

DEVON AND CORNWALL POLICE AUTHORITY FORFEITURE OF POLICE PENSIONS POLICY

Introduction

1. Regulation K5 of the Police Pensions Regulations 1987 allows a Police Authority to determine forfeiture in the following circumstances:
 - i. Rare cases where a specified offence has been committed, namely:
 - (a) an offence of treason,
 - (b) one or more offences under the Official Secrets Acts 1911 to 1939 for which the grantee [of the pension] has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years, and
 - ii. Cases where an offence has been committed in connection with the person's service is a member of the police force which is certified by the Secretary of State to be particularly serious (Home Office Circular 26/2006 refers).
2. Guidance in relation to the forfeiture provisions contained within Regulation K5 of the Police Pensions Regulations is detailed within Home Office Circular 26/2006– Forfeiture of Police Pensions.
3. For the avoidance of doubt, any interpretation of this police is to be read in accordance with the Police Pensions Regulations and Home Officer Circular 26/2006.
4. This Policy deals with any circumstance where forfeiture of the pension of a Police Office under Regulation K5 is considered.

Role of the Police Authority

5. The Police Authority has two distinct roles in these cases:
 - In cases involving an offence committed in connection with the person's service, to consider whether to apply to the Secretary of State for a Certificate of pension forfeiture;
 - To decide on the extent of forfeiture to be applied in each case.

Process

6. If a serving officer is convicted in court, having been charged with an offence, which may fall within the definitions set out at paragraph 5 above, the Chief Constable (or his/her nominated representative), should advise the Police Authority as soon as possible after the conviction.
7. In each case to which Regulation K5 of the Police Pensions Regulations applies, a report should be prepared by the Chief Constable (or their representative), for the Police Authority. This report will contain an overview of the circumstances why it is felt that the Authority may wish to consider whether forfeiture of the officer's pension under Regulation K5 is appropriate. Any report to the Police Authority should contain such information as to allow the Police Authority to make an application to the Home Secretary for issue of a certificate. When drafting the report the Chief Constable (or their representative) will have specific regard to Paragraphs 3 and 5 of Home Office Circular 26/2006.

Police Authority Consideration: Application for a Certificate of Forfeiture

8. Upon receipt of the Chief Constable's report, the Chief Executive will arrange for the Police Pensions Regulations Sub-Committee to convene as soon as possible to consider the case for a pension forfeiture application.
9. The Sub-Committee will meet to consider the question of whether the application for a Certificate of Forfeiture should be made to the Home Secretary. Specific consideration should be given to Regulation K5 of the Police Pensions Regulation 1987 and Home Office Circular 26/2006 which provides guidance as to the factors that the Police Authority should consider and that the Home Secretary will take into account when deciding on an application for a Certificate of Forfeiture.
10. If the Sub-Committee decides to apply for a Certificate of Forfeiture, it will then need to provide details of their reasons to the Home Office. Such an application must include the information set out in Annex C to the Home Office Circular (26/2006)
11. Once the decision has been taken by the Police Pensions Regulations Sub-Committee to apply for a Certificate from the Home Secretary, the pensioner involved should also be informed of the application.
12. The administration arrangements for the application will be dealt with from within the Police Authority office.

Consideration by Home Secretary

13. Once the application has been received, it is for the Home Secretary to consider whether the pensioner's offence is either gravely injurious to the interests of the State or liable to lead to serious loss of confidence in the public service.
14. The Police Authority and the pensioner will be notified of the Home Secretary's decision and the reasons for it. A copy of the certificate, if issued will also be forwarded.

Police Authority Consideration: Decision on the level of forfeiture

15. In circumstances where the Home Secretary determines that it is appropriate to issue a certificate of forfeiture, then upon receipt it is for the Police Authority to consider the extent of forfeiture and whether that forfeiture is to be applied temporarily or permanently.
16. Upon receiving the Certificate, the Chief Executive will arrange for the Police Pensions Regulations Sub-Committee to meet again to consider the nature of the forfeiture.
17. To inform the Police Pensions Regulations Sub-Committee's consideration of each case, it may call for such further evidence as it views as necessary from the Constabulary. Whilst any reports, comments and representations from either the Constabulary or the pensioner may be considered these are not binding on the Authority and the Sub-Committee should determine the case based on their view of the evidence. Guidance in relation to the decision that needs to be taken are contained within Home Office Circular (26/2006).

18. In making its decision as to the level of forfeiture, the factors which might influence the Police Pensions Regulations Sub-Committee in determining the extent of forfeiture are:
- the gravity of the individual's offence;
 - 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.
19. The Police Pensions Regulations Sub-Committee must consider the whole range of forfeiture options from 0-65 per cent and specifically consider the Home Office Circular 26/2006.

Conviction of specified offence

20. If the former officer is convicted of one of the offences specified at the first point in paragraph 5 above, a slightly different procedure should be applied. In particular, there is no need to apply to the Secretary of State for a Certificate of Forfeiture. The Police Pensions Regulations Sub-Committee therefore considers straight away the question of the extent of forfeiture.
21. In such cases, the Police Pensions Regulations Sub-Committee may call for the Chief Constable (or his/her representative) to prepare a report providing an overview of the circumstances why it is felt that the Authority may wish to consider whether forfeiture of the officer's pension under Regulation K5 is appropriate. Again, this report should contain such information as to allow the Police Authority to determine matters in accordance with Regulation K5 of the Police Pensions Regulations 1987 and Home Office Circular 26/2006.

Disclosure of information

22. In considering each case, the Police Authority must, at each stage, give the former officer concerned the ability to submit representations, which it should then be considered in any determination. A copy of any reports submitted by the Chief Constable and full copies of any other relevant papers should be provided to the former officer in advance of each meeting of the Panel on this subject. The former officer will also be invited to give written representations within a specified timescale.
23. In the case of a meeting to discuss applying for a certificate of forfeiture, these representations should include all matters that the former officer would wish to put before the Home Secretary if an application was submitted. The Chief Constable should also be able to provide a further written response based on the information supplied by the former officer within a specified time period.
24. Prior to the Police Pensions Regulations Sub-Committee meeting, a full set of the documentation to be considered by the Sub-Committee should be sent to the Chief Constable and the former officer.
25. Any concerns that full disclosure of papers to the former officer may cause, for example in relation to data protection or confidentiality issues, should be dealt with on a case-by-case

basis. If sections of documents need to be redacted for reasons of confidentiality then the Police Authority should also only see the altered documents. In exceptional circumstances the Police Authority may see paperwork that would not be made available to the former officer but this should take place only when justified by an overriding public interest.

Attendance by a former officer at Authority meetings

26. The former officer will be invited to attend the relevant meetings and to make oral representations based upon the representations in writing. The Chief Constable or his/her representative will be able to respond to those representations. The Sub-Committee will then make its decision in private with advice from the Chief Executive or other legal advisers, as appropriate.
27. If the former officer (or his or her representative) is unable to attend (or where practical considerations prevent attendance), the following safeguards should apply:
 - the only people present at the meeting should be the members of the Police Authority and Police Authority staff such as the Chief Executive (i.e. force representatives should not attend when the officer is not present on fairness grounds);
 - if at any time during the meeting the Police Authority decides that it needs a point of detail clarified it should adjourn proceedings and seek the former officer's views in writing;
 - if the former officer makes a specific request for the meeting to be held in public then this should be accommodated where possible. This would, in effect, mean that the former officer or representative could be present if circumstances allowed though it would not confer an entitlement to speak beyond the authority's normal policy in these cases.

Implementing the Decision

28. The decisions of the Police Pensions Regulations Sub-Committee should be conveyed to the former officer in writing as soon as practicable following the meeting.
29. The decision should be reported to the full Police Authority by the Chief Executive for information at the next meeting. The Chief Executive should inform the Home Office of the final outcome of the case, whether the pension has been forfeited and the extent of the forfeiture.
30. The former officer has a right of appeal to the Crown Court against the decision of the Police Authority to forfeit their pension. The appeal can relate to both the decision to forfeit the pensions and the extent of forfeiture.

Process Review

31. This Policy will be reviewed in 12 months from commencement.