



**ASSOCIATION OF  
CHIEF POLICE OFFICERS**

**RM**

# **Guidelines on the Management of Business Interests & Additional Occupations for Police Officers & Police Staff**

**The Association of Chief Police Officers has agreed to these revised guidelines being circulated to, and adopted by, Police Forces in England, Wales & Northern Ireland.**

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# Document information

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**These revised guidelines have been produced and approved by the ACPO Workforce Development Business Area. This document was considered and approved by the Professional Practice Gateway Group on the 19<sup>th</sup> July 2012. This revised document was ratified & approved by the Police Advisory Board for England & Wales in July 2012 and Chief Constables' Council on 18<sup>th</sup> October 2012. The purpose of this document is to assist those who make decisions in respect of the approval or refusal of applications by police officers, staff & support volunteers in respect of business interests and additional employment. It will be updated and re-published as necessary.**

**Any queries relating to this document should be directed to either the author detailed above or the ACPO Programme Support Office on 020 7084 8959/8958.**

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## **1. SECTION 1 – INTRODUCTION**

- 1.1 It is essential that the public has confidence in the integrity and impartiality of the police service. These guidelines do not prevent police officers or police staff from holding a business interest or additional occupation. It is designed to promote consistent decision-making when authorising business interests and additional occupations which do not conflict with the work of the police, undermine public confidence or adversely affect the reputation of an employee, their force, or the wider police service.
- 1.2 Decision-makers should start from the presumption that an application to register a business interest or additional occupation should be granted if there are no adverse reputational matters or conflict with the values and ethos of the police service. This will also determine whether conditions are attached to any approval and the reasoning behind any conditions imposed or indeed any outright rejection must be fully recorded.
- 1.3 These guidelines are intended to support those who will make decisions to approve or refuse business interests or additional employment applications by police officers, police staff and police support volunteers.
- 1.4 Special constables are covered by separate in terms of employment as detailed in NPIA Circular 01/2011. The considerations in this circular are broadly similar to those contained within these guidelines and must be decided on a case by case basis.
- 1.5 Applicants to the police service are required to declare any existing business interest they may intend to continue should they be appointed. However, they will not be eligible for appointment if they intend maintaining a business interest that is incompatible with being a member of the police service. Decisions on compatibility will be based within these guidelines. If an appropriate officer (on behalf of a chief officer) deems an applicant's existing business interest to be incompatible, then either the applicant will be required to cease their involvement with that business interest or their application to join the police service will be rejected. There is no right of appeal to a chief officer for such applicants.

## **2. SECTION 2 – DEFINITION OF A BUSINESS INTEREST**

- 2.1 Regulation 7 of the Police Regulations 2003 (as amended by the Police (Amendment No. 3) Regulations 2012) provides that a person has a business interest if:
  - A. Being a member of a police force, the person holds any office or employment for hire or gain (otherwise than as a member of the force) or carries on any business, or;
  - B. Being a member of a police force or a relative included in such a member's family, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question.
- 2.2 "Relative" in relation to a member of a police force means:
  - i. A spouse or civil partner who is not separated from the member;
  - ii. A person living with the member as if they were the member's spouse or civil partner, or;
  - iii. A parent, son, daughter, brother or sister of the member.
- 2.3 Although police staff are not covered by Police Regulations, the same definition of business interest and relative applies to police staff and police support volunteers. The term 'member' is used in these guidelines to refer to police officers, police staff, and police support volunteers.

### **3. SECTION 3 – OUTLINE OF PROCEDURES**

- 3.1 Where a member of a police force proposes to have a business interest or additional occupation, or where a situation arises within section 2.1 (b) above, the member shall give written notice of the business interest or additional occupation to the chief officer which will be considered by an appropriate officer (being a person responsible for the maintenance of professional standards who has been authorised by the chief officer to exercise functions under regulation 8) within the prescribed time limit.
- 3.2 In determining whether or not a prospective business interest or additional occupation is compatible with the member concerned remaining a member of the police force, and to identify and assess any risk to force or service reputation, the appropriate officer may wish to take into account the perspective of human resource personnel and the applicant's departmental head who may be best placed to identify and assess risk surrounding compatibility with the individual's role, duties and responsibilities.
- 3.3 In determining whether to approve an application for a business interest or additional occupation, the appropriate officer will consider each case on its own merits and in doing so will take into account the principles expanded upon in section 4 below.
- 3.4 In order to allow a business interest or additional occupation to be granted which would otherwise be rejected, the appropriate officer may consider the imposition of conditions. Such conditions may facilitate the granting of a business interest or additional occupation which might otherwise not be approved, or may set an appropriate framework in which a member's business interest or additional occupation must operate. In such cases the rationale for each condition imposed should also be fully recorded.
- 3.5 Where an appropriate officer is minded to decide that an application for a business interest or additional occupation should not be authorised, or should be authorised only subject to conditions, the applicant should be notified in writing and provided with an opportunity to make oral and written representations (and in doing so may be assisted or accompanied by a police friend/trade union/ staff association representative) before a final decision is made. It is good practice for the appropriate officer to discuss informally with the applicant any issues pertaining to the application prior to forming a preliminary view.
- 3.6 After receiving any such representations, the appropriate officer may approve the original application, approve the application subject to conditions, or decide approval should not be granted. The reasoning behind any rejection of an application or the imposition of conditions must be fully recorded and communicated to the member, and a right of appeal to the chief officer must be granted (see Appendix B).
- 3.7 Where an application is granted the appropriate officer should provide the applicant with written authority to undertake a business interest or additional occupation, together with any conditions should they apply.

