EXPLANATORY MEMORANDUM TO

THE POLICE (CONDUCT, PERFORMANCE AND COMPLAINTS AND MISCONDUCT) (AMENDMENT) REGULATIONS 2025

2025 No. 558

1. Introduction

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

1.2 This memorandum contains information for the Joint Committee on Statutory Instruments.

2. Declaration

2.1 Dame Diana Johnson, Minister of State for Police and Crime Prevention at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

2.2 Michael Cordy, Deputy Director for the Police Integrity Unit at the Home Office, confirms that this Explanatory Memorandum meets the required standard.

3. Contact

3.1 Magdalene Allen at the Home Office (email: police.discipline@homeoffice.gov.uk) can be contacted with any queries regarding the instrument.

Part One: Explanation, and context, of the Instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This Instrument makes changes to a number of regulations which determine the processes for police officer dismissals, strengthening the frameworks for dealing with police misconduct and unsatisfactory performance and attendance. This reflects recommendations made by the Home Office's review into the process of police officer dismissals and follows a series of high-profile police misconduct cases in recent years which have impacted trust and confidence in the police service.

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 England and Wales.

4.3 The territorial application of this Instrument (that is, where the Instrument produces a practical effect) is England and Wales.

5. Policy Context

What is being done and why?

5.1 The package of changes included in this Instrument aims to strengthen the police misconduct and performance systems, acting on recommendations made by the Home Office's review into police dismissals. Overall, they aim to improve public trust and confidence in policing.

5.2 All new police officers of the rank of constable (and in certain circumstances, direct entry officers and those who leave the force and subsequently re-join) are subject to a probationary period of two years. During this period, the chief officer may discharge a police probationer who they consider is not fitted, physically or mentally, to perform the duties of the office, or that the probationer is not likely to become an efficient or well-conducted officer. This Instrument amends the process of discharging probationers in two ways. The first introduces the ability for chief officers to delegate their power to discharge a probationer to other senior officers of the rank of Chief Superintendent and above and former senior officers or senior police staff members of a similar level of seniority to provide greater flexibility for forces in resourcing these decisions while maintaining seniority in decision-making. The second closes a gap to ensure that the system for discharging probationers is extended to apply to special constables, rather than solely police officers. Currently these rules do not apply to special constables who are volunteer police officers. Extending the system to include probationary special constables provides an appropriate route to discharge them and brings parity with regular police officers.

5.3 Gross misconduct is defined as a breach of the Standards of Professional Behaviour so serious as to justify dismissal. However, notwithstanding a finding of gross misconduct, police officers have sometimes been issued with lesser forms of disciplinary action such as written warnings, instead of being dismissed. This can damage the confidence of both the public and police workforce and therefore this Instrument introduces a presumption of dismissal where gross misconduct is found proven at misconduct proceedings, unless it is determined that there are exceptional circumstances.

5.4 Convictions of serious (indictable only) criminal offences are incompatible with being a police officer, damaging the trust and confidence of the public and wider policing workforce. Therefore, this Instrument now means that any such conviction will always lead to a finding of gross misconduct, reducing unnecessary delays in the misconduct process.

5.5 Misconduct proceedings for gross misconduct are already able to continue where a police officer has resigned or retired, so that if it is determined that the individual would have been dismissed had they not resigned or retired, the individual is placed on the police barred list, preventing them from re-joining policing for at least five years. However, data has demonstrated that more than half of police officers dismissed each year have already resigned or retired by the point they are dismissed. This Instrument therefore sets a presumption that where an officer resigns or retires, their case will be heard at an accelerated misconduct hearing conducted (if the individual was not a senior officer) by the chief officer or their senior delegate, removing the requirement for lengthier and more complex misconduct hearings which are heard by misconduct panels. This will occur unless the officer opts for a misconduct hearing within 10 working days of the notice of referral, or the appropriate authority deems that a ‘standard’ hearing is required.

5.6 The appropriate authority (the chief officer, unless the officer concerned is the chief officer or acting chief officer, in which case the local policing body) has only been able to refer an officer to an accelerated misconduct hearing where the investigator has recommended to it that the ‘special conditions’ are satisfied, namely that there is sufficient evidence of gross misconduct and it is in the public interest for the individual to cease to be an officer without delay. This therefore meant that it was impermissible for the appropriate authority to do so, in circumstances such as evidence or admissions coming to light after the investigation had concluded. This

Instrument provides forces with a wider power to be able to refer an officer to an accelerated misconduct hearing in those circumstances.

5.7 This Instrument also makes changes to the police performance procedures. Police officers are subject to a regulated performance process which allows line managers and chief officers to deal with officers who have displayed unsatisfactory performance or attendance or gross incompetence. The Instrument removes the previous second stage of this process, and the appeal which followed it, as it is considered that the previous number of stages meant the system was unwieldy and overly long. This means that a three-stage process will become a two-stage process. Removing the second stage intends to make the overall process shorter and therefore more streamlined. The Instrument also makes changes to the period within which officers must show improvement, taking this from a maximum 12 months to a default three months. Taken together, these changes will mean that officers who do not meet the required standard of performance or attendance are taken swiftly through the stages and dismissed from policing, where this is appropriate.

What was the previous policy, how is this different?

5.8 The police misconduct and performance systems are already well-established and set out in detailed regulations. The changes in this Instrument make adjustments to the previous processes to ensure that they are robust enough to root out officers who should be dismissed. This is achieved through amendments which introduce requirements that officers who are found to have committed gross misconduct are dismissed, unless there are exceptional circumstances. Likewise, changes to regulations mean that a criminal conviction for an indictable-only offence will always amount to gross misconduct. A new presumption has been introduced that former officers will be referred to accelerated misconduct hearings to deal with their cases more swiftly. Some more technical changes have been made to the accelerated misconduct hearing process, by extending the previous limited ability of the appropriate authority to refer an officer to an accelerated hearing.

5.9 With discharge of probationers, regulations previously set out the process for discharge of probationary officers at a high level. The changes seek to help ensure that forces are able to use this process to discharge a probationary officer in all cases where it is appropriate, by introducing a new power for chief officers to delegate their decision-making power to other senior officers and senior staff members. The process has also been extended to include probationary special constables.

5.10 Changes to the police performance process have removed the second stage, and the appeal which followed it, to streamline the system. Additionally, officers will now have a default period of three months to show improvement in their performance or attendance, rather than the previous 12-month period.

6. Legislative and Legal Context

How has the law changed?

6.1 Regulation 13 of the Police Regulations 2003 has been amended to allow chief officers to be able to delegate their functions to a senior or former senior officer, or police staff member who, in the opinion of the chief officer, is of at least a similar level of seniority to a senior officer. Regulation 13 has also been extended to cover probationary special constables to provide an appropriate route to discharge them and to bring parity with regular probationary officers.

6.2 Regulation 2 of the Police (Conduct) Regulations 2020 has been amended so that the definition of gross misconduct includes conduct which has resulted in the conviction of an indictable-only offence (i.e. one which is only triable in the Crown Court).

6.3 Regulation 42 of the Police (Conduct) Regulations 2020 has been amended to require those chairing or conducting misconduct proceedings to impose dismissal without notice where gross misconduct is proven, unless the persons chairing or conducting proceedings are satisfied that exceptional circumstances apply. In such circumstances, a final written warning or reduction in rank may be imposed as an alternative.

6.4 Part 3A has been inserted into the former officer modifications at Schedule 1 to the Police (Conduct) Regulations 2020 setting out that, where a former police officer has a case to answer for gross misconduct, that individual will be referred to an accelerated misconduct hearing unless either the force decides that it requires a misconduct hearing or the individual requests a misconduct hearing within 10 working days of them being notified they are being referred.

6.5 Regulation 49 of the Police (Conduct) Regulations 2020 and regulation 26 of the Police (Complaints and Misconduct) Regulations 2020 have been amended to give forces a broader power to determine whether the special conditions for referral to an accelerated misconduct hearing are satisfied.

6.6 The Instrument amends the Police (Performance) Regulations 2020 to remove what was the second stage of the performance process and the appeal which followed it, in all places where this is referenced. In addition, references throughout the Regulations to the 'specified period' within which an officer must show sufficient improvement have been amended from 12 months to three months. In several other places, consequential changes have been made to reflect wider changes in the police conduct regime. This includes consequential changes to the Police Appeals Tribunal Rules 2020.

Why was this approach taken to change the law?

6.7 This is the only possible approach to make the necessary changes. Police officers are subject to a regulated discipline system and therefore changes to the regulations were considered the only way to achieve these changes.

7. Consultation

Summary of consultation outcome and methodology

7.1 This Instrument has not been subject to public consultation. Changes primarily stem from those recommended following the Home Office's review into the process of police officer dismissals, during which the Government heard wide-ranging evidence from across the policing sector including national policing bodies and police staff networks.[1] The review made a number of key findings. Its recommendations, as a package of reforms, are expected to preserve crucial independence in the system through the widening of cases heard at accelerated hearings, improved vetting processes, and a streamlined performance system. As a package, this is intended to deliver improvements across all three key areas - misconduct, vetting, and performance. Summaries of some of the evidence provided is incorporated within the review's published report.

[1] https://www.gov.uk/government/publications/police-officer-dismissals-home-office-review

7.2 This Instrument has been approved following consultation with the College of Policing and the Police Advisory Board for England and Wales (PABEW) and other partners.

7.3 Comments on this Instrument were constructive and have been taken into account and drafting changes have been made as a result of those comments.

8. Applicable Guidance

8.1 The Home Office will be updating its statutory guidance (Conduct, Efficiency, and Effectiveness: Statutory Guidance on Professional Standards, Performance, and Integrity in Policing) to reflect the updated instrument.[2] This is lengthy guidance that requires drafting and consultation with the Police Advisory Board over the next few months. It is vital that this Instrument is laid as soon as possible in order to boost public confidence in the police and enact changes to the systems which have been in progress since last year. The guidance will be published on gov.uk and a copy placed in the library of the House once it is approved by the Home Secretary. In the interim, Home Office officials will continue to engage with key stakeholders to help with acclimatising to the changes, while supporting other bodies including the Independent Office for Police Conduct and College of Policing with their comprehensive accompanying guidance documents.

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 it is not a regulatory provision. There is not expected to be an impact on businesses. However, an economic note has been prepared alongside this Instrument.

9.2 The only monetised cost is that of familiarisation to the new probationary regulations, incurred in year one only. This cost is estimated to be between £400 and £6,200, with a central estimate of £2,400. Non-monetised costs include any costs related to dismissal, and potential operational costs from the short term loss of officers via dismissal.

9.3 There are expected to be some cost saving benefits due to the presumption of accelerated misconduct hearings for former officers. Each accelerated hearing is estimated to save between £5,000 and £7,400, with a central estimate of £6,200. It was not possible to estimate the total benefit due to a lack of data on the number of hearings for former officers.

9.4 Other non-monetised benefits include improved efficiency and consistency in the dismissals process and improved public confidence.

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 this Instrument under review, including through annual statistics and publications on police misconduct and complaints.

10.2 The Instrument does not include a statutory review clause.

[2] https://www.gov.uk/government/publications/policing-professional-standards-performance-and-integrity

Part Three: Statements and Matters of Particular Interest to Parliament

11. Matters of special interest to Parliament

11.1 This Instrument is being laid after the Police (Vetting) Regulations 2025 were laid on 23 April 2025. It amends both the Police (Conduct) Regulations 2020 and the Police (Performance) Regulations 2020 in consequence of the Vetting Regulations. For example, it ensures that a severity assessment under the Conduct Regulations can lead to a matter being referred to be dealt with under the Vetting Regulations.

12. European Convention on Human Rights

12.1 As the Instrument is subject to the negative resolution 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").