



# The Office of the Northamptonshire Police, Fire and Crime Commissioner

## Police Officer Pension Forfeiture Policy and Process

Policy Version Control			
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## **Purpose of the Policy**

It is important the PFCC considers or seeks, where appropriate, police officer pension forfeiture in order to:

- Ensure pension funds are appropriately protected.
- Act as a deterrent for further criminality within Northamptonshire Police.
- Reassure the public that the PFCC takes matters such as criminality seriously and will pursue sanctions available.

This document will set out relevant policy and processes to ensure that applications of pension forfeiture are appropriately considered and submitted in line with relevant legislation, regulations and guidance, including:

- The Police Pension Regulations 1987
- The Police Pension Regulations 2006
- The Police Pension Regulations 2015
- Home Office Police Pension Forfeiture Guidance

This policy will be subject to periodic review and may be revised.

## **1. Introduction**

1.1 The Police, Fire and Crime Commissioner (PFCC) for Northamptonshire is the Pension Service Authority (PSA) for Northamptonshire Police and is therefore responsible for the submission of applications for pension forfeiture to the Secretary of State.

1.2 The legislative basis for police pension forfeiture is found in regulation K5 of the 1987 Regulations, regulation 55 of the 2006 Regulations and Chapter 5 of Part 13 to the 2015 Regulations. Each of these regulations contain provisions which allow a PSA to determine forfeiture in cases where either;

- a pension scheme member has been convicted of treason or of offences under the Official Secrets Acts 1911 and 1939 and has been sentenced to a term (or terms) of imprisonment of at least ten years. or;
- where a pension scheme member has been convicted of an offence committed in connection with his or her service as a member of a police force.

1.3 The Home Office Guidance sets out that an offence committed in connection with service as a member of a police force is considered to be any offence where there is, or could be, public concern about the offender's abuse of position or trust.

## **2. Stage 1: Determining whether to apply for a certificate from the Secretary of State**

### **2.1 The first stage in a pension forfeiture process is for the Police, Fire and Crime Commissioner to consider whether to apply for a forfeiture certificate from the Secretary of State.**

2.2 The Home Office Statutory Guidance sets out that all instances of pension scheme members being convicted of criminal offences should be reviewed and consideration given as to whether they fit the criteria applicable for pension forfeiture.

2.3 The PFCC should be notified by the Force as soon as possible following the conviction of a pension scheme member for any criminal offence. This notification should include:

- The sentence given to the pension scheme member
- The nature of the offence
- Whether the offence was committed for personal or financial gain
- The seniority of the officer
- Whether it is a matter of public interest
- Vulnerabilities of the victim
- Mitigating circumstances
- Disability in the family
- Illness at the time of the offence
- Assistance or information given to the police during the investigation or following conviction
- Any relevant media publications
- Information gathered in the course of the investigation that indicates the commission of the offence is connected to the pension scheme members service as a member of Northamptonshire Police.

2.4 The OPFCC will carry out monthly media scans to identify any cases where a former police officer who may be a pension scheme member has been convicted of a criminal offence, which may relate to their service as an officer. They will also have monthly contact with PSD, in order to identify and track progress on criminal cases locally where these circumstances may apply.

2.5 When determining whether an application should be submitted to the Home Secretary, the PFCC should consider whether the below criteria are met:

- a pension scheme member has been convicted of treason or of offences under the Official Secrets Acts 1911 and 1939 and has been sentenced to a term (or terms) of imprisonment of at least ten years. or;
- where a pension scheme member has been convicted of an offence committed in connection with his or her service as a member of a police force.

In considering the above criteria, the PFCC should take into account whether the offence was either:

- a) Committed whilst on duty.
- b) One relating to the execution of their duties i.e., misconduct in public office
- c) Connected with their role as a police officer

2.6 The PFCC should note that, according to the Home Office Guidance, the baseline position in principle is that pension rights, once earned, will only be forfeited in serious circumstances. A person's rights to a police pension are part of the remuneration package to which their service has entitled them, and a conviction will not automatically result in a certificate being issued. In determining whether an application should be submitted, the PFCC should take in to account the seriousness of the offence in question. An indication of this may be whether the offence in question is imprisonable. Where the PFCC determines that the offence is trivial, they may decide not to proceed with an application.

### **3. Stage 2: Submission of an application for pension forfeiture**

3.1 In a case where the PFCC considers forfeiture to be an appropriate course of action they will ensure that application for a forfeiture certificate is made to the Home Secretary, using the details in any provided papers from the Force.

3.2 Applications should be submitted electronically to [Pension.Forfeiture@homeoffice.gov.uk](mailto:Pension.Forfeiture@homeoffice.gov.uk). The Home Office should be provided with a named point of contact as they will not send information to any generic inboxes.

3.3 The PFCC should take care to ensure only essential and relevant information is provided as the applications or details of them may be disclosed by the Home Office.

3.4 The Pension Scheme Member should be notified by the OPFCC Chief Executive in writing that the PFCC is seeking a certificate from the Secretary of State and provided a copy of this policy and procedure. Consideration should be given as to how this is communicated to the Pension Scheme Member where they are in prison due to the potential risks of identifying them as a former Police Officer.

#### **4. Stage 3: Actions upon receipt of a Certificate issued by the Secretary of State**

4.1 Upon receipt of a certificate, the Pension Scheme Member should be notified as soon as possible. The notification will be signed off by the OPFCC Chief Executive and should:

- Inform the Pension Scheme Member whether the Home Secretary has issued the certificate.
- Inform the Pension Scheme Member of the process to be followed.
- Provide the date of the meeting of the Pension Forfeiture Panel, providing at least six weeks' notice of the meeting.
- Invite the Pension Scheme Member to submit any written representations they wish to be considered by the panel, including personal mitigation. Written submissions must be received at least two weeks in advance of the meeting.
- Invite the Pension Scheme Member to attend the meeting to make personal representations or nominate their representative to attend and make representations in their place. If the Pension Scheme Member intends to attend the meeting or for their representative to attend in their place, this must be confirmed in writing at least two weeks in advance of the meeting.

#### **5. Stage 4: Determining the extent to which the pension should be forfeited**

5.1 Where a certificate is issued by the Secretary of State, a Pension Forfeiture Panel will be convened to determine the extent to which the pension should be forfeited. This may be permanent or temporary and may affect the whole or part of the pension but should not be more than 65% in line with the Home Office Guidance. There is no minimum limit of forfeiture.

5.2 The Panel will consist of:

- The Police, Fire and Crime Commissioner
- The OPFCC Monitoring Officer
- One other Director from OPFCC

*(Substitute members may be chosen by the Commissioner to represent any of the above.)*

5.3 The Panel will invite oral representations from both the Force and the Pension Scheme Member. The Force should nominate an appropriate person to attend the panel. The Panel may request further evidence as they view as necessary from the Force. Any pre-submitted written reports, comments, and representations from either the Force or the Pension Scheme Member must be submitted at least

two weeks in advance of the meeting. A representative from the Force may be required to attend the panel meeting to provide further information to the Panel.

5.4 Following representations from relevant parties, the panel will convene in private to make their determination.

5.5 In line with the Home Office Guidance, factors which may influence the extent of forfeiture that a PSA decides to apply could include:

- The sentence given to the pension scheme member
- The nature of the offence
- Whether the offence was committed for personal or financial gain
- The seniority of the officer
- Whether it is a matter of public interest
- Vulnerabilities of the victim
- Illness at the time of the offence
- Assistance or information given to the police during the investigation or following conviction

5.6 The panel should use the Pension Forfeiture Consideration Matrix (appendix 1) to assist them in their determination.

## **6. Stage 5: Procedure upon a determination by the Pension Forfeiture Panel**

6.1 Upon a decision being made by the Pension Forfeiture Panel, the below should be actioned:

- The decision will be communicated to the pension scheme member in writing as soon as practicable by the OPFCC Chief Executive.
- The PFCC should inform the Secretary of State of the final outcome of the case, whether the pension has been forfeited and the extent of the forfeiture.
- The PFCC should inform the Chief Constable of the final outcome of the case, whether the pension has been forfeited and the extent of the forfeiture.
- The PFCC should inform pensions of the final outcome of the case, whether the pension has been forfeited and the extent of the forfeiture, and the effective date of forfeiture.
- Relevant files and documentation should be filed and retained for a period of 6 years, in line with MOPI.
- Consideration should be given as to whether the decision is made public. If a decision is made to publicise the decision to forfeit pension, consideration should be given as to whether it is delayed until the appeal period has expired.

## **7. Stage 6: Police Pension Forfeiture Appeals**

7.1 Regulation H5 of the 1987 Regulations provides for a right of appeal to the Crown Court within 21 days of notification of any decision, against the decision by the PSA to forfeit the pension. A Pension Scheme Member may appeal against the PSA's decision that the case fell within scope of the relevant regulations, and/or against the extent of the forfeiture. A decision to delay the determination on forfeiture following the issue of a certificate might, in some circumstances, be prejudicial to a successful appeal and liable to challenge.

7.2 The Home Office should be informed of any appeal and its outcome within 14 days of receipt.



## Appendix 1

### Police Pension Forfeiture

#### Consideration Matrix

Aggravating Factors	Considerations
Nature of the offence	Was the pension scheme member convicted of a specified offence? (treason or offences under the Official Secrets Act).
Level of harm presented to the victim(s)	Was there a victim? Were there multiple victims? Was there physical harm to the victim? Was there psychological harm to the victim? Was there a financial impact on the victim? Was the harm serious and likely to have a permanent or lifelong effect on the victim?
Vulnerabilities of the victim	Was the victim considered to be vulnerable? Were the victims vulnerabilities relevant to the offence?
Is the conviction likely to result in serious loss of confidence and trust in the police, or specifically Northamptonshire Police	Would the conviction be likely to impact public confidence in the police? Was the case widely publicised? Note – the case should not be compared to other cases in the media as the circumstances surrounding the offence and media coverage will be different.
Nature of behaviour leading to conviction	What was the history and time-period of the offending that led to the conviction?
Type of sentence	Was there a custodial sentence? Was the sentence suspended?
Length of sentence	How long was the sentence?
Behaviour during the investigation and court proceedings	Did the pension scheme member make early admissions and/or plead guilty?
Financial benefit	Was there financial benefit to the pension scheme member? Was there significant financial loss to the victim?
Previous character	Has the pension scheme member been subject to any other misconduct proceedings?
Seniority of the officer	What rank was the pension scheme member? Was their rank relevant to the offence?
Involvement of other officers	Did the offence in question involve the corruption of junior officers? Did the pension scheme member involve other officers?

	Where other officers were involved, what level of involvement did the pension scheme member have in the commission of the offence.
Mitigating Factors	
Behaviour during investigation and court proceedings	Did the pension scheme member cooperate with the investigation? Have they shown any level remorse? Was there an early admission?
Financial impact on the former officer	Is pension forfeiture likely to cause significant financial difficulty?
Family circumstances	Does the pension scheme member have any dependents that would likely be impacted by pension forfeiture?
Health and wellbeing of former officer	Is pension forfeiture likely to impact significantly on the health or wellbeing of the pension scheme member? Were there any health concerns at the time of offence?
Other representations	Has the pension scheme member made any other representations in relation to pension forfeiture?
Length of service and conduct	How long has the pension scheme member served? Is there any evidence of good character? Has the pension scheme member received any commendations or awards for their service?



## Financial Procedure for Pension Forfeiture

### Stage 1

Upon receipt of a notification of a relevant criminal conviction, the OPFCC will notify the Force Head of Finance as soon as reasonably practicable. The notification to the Force Head of Finance should include a request for the below information:

- Details of whether the convicted officer is a pension scheme member and, if so, which scheme are they a member of.
- Details of whether the convicted officer accrued benefits under any relevant pension scheme.
- An outline of the benefits accrued and details of what 25%, 45% and 65% forfeiture would look like.

The Force Head of Finance should notify XPS and the requested information should be provided to the OPFCC as soon as possible and within 10 working days.

### Stage 2

Where a certificate for pension forfeiture has been issued and the PFCC has made a decision on the level of forfeiture applicable to the pension, the Force Head of Finance should be notified as soon as reasonably practicable. The Force Head of Finance should notify XPS and ensure the necessary arrangements for forfeiture are in place.