### **4. SECTION 4 – AUTHORISING PRINCIPLES**

- 4.1 Members may only operate a business interest or undertake an additional occupation with the permission of the force. Conduct of a business interest or an additional occupation without permission should be dealt with as a breach of standards of professional behaviour under the misconduct procedures.
- 4.2 There are specified activities which should never be permitted. These are the holding of a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment within the force area (all of which are activities specifically covered by Regulation 7 of Police Regulations 2003).

4.3 Whilst each case should be considered on its own merits, a number of factors covering the following areas must be taken into account in determining whether to approve an application for a business interest or additional occupation:

- Impartiality – predicted, expected or evidenced;
- Impact on the force – potential and perceptions;
- The applicant's current performance;
- Proportionality – in relation to seniority and role;
- Equality and Diversity;
- Health, safety and well-being.

4.4 These six areas are expanded on in more detail in section 5 below to assist in identifying specific issues relevant to each application. Your appropriate officers should appreciate this list is not exhaustive and there may be other considerations which apply to individual cases.

4.5 Decision makers should start from the presumption that an application for a business interest or additional employment should be granted once satisfied that there are no adverse reputational matters or conflicts with the values and ethos of the police service and will determine whether conditional approval may be warranted.

## 5. SECTION 5 – APPLICATION OF AUTHORISING PRINCIPLES

5.1 **Impartiality** – relates to the risk of the business interest or additional occupation interfering with an individual's ability to impartially discharge his or her duties or the extent to which the public would be likely to perceive or form an impression that it would so interfere:

- Whether the activity is one regulated by the police or where police are involved in the licensing of the activity;
- Whether the business interest or additional occupation is merely an extension of an individual's duty or the extent to which training, skills and experience provided by the force are to be relied upon;
- Whether the office of constable or being an employee of the force could be used to promote the business or additional occupations or a product of the business or additional occupation or would allow other organisations or commercial interests to do so;
- Whether an individual's fairness or impartiality in their dealings with the public or colleagues might be compromised.

5.2 **Impact on the Force or Service** - relates to the risk of the business interest or additional occupation either discrediting the police force or undermining confidence in the police service:

- The nature of the business interest or additional occupation – how reputable it is in its own right in the eyes of the public and in association with the police service;
- Whether the activity could lead to the public losing confidence in the honesty and integrity of the individual or of the police service or if it would be likely to cause confusion in the minds of the public as to whether the individual was operating in an official or unofficial capacity;
- Where the activity could lead to the individual being improperly beholden to any person, organisation or institution;
- Whether the business interest could lead to conflicting contractual commitments to a third party e.g. providing advice to a training company which is then contracted to work for the police force.

5.3 **Current performance** - this relates to the risk of a decline in performance of the member evidenced by the member's current suitability through performance monitoring. Unsatisfactory attendance and misconduct should not necessarily be a reason for refusal unless either has a direct bearing on the business interest or additional employment. An example of a business interest or additional occupation that may be accommodated with performance issues is allowance for a rental accommodation that provides additional income without incurring additional work pressures:

- **Attendance:** When a member is absent from work on sick leave or returns to work on restricted or recuperative duties, consideration should be given to suspending approval or the business interest, providing the medical issue is related to the business interest or additional occupation so as to make it relevant.
- **Misconduct and Performance:** Consultation with the force's Professional Standards Department (PSD) or Human Resources Department should take place to consider any current or previous misconduct and the impact or risk of any relevant misconduct on the approval of any business interest or additional occupation. If it is considered that the misconduct relates directly to the business interest or additional occupation approval may be modified or withdrawn.
- Where a member with an existing approved business interest or additional occupation is subject to police performance procedures, police misconduct procedures or managing performance procedures for police staff, current approved business interests and additional occupations should be reviewed by the appropriate officer, provided the conduct or performance is directly related to the business interest or additional occupation.

- 5.4 **Proportionality in relation to seniority and role** - relates to the requirement to take account of the seniority, role and nature of the duties of the police officer, police staff or police support volunteer. For example, it would be sensible to reflect on the nature of work carried out by the member, the different employment status of police officers and police staff, and the public impact of their proposed business interest or additional occupation prior to making a decision. There should be no one-size fits all approach to decision-making on business interests or additional occupations.
- 5.5 **Equality and diversity** - decisions on business interests or additional occupations must take full cognizance of equality and diversity considerations. Forces must ensure that all decisions can be justified by reference to relevant equality legislation and the duty on police forces under the Equality Act 2010 to actively promote equality.
- 5.6 **Health, safety and well-being** - relates to the duty of care to the individual and the risk of injury or increased stress and fatigue which could impact on the member's ability to perform duties to a satisfactory standard. As part of any consideration of a business interest or additional occupation it is essential a police force monitors the total number of hours a member will be working to comply with the duty to protect their health and safety. This will ensure that the total demands of the jobs do not pose a risk to the health of the member concerned or his or her ability to work safely, either as an individual or part of a team. A sensible starting point for these purposes would be to examine the requirements of the Working Time Regulations (1998). Further information on this can be found [here](#).
- 5.7 Appendix A to these guidelines provide more specific guidance on those business interests or additional occupations which are likely to be incompatible with the interests of the police service and which will have a high probability of raising questions as to the ability of a member of a police force to discharge duties with impartiality and the standard of integrity expected. The list is by no means exhaustive. The fact that an activity for which approval is sought is on the list may not in itself justify rejection without full consideration of the risk and impact factors. Equally, the absence of any proposed interest or occupation from this framework should not give rise to an assumption of reasonableness.

## 6. SECTION 6 – RECOMMENDED ASSESSMENT, RECORDING AND APPEALS PROCESS

- 6.1 Chief officers should ensure the following information is included in any policy or procedure to ensure it is in line with Police Regulations, the Home Office Guidance on Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures, and to reflect Her Majesty's Inspectorate of Constabulary (HMIC) recommendations relating to police integrity that the service's decision making in respect of business interests and additional occupations is sufficiently robust to address individual risk and organisational reputation. Force procedures aligned to these guidelines should ensure a consistent approach to decision making along with any necessary supporting administrative processes:

- Definition of business interest/additional occupation;
- Requirement to declare a business interest in line with force procedure;
- The Police Regulations 2003 require serving police officers to notify their chief officer, in writing, of the business interests or additional occupations they have or propose to have unless that business interest has previously been disclosed;
- If a member has or proposes to have, or becomes aware that a relative included in their family proposes to hold or have a pecuniary interest in a licence or permit relating to liquor licensing, refreshment houses or betting or gaming or regulating places of entertainment in the area of their home police force, which in the opinion of the individual interferes or could be seen as interfering, with the impartial discharge of their duties, then the individual should give written notice of that interest to the chief officer.
- Reference to business interests or additional occupations that are likely to lead to rejection of an application;
- A defined and accessible structured application form together with guidance as to completion and submission criteria. It is recommended that the application form incorporates a declaration indemnifying the force against injury or personal loss incurred as a result of the business interest or additional occupation;
- Timescales for submission and approval of the application. A decision should be made and communicated to the applicant in no more than 28 days;
- How such applications are recorded and monitored;
- What data will be stored and for what purpose (information should be marked as restricted and processed in accordance with the Data Protection Act 1998 and disclosed in accordance with force statutory obligations under the Freedom of Information Act 2000);
- Where an appropriate officer is minded to decide that an application for a business interest or additional occupation should not be authorised, or should be authorised only subject to conditions, the applicant should be notified in writing and provided with an opportunity to make oral and written representations (and in doing so may be assisted or accompanied by a police friend/trades union/staff association representative) before a final decision is made. It is good practice for the appropriate officer to discuss informally with the applicant any issues pertaining to the application prior to forming a preliminary view;
- An appropriate officer should provide an applicant with a written rationale for any decision to either not authorise an application or to impose limiting conditions on an application;
- Arrangements for the publication of a register of types or categories of activities being undertaken as business interests and additional occupations to provide transparency and to promote public confidence in the system. The published information should describe ranks of police officers and grades of police staff and police support volunteers but not details that could identify individuals. The published register should be updated periodically and at least annually;
- Requirement for the individual to notify HM Revenue and Customs or other relevant agency of any additional income or occupation and to appropriately discharge any liabilities and/or satisfy any requirements.

6.2 It is recommended that business interest and additional occupations should be declared in all applications for promotion, specialist posts, secondments and training courses requiring commitment in terms of private study, and attendance on residential modules out of force. It is also recommended that business interests and additional occupations be declared in all change of postings or role. This should not prejudice any application but, for successful applications, the implications of a business interest may require further consideration.

6.3 Appendix B to these guidelines outlines the procedure for appeals against the non-authorisation of a business interest or additional occupation or the imposition of conditions, for police officers. Forces should establish similar procedures for police staff and police support volunteers.

## **7. SECTION 7 – RECOMMENDED MONITORING & REVIEWING PROCESS**

7.1 It is recommended that each force adopts a monitoring process for all business interests and additional occupations involving the following:

- The timescale for review should be agreed at the time of approval and at each subsequent review;
- It is responsibility of the member to report any changes in circumstances between reviews of an approved business interest or additional occupation to the chief officer through local management. The chief officer may ask for any additional information deemed necessary;
- Consideration should be given to rescinding approval if the member fails to inform the chief officer of any change of circumstances or supply any additional information requested;
- Consideration should also be given to rescinding approval if a member fails to submit a business interest or additional occupation for review when prompted to do so;
- Each force should regularly review its policy to ensure relevance and compliance, in particular with the Working Time Regulations and Health and Safety considerations;
- Enquiries might be made in certain circumstances (i.e. where intelligence appears to suggest) to ensure that the business interest or additional occupation has not been embarked upon without approval being sought or in spite of the refusal.

