



Enabling Guidance

Document title: Management of Business Interests and additional occupations for police officers and police staff

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This enabling guidance is suitable for public disclosure under the Freedom of Information Act 2000

This document sets out principles to help guide decision making and in some parts may be quite prescriptive. However, it is vital that officers and staff have the freedom to innovate, exercise discretion and take risk based decisions centred on the needs of the victim and the merits of each case.

There may be occasions when a member of staff is considered to have acted outside of the content of this document but if they have done so with honesty, integrity and professionalism, to make the best decision for the community we serve, they will be trusted and supported. On the occasions when this is the case, the rationale for it must be properly recorded.

This document should be read in conjunction with the Force Policy Statement.

Introduction

It is essential that the public has confidence in the integrity and impartiality of Derbyshire Constabulary. This enabling guidance does not constrain police officers or staff from holding a business interest or additional occupations but is designed to promote consistent decision making in the authorising of those business interests and additional occupations which do not conflict with the work of the police and which will not adversely affect the reputation of the individual or the wider police service.

There will be a presumption that an application for a business interest or additional occupation will be granted once decision makers are satisfied that there are no adverse reputational matters or conflicts with the values and ethos of the Derbyshire Constabulary and whether conditional approval may be warranted. The reasoning behind any imposition of conditions or any outright rejection must be fully recorded.

Special constables are dealt with separately in terms of their employment outside the service as detailed in NPIA Circular 01/2011. The considerations in this circular are broadly similar to those contained within this guidance and must be decided on a case by case basis.

Applicants to Derbyshire Constabulary are required to declare any existing business interest they may intend to continue should they be appointed. Applicants will not be eligible for appointment if they intend maintaining a business interest that is not compatible with being a member of the organisation. Decisions on compatibility will be based on this enabling guidance. If the appropriate officer deems an applicant's existing business interest as not compatible, then either the applicant will be required to cease their involvement with that business interest or their application to join the Derbyshire Constabulary will be rejected. There is no right of appeal to a chief officer for such applicants.

Definition of a business interest

Regulation 7 of the Police Regulations 2003 (as amended by the Police (Amendment) No 3) Regulations 2012) provides that a person has a business interest if: -

- a. Being a member of a police force, the person holds any office or employment for hire or gain (otherwise than as a member of the force) or carries on any business, or
- b. Being a member of a police force or a relative included in such a member's family, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question.

"Relative" in relation to a member of a police force means: -

- i. A spouse or civil partner who is not separated from the member.
- ii. A person living with the member as if they were the member's spouse or civil partner, or
- iii. A parent, son, daughter, brother or sister of the member.

Although police staff are not covered by Police Regulations, the same definition of business interest and relative applies to police staff and police support volunteers. The term 'member' is used in this enabling guidance to refer to police officers, police staff and police support volunteers.

Outline of procedures

Where a member of the Derbyshire Constabulary proposes to have a business interest or additional occupation, or where a situation arises as outlined in b. above, the member shall give written notice of the business interest or additional occupation to the chief officer which will be considered by the appropriate chief (Head of Organisational Learning, Culture and Ethics Department, who has been

authorised by the Chief Officer to exercise functions under regulation 8) within the prescribed time limit.

In determining whether or not a prospective business interest or additional occupation is compatible with the member concerned remaining a member of Derbyshire Constabulary and to identify and assess any risk to the force or service reputation, the appropriate officer may wish to take into account the perspective of human resource personnel and the applicant's departmental head who may be best placed to identify and assess risk surrounding compatibility with the individual's role, duties and responsibilities.

In determining whether to approve an application for a business interest or additional occupation, the appropriate officer will consider each case on its own merits and in doing so will take account the principles expanded upon in the section authorising principles below.

In order to allow a business interest or additional occupation to be granted which would otherwise be rejected, the appropriate officer may consider the imposition of conditions. Such conditions may facilitate the granting of a business interest or additional occupation which might otherwise not be approved, or may set an appropriate framework in which member's business interest or additional occupation must operate. In such cases the rationale for each condition imposed should also be fully recorded.

Where the appropriate officer decides that an application for a business interest or additional occupation should not be authorised, or should be authorised only subject to conditions, the applicant should be notified in writing and provided with an opportunity to make oral and written representations (and in doing so may be assisted or accompanied by a police friend/trades union representative) before a final decision is made. The appropriate officer may discuss on an informal basis any issues pertaining to the application with the applicant prior to forming a preliminary view.

After receiving any such representations, the appropriate officer will approve the original application, approve the application subject to conditions, or decide approval should not be granted. The reasoning behind any rejection of an application or the imposition of conditions will be fully recorded and communicated to the member. Any appeal against decisions made should be made to the chief officer (see Appendix B).

Where an application is granted the appropriate officer will provide the applicant with written authority to undertake a business interest or additional occupation, together with any conditions should they apply.

Authorising principles

Members may only operate a business interest or undertake an additional occupation with the permission of the appropriate officer. Conduct of a business interest or an additional occupation without permission will be considered as a potential breach of the standards of professional behaviour and investigated under the misconduct procedures.

There are specified activities which will never be permitted. These are the holding of a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment within the force area (all of which are activities specifically covered by Regulation 7 of Police Regulations 2003).

Whilst each other case should be considered on its own merits, a number of factors covering the following areas will be taken into account in determining whether to approve an application for a business interest or additional occupation: -

- Impartiality – predicted, expected or evidenced;
- Impact on the force – potential and perceptions;
- The applicant's current performance;

- Proportionality – in relation to seniority and role;
- Equality and diversity;
- Health, safety and wellbeing.

These six areas are expanded on in more detail in the section application of authorising principles below to assist in identifying specific issues relevant to each application. This list is not exhaustive and the appropriate officer will take account of other considerations which apply to individual cases.

Decision makers will start from the presumption that an application for a business interest or additional employment will be granted once satisfied that there are no adverse reputational matters or conflicts with the values and ethos of the police service and will determine whether conditional approval may be warranted.

Application of authorising principles

Impartiality – relates to the risk of the business interest or additional occupation interfering with an individual's ability to impartially discharge their duties or the extent to which the public would be likely to perceive or form an impression that it would so interfere: -

- Whether the activity is one regulated by the police or where police are involved in the licensing of the activity;
- Whether the business interest or additional occupation is merely an extension of an individual's duty or the extent to which training, skills and experience provided by the force are to be relied upon;
- Whether the office of constable or being an employee of the force could be used to promote the business or additional occupation or a product of the business or additional occupation or would allow other organisations or commercial interests to do so;
- Whether an individual's fairness or impartiality in their dealings with the public or colleagues might be compromised.

Impact on the force or service – relates to the risk of the business interest or additional occupation either discrediting Derbyshire Constabulary or undermining confidence in the service it provides: -

- The nature of the business interest or additional occupation – how reputable it is in its own right in the eyes of the public and in association with Derbyshire Constabulary;
- Whether the activity could lead to the public losing confidence in the honesty and integrity of the individual or Derbyshire Constabulary or if it would be likely to cause confusion in the minds of the public as to whether the individual was operating in an official or unofficial capacity;
- Where the activity could lead to the individual being improperly beholden to any person, organisation, or institution;
- Whether the business interest could lead to conflicting contractual commitments to a third party e.g. providing advice to a training company which is then contracted to work for Derbyshire Constabulary.

Current performance – this relates to the risk of a decline in performance of the member coupled with the evidence as to the member's current suitability through performance monitoring.

Unsatisfactory attendance and misconduct will not necessarily be a reason for refusal unless either has a direct bearing on the business interest or additional employment. An example of a business interest or additional occupation that may be accommodated with performance issues is allowance for a rental accommodation that provides additional income without incurring additional work pressures.

- **Attendance:** when a member is absent from work on sick leave or returns to work on restricted or recuperative duties, consideration will be given to suspending approval of the business interest, providing the medical issue is related to the business interest or additional occupation so as to make it relevant.
- **Misconduct and performance:** consultation with the Counter Corruption Unit (CCU) or Human

Resources Department will take place to consider any current or previous misconduct and the impact or risk of any relevant misconduct on the approval of any business interest or additional occupation approval may be modified or withdrawn.

- Where a member with an existing approved business interest or additional occupation is subject to police performance procedures, police misconduct procedures or managing performance procedures for police staff, current approved business interests and additional occupations will be reviewed by the appropriate officer, provided the conduct or performance is directly related to the business interest or additional occupation.

Proportionality in relation to seniority and role – the appropriate officer is required to take account of the seniority, role and nature of the duties of the police officer, police staff or police support volunteer. The nature of work carried out by the member will be considered together with the different employment status of police officers and police staff and the public impact of their proposed business interest or additional occupation prior to making a decision. There will be no 'one size fits all' approach to decision making on business interests or additional occupations.

Equality and diversity – decisions on business interests or additional occupations must take full cognisance of equality and diversity considerations. The appropriate officer will ensure that all decisions can be justified by reference to relevant equality legislation and the duty on police forces under the Equality Act 2010 to actively promote equality.

Health, safety and wellbeing – the organisation has a duty of care to the individual and must take account of the risk of injury, increased stress or fatigue which could impact on the member's ability to perform duties to a satisfactory standard. As part of any consideration of a business interest or additional occupation it is essential that the force monitors the total number of hours a member will be working to comply with the duty to protect their health and safety and to ensure that the total demands of the jobs do not pose a risk to the health of the member concerned or his or her ability to work safely, either as an individual or part of a team. The requirements of the Working Time Regulations (1998) will be built into the decision making process.

Appendix A to this guidance provides more specific guidance on those business interests or additional occupations which are likely to be incompatible with the interests of Derbyshire Constabulary and which will have a high probability of raising questions as to the ability of a member to discharge their duties with impartiality and the standard of integrity expected. The list is by no means exhaustive. The fact that an activity for which approval is sought is on the list may not in itself justify rejection without full consideration of the risk and impact factors. Equally, the absence of any proposed interest or occupation from this framework should not give rise to an assumption of reasonableness.

Recommended monitoring and reviewing process

A monitoring process for all business interests and additional occupations involving the following will be introduced: -

- The timescale for review. This will be agreed at the time of approval and at each subsequent review;
- The member will report any changes in circumstances between reviews of an approved business interest or additional occupation to the chief officer through local management. The chief officer may ask for any additional information deemed necessary;
- Consideration will be given to rescinding approval if a member fails to inform the chief officer of any change of circumstances or supply any additional information requested.
- Consideration will also be given to rescinding approval if a member fails to submit a business interest or additional occupation for review when prompted to do so.
- The force will regularly review this guidance to ensure relevance and compliance, in particular with the Working Time Regulations and Health and Safety considerations;
- Where intelligence suggests that a business interest or additional occupation has been embarked upon without approval being sought or in spite of a refusal, the circumstances will be

investigated further by the Counter Corruption Unit.

Following the approval of a member's business interest or additional occupation there may be circumstances that lead to a review of the approval. These may include performance and attendance issues; conduct; health, welfare and wellbeing issues; or any change in role.

Should approval for a business interest or additional occupation be withdrawn due to a revision of standards relating to such matters, a member will not be subject to disciplinary proceedings or any other action for having conducted a previously approved business interest or additional occupation prior to the review.

Guidance on incompatible business interests and additional occupations

Applications for the granting of a business interest or additional occupation are decided on a case by case basis involving careful consideration of a number of factors including the nature of the business interest or additional occupation and the current role and responsibilities of the applicant. The Appropriate Officer, Head of Organisational Learning, Culture and Ethics, will start from the premise that only those business interests or additional occupations that are compatible with the ethos and values of the police service will be permitted and will give careful consideration to the potential for adverse reputational damage to the service arising from any perception of any shortfall in the integrity of a member of a police force being associated with the prospective interest or additional occupation.

Once satisfied there are no adverse reputational matters or conflicts of compatibility with the values and ethos of the police service, the appropriate officer will start from the presumption that an application for a business interest or additional occupation will be granted unless there is sufficient justification for it to be rejected and will determine whether conditional approval may be warranted. The reasoning behind any imposition of conditions or any outright rejection will be fully recorded.

It is not possible to provide a definitive list of specific occupations, interests or activities that are likely to lead to an application being rejected because of the need to consider each case on its merits and to assess the risks involved. The following framework is intended to provide consistency of approach to the type of activities which are likely to lead to the rejection of an application. The list of activities and examples of specific jobs provided is not exhaustive. Equally it should not be assumed that an activity (other than the first) will automatically be rejected because it appears in the list below: -

- Holding a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming regulating places of entertainment within the force area (all of which are activities specifically covered by Regulation 7 of Police Regulations 2003);
- Working in licensed premises where there would be a conflict of interest with policing duties or with the specific work carried out by a police staff employee;
- An activity that would present a conflict of interest in the administration of justice (e.g. magistrate, practicing solicitor, barrister, fine enforcement officer);
- An activity that involves investigation for other than police purposes (e.g. loss assessor, private detective);
- An activity that mirrors police responsibilities or is an extension of police functions (e.g. close protection, private security or surveillance, crime prevention or personal safety);
- An activity that is connected with the lending of money or recovery of debts for others or an activity that involves "hard selling" to colleagues or members of the public by placing undue pressure upon them to buy or rent, including recruiting others to sell on his or her behalf;
- An activity using specialist skills or knowledge obtained through the police service;
- Renting accommodation from or letting accommodation to a member of staff who is in the same line management structure (excluding short term arrangements, such as holiday lets);
- Appearing in any commercial filming production in which they portray either a police officer, police community support officer or other uniformed role, whether on or off duty, or undertake any role where it could be construed that they are representing the police service;
- The writing and publication of books, articles or other material for gain by serving members of the police service about their policing or work experiences.

Approval should also be sought for any voluntary work e.g. school governor, reservist, scout leader etc. which has the potential to impact on the reputation of Derbyshire Constabulary.

Business interests – appeals procedure

Introduction

All appeals against the non-authorisation of an application for a business interest or additional occupation will be heard by the chief officer. An appeal may be made on the grounds of process and/or be a substantive appeal against the decision. In either case the chief officer must consider all the information made available. For the avoidance of doubt, all references in this guidance to 'days' mean actual days rather than working days.

Lodging an appeal

An appellant may send written notice of an appeal to the chief officer within 10 days of being notified of the decision not to authorise an application or to impose conditions. Appeals received outside of this period will be accepted only at the discretion of the chief officer. A notice of appeal should state briefly the reasons for the appeal.

Consideration of appeal

An Appellant has a right to make written and/or oral representations to the chief officer in support of an appeal. Where the appeal is a substantive appeal against the decision made by the appropriate officer, the chief officer will consider the full case on its merits and reach a decision in the light of all the evidence available. Where it appears to the chief officer that the appellant has adduced substantive reasons why they should be permitted to have the business interest or additional occupation, or why conditions should not be imposed, which were not considered by the appropriate officer, or where the chief officer considers the appropriate officer failed to apply fair procedures, the chief officer may remit the matter back to the appropriate officer for reconsideration.

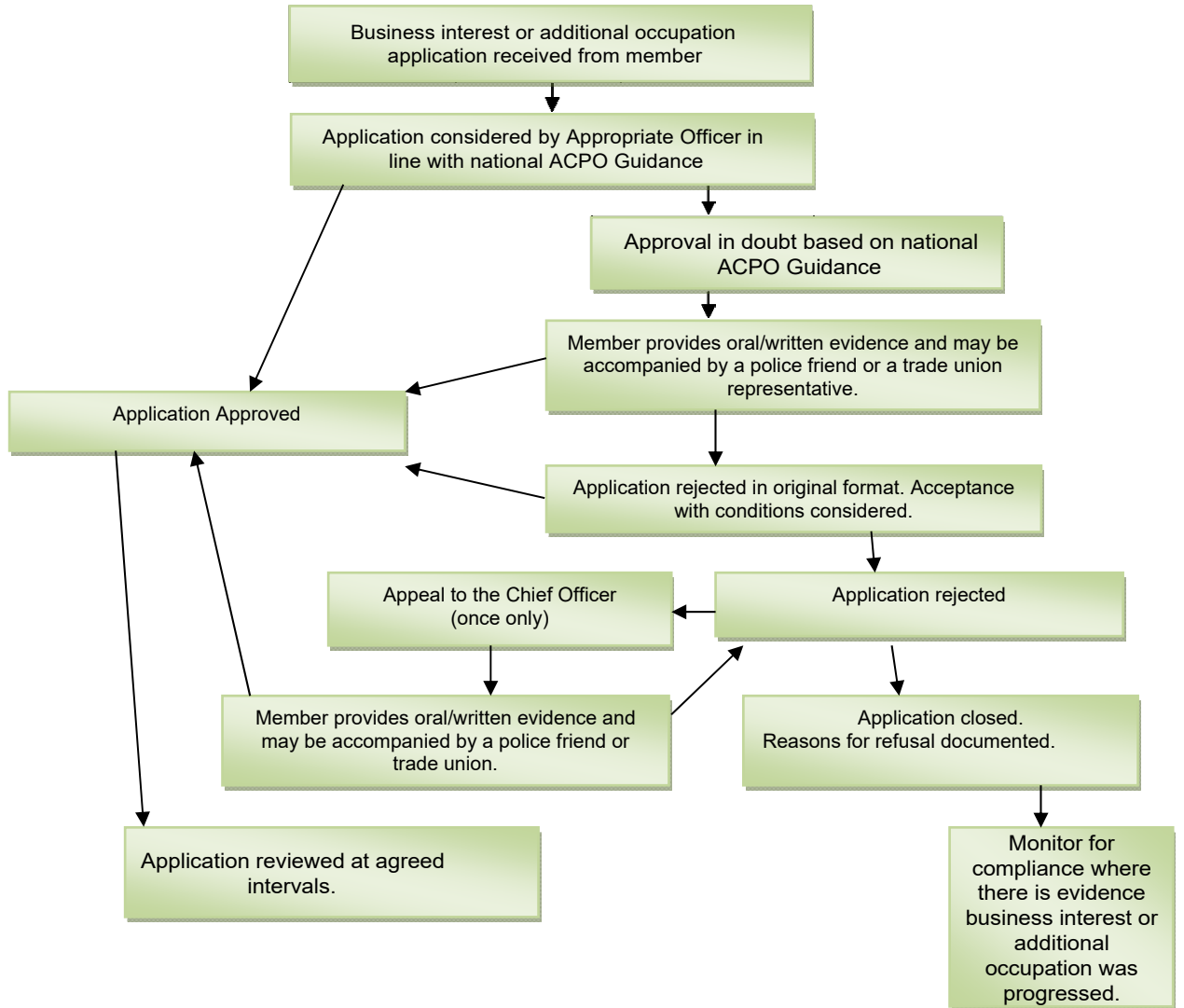
Notification of the appeal outcome

The chief officer's decision will be given to both parties to the appeal at the conclusion of the meeting and within 28 days of receipt of the notice of appeal (unless the chief officer decides to extend this period in which case the appellant must be given written notice of the reasons for the extension). Written reasons for the decision will be provided within 7 days of the meeting. There is no further right of appeal against the decision of the chief officer.

Representation

At all stages of this procedure the appellant may be represented by a police friend or representative of a trade union.

Application and Approval Flowchart



STATUTORY INSTRUMENTS

2012 No

POLICE, ENGLAND AND WALES

The Police (Amendment No 3) Regulations 2012

<i>Made</i>	<i>July 24, 2012</i>
<i>Laid before Parliament</i>	<i>July 27, 2012</i>
<i>Coming into Force</i>	<i>August 20, 2012</i>

(i) The Secretary of State makes the following Regulations in exercise of the powers conferred by section 50 of the Police Act 1996.¹

(ii) In accordance with section 63(3) of that Act, the Secretary of State has supplied a draft of these Regulations to the Police Advisory Board for England and Wales and taken into consideration their representations.

Citation, commencement and interpretation

- (1) These Regulations may be cited as the Police (Amendment No. 3) Regulations 2012 and come into force on [date].
- (2) In these Regulations "the 2003 Regulations" means the Police Regulations 2003.²

Amendments of the 2003 Regulations

- (1) The 2003 Regulations are amended as follows.
- (2) For regulations 7 (business interests incompatible with membership of a police force), 8 (business interests: supplementary) and 9 (business interests precluding appointment to a police force) substitute-

Business interests: general

- (1) Where, in the case of a member of a police force -
 - a business interest has been held by the appropriate officer to be incompatible with continued membership of the force under regulation 8; and
 - either -
 - no appeal has been made under regulation 9, or
 - such an appeal has been made and the chief officer has upheld the decision of the appropriate officer,the decision of the appropriate officer shall be regarded as a lawful order for the purposes of the standards of professional behaviour set out in the Schedule to the Police (Conduct) Regulations 2008³ and, in the event of any failure to abide by the decision, those Regulations shall apply as though the appropriate authority had determined under regulation 19(4) that the member had a case to answer in respect of gross misconduct.
- (2) For the purposes of this regulation and regulations 8 and 9 a person has a business interest if -
 - being a member of a police force, the person holds any office or employment for hire or gain (otherwise than as a member of the force) or carries on any business, or
 - being a member of a police force or a relative included in such a member's family, the person holds or possesses a pecuniary interest in a licence or (iii) permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question;

¹ 1996 c.16. Section 50 is amended by paragraph 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c.4), section 3 of the Policing and Crime Act 2009 (c.26) (from a date to be appointed) and section 82(12) of the Police Reform and Social Responsibility Act 2011 (c.13). Section 62(1) was amended by Schedule 10 to the Police Act 1997 (c.50), S.1 1999/1920, sections 90(3) and 91(3) of the Police Reform Act 2001 (c.30), paragraphs 68 and 77 of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c.15), paragraphs 61 and 67 of Schedule 1 to the Police and Justice Act 2006 (c.48) and S.1. 2010/976. Section 63(3) was amended by paragraph 78 of Schedule 4 to the Serious Organised Crime and Police Act 2005 and paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008.

² S.1. 2003/527, as amended by S.1. 2011/3026; there are other amendments but none is relevant.

³ S.I.2008/2864

- (3) Functions of the chief officer under this regulation and regulations 8 and 9 may be exercised only -
 (a) by the chief officer personally; or
 (b) by an acting chief officer.
- (4) A member of a police force may choose -
 (a) another member of a police force;
 (b) a police staff member, or
 (c) a person nominated by the member's staff association,
 who is not otherwise involved in the matter to act as the member's police friend in relation to the procedures set out in regulations 8 and 9.
- (5) A police friend may -
 (a) advise the member concerned throughout the procedures set out in regulations 8 and 9;
 (b) accompany the member concerned to any meeting held under regulation 8(4)(b) or 9(2)(a); and
 (c) make representations on the member's behalf at any such meeting,
 and a chief officer shall permit a police friend who is under the chief officer's direction and control to use a reasonable amount of duty time for these purposes.
- (6) In this regulation and regulations 8 and 9 -
 (a) "acting chief officer" means
 (i) a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011⁴,
 (ii) a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 or 45(4) of that Act, or
 (iii) a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839⁵;
 (b) "appropriate officer" means a person serving in the part of the police force (iv) responsible for the maintenance of standards of professional behaviour who has been authorised by the chief officer to exercise functions under regulation 8;
 (c) "police staff member" means
 (i) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of section 102(4) and (6) of the Police Reform and Social Responsibility Act 2011); or
 (ii) an employee of the Common Council of the City of London who is under the direction and control of the Commissioner of the City of London Police
 (d) "relative", in relation to a member of a police force, means -
 (i) a spouse or civil partner who is not separated from the member,
 (ii) a person living with the member as if they were the member's spouse or civil partner, or
 (iii) a parent, son, daughter, brother or sister of the member.
- (7) In its application to a chief officer, this regulation and regulations 8 and 9 have effect with the following modifications -
 (a) paragraph (3) of this regulation has effect as if it read -
 (v) "(3) Functions of the local policing body under this regulation and regulations 8 and 9 may be exercised, where that body is an elected local policing body, only by the body personally or by a deputy appointed under section 18(1)(a) or 19(1)(a) of the Police Reform and Social Responsibility Act 2011.";
 (b) paragraph (6)(a) of this regulation is omitted;
 (c) paragraph (6)(b) of this regulation has effect as if it read -
 (vi) "(b) "appropriate officer" means a member of the staff of the local policing body who is not under the direction and control of the chief officer and who has been authorised by the body to exercise functions under regulation 8;" and
 (d) every other reference to the chief officer has effect as a reference to the local policing body.

Business interests: notification and determination

- 8.-(1) If a member of a police force -
 (vii)(a) has or proposes to have a business interest which has not previously been disclosed; or (b) is or becomes aware that a relative has or proposes to have a business interest which, in the opinion of the member, interferes or could be seen as interfering with the impartial discharge of the member's duties and has not previously been disclosed,

⁴ 2011 c.13

⁵ 2 & 3 Vict.x xciv.

the member shall give written notice of that business interest to the chief officer forthwith.

- (2) