EXPLANATORY MEMORANDUM TO

THE NATIONAL CRIME AGENCY BARRED LIST AND NATIONAL CRIME AGENCY ADVISORY LIST REGULATIONS 2026

2026 No. 773

1. Introduction

1.1 This Explanatory Memorandum has been prepared by the Home Office and is laid before Parliament by Command of His Majesty.

2. Declaration

2.1 Dame Angela Eagle, Minister for Security at the Home Office confirms that this Explanatory Memorandum meets the required standard.

2.2 Rod Mclean, Deputy Director for the Serious and Organised Crime System Unit, at the Home Office confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Kiana Merron and Nigel Page at the Home Office can be contacted by email at the following address with any queries regarding the instrument: kiana.merron1@homeoffice.gov.uk or nigel.page7@homeoffice.gov.uk.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument provides for the process, procedures, and requirements for the maintenance and operation of the National Crime Agency Barred List and Advisory List (the NCA Barred list and NCA Advisory list). It establishes the detailed statutory framework governing the inclusion, removal, and review of individuals on the NCA Barred list and Advisory list.

Where does the legislation extend to, and apply?

4.2 The extent of this instrument (that is, the jurisdiction(s) which the instrument forms part of the law of) is the United Kingdom.

4.3 The territorial application of this instrument (that is, where the instrument produces a practical effect) is the United Kingdom.

5. Policy Context

What is being done and why?

5.1 The Crime and Policing Act 2026 created the NCA Barred List and Advisory List. This instrument sets out that individuals who are dismissed from positions within the NCA due to gross misconduct become a barred person and are included on the barred list. This also applies where, following proceedings conducted in accordance with the National Crime Agency (Complaints and Misconduct) Regulations 2013, it is determined that the individual would have been dismissed. Once included on the NCA

barred list, individuals will be unable to work for any police force or other specified law enforcement bodies.

5.2 Individuals who resign or retire during investigations, or who leave and an allegation against them which could have led to their dismissal due to gross misconduct later comes to light, will be placed on the advisory list until the investigation is brought to an end. If the individual receives a finding of dismissal they will be added to the barred list. If there is a lesser finding or no disciplinary proceedings are brought, the individual's details will be removed from the advisory list. The advisory list will be used as a vetting tool by law enforcement employers and an individual's inclusion on the advisory list does not preclude their appointment or employment.

5.3 Introducing a barred and advisory list for NCA officers responds directly to a recommendation made to the Home Office following a His Majesty's Inspectorate Constabulary and Fire and Rescue Service (HMICFRS) inspection in 2023, which identified a gap in existing vetting arrangements.1 By closing this legislative gap, these lists seek to improve public confidence in the NCA and ensure that those who do not meet the high standards required of NCA officers, and have been dismissed due to gross misconduct, are not able to continue to work within policing or wider law enforcement.

What was the previous policy, how is this different?

5.4 Part 4A of the Police Act 1996 established the Police Barred List and Police Advisory List. Individuals on the barred list are unable to work for any police force or other specified law enforcement body. Whilst the advisory list does not preclude their appointment or employment, it does acts as a vetting tool used by policing employers to capture individuals who may have resigned or retired during an investigation or who have left and an allegation against them that would have led to their dismissal comes to light. The Police Barred List and Police Advisory List Regulations 2017 sets out the process, procedures and requirements for the maintenance and operation of those lists including the role the College of Policing should play with regards to those lists. Despite being a law enforcement body, the NCA, which operates UK-wide, is outside the scope of that framework. Additionally, the College of Policing's statutory framework only covers all those working in or on behalf of policing in England and Wales.

5.5 Previous Barred Lists and Advisory Lists only covered police forces in England and Wales. However, addressing findings from the HMICFRS Inspection Report and following the introduction in the Crime and Policing Act 2026, the NCA Barred List and NCA Advisory List was created. This instrument will be the first set of regulations providing a bespoke framework which sets out the detail around the information which can be added, and the conditions for removal from the NCA Barred List and NCA Advisory List. Whilst these Regulations are bespoke to the NCA, the framework is broadly mirroring the existing framework for the Police Barred and Advisory List Regulations 2017 except for small changes to mirror differences in the statutory requirements such as, UK-wide.