7.2 Following the approval of a member's business interest or additional occupation there may be circumstances that lead to a review of the approval. These may include performance and attendance issues, conduct, health, welfare and well-being or any change in role.

7.3 Approval may be made subject to conditions or withdrawn due to a revision of standards relating to business interests or additional occupations. In such circumstances a member should not be subject to disciplinary proceedings or any other action for having conducted a previously approved business interest or additional occupation prior to the review.

**APPENDIX A****GUIDANCE ON INCOMPATIBLE BUSINESS INTERESTS AND ADDITIONAL OCCUPATIONS**

Business interest or additional occupation applications will be decided on a case by case basis involving careful consideration of a number of factors. This includes the nature of the business interest or additional occupation and the current role and responsibilities of the applicant. Your appropriate officers (those with delegated powers from the chief officer as decision makers, usually the Head of Professional Standards) should start from the premise that only those business interests or additional occupations that are compatible with the ethos and values of the police service will be permitted. Careful consideration should be given to the potential for adverse reputational damage to the service arising from any perception of any shortfall in the integrity of a member of a police force being associated with the prospective interest or additional occupation.

Once satisfied there are no adverse reputational matters or conflicts of compatibility with the values and ethos of the police service, appropriate officers should start from the presumption that an application for a business interest or additional occupation will be granted unless there is sufficient justification for it to be rejected and will determine whether conditional approval may be warranted. The reasoning behind any imposition of conditions or any outright rejection must be fully recorded.

It is not possible to provide a definitive list of specific occupations, interests or activities that are likely to lead to an application being rejected because of the need to consider each case on its merits and to assess the risks involved. The following framework is intended to provide service-wide consistency of approach to the type of activities which are likely to lead to the rejection of an application. The list of activities and examples of specific jobs provided is not exhaustive. Equally it should not be assumed that an activity (other than the first) will automatically be rejected because it appears in the list below.

- Holding a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment within the force area (all of which are activities specifically covered by Regulation 7 of Police Regulations 2003);
- Working in licensed premises where there would be a conflict of interest with policing duties or with the specific work carried out by a police staff employee;
- An activity that would present a conflict of interest in the administration of justice (e.g. magistrate, practising solicitor, barrister, fine enforcement officer);
- An activity that involves investigation for other than police purposes (e.g. loss assessor, private detective);
- An activity that mirrors police responsibilities or is an extension of police functions (e.g. close protection, private security or surveillance, crime prevention or personal safety);
- An activity that is connected with the lending of money or recovery of debts for others or an activity that involves "hard selling" to colleagues or members of the public by placing undue pressure upon them to buy or rent, including recruiting others to sell on his or her behalf;
- An activity using specialist skills or knowledge obtained through the police service;
- Renting accommodation from or letting accommodation to a member of staff who is in the same line management structure (excluding short-term arrangements, such as holiday lets);

- Appearing in any commercial filming production in which they portray either a police officer, police community support officer or other uniformed role, whether on or off duty, or undertake any role where it could be construed that they are representing the police service;
- The writing and publication of books, articles or other material for gain by serving members of the police service about their policing or work experiences.

**APPENDIX B****BUSINESS INTERESTS – APPEALS PROCEDURE****1. INTRODUCTION**

All appeals against the non-authorisation of an application for a business interest or additional occupation will be heard by the chief officer.

An appeal may be made on the grounds of process and/or be a substantive appeal against the decision. In either case the chief officer must consider all the information made available to him or her.

For the avoidance of doubt, all references in this guidance to 'days' mean actual days rather than working days.

**2. LODGING AN APPEAL**

An appellant may send written notice of an appeal to the chief officer within 10 days of being notified of the decision not to authorise an application or to impose conditions. Appeals received outside of this period will be accepted only at the discretion of the chief officer. A notice of appeal should state briefly the reasons for the appeal.

**3. CONSIDERATION OF THE APPEAL**

An appellant has a right to make written and/or oral representations to a chief officer in support of an appeal. Where the appeal is a substantive appeal against the decision made by the appropriate officer, the chief officer will consider the full case on its merits and reach a decision in the light of all the evidence available to him or her. Where it appears to the chief officer that the appellant has put forward substantive reasons why he or she should be permitted to have the business interest or additional occupation, or why conditions should not be imposed, which were not considered by the appropriate officer, or where the chief officer considers the appropriate officer failed to apply fair procedures, the chief officer may remit the matter back to the appropriate officer for reconsideration.

