EXPLANATORY MEMORANDUM TO

THE POLICE (VETTING) REGULATIONS 2025

2025 No. 502

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 Diana Johnson, Minister of State for Policing 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 Ranjit Patel or Poppy Bowes at the Home Office (Telephone: 07552291188 or email: Ranjit.Patel18@homeoffice.gov.uk or Poppy.Bowes@homeoffice.gov.uk) can be contacted with any queries regarding this Instrument.

Part One: Explanation, and context, of the instrument

4. Overview of the Instrument

What does the legislation do?

4.1 This instrument introduces a legal duty for police officers to hold and maintain vetting clearance and creates bespoke provisions enabling police forces to dismiss officers who fail to comply with the duty. This progresses recommendations made by the Home Office's review into police officer dismissals and follows a series of high-profile police misconduct cases, where vetting concerns have been raised and have had a detrimental impact on trust and confidence in the police service. [1]

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 Police officers are expected to obtain vetting clearance before being appointed to a police force. Since 2017, the College of Policing's authorised professional practice (APP) guidance on vetting has set out that officers who are unable to hold the

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

minimum level of vetting clearance could be considered to be 'grossly incompetent' under the Police (Performance) Regulations 2020 and dismissed as a result.[2] Gross incompetence means a serious inability or serious failure of an officer to perform the duties of their rank or current role. However, this is not explicitly set out within regulations alongside other qualifications of appointment, and neither is it a regulatory requirement that officers must maintain vetting clearance throughout the length of their policing career.

5.2 In 2023, the Metropolitan Police Service (MPS) launched 'Operation Assure'. This established a process to review the vetting clearance of MPS officers where concerns had previously been raised and to dismiss them via the Police (Performance) Regulations 2020 for gross incompetence if they were assessed to be unsuitable to hold vetting clearance. In Di Maria v Met Police & Ors [2025] EWHC 275 (Admin), the High Court found that the MPS's decision to withdraw the vetting of Lino di Maria through this process was unlawful. This has highlighted that there is no existing mechanism by which an officer can be dismissed for failing vetting.

5.3 The outcome of this High Court case, underlines the importance and urgency of a regulatory framework to enable vetting-based dismissals, to ensure that officers who are unfit to serve through an inability to maintain vetting clearance can be removed. This ruling impacts all forces in England and Wales and whilst officers who have had their clearance withdrawn but not dismissed have been removed from duties, they are still being paid despite being assessed to be unsuitable to work in policing. As has been set out, most notably by the MPS, this is not only a significant waste of resources but is also detrimental for public confidence. Furthermore, should this case be upheld on appeal, this could lead to more retrospective lawsuits, which would place a great financial burden on police forces and significantly damage public confidence in policing. This supports the urgency of the regulations and for them to be laid as soon as possible.

5.4 As a result, this instrument introduces a duty for police officers to hold and maintain vetting clearance and provides a regulatory mechanism by which they can be dismissed should they fail to do so. It sets out the procedures to be followed when a matter comes to the attention of a vetting authority (which in most cases will be the chief officer of the relevant police force) that indicates an officer may no longer be suitable to hold vetting clearance in accordance with the College of Policing's vetting code.

5.5 As part of the vetting clearance withdrawal assessment, relevant notices must be served by the vetting authority to the officer to inform them that their vetting clearance is under review, that the officer concerned must have access to a police friend, who supports and advises the officer through the process, as well as legal representation and must have an opportunity to make their own representations in respect of the matter which is under consideration. The officer can also be suspended at any point from when the matter comes to the attention of the vetting authority, provided the suspension conditions are satisfied. The outcomes available to the vetting authority are to maintain the officer's clearance but place conditions on it, downgrade the clearance with or without conditions or withdraw it from the officer. An officer who has had their clearance withdrawn must be dismissed without notice.

5.6 The instrument also details a two-stage appeal process should the officer wish to challenge a decision to dismiss them. The initial appeal will be handled by a panel as

[2] - https://assets.college.police.uk/s3fs-public/2024-12/Vetting-authorised-professional-practice.pdf?VersionId=Al_eeMrqXBFydzs9XQbFIMGLTEdlcu4p

constituted by the relevant vetting authority. The panel will consider the case and may confirm the original decision or decide to handle it in a manner that the original decision maker could have dealt with the case. If the officer is unsuccessful with this appeal, they will have a right to appeal to a Police Appeals Tribunal.

What was the previous policy, how is this different?

5.7 Addressing findings from the Home Office Review into Police Officer Dismissals, this will be the first set of regulations providing a bespoke framework which enables police forces to dismiss officers who are unable to maintain vetting clearance.

5.8 The College of Policing's vetting APP guidance outlines that an officer is capable of being dismissed for failing vetting under the Police (Performance) Regulations 2020 for 'gross incompetence'. However, the *Di Maria* judicial review referred to above has cast the lawfulness of this approach into doubt.

6. Legislative and Legal Context

How has the law changed?

6.1 The Police Regulations 2003 set out the qualifications for candidates seeking appointment to a police force. These do not include a requirement to hold vetting clearance. However, a number of high-profile cases of police misconduct alongside submissions provided as part of the 2023 Home Office review into police dismissals have highlighted that public confidence in the police workforce is reliant on an effective integrity framework, including on police vetting.

Why was this approach taken to change the law?

6.2 The Secretary of State has the power to make regulations as to the government, administration and conditions of service of police forces. The dismissals review found that the Secretary of State should exercise this power so that police officers have a clear legal duty to hold and maintain vetting clearance. It also found that there should be a clear route for forces to remove officers who are unable to hold vetting clearance.

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. Summaries of some of the evidence provided is incorporated within the review's published report. On vetting, the report recommended that there should be a statutory duty for officers to hold and maintain vetting clearance as well as clarification of the route by which officers can be dismissed for being unable to maintain vetting clearance.

7.2 In accordance with the requirements of the Police Act 1996, a draft of this Instrument has been supplied to the Police Advisory Board for England and Wales (PABEW).

7.3 The PABEW's comments on this Instrument were constructive and have been taken into account. Drafting changes have been made as a result of those comments.

8. Applicable Guidance

8.1 The Home Office is continuing to develop statutory guidance for those involved in the operation of the regulations – force vetting managers, senior officers, independent panel members for example – and will publish it in the coming months following a consultation with the Police Advisory Board for England and Wales (PABEW).

8.2 This is new guidance that requires drafting and consulting over the new few months, however, as has been laid out above, it is vital that this instrument is laid as soon as possible. This is necessary in order to boost public confidence in the police, and to fulfil the urgent operational and legal needs of police forces in England and Wales following the High Court ruling. The guidance will be published on gov.uk and provided to Parliament as soon as it is ready.

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 the vetting clearances of police officers. However an economic note has been prepared and published alongside this instrument.

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 existing processes in place to uphold the police discipline and performance system.

9.3 The legislation does not impact small or micro businesses.

9.4 There is no, or no significant, impact on the public sector because this Instrument extends existing regulatory procedures limited to policing. Whilst these changes may increase the number of dismissals in the short-term, it is anticipated that once officers who are currently unable to hold vetting are handled under this instrument, the volume of cases will remain at a consistent level.

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 which will be developed in conjunction with policing.

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.

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").