

APACCE

Association of Policing and Crime Chief Executives

Police Officer Pension Forfeitures

Local Policing Body

Pension Forfeiture Guidance and
Toolkit

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1. Introduction

- 1.1 Over the past few years, policing has faced a crisis in public trust and confidence, owing to the criminal behaviour of some officers, especially in relation to violence against women and girls. The public are ever-more attuned to reports of officers' poor behaviour, whether reports of gross misconduct hearings or criminal convictions. This both impacts on the legitimacy of policing, and overshadows the excellent work most officers do day in, day out.
- 1.2 PCCs have a key role to play in helping re-build that trust by engaging proactively with the pension forfeiture process. The reduction of an officer's pension, when convicted of an offence which is certified by the Home Office to meet the necessary criteria, signals:
- That PCCs, as well as the Force they oversee, condemn the poor behaviour of officers;
 - That building a culture of integrity within their Force is a key strategic aim;
 - That they understand the public's distaste for this criminal behaviour, and are taking the steps within their power to address it.

2. Key steps to implementing an effective process

A. Working with Professional Standards Departments (PSDs)

- 2.1 A close working relationship with PSD is fundamental to the effective identification of potential cases, and for the provision of the relevant information to enable the PCC to make a decision. Heads of PSD must first be aware that pension forfeiture processes exist; understand their role in identifying cases; and their role in providing reports to OPCCs. The [Policing Minister wrote to all PCCs and Chief Constables in January 2024](#), reminding them of their duties in this respect.
- 2.2 Whilst Offices of Police and Crime Commissioners (OPCCs) and Police Forces are separate legal entities, there must be an understanding that the Force plays a key role in the process. This begins before a case has been identified. PSDs should be pro-active in their communications to all officers that pension forfeiture can and will be considered should they be convicted of an offence (where it can be shown is in connection with their role as a police officer).
- 2.3 Pension forfeiture should be a consideration during a Police Force's criminal investigation into an officer. A specific line of enquiry could be central to allowing a forfeiture to proceed, such as whether the offending took place on police premises, or if a police phone, as opposed to a personal phone, were used in the offending. Forces could consider including a section for pension forfeiture in their decision logs when investigating an officer, to ensure that it is kept under consideration for the duration of the criminal investigation.
- 2.4 It is also best practice for OPCCs, working with the Force, to pro-actively monitor cases where there is a criminal element. Regular meetings should take place between the two parties to identify any potential cases, and to monitor their progress. Forces can provide the information about criminal investigations, and OPCCs can review these to identify any possible link. PSDs

should notify the OPCC once there has been a successful conviction of any officer as soon as possible.

2.5 However, it is also incumbent on OPCCs to monitor other sources of information, such as local and national media. On occasion, criminal cases may come to light where the officer has retired, or lived in another part of the country, and so there would not be the involvement of the Force's PSD as there would in most cases.

2.6 When a case is identified, PSD should complete the pro-forma and send to the OPCC. The proforma requires significant detail from a number of parties:

- The Force itself, providing a summary of the investigation. There is also a requirement for details of the plea, sentencing and conviction, and details of any related misconduct proceedings.
- The pension provider, giving both the amount(s) of pension, and which pension schemes the scheme member is enrolled in.
- The court, in the form of the Judge's summing up comments.

2.7 It is important that PSDs are aware of what needs to be provided, so that they can collate all the information required as soon as possible. A delay in just one element- for example, the judge's comments- can delay the whole process. Agreement should be reached between the OPCC and the Force around any potential costs for acquiring the necessary information.

2.8 Where the potential forfeiture involves a criminal case involving an ex-officer, and therefore PSD have not been involved, the OPCC will have to collate the information from the various parties.

B. Stage 1 Decision Making

3.1 The key element to the decision-making at Stage 1 is that the PCC should only concern themselves with whether there is a) a link between the officer's offending, and their service as a Police Officer or member of staff and b) whether this case could be liable to lead to a serious loss of confidence in the public service.

PCCs should not, under any circumstances, state whether they would forfeit or any potential amount at this stage- this would leave them open to legal challenge.

3.2 The PCC will also consider the degree of severity, as this will feed into the consideration of whether the offence will lead to a serious loss of confidence in the police service. It will be for the Secretary of State to determine whether the offence is liable to lead to a serious loss of confidence or is gravely injurious to the interests of the State.

3.3 PCCs should not limit themselves to what could be considered the 'upper end' of offences such as GBH or sexual assaults. Nor should they be persuaded that an offence is not 'serious' enough to warrant consideration. Whilst the current guidance notes that forfeiture should only

be for 'serious' cases, this has not been defined. It is for the PCC and then the Home Secretary to decide what they believe is serious. The Harrington judgement (point 50 onwards) gives more guidance in this area. If the PCC can evidence- and here, the Judge's comments are often most helpful in evidencing this¹- that the case would have a negative impact on the public's view of the police service, they should proceed.

- 3.4 The Home Office Guidance suggests the use of legal advisors; however, this is to understand "the full effect of the legislation" so that PCCs are not solely relying on the Home Office Guidance. However, there is a recognition that whilst this suggestion should be considered, especially around the more technical elements or for complex cases, the emphasis on it may have led some PCCs and their Offices to feel that legal advice was necessary to support decision making, and/or dissuaded some PCCs from applying the process.
- 3.5 A pension forfeiture is not an overly complicated process in and of itself, and though legal advice is not a statutory requirement, it should be considered for each case, on its merits. As a minimum however, a PCC should be supported in their decision making, by the Chief Executive/Monitoring Officer. As the Monitoring Officer has a legal duty to ensure that the PCC's decision making is legal, it provides further security against future legal challenge. OPCCs may also wish to consider other people who could potentially support decision-making, such as Independent Panel Members (IPMs).
- 3.6 It is considered best practice, and one of the ways to guard against subsequent legal challenge, to keep the pensioner informed and up to date at all times. This may be through their legal or Federation representative, and pensioners should always be asked what other individuals they wished to be kept informed. Their representations should be considered at this stage, and at the subsequent Stage 2 meeting. Whilst the facts of the offence are known, there may be other mitigating circumstances that the PCC could take into consideration.
- 3.7 Attention should also be given to the pensioner scheme member's welfare; this is especially important if they are still in prison. It may well be that the individual is not aware that their offence could attract forfeiture, or that pension forfeitures exist. If the pension scheme member is still in prison, information can potentially be passed through prison liaison officers, or via the Governor's Office, to make them aware that they may require support.
- 3.8 In terms of information gathering, a template has been created for PSDs, so that they provide the right information, with the necessary detail, and without creating any delays. PSDs should familiarise themselves with this document- perhaps as part of the case monitoring process- so that they are aware of what is required for each case, as it becomes embedded as standard practice.
- 3.9 In terms of the decision making, the Harrington Judgement contains a great deal of useful guidance. Section 50 onwards details "the correct approach" outlining the consideration that

¹ However, there are a range of sources of information available, that can also assist, such as:

- Social media response
- Concerns of IAGs or community leaders
- Media coverage
- Correspondence

the PCC should give to: length of service; the seriousness of the offence; the circumstances surrounding the investigation; the extent of media coverage; and personal mitigation. The penultimate element, media coverage, should warrant particular attention.

- 3.10 The Judgement guards against automatically equating a high level of media coverage with a view that there has been a serious loss of confidence in policing. PCCs can consider a wide range of information, as outlined in the footnote above, when considering whether the case has led to a serious loss of confidence; however, they should not rely on a high level of media coverage alone.
- 3.11 If the PCC has decided that the test set out in the legislation has been met, then an application to the Home Secretary should be made. There is now a template for OPCCs to fill in to submit to the Home Office, designed to make the process more uniform and therefore speed up decision making.
- 3.12 In addition, effective notes/minutes should be taken, so that the PCC can evidence their decision-making process, and demonstrate that all issues were considered and given the appropriate weight.

C. Stage 2 Decision Making

- 4.1 Should the Home Secretary provide the certificate, then it is for the PCC to consider whether to forfeit; the amount; and the duration. Again, the PCC should be supported in this decision: continuity and consistency in decision making are key, so preferably by the same people at Stage 1. As with Stage 1:
- Submissions from the officer should be requested, and the offer made for the former officer to attend should they wish; it is not necessary for the officer to respond, but for the OPCC to demonstrate that they have been requested.
 - Legal advice can be requested in order to make the final determination, but again, is not a requirement.
- 4.2 The PCC should document that they have decided to forfeit; by how much; and whether permanent or temporary. In respect of the latter point, temporary forfeiture is rare, but should also be considered in exceptional cases. In terms of the amount, the Home Office Guidance lists a number of considerations that could influence the decision, as set out in 3.4 and 3.15.

These are:

- a) the seriousness with which the Court viewed the offence(s) (as demonstrated by the punishment imposed and the sentencing remarks);
- b) the circumstances surrounding the offence and investigation;
- c) the seniority of the officer (pension scheme member) or former officer (the more senior, the greater the loss of credibility and confidence);
- d) the extent of publicity and media coverage; and
- e) whether the offence involved:
 - i. an organised conspiracy amongst a number of officers,

- ii. active support for criminals,
- iii. the perversion of the course of public justice,
- iv. the betrayal of an important position of trust for personal gain, and/or
- v. the corruption or attempted corruption of junior officers;
- f) mitigating circumstances;
- g) disability in the family;
- h) illness at the time of the offence;
- i) assistance or information given to the police during the investigation or following conviction².

Any mitigating factors will need to be considered in full and will be unique to each case.

As at Stage 1, comprehensive notes should be taken to reflect the decision-making process.

4.3 To assist PCCs further, outcomes from OPCCs across the country have been collated to provide a guide to the percentages forfeited for certain crime types, in the manner of sentencing guidelines. This in no way compels PCCs to stick to these guidelines, as each case will have its own specific circumstances and potential mitigations. Furthermore, some of the areas, such as ‘misconduct in public office’ can cover an exceptionally broad set of circumstances. Nevertheless, the table should provide a wider understanding to the amounts that have been forfeited previously. Appendix A contains a number of recent cases to provide further guidance.

Offence	Forfeiture Amount
Common assault	10-20%
Theft	25-35%
Rape/sex offences (adult)	50-65%
Child Sex Offences (not IIOC)	60-65%
Misconduct in public office*	20-65%
Corruption	55%
Computer misuse	20%
Perverting the course of justice/attempting to*	20%-65%
ABH	25%

** Both offences of Misconduct in Public Office, and Perverting the Course of Justice, can cover an extremely broad set of circumstances, from computer misuse, to abuse of position for sexual purpose and so on. Therefore, the amounts forfeited will vary significantly. It is suggested that in these cases, the actual detail of the case be considered, as opposed to the criminal conviction.*

2 PCCs and Monitoring Officers may also wish to consider the content of The College of Policing’s ‘Guidance on Outcomes in Police Misconduct Proceedings’ as this provides useful contextual information on how misconduct panels are expected to assess seriousness, and matters of mitigation.

D. Final Steps

- 5.1 Should the PCC decide to forfeit, they will need to inform the pension scheme member; the Chief Constable; the Home Office; and the relevant pensions department, either directly or through the Force's payroll team. It is recommended that confirmation be sought from the pension provider that the forfeiture will be applied, and this information placed on file.
- 5.2 The pension scheme member should also be made aware of their right of appeal. It is therefore vital that accurate and detailed record keeping is maintained throughout the process, should the pension scheme member wish to appeal.
- 5.3 They may also wish to promote the forfeiture, both internally and externally. Internally, potentially in conjunction with PSD, it will demonstrate to officers the potential result of serious criminal wrong-doing; this could be part of a broader internal communications process aimed at highlighting the work that Police Forces are doing to combat officer misconduct. Externally, it will demonstrate the PCC's commitment to the highest standards, and robust action in upholding them. PCCs may also wish to inform their local Police and Crime Panel.

Case Studies – Common Assault

Area	Avon & Somerset
Offence convicted of	Common assault against a 15 year old
Brief details	Adam Kitchener was imprisoned for 14 weeks in October 2019 after he admitted a charge of common assault against a 15-year-old boy in Bristol city centre.
Length of sentence	14 weeks
Connection to service	Offence occurred whilst on duty
Amount forfeit	10% forfeit on a permanent basis.
Appeal	No

Case Studies - Corruption

Area	West Midlands
Offence convicted of	Corrupt/Improper exercise of Police Powers and Privileges by a Constable, contrary to Criminal Justice and Courts Act 2015, section 26(1)(2).
Brief details	Subject Officer (SO) between 7 th day of July 2017 and the 26 th day of September 2017 being a constable of a police force in England and Wales, namely West Midlands Police, exercised the powers and privileges of a constable improperly in that he initiated and pursued personal contact with A, a complainant in an incident which he had been assigned to respond to, in order to develop a personal and sexual relationship facilitated by the use of police resources and during designated tours of duty, and he knew or ought to have known that the exercise was improper.
Length of sentence	5 months custodial sentence
Connection to service	Yes
Amount forfeit	25%
Appeal	Awaiting outcome

Area	West Midlands
Offence convicted of	4 counts of corrupt / improper exercise of police powers and privileges by a constable
Brief details	On 4 separate occasions, the Subject Officer (SO) had engaged with 3 complainants and 1 participant in incidents he was assigned to investigate in order to commence, maintain and develop a personal and sexual relationship and knew, or ought to have known, the exercise was improper
Length of sentence	18 months imprisonment
Connection to service	Yes (the four counts involved four victims of his predatory sexual behaviour. All of them were identified during his working hours. The four victim impact statements all indicate that the victims trusted SO because they'd met him during the course of his police officer duties, and whilst he was wearing police uniform)
Amount forfeit	40%
Appeal	No

Area	Merseyside
Offence convicted of	Section 26 Corruption (Contrary of the Criminal Justice and Courts Act 2015)
Brief details	Using position to provide force intelligence to people believed to have been involved in serious organised crime, and being paid cash for supplying this information
Length of sentence	5 years
Connection to service	Used force intelligence for profit and to benefit people involved in serious organised crime
Amount forfeit	55%
Appeal	No

Area	Merseyside
Offence convicted of	Perverting the course of justice Forgery
Brief details	Using position to forge statements used in court, threatening behaviour against ex's partner

Length of sentence	3 years 4 months
Connection to service	Abused position to make fraudulent statement in court
Amount forfeit	0%
Appeal	No

Case Studies – Data protection

Area	South Wales
Offence convicted of	Two counts of obtaining/disclosing personal data contrary to the Data Protection Act
Brief details	Unauthorised use of police systems and unauthorised use of personal data from systems
Length of sentence	To pay a total of £3820.00 or in default to serve a period of 6 weeks imprisonment
Connection to service	Service as police officer provided the opportunity to access police systems
Amount forfeit	30%
Appeal	Yes (appeal unsuccessful)

Case Studies – Misconduct in a Public Office

Area	Hertfordshire
Offence convicted of	Misconduct in Public Office x 6
Brief details	Abuse of position for sexual purpose with vulnerable victims or others
Length of sentence	3 years
Connection to service	Victims or other vulnerable women met through police work when tasked to assist them
Amount forfeit	50% permanent
Appeal	No

Area	Hertfordshire
Offence convicted of	Misconduct in public office x 3

Brief details	Abuse of position for sexual purpose with vulnerable victims or others
Length of sentence	4 years
Connection to service	Victims or other vulnerable women met through police work when tasked to assist them
Amount forfeit	60% permanent
Appeal	No

Area	Hertfordshire
Offence convicted of	Misconduct in Public Office x 1
Brief details	Abuse of position for sexual purpose with vulnerable victim/partner of suspect
Length of sentence	6 months suspended for 12 months
Connection to service	Investigating offence by partner of domestic abuse victim he formed relationship with.
Amount forfeit	10% permanent
Appeal	No

Area	Hertfordshire
Offence convicted of	Misconduct in Public Office x 1
Brief details	Abuse of position for sexual purpose with vulnerable victim
Length of sentence	15 months
Connection to service	Victim met through police work when tasked to assist them
Amount forfeit	20% permanent
Appeal	No

Area	Staffordshire
Offence convicted of	1) Misconduct/Misfeasance in Public Office (five counts) 2) Obtaining or disclosing or procuring the disclosure of personal data or information contained in personal data in breach of data protection principles.

Brief details	Abuse of Position for a Sexual purpose with a number of victims of crime(4) (members of the public)
Length of sentence	12 years and 1 month
Connection to service	Victims all met in the line of duty
Amount forfeit	40%
Appeal	No

Area	Warwickshire
Offence convicted of	Misconduct in public office x 2 counts
Brief details	Having retired as Police Officer, working as Police Staff Investigator the individual formed sexual relationships with two women who had made allegations of criminal sexual assault
Length of sentence	18mo, doubled under the unduly lenient scheme.
Connection to service	He was the caseworker for the victims, acting as "police officer in their eyes" according to judges remarks. Secured police staff role due to previous service
Amount forfeit	20%
Appeal	Yes, currently in train.

Area	Merseyside
Offence convicted of	Misconduct in a public office
Brief details	Tried to obtain CCTV of celebrity footballer for criminal purposes
Length of sentence	22 months
Connection to service	Abused position to gain information
Amount forfeit	25%
Appeal	No

Area	Merseyside
Offence convicted of	One count misconduct in public office 8 counts breach of data protection
Brief details	Used position to search female addresses, inappropriate sexual comments
Length of sentence	15 months
Connection to service	Used police systems to obtain addresses

Amount forfeit	10%
Appeal	No

Area	Merseyside
Offence convicted of	Conspiracies to commit burglaries and supply cannabis Misconduct
Brief details	Using position to locate cannabis farms and sell information
Length of sentence	7 years
Connection to service	Used police intelligence for profit
Amount forfeit	25%
Appeal	No

Area	Merseyside
Offence convicted of	<ul style="list-style-type: none"> Misconduct in a Judicial or Public Office; Improper use of public electronic communications network;
Brief details	Using position to obtain numerous female motorists' personal details to contact them inappropriately by phone and in person.
Length of sentence	28 months and 19 months, to run concurrently
Connection to service	Used police systems to obtain contact details of female motorists
Amount forfeit	35%
Appeal	No

Case Studies – Sexual Offences

Area	West Midlands
Offence convicted of	2 counts of violations of Section 3(1) of the Sexual Offences Act 2003
Brief details	On 2 separate occasions, the SO intentionally and sexually touched a female whilst on duty. In both cases, the victims did not consent to the touching, nor did the SO reasonably believe they had consented to the touching
Length of sentence	4 years imprisonment

Connection to service	Yes – offences were committed whilst on duty
Amount forfeit	45%
Appeal	No

Area	West Midlands
Offence convicted of	2 counts of Rape 1 count of Buggery 5 counts of Misconduct in a Public Office 3 counts of Gross Indecency with a Child 7 counts of Sexual Activity with a Child 1 count of Inciting Sexual Activity with a Child 20 counts of Indecent Assault 1 count of Voyeurism
Brief details	Subject Officer (SO) joined WMP in 1980. In 1982 he became a scout leader in Birmingham. SO used both of these positions to identify his potential victims and also targeted vulnerable boys at a local park. SO also assaulted victims on police premises and at the local swimming baths, taking advantage of his position as a police officer. His offending continued after leaving the police force in 2011. His first attack took place in 1976 and his offending continued until 2013.
Length of sentence	22 years imprisonment with an additional 5 years on licence when he is released.
Connection to service	Yes as per brief details section.
Amount forfeit	50%
Appeal	No

Case Studies - Theft

Area	Kent
Offence convicted of	Theft
Brief details	Officer stole a range of police equipment, valued at £15 000 and sold them on eBay, making a profit of £6 000.
Length of sentence	12 months
Connection to service	Theft of police items, whilst on duty: “betrayal of an important position of trust for personal gain”.
Amount forfeit	30%
Appeal	No

Area	South Wales
Offence convicted of	Two counts of theft amounting to a value of over £10,000 that occurred whilst on duty as a police officer (Previously also found guilty of the offence of theft from a person and imprisoned for 22 weeks)
Brief details	Theft of over £10,000 occurred in relation to monies taken into police possession in their capacity as a serving police officer. Abuse of position of trust for personal gain. (The previous theft had arisen following a pre-planned integrity test relating to a police search of premises when £250 in cash was stolen)
Length of sentence	2 years imprisonment
Connection to service	Thefts were all committed in connection with the officer's service as a member of the police service.
Amount forfeit	65% forfeiture until the state pension age, reverting to 50% for life
Appeal	No

Case Studies - Miscellaneous

Area	
Offence convicted of	
Brief details	
Length of sentence	
Connection to service	
Amount forfeit	
Appeal	

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