**4. NOTIFICATION OF THE APPEAL OUTCOME**

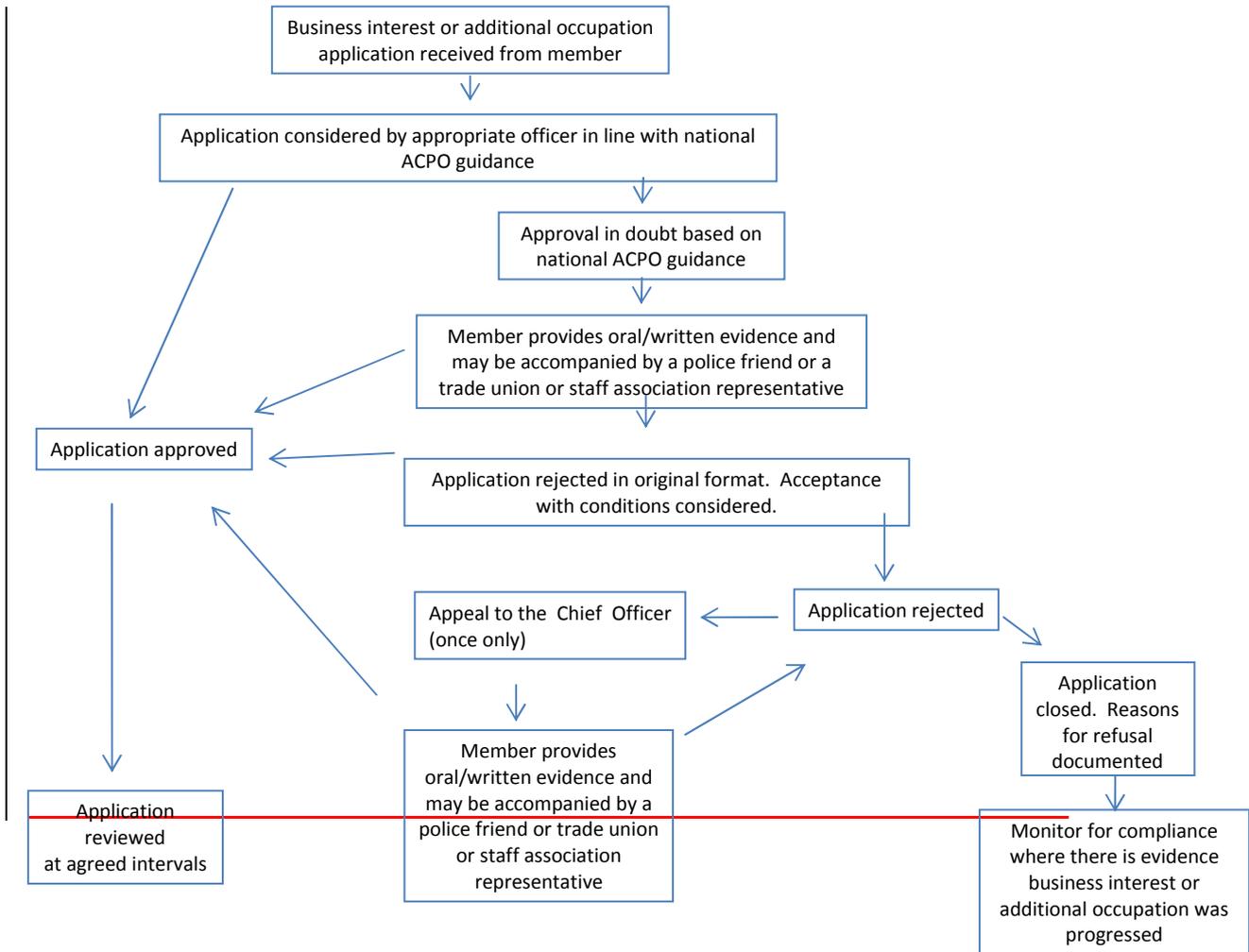
The chief officer's decision will be given to both parties to the appeal at the conclusion of the meeting and within 28 days of receipt of the notice of appeal (unless the chief officer decides to extend this period in which case the appellant must be given written notice of the reasons for the extension). It is good practice to provide written reasons for the decision within seven days of the meeting. There is no further right of appeal against the decision of the chief officer.

**5. REPRESENTATION**

At all stages of this procedure the appellant may be represented by a police friend /trade union/ staff association representative.

**APPENDIX C**

**APPLICATION AND APPROVAL FLOWCHART**



**APPENDIX D**

**POLICE (AMENDMENT NO.3) REGULATIONS 2012**

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STATUTORY INSTRUMENTS

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**2012 No. 1960**

**POLICE, ENGLAND AND WALES**

**The Police (Amendment No. 3) Regulations 2012**

*Made*

*24th July 2012*

*Laid before Parliament*

*27th July 2012*

*Coming into force*

*20th August 2012*

The Secretary of State makes the following Regulations in exercise of the powers conferred by section 50 of the Police Act 1996(1).

In accordance with section 63(3) of that Act(2), the Secretary of State has supplied a draft of these Regulations to the Police Advisory Board for England and Wales and taken into consideration their representations.

