

PFCC Decision Report

Report reference number: 044-2021
Classification: Not protectively marked
Title of report: Op TALLA - Special Constables One-Off Payment Proposal
Area of county / stakeholders affected: pan-Essex
Report by: Supt Michelle Davies on behalf of ACC Nolan
Date of report: 17 March 2021
Enquiries to: Supt Michelle Davies

1. Purpose of the report

The purpose of the paper is to inform the PFCC of the proposed road map to achieve the Special Constable One Off Payment as per the Chief's announcement on 8 January 2021 and to seek agreement to proceed.

2. Recommendations

To endorse payment through the approach offered as 'option 2' below.

3. Benefits of the proposal

On 8 January 2021 CC Harrington announced that a £100 payment for diligence, special meritorious conduct and outstanding work during the pandemic would be added to February payslips for eligible Essex Police officers and staff. In recognition of the impact the coronavirus pandemic has had on Essex Police officers, staff and their families, Chief Constable Harrington is making an award of £100.

The payment has been agreed in consultation with, and with the support of, the Police, Fire and Crime Commissioner and is supported by the Police Federation and Unison. The Chief Constable is able to make this payment by exerting his powers as per the Police Act 1996, section 31 (Rewards for diligence) and the Police Reform and Social Responsibility Act 2011, Schedule 2. £100 was automatically added to February payslips for eligible officers and staff.

We are currently working with the Home Office to establish a way to reward and recognise the extraordinary contribution of our Specials during the pandemic as well.

4. Background and proposal

On 8 January 2021 Chief Constable Harrington announced that, 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 17 December 2020 and were eligible to receive the payment (exceptions were listed within the Connexions message available at <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 its permission to make such payments and ensure that the individual's volunteer status is preserved.

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.

5. Alternative options considered and rejected

The following options were presented to the Chief Officers Group on 10 February 2021 and concluded progress for a variant of option 2 whereby the total cost including tax & NI liability is set at £100 per Special (Option 2b).

Option	Cost*	Risks	Benefit	Requirement
Rescind on payment	£0	Demoralisation of Specials	Simple Completion	Comms
Herts model – purchase of Amazon vouchers to the value of £100 per person	Basic cost of £26,605* NI liability approximately £4,695 Total cost as c£31,300.	Reduce net payment per person from £100 to £85	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
No mitigation & transfer of implications to individuals with opt out	Basic cost would include ERS NI and Apprenticeship levy costs of £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 an opt out basis, but the basic total cost would be as above.	Demoralisation of Specials Increased exits	Simple Reduced cost due to opt out numbers No HMRC resolution for EP as transferred to individual	Establish criteria Establish opt out mechanism Payment of £100 Establish appeal mechanism

*Based on 313 Specials eligible for payment

6. Police and Crime Plan

While the payment does not directly link to the PFCC's Police and Crime Plan, the Specials Command significantly contributes to its delivery. The parity across Regulars and Specials of the payment firmly embeds Specials as an integral part of the Essex Police offer to its communities.

The Specials do contribute to:

- Priority 1 – More local, visible and accessible policing - "Our objective is to ensure that crime prevention is based in the community, that victims come first, and that you know what is happening in your neighbourhood."
- Priority 2 – Cracking down on anti-social behaviour - "Our objective is to keep our communities safe across the whole of Essex, reducing the disruption and distress anti-social behaviour causes people."
- Priority 4 – Tacking gangs and serious violence - "Our objective is to catch criminals and support early intervention to improve public safety."
- Priority 6 – Protecting children and vulnerable people from harm - "Our objective is to ensure children and vulnerable people are appropriately safeguarded and that they receive the help and support they need."
- Priority 7 – Improving safety on our roads - "Our objective is to reduce harm on the roads and promote safer driving."

7. Police operational implications

There are no operational implications.

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

8. Financial 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 states 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's Corporate Finance Department advises 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 it has confirmed that it is 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's tax advisers are clear in that the wish of the force is to reward our Specials whilst preserving their volunteer status.

Essex Police's Corporate Finance Department has been advised that the force's tax advisors, PS Tax, has endorsement from HMRC that the voucher approach will not impact the volunteer status. The force will be required to meet the tax liability of the payments on a grossed-up basis.

9. Legal implications

There are no legal implications outside of those address within the Finance section.

7F Procurement has been consulted and advises that, as Amazon is 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. This addresses procurement-related legal implications.

10. Staffing implications

There have been no staff implications identified.

11. Equality and Diversity implications

There have been no Equality and Diversity implications identified.

12. Risks

There have been no risks identified.

13. Governance Boards

An *Op TALLA: One off payment to Specials* paper has been presented and endorsed for progress by:

- Chief Officer Group (10 February 2021)
- Police, Fire and Crime Commissioner's Strategic Board (11 March 2021)

14. Background papers

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

Report Approval

The report will be signed off by the PFCC Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.

Chief Executive / M.O.

Sign: 

Print: P. Brent-Isherwood

Date: 18 March 2021

Chief Finance Officer / Treasurer

Sign: 

Print: Julia Berry

Date: 18 March 2021

Publication

Is the report for publication?

YES

NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

.....N/A.....

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet? YES
NO

2. Of Appendix? YES
NO

If 'YES', please provide details of required redaction:

.....N/A.....

Date redaction carried out:

Treasurer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Treasurer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive/Treasurer

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 

Print: Roger Hirst

PFCC

Date signed: 18 March 2021

I do not agree the recommendations to this report because:

.....
.....
.....

Sign:

Print:

PFCC/Deputy PFCC

Date signed: