



Office of the
**Police and Crime
Commissioner**
for Warwickshire

Pension Forfeiture

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Security Classification	Official
Disclosable under Freedom of Information Act?	Yes
Risk Rating	Low
Equality Analysis	Low

The Office of the Police and Crime Commissioner welcomes comments and suggestions from the public and staff about the contents and implementation of this policy and procedure. Please e-mail <mailto:opcc@warwickshire.pnn.police.uk>

1. Introduction and Scope

This policy and procedure will apply to all Warwickshire Police Officers and Police Staff including former Police Officers and Police Staff. The policy is clear where there are different processes for Police Officers and Police Staff.

2. Police Officer Pension Forfeiture

The legislative basis governing pension forfeiture for Police Officers is Regulation K5 of the Police Pensions Regulations 1987, Regulation 55 Part 4 of the Police Pension Regulations 2006 and Part 13 Chapter 5 of the Police Pension Regulations 2015. Guidance in respect of forfeiture of police pensions is contained in Home Office Pension Forfeiture Guidance – February 2021.

<https://www.gov.uk/government/publications/police-pension-forfeiture-guidance> .

Forfeiture of pension may be considered in the following circumstances:

- 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
- 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, which is certified by the Home Secretary either to have been gravely injurious to the interests of the State, or to be liable to lead to a serious loss of confidence in the public service.

In the case of Warwickshire Police, the Pension Supervising Authority is Warwickshire Police and Crime Commissioner (PCC). The PCC will work with the Chief Constable, or their nominated representative, namely the Professional Standards Department (PSD) to determine whether pension forfeiture is appropriate for individual cases.

The Pension Forfeiture process has 3 stages:

1. The first stage is for the PCC (as the Pension Supervising Authority) to identify a case where a convicted officer has committed an offence in connection with his service as a member of a Police Force and to make a decision to apply to the Secretary of State for a Certificate of Pension Forfeiture.
2. The second stage is for the Home Secretary to consider whether to issue a certificate, following the PCC's application.
3. The third stage follows the issue of certificate and is the decision by the PCC as to whether or not the pension should be forfeited and the determination of the extent of the forfeiture.

2.1 Process – Stage 1 – Identification of a case

Where a pension scheme member is convicted of an offence as described in section 2 above, the Chief Constable (or their delegated representative) should discuss the possibility of making an application for pension forfeiture with the OPCC Chief Executive and, if appropriate, seek legal advice. The Chief Constable should await the outcome of an appeal, should the pension scheme member be granted leave to appeal. (This provision does not apply where leave to appeal is initially refused and the pension scheme member seeks leave to appeal to a higher court).

At this time, the PCC will write to both the pension scheme member and their staff association (where appropriate) to make them aware that consideration is being given to pension forfeiture, and give them an opportunity to make written representations within a set timescale (usually 21 days). If requested by the pension scheme member, a private meeting can be arranged for the pension scheme member, and their representative, if required, to share information which they consider relevant with the PCC, Chief Executive and the Chief Constable or their delegated representative. The representative can be a relative, friend, workplace representative (eg from a staff association) or a legal representative.

If the Chief Executive considers that there may be a case for an application to be made, they should convene an Advisory Panel which shall consist of the Chief Executive or their representative, and a Legal Advisor. Representation from the force may be invited to provide information on the case. A report should then be prepared by the Advisory Panel so that the PCC can take a decision on whether to apply for a forfeiture certificate. The report will contain sufficient information to allow the PCC to make an application to the Home Secretary for issue of a Certificate of Pension Forfeiture, if appropriate, and should refer to the Home Office guidance for detailed content.

The PCC will make a formal decision whether to apply for a forfeiture certificate. This decision will be published, although any information that is exempt from publication will be withheld.

2.2 Stage 2: Application to the Home Secretary

Following the PCC decision, the Chief Executive will ensure all documentation is complete, and will submit it to the Home Secretary for decision.

The PCC will write again to the pension scheme member and their representative to notify them that an application has been made.

Once assessed by the Home Secretary, the PCC and the pension scheme member 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 to the pension scheme member.

2.3 Stage 3: Forfeiture decision, if approved by Home Secretary

In circumstances where the Home Secretary determines that it is appropriate to issue a certificate of forfeiture, then following receipt, it is for the PCC to consider whether to proceed with forfeiture and, if so, the extent of forfeiture (i.e. in whole or in part) and whether that forfeiture is to be applied temporarily or permanently.

Upon receiving the Certificate, the PCC will write to the pension scheme member and their representative to notify them that the certificate has been issued. The pension scheme member will normally be given 21 days to respond and they can in addition to providing written representations request a meeting, which will be set up in the same way as outlined in Stage 1.

The Advisory Panel shall meet with the PCC to advise the PCC on whether to proceed with the forfeiture, and if so, to assist them in determining the level. This meeting will take place after the deadline for representations from the pension scheme member.

The PCC must consider the whole range of forfeiture options as outlined in the guidance. The courts have ruled that a Police Officer's pension may be forfeited by no more than 65%, the remainder reflecting an officer's own contributions which cannot be forfeited. In making the decision as to the level of forfeiture, the PCC will refer to paragraphs 3.4 and 3.15 of the Home Office guidance, and will have regard to any representations made by the pension scheme member.

The PCC will make the final decision on forfeiture, which will be a formal decision, and published on the website, although any information that is exempt from publication will be withheld.

2.4 Disclosure of Information

In considering each case, the PCC must, at each stage, give the pension scheme member the ability to submit representations, which should then be considered in any determination. A copy of any reports submitted by the Chief Constable and accompanying papers should be provided to the pension scheme member in advance of the date on which the PCC is due to make the decisions. The pension scheme member will also be invited to give written representations within a specified timescale, normally 21 days.

The Chief Constable or their representative should also be afforded time to provide a further written response based on the information supplied by the pension scheme member within a specified time period.

Prior to the PCC making their decision, a full set of the documentation to be considered should be sent to the Chief Constable and the pension scheme member.

Any concerns that full disclosure of papers to the pension scheme member (or their friend or representative) may cause, for example, data protection or confidentiality

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issues, should be considered on a case-by-case basis and legal advice sought where necessary. On occasions it may be necessary for sections of documents to be redacted for reasons including data protection and confidentiality.

2.5 Implementing the Decision

The decision of the PCC should be conveyed to the pension scheme member in writing normally within 7 days following the meeting. The decision will be formally recorded by the PCC. 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.

The individual has a right of appeal to the Crown Court against the decision of the PCC to forfeit their pension. The appeal can relate to both the decision to forfeit the pension and the extent of forfeiture. The Chief Executive will inform the Home Office within 14 days of an individual appealing any aspect of the forfeiture and subsequently of the outcome of any such appeal (i.e. within 14 days of the decision being made).

3. Pension Forfeiture for Police Staff

Applications for pension forfeiture in respect of staff members will be made under the Local Government Pension Scheme Regulations 2013 with further information being obtained as necessary, from LGPensions@communities.gov.uk. Due regard is to be given to guidance issued by the Ministry of Housing, Communities and Local Government in respect of pension forfeiture.

The procedure for considering and implementing forfeiture of pension rights for Police Staff will follow the same process as that for Police Officers.

The legislation from which the Commissioner will act for Police Staff is under section 72 of The Local Government Pension Scheme (Administration) Regulations 2008. This procedure will be adopted if it is not possible to recover, retain or transfer sums under Regulations 74 or 76 of the Local Government Pension Scheme (Administration) Regulations 2008.

Any application for a Police Staff Member Forfeiture, under Regulation 72 of the Local Government Pension Scheme (Administration) Regulations 2008 must however be made within 3 months of the date of conviction.

4. Revision Record

Date of change	Nature of revision
December 2021	Full review of policy following receipt of new Home Office guidance

Appendix A: Guiding Principles for the PCC when considering Forfeiture of Pension Issues

1. The Offence

- What was it?
- How serious was it?
- Did it involve corruption in public office?
- Did it involve dishonesty leading to a loss or misappropriation of public money?
- Did the individual directly benefit from the loss or misappropriation of public money, and if so to what extent?
- Was any of the money recovered through the use of powers in the Proceeds of Crime Act?
- Was the offence a deliberate act, or committed through neglect or accident? How many offences did the person commit?
- What was the sentence?
- What was the judgement e.g. what observations were made when the sentence was passed?

2. The Individual

- What did the individual do?
- What was the rank / position of the individual?
- Was the offence linked to the post the individual held whilst in the employ of the organisation?
- Did the individual of staff admit their part in the offence, and/or cooperate with the investigation?
- Did the individual resign prior to conviction?
- What did the judgement say about the individual in the summing up?

3. The Community Impact

- How much publicity did the case generate?
- What was the tone of the publicity, i.e. did it contribute to the undermining of confidence in the police service?
- What was the internal impact of the offence? Did it lead to a loss of confidence in management?
- Taking all the above into account, should the PCC recommend the forfeiture of part or all of the individual's pension?