**Citation and commencement**

1. These Regulations may be cited as the Police (Amendment No. 3) Regulations 2012 and shall come into force on 20th August 2012.

**Amendment of the Police Regulations 2003**

2. The Police Regulations 2003(3) are amended as follows.

3. For regulations 7 (business interests incompatible with membership of a police force), 8 (business interests: supplementary) and 9 (business interests precluding appointment to a police force) substitute—

**“Business interests of members of police forces: general**

7.—(1) Where, in the case of a member of a police force—

(a) a business interest has been held by the appropriate officer to be incompatible with continued membership of the force under regulation 8; and

(b) either—

(i) no appeal has been made under regulation 9, or

(ii) such an appeal has been made and the chief officer has upheld the decision of the appropriate officer, the decision of the appropriate officer shall be regarded as a lawful order for the purposes of the standards of professional behaviour set out in the Schedule to the Police (Conduct) Regulations 2008(4) and, in the event of any failure to abide by the decision, those Regulations shall apply as though the appropriate authority had determined under regulation 19(4) of those Regulations that the member had a case to answer in respect of gross misconduct.

(2) For the purposes of this regulation and regulations 8 and 9 a person has a business interest if—

(a) being a member of a police force, the person holds any office or employment for hire or gain (otherwise than as a member of the force) or carries on any business; or

(b) being a member of a police force or a relative of a member, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to alcohol licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question.

(3) Functions of the chief officer under this regulation and regulations 8 and 9 may be exercised only—

(a) by the chief officer personally; or

(b) by an acting chief officer.

(4) A member of a police force may choose—

(a) another member of a police force;

(b) a police staff member, or

(c) a person nominated by the member's staff association,

who is not otherwise involved in the matter to act as the member's police friend in relation to the procedures set out in regulations 8 and 9.

(5) A police friend may—

(a) advise the member concerned throughout the procedures set out in regulations 8 and 9;

(b) accompany the member concerned to any meeting held under regulation 8 or 9; and

(c) make representations on the member's behalf at any such meeting,

and a chief officer shall permit a police friend who is under the chief officer's direction and control to use a reasonable amount of duty time for these purposes.

(6) In this regulation and regulations 8 and 9—

“acting chief officer” means—

(a) a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011(5),

(b) a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 or 45(4) of that Act, or

(c) a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839(6);

“appropriate officer” means a person serving in the part of the police force responsible for the maintenance of standards of professional behaviour who has been authorised by the chief officer to exercise functions under regulation 8;

“police staff member” means—

(a) a member of the civilian staff of a police force (within the meaning of section 102(4) and (6) of the Police Reform and Social Responsibility Act 2011); or

(b) an employee of the Common Council of the City of London who is under the direction and control of the Commissioner of the City of London Police;

“relative”, in relation to a member of a police force, means—

(a) a spouse or civil partner who is not separated from the member;

(b) a person living with the member as if they were the member’s spouse or civil partner; or

(c) a parent, son, daughter, brother or sister of the member,

who is included in the member’s family;

“staff association” means—

(a) in relation to a member of a police force of the rank of chief inspector or below, the Police Federation of England and Wales;

(b) in relation to a member of a police force of the rank of superintendent or chief superintendent, the Police Superintendents’ Association of England and Wales; and

(c) in relation to a member of a police force who is a senior officer, the Chief Police Officers’ Staff Association.

(7) In its application to a chief officer, this regulation and regulations 8 and 9 have effect with the following modifications—

(a) paragraph (3) of this regulation has effect as if it read—

“(3) Functions of the local policing body under this regulation and regulations 8 and 9 may be exercised, where that body is an elected local policing body, only by the body personally or by a deputy appointed under section 18(1)(a) or 19(1)(a) of the Police Reform and Social Responsibility Act 2011.”;

(b) in paragraph (6) of this regulation—

(i) the definition of “acting chief officer” is omitted;

(ii) the definition of “appropriate officer” has effect as if it read—

““appropriate officer” means a member of the staff of the local policing body who is not under the direction and control of the chief officer and who has been authorised by the body to exercise functions under regulation 8;” and

(iii) every other reference to the chief officer has effect as a reference to the local policing body.

### **Business interests of members of police forces: notification and determination**

8.—(1) If a member of a police force—

(a) has or proposes to have a business interest which has not previously been disclosed; or

(b) is or becomes aware that a relative has or proposes to have a business interest which, in the opinion of the member, interferes or could be seen as interfering with the impartial discharge of the member's duties and has not previously been disclosed,

the member shall immediately give written notice of that business interest to the chief officer.

(2) On receipt of a notice given under paragraph (1), the chief officer shall direct the appropriate officer to decide whether or not the business interest is compatible with the member concerned remaining a member of the police force.

(3) In deciding whether the business interest is compatible with the member concerned remaining a member of the police force, the appropriate officer shall have regard to whether, as a result of the business interest, the member's conduct fails or would fail to meet the standards of professional behaviour set out in the Schedule to the Police (Conduct) Regulations 2008.

(4) Where the appropriate officer is minded to decide that the business interest is not compatible with the member concerned remaining a member of the police force, or is not so compatible unless conditions are imposed, the officer shall—

(a) notify the member in writing of this preliminary view and the reasons for it;

(b) give the member the opportunity to make representations in writing, at a meeting, or both, at the discretion of the member; and

(c) take any such representations into account.

(5) Whether or not notification is given under paragraph (4), the appropriate officer shall, within 28 days of receipt of the notice given under paragraph (1), notify the member concerned in writing of the officer's decision in relation to the business interest.

(6) Where the decision is that the business interest is compatible with the member concerned remaining a member of the police force, the notification under paragraph (5) may include a requirement for the member to furnish particulars of changes in the business interest, as respects its nature, extent or otherwise.

(7) Where the decision is that the business interest is not compatible with the member concerned remaining a member of the police force, or is not so compatible unless conditions are imposed, the notification under paragraph (5) shall—

(a) include a statement of the reasons for the decision;

(b) be accompanied by copies of any document on which the officer relies in support of the decision, and

(c) inform the member of the existence of the right of appeal under regulation 9.

(7) Where a member of a police force is required to furnish particulars of changes in a business interest under paragraph (6), then in the event of any such change being proposed or occurring this regulation shall have effect as though the changed business interest were a newly proposed or newly acquired business interest.

#### **Business interests of members of police forces: appeal**

**9.—**(1) Within 10 days of being notified of an appropriate officer's decision under regulation 8(5), or within such longer period as the chief officer may in all the circumstances allow, a member of a police force may appeal against that decision by sending written notice to the chief officer.

(2) On receiving notice of appeal under paragraph (1) the chief officer shall—

(a) give the member the opportunity to make representations in writing, at a meeting, or both, at the discretion of the member; and

(b) take any such representations into account.

(3) The chief officer shall decide the appeal unless it appears to the chief officer that—

(a) the member has adduced substantive reasons why the member should be permitted to have the business interest, or why conditions should not be imposed, which were not considered by the appropriate officer; or

(b) the appropriate officer failed to apply fair procedures,

in which case the chief officer may direct the appropriate officer to decide the matter again under regulation 8.

(4) Subject to paragraph (5), the chief officer shall, within 28 days of receipt of the notice of appeal under paragraph (1), notify the member concerned in writing of the outcome of the appeal and provide a statement of the reasons for the decision.

(5) The chief officer may extend the period specified in paragraph (4), where the chief officer considers that it would be in the interests of justice to do so.

(6) Where the chief officer decides to extend the period under paragraph (5), the chief officer shall provide written notification of the reasons for that decision to the member concerned.

#### **Business interest precluding appointment to a police force**

**9A.**—(1) A candidate is not eligible for appointment to a police force if the candidate or a relative of the candidate has a business interest which is to be retained after appointment, unless the business interest is approved by the chief officer or, in the case of a candidate for appointment as chief officer, by the local policing body.

(2) For the purposes of this regulation—

(a) a person has a business interest if—

(i) being a candidate for appointment to a police force, the person holds any office or employment for hire or gain or carries on any business, or

(ii) being a candidate for appointment to a police force or a relative of a candidate, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to alcohol licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question; and

(b) “relative”, in relation to a candidate for appointment to a police force, means—

(i) a spouse or civil partner who is not separated from the candidate,

(ii) a person living with the candidate as if they were the candidate’s spouse or civil partner, or

(iii) a parent, son, daughter, brother or sister of the candidate,

who is included in the candidate’s family.”.

**4.** After regulation 10 (qualifications for appointment to a police force) insert—

**“Taking of fingerprints and samples prior to appointment to a police force**

**10A.—**(1) Where a candidate for appointment to a police force is to be offered an appointment, the offer shall (unless the candidate is applying to transfer to the force from another police force or is a special constable for that or another police area) be subject to the following conditions—

(a) the candidate is required to have fingerprints and a sample taken;

(b) the candidate must consent to the fingerprints and sample taken being the subject of a speculative search; and

(c) the chief officer must be satisfied that the candidate is suitable for appointment following the results of the speculative search.

(2) In a case to which paragraph (1) applies, the candidate shall notify the chief officer in writing whether the candidate consents—

(a) to the taking of fingerprints and a sample; and

(b) to such fingerprints and sample being the subject of a speculative search.

(3) Where a candidate is appointed as a member of a police force, upon appointment—

(a) any fingerprints taken under paragraph (1) shall be treated as if they had been taken under regulation 18(1); and

(b) any sample and any information derived from a sample taken under paragraph (1) shall be treated as if the sample had been taken under regulation 19(1).

(4) In this regulation—

“sample” has the same meaning as in regulation 19(4);

“speculative search” has the same meaning as in Part V of the Police and Criminal Evidence Act 1984(7).”.

**5.—**(1) In regulation 18(1) (fingerprints) at the beginning insert “Subject to paragraph (4).”.

(2) After regulation 18(3) insert—

“(4) A member of a police force who was required to have fingerprints taken under regulation 10A(1) shall not also be required to have his fingerprints taken under paragraph (1).”.

**6.—**(1) In regulation 19(1) (samples) at the beginning insert “Subject to paragraph (5).”.

(2) After regulation 19(4) insert—

“(5) A member of a police force who was required to have a sample taken under regulation 10A(1) shall not also be required to have a sample taken under paragraph (1).”.

*Nick Herbert*

Minister of State

Home Office

24th July 2012

## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations amend the Police Regulations 2003 (“the 2003 Regulations”) by replacing the provisions about business interests held by police officers, candidates for appointment to police forces, and their relatives, and by inserting new provisions about biometric vetting of candidates.

New regulation 7 of the 2003 Regulations, substituted by these Regulations, defines key terms such as “business interest” and “relative”. These carry the same meaning as under the existing provisions. New regulation 7 also sets out the consequences if a police officer’s business interest is held to be incompatible with the officer’s continued membership of the force. In the event of a failure by the officer to abide by such a decision, the officer is treated as though a finding had been made that he had a case to answer in respect of gross misconduct under the Regulations dealing with police conduct, and proceedings may be taken against him under those Regulations accordingly. This is a change from the current position, whereby the chief officer of police has the power to dismiss the officer in the event of a failure to abide by a decision, with the approval of the police authority but without undertaking disciplinary proceedings.

New regulation 7 further requires the functions of the chief officer under the business interest provisions to be performed by the chief officer personally, or by a senior officer standing in for the chief officer under specific statutory provisions that permit this. Delegation of the chief officer’s functions is prohibited.

Finally, new regulation 7 allows a police officer to be supported, during the process of consideration of a business interest, by a police friend. This accords with the position for proceedings under the Regulations dealing with police conduct and performance.

New regulation 8 of the 2003 Regulations sets out the process for notification of a business interest by a police officer, and for consideration by an authorised officer within the force’s professional standards department (the “appropriate officer”) of whether the business interest is compatible with membership of the force. The regulation provides for the police officer concerned to be able to make representations orally, in writing or both, and to receive written notice of the decision of the appropriate officer.

New regulation 9 of the 2003 Regulations provides a right of appeal to the chief officer, in the event that the appropriate officer finds that the business interest is incompatible with membership of the force, or is only compatible if conditions are imposed. This replaces the rights of appeal to the police authority and the Secretary of State under the current Regulations. Again, the regulation provides for the police officer concerned to make oral or written representations, or both. On an appeal the chief officer may uphold or reverse the decision of the appropriate officer or, in defined circumstances, may remit the matter to the appropriate officer for reconsideration.

New regulation 9A of the 2003 Regulations replicates the existing provisions of regulation 9 about approval of a business interest of a candidate for appointment to a police force, or a candidate’s relative.

These Regulations also insert a new regulation 10A in the 2003 Regulations so as to make an offer of appointment to a police force (other than on transfer from another force or the special constabulary) conditional on the candidate consenting to his fingerprints and a sample being taken, in order that a speculative search can be made against databases of other fingerprints, samples or information derived from samples held by law enforcement agencies in connection with or as a result of the investigation of offences.

These Regulations further amend the 2003 Regulations so as to ensure that a member of a police force who has provided fingerprints and samples in accordance with the new regulation 10A does not have to provide them again under other provisions of the 2003 Regulations. The amendments also ensure that fingerprints and samples taken under the new regulation 10A are treated in the same way as those taken under those other provisions.

(1) 1996 c. 16. Section 50 is amended by paragraph 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4), section 3 of the Policing and Crime Act 2009 (c. 26) and section 82(12) of, and paragraph 32 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).

(2) Section 63(3) was amended by paragraph 78 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraph 68 of Schedule 7 to the Police and Justice Act 2006 (c. 48), paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008 and section 10 of the Policing and Crime Act 2009 (c. 26).

(3) S.I. 2003/527, as amended by S.I. 2011/3026 and S.I. 2012/680; there are other amendments but none is relevant.

(4) S.I. 2008/2864 as amended by S.I. 2011/3027.

(5) 2011 c. 13.

(6) 2 & 3 Vict. x xciv.

(7) 1984 c. 60. Section 63 was amended by section 55 of, and paragraph 58 of Schedule 10 to, the Criminal Justice and Public Order Act 1994 (c. 33), sections 1 and 2 of the Criminal Evidence (Amendment) Act 1997 (c. 17), paragraph 5 of Schedule 15 to the Terrorism Act 2000 (c. 11), section 80 of the Criminal Justice and Police Act 2001 (c. 16), paragraph 9 of Schedule 7 to the Police Reform Act 2002 (c. 30), section 169 of the Extradition Act 2003 (c. 41), section 10 of the Criminal Justice Act 2003 (c. 44), section 10 of the Counter-Terrorism Act 2008 (c. 28), section 112 of the Policing and Crime Act 2009 (c. 26), sections 2, 3 and 4 of the Crime and Security Act 2010 (c. 17) and paragraph 3 of Schedule 9 to the Protection of Freedoms Act 2012 (c. 9).