



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

Pension Forfeiture Report – Stage 3

Alan Butler

Report Author	Polly Reed, Chief Executive
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Disclosable under Freedom of Information Act?	Yes

1. Introduction

This report has been prepared to support the decision making at the third stage of the Pension Forfeiture process, as detailed in the Pension Forfeiture Policy. The paper will provide supporting information for a PCC decision 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.

The Police and Crime Commissioner (PCC) for Warwickshire is the Pension Supervising Authority as determined by the 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.

As such the PCC is responsible for determining when the pension of an officer or former officer of Warwickshire Police should be forfeited. The PCC has produced a policy to transparently demonstrate the approach to be taken to fairly determine

whether an application should be made to the Home Secretary, and following the Home Secretary issuing a pension forfeiture certificate, 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.

2. Process

In respect of the process when considering the forfeiture of Mr Alan Butler's police officer pension, since the conviction of Mr Butler in August 2021 on two charges of misconduct in a public office, the chronology is as follows:

- The case was brought to the attention of the PCC in November 2021 by officers of the Professional Standards Department of Warwickshire Police. Details of the case were shared so that the PCC could make an initial assessment of the matter.
- The PCC convened the Advisory Panel on 4 May and 15 June 2022, consisting of the PCC, the OPCC Chief Executive and a legal advisor from Warwickshire Legal Services. The Panel reviewed the initial information and made an assessment that the conviction, although committed whilst he was a member of police staff, was likely to have a connection to his service as a Police Officer. The Advisory Panel also considered his police staff pension, but the regulations about this are different; and the time window in which to remove this pension had already passed.
- The PCC then wrote to Mr Butler in August 2022 to make him aware of the possible forfeiture of his police officer pension, and to ask for any representations he wished to make.
- Although contact was made by a legal representative of Mr Butler, no representations were forthcoming and therefore after sufficient time had passed, in January 2023 the Advisory Panel considered the information held and determined that an application should be made to the Home Secretary for a forfeiture certificate in respect of Mr Butler's police pension. A PCC decision was accordingly published on 28 February (ref DN WPCC3-0080) and a letter was sent to Mr Butler on 6 March 2023 to inform him of this decision.
- The PCC made an application to the Home Secretary on 6 March 2023 for a pension forfeiture certificate.
- Over the following months Mr Butler forwarded some information and queries and this information was held to be reviewed, if necessary, at the next decision-making stage.
- On 10 November 2023 the Home Secretary wrote to the PCC to issue the forfeiture certificate, and this was duly communicated to Mr Butler on 27 November 2023.
- On 12 January 2024, the PCC wrote to Mr Butler, asking him whether he wished to make any representations and provided Mr Butler with a deadline of 2 February, i.e., Mr Butler was given 21 days to respond to the invitation to

make representations should he wish to make any. Mr Butler submitted some information for review on 27 January 2024.

- All the information submitted by Mr Butler in the time since August 2022 has been considered and is summarised within this report; alongside the information about the convictions.
- The Advisory Panel met on 11 March 2024 and discussed whether to proceed with the forfeiture of Mr Butler's police pension, and if so, to consider determination of the extent of forfeiture (i.e. in whole or in part) and whether that forfeiture is to be applied temporarily or permanently.
- Once complete this report will be shared with Mr Butler, and the Chief Constable.

3. Key Information to support Decision Making

3.1 About the case

Mr Butler joined Warwickshire Police in 1975 and retired in 2005 having served for 30 years as a police constable. In 2007 he re-joined Warwickshire police as a police staff investigator and carried out a role that was very similar to that of a detective constable. In 2017 he worked at Nuneaton Justice Centre in the Criminal Investigations Department. In August of that year, two women came forward and made allegations that Mr Butler had behaved inappropriately towards them while he was investigating criminal allegations they had made. In both cases the women were victims in serious sexual offence cases and Mr Butler was the investigating officer. In one case it was alleged that Mr Butler had a physically sexual relationship with the complainant, in the other the allegation was that he had attempted to form a relationship and had kissed and touched the complainant inappropriately.

Mr Butler was arrested on the 4th of September 2017 and suspended from his role as a police staff investigator. He was charged in October 2018 and dismissed from Warwickshire Police in March 2021.

In July 2021 Mr Butler was tried at Warwick Crown Court for two counts of Misconduct in Public Office, he pleaded not guilty to these charges but was convicted of both counts on the 3 August 2021. Mr Butler was subsequently sentenced on the 4 October 2021 to 18 months imprisonment for one count and 15 months for the other, to be served concurrently. Following the sentence, the Solicitor General referred Mr Butler's sentence to the Court of Appeal under the Unduly Lenient Sentence (ULS) scheme. On 30 November 2021 the Court of Appeal found Mr Butler's original sentence to be unduly lenient and doubled it to 3 years' imprisonment.

3.2 The Importance of Pension Forfeiture

Policing must be alive to the damage caused to trust, confidence and legitimacy when a criminal activity and misconduct arise. The Police and Crime Commissioner will support the Chief Constable to hold up the highest standards for policing, and

therefore must play a role in matters relating to misconduct or to address criminal conduct.

It has always been the case that everyone is expected to uphold the law, and since the murder of Sarah Everard by a serving police officer, forces have further codified such practice. In Warwickshire, Operation Amethyst was launched in 2022 to refresh the focus on standards of behaviour. This means that all the workforce are frequently reminded of the standards of behaviour expected, and are encouraged to report issues where others have fallen short of expectations. Where misconduct is identified it is dealt with promptly and where criminal charges are alleged this is taken forward to the CPS.

Once cases reach the PCC for consideration of a pension forfeiture, this is taken very seriously, and the PCC will use a transparent decision-making process to address the risks around trust and confidence. Pension forfeiture decisions will be published on the OPCC website, unless a compelling counter-argument is brought forward.

3.3 Information received from Warwickshire Police

Warwickshire Police have provided information to the PCC, including the investigator's report and the court transcript. In their covering letter to the PCC they note that Mr Butler was convicted of two charges of misconduct in public office, and his sentence was increased from an original 18 months to 3 years and they detail the following as aggravating factors:

- Both victims were vulnerable and have clearly been adversely affected by Mr Butler's actions.
- The fact that Mr Butler cultivated these relationships using his position as a member of police staff.
- The fact that Mr Butler conducted the relationships at least partly while he was on duty.
- The fact that Mr Butler exhibited a pattern of behaviour; there were two victims and the offences took place over a sustained period.
- The fact that Mr Butler manipulated the victims and then attempted to coerce one of them into withdrawing her account.
- The high profile of the case within local and national media and the subsequent damage to the reputation of Warwickshire Police.
- Mr Butler's failure to take responsibility for his actions or to show remorse or contrition.
- The fact that Mr Butler's approach to the charges resulted in additional trauma to the victims; due to his not guilty plea, and the subsequent appeal by the Solicitor General in relation to Mr Butler's sentence.

The PCC has also consulted with the Chief Constable, who is of the opinion that it is appropriate to make a pension forfeiture in this case, given the severity of the circumstances of the case.

3.4 Information received from Mr Butler

Mr Butler has put forward a considerable amount of information since he was notified of the PCCs intention to consider a pension forfeiture. In order to prepare this report the information Mr Butler submitted on 27 January 2024 has primarily been considered, but the remainder of the information has been reviewed to ensure nothing that should be considered has not been. Mr Butler has raised matters which do not directly relate to the pension forfeiture or the business of the PCC and are therefore considered as part of the background information. These relate to other processes – such as complaints against Police Officers and an employment tribunal claim against the Chief Constable of Warwickshire Police.

Mr Butler's view is that he should not have his pension forfeited and he has offered the following comments:

- He does not feel that his previous service as a Police Constable within Warwickshire Police was anything to do with his civilian role, and states that he had to be completely retrained to carry it out, having not held any detective roles in his police service.
- He has made a number of complaints about officers in Warwickshire Police and West Mercia Police. He feels the outcome of these may mean the forces account of events is unreliable and his conviction unsound.
- He received over the years many letters of praise and thanks regarding his dedication both as a uniformed Police Constable and as a "civilian Detective" and lists some policing work he was involved in.
- He feels his freedom is already curtailed, with restrictions on entry to certain countries, and the requirement to declare his conviction – e.g. at a place of worship. He also is not able to see his son- who is a serving police officer; and he states he hasn't seen him since 2019.
- He requires his pension to be prepared for care requirements for his wife, who is understood to be disabled. If he loses his pension, he will have to sell his mortgaged home, and he would need to find somewhere else for them to live.
- He is of the view that the PCC should seek to forfeit his civilian pension rather than his police pension.

4. Analysis

The information provided by both the Chief Constable/Warwickshire Police and Mr Butler must be carefully considered by the PCC when deciding 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.

Mr Butler's commentary about his previous good character, and the complaints he has set in motion with two police forces are not persuasive given the Criminal Court process that has concluded in finding Mr Butler guilty. The PCC has no role in considering whether the Criminal Court process was sound, although it is notable that the sentence was in fact appealed and increased, which contradicts Mr Butler's assertions. It is also notable that Mr Butler did not avail of the appeal process for either his conviction or the increase in his sentence.

Mr Butler does not consider that his police service is relevant to the convictions, and the PCC has sought information to understand his argument further. The Home Office Guidance states:

1.11 The relevant case law states that the pension scheme member need not have been a serving officer at the time of the offence in order to meet the requirement that it must be connected with their service. For example, the offence may have been committed after the individual retired, but they may, for example, have used police knowledge, police systems or police contacts in the commission of the offence

It is clear that as a staff member of Warwickshire Police Mr Butler is still representing the police force and Mr Butler was carrying out a staff investigator role much like a Police Officer role. He had knowledge and skills and access to police systems with which he was already familiar, when he took up his staff role. The OPCC requested and received from Warwickshire Police a copy of the job description on Mr Butler's file, which clearly links the Police Staff Investigator role to previous police service, requiring "*knowledge level should be commensurate to that of a detective constable in the same department, i.e. PIP Level 2.*". The job description also details that the Police Staff Investigators held warranted powers. Whilst Mr Butler was not a police officer at the time of the conviction, there is a clear link to his police service, which is evidenced in his job description. Furthermore, Mr Butler used his role as a police staff investigator, which included accessing police systems and contacts, to 'gain access' to the service users/victims to commit the criminal offences. Consideration has also been given to the Judge's sentencing remarks, namely, "*Each offence concerned a victim or a complainant of serious criminal sexual offences and in each instance you, as the police staff investigator, were effectively the officer in the case, exerting far more authority and responsibility than a police community support officer and indeed rely upon the 30 years experience that you had as a police officer.*"

As previously noted in this report, the window for seeking to forfeit the police staff pension has closed, therefore, is not within the PCC's remit to consider.

Finally, Mr Butler has made some representations relating to his living situation and the health of himself and his wife. Whilst they may offer some scope for consideration to the value of the pension that may be forfeited, it is not a persuasive argument about whether the pension should be forfeited, compared with a much more compelling consideration, that Mr Butler has brought policing into disrepute through his actions. The impact on his future personal situation was a matter for him to consider at the time he committed the crimes. Similarly, while Mr Butler makes reference to the constraints on his lifestyle already imposed through his crimes and convictions; these are the consequences of his actions, and a pension forfeiture

would sit alongside this. The Warwickshire Police commentary reflects that Mr Butler did not show remorse at the time of the conviction; it is clear that he still does not, and Mr Butler's response/submissions contained in his letter of 27 January 2027, shows no insight of the effect of his actions on the victims – either at the time or now. His actions showed an abuse of the position of trust that he held as a member of Warwickshire Police.

More broadly Mr Butler's actions have impacted on the reputation of policing nationally, in respect of trust and confidence, and this may discourage other victims of such crimes from coming forward. This damage continues; a mainstream news TV channel ran a report on the matter as recently as December 2023. The crimes committed by Mr Butler, were and still are, in the public eye; and the nature of the offences are particularly high profile.

5. Recommendations

Having weighed up the information received and highlighted in this report, it is my recommendation to the PCC that he makes a forfeiture of Mr Butler's pension.

Recommendation 1: that the PCC decides to make a pension forfeiture.

The contribution made by an employer to the police pension equates to 65% of the total value; and a forfeiture can only be up to that 65% limit, as the individual's own contributions cannot be removed. It is for the PCC to determine what percentage to forfeit, taking into account the individual's position, the nature of the crimes and other national factors. As pension forfeitures become more common some national consistency will support such decision making; and there are increasingly examples of forfeitures being reported in the media, including other high profile cases where officers have been convicted for multiple rapes and murder.

It is suggested that Mr Butler's convictions were not at the scale of some other cases in consideration, but they are more serious than other cases might be. This is due to the impact of his actions on the victims, who only came into contact with Mr Butler as they were victims of alleged crimes, and the fact that he denied the crimes throughout by way of his not guilty plea, and therefore caused more trauma to the victims as the court process took place. Finally, Mr Butler has laid out his personal circumstances, which could be considered in respect of the value of pension taken. On that basis it is recommended that a forfeiture of pension within the middle of the band is taken, either permanently or on a temporary basis.

Recommendation 2: a forfeiture value between of 20% - 35% is identified, for a duration to be determined.

6. Next Steps

- For the PCC to make a decision on the forfeiture.
- Once a decision has been made:

- The decision of the PCC will be communicated to Mr Butler 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.
- It will be published.
- If the decision of the PCC is to forfeit Mr Butler's pension, Mr Butler will have a right to appeal to the Crown Court against this decision. This must be lodged with the Court within 21 days of receipt of the letter conveying the PCC's decision, although they have the discretion to accept any such an appeal out of time. 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).
- If the decision of the PCC is to forfeit Mr Butler's pension, a request will then be made to the pension provider to put the forfeiture in place.