POLICY NOTE

THE POLICE SERVICE OF SCOTLAND (VETTING) REGULATIONS 2026

SSI 2026/46

1. The Scottish Ministers make the following Regulations in exercise of the powers conferred on them by sections 48, 55 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 ("the 2012 Act") and all other powers enabling them to do so. The instrument is subject to negative procedure.

Summary Box

The purpose of this instrument is to make provision for the vetting of all constables appointed under the 2012 Act. They require every constable to hold and maintain vetting clearance. They also require the Chief Constable to re-assess the vetting clearance of constables at intervals and if a reason to do so arises. They establish a procedure for withdrawing vetting clearance where there is evidence that a constable may no longer be suitable to hold it and an appeals process for all constables.

Policy Objectives

2. Police constables possess a range of authorised statutory powers that set them apart from ordinary members of the public. It is therefore essential that they uphold the highest ethical and professional standards and act with the utmost integrity. Doing so is crucial to maintaining public trust and confidence in the police service.

3. His Majesty's Inspectorate of Constabulary in Scotland (HMICS) published their report: 'Assurance review of vetting policy and procedures within Police Scotland' in October 2023. One of their recommendations was that "the Scottish Government should place into legislation the requirement for all Police Scotland officers and staff to obtain and maintain a minimum standard of vetting clearance and the provision for the Chief Constable to dispense with the service of an officer or staff member who cannot maintain suitable vetting."

4. These regulations progress the HMICS recommendation by ensuring the Chief Constable has in place robust vetting procedures, to identify those who pose a potential risk to others, or who are otherwise unsuitable to work within the police service. The regulations introduce provisions to ensure that the vetting of constables is carried out regularly and introduces procedures to allow the Chief Constable to dismiss a constable, should they have their vetting clearance withdrawn, where there is evidence that a constable cannot maintain a vetting clearance.

5. The regulations cover all constables and place a duty on the Chief Constable to re-assess the vetting clearance of constables, with a re-assessment made of each constable at intervals of not more than 10 years. This will ensure that constables, who will have been vetted during their recruitment to the service, will have their vetting regularly re-assessed. The Chief Constable may also re-assess a constables' vetting should a matter comes to their attention, that indicates an officer may no longer be suitable to hold vetting clearance.

6. If a matter raising a concern about the constable maintaining their current vetting clearance is found, either via this routine re-vetting or through some other means, this will be considered through a vetting withdrawal assessment. An appointed 'assessor' will gather information on the matter and consider whether the constable can maintain their vetting status. The constable can have access to a police or legal representative and must have an opportunity to make their own representations in respect of the matter which is under consideration.

7. The withdrawal assessment may be paused if there are any alleged offences. Where the matter of concern could also lead to conduct or performance proceedings, a withdrawal assessment must not commence whilst it is considered that the matter of concern would relate to a matter that is to be or may be dealt with under either process. This requirement does not, however, preclude a withdrawal assessment from taking place if there is more than one matter being considered, and the withdrawal assessment can commence in relation to matters that could not be dealt with under conduct or performance processes.

8. During the withdrawal assessment or appeal process a constable may be suspended, provided the suspension conditions are satisfied, and any suspension must be re-considered on a regular basis.

9. The 'assessor' will provide a report on their withdrawal assessment and the appropriate decision maker will then take one of the actions set out in the regulations. Actions available to the decision maker are to place conditions on vetting, downgrade vetting, withdraw vetting, or to do nothing, or divert the case to the conduct or performance processes. Where all vetting clearance of a constable has been withdrawn, a constable must be dismissed.

10. A constable can appeal against any action taken under the regulations. For non-senior officers, an appeal will be heard by an Assistant Chief Constable or if none is available, a Deputy Chief Constable. For senior officers, an appeal will be heard by a three-person panel appointed by the Scottish Police Authority. If, after an appeal, a constable is ultimately dismissed or demoted, they may appeal to the First-tier Tribunal.

11. From initial discovery through to final decision, the regulations ensure transparency, fairness and proportionality at every stage. They give constables the opportunity to put forward their case in relation to their vetting clearance, guarantees access to representation throughout the process, and provide both internal and external routes of appeal. At the same time, the Chief Constable is required to regularly review the vetting clearance of all constables and has a clear mechanism to dismiss those who cannot maintain it.

UN Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024 Compatibility

12. In accordance with section 23(2) of the United Nations Convention on the Rights of the Child (Incorporation) (Scotland) Act 2024, the Scottish Ministers certify that, in their view, the Police Service of Scotland (Vetting) Regulations 2026 are compatible with the UNCRC requirements as defined by section 1(2) of the Act.

EU Alignment Consideration

13. This instrument is not relevant to the Scottish Government's policy to maintain alignment with the EU.

Consultation

14. In accordance with section 54(2) of the 2012 Act, Scottish Ministers have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi), and under this section have consulted relevant bodies with an interest in this area of policy. Scottish Ministers have considered the representations made and drafting changes have been made as a result of those comments.

Impact Assessments

15. An Equality Impact Assessment has been completed for the regulations and found that the regulations will not impact constables due to any protected characteristics.

16. An impact assessment regarding Child Rights and Wellbeing has been completed.

Financial Effects

17. The Cabinet Secretary for Justice and Home Affairs confirms that no BRIA is necessary as the instrument has no financial effects on the Scottish Government, local government or on business.

Scottish Government
Safer Communities Directorate