[1] https://hmicfrs.justiceinspectorates.gov.uk/publications/national-crime-agency-vetting-and-anti-corruption-part-1/

6. Legislative and Legal Context

How has the law changed?

6.1 The Police Barred List and Police Advisory List regulations introduced in 2017 only cover police officers and staff in England and Wales. The Crime and Policing Act 2026 introduces the NCA Barred List and NCA Advisory List for NCA officers which is UK-wide.

6.2 Schedule 25 to the Crime and Policing Act 2026 (c. 20) (special police forces: barred persons lists and advisory lists) requires the Director General of the NCA to maintain a "barred persons list" (paragraph 1) and an "advisory list" (paragraph 9) in relation to the National Crime Agency. These Regulations make provision relating to the operation of those lists. Regulation 3 specifies the information that must be included in the NCA barred list and Regulations 4-6 make provision for circumstances in which a person must be removed from the list. Regulation 7 specifies the information that must be included in the NCA advisory list. Regulations 8-9 make provisions for the circumstances in which a person must be removed from the advisory list.

Why was this approach taken to change the law?

6.3 This is the only possible approach to make the necessary changes UK-wide. Other alternative proposals through amending existing frameworks were not possible as they are limited to England and Wales.

7. Consultation

Summary of consultation outcome and methodology

7.1 This instrument was not subject to public consultation as there are no statutory requirements to do so, and the legislation is specific to the NCA rather than the public. Engagement on the policy has taken place with the NCA and with Devolved Administrations through existing regular catch ups, both of whom reported no concerns with the legislation.

8. Applicable Guidance

8.1 No statutory guidance will be published alongside this instrument. Individuals who are on the list will be notified through internal NCA HR dismissals processes.

Part Two: Impact and the Better Regulation Framework

9. Impact Assessment

9.1 A full Impact Assessment has not been prepared for this instrument, as we consider there to be no, or no significant, impact on businesses as the instrument relates to dismissals of NCA officers. However, an Economic Note, which has identified minimal costs, has been prepared for all the special forces (covering NCA, Ministry of Defence Police, British Transport Police and Civil Nuclear Constabulary) and will be published alongside this instrument. Total costs for all the forces over 10 years are expected to be between £0.49 million and £0.68 million, with a central estimate of £0.56 million (2025/26 Prices, 2026/27 PV). All associated costs are expected to be met by respective bodies. The Net Present Social Value (NPSV) is estimated to be between -£0.25 million and -£0.35 million, with a central estimate of -£0.30 million (2025/26 Prices, 2026/27 PV).

Impact on businesses, charities and voluntary bodies

9.2 There is no, or no significant, impact on business, charities or voluntary bodies because the instrument relates to processes in place to uphold the law enforcement discipline and performance system.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no significant impact on the public sector and is limited to existing and former NCA officers.

10. Monitoring and review

What is the approach to monitoring and reviewing this legislation?

10.1 The approach to monitoring this legislation is that the Home Office will keep the operation of these regulations under review including any references in inspections undertaken by HMICFRS related to this issue.

10.2 The instrument does not include a statutory review clause.

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 None. Article 36(4) of assimilated Regulation (EU) 2016/67933 (United Kingdom General Data Protection Regulation) ("UK GDPR") requires the Secretary of State to consult the Information Commissioner when preparing a legislative measure to be adopted by Parliament. The Information Commissioner was consulted on all of the measures in this instrument. To the extent that Article 36(4) of the UK GDPR required the Secretary of State to consult the Information Commissioner on the measures in this instrument, that obligation has therefore been complied with.

11.2 Article 36(4) is not cited in the preamble to this instrument. Paragraph 3.11.28 of Statutory Instruments Practice states "The preamble should set out the fulfilment of any condition that the enabling Act requires before the SI can be made". The UK GDPR is not the enabling Act for this instrument.

12. European Convention on Human Rights

12.1 As the instrument is subject to negative procedure and does not amend primary legislation, no statement is required.

13. The Relevant European Union Acts

13.1 This instrument is not made under the European Union (Withdrawal) Act 2018, the European Union (Future Relationship) Act 2020 or the Retained EU Law (Revocation and Reform) Act 2023 ("relevant European Union Acts").