanceSpecialConstableExpenseAllowanceRates.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/304488/GuidanceSpecialConstableExpenseAllowanceRates.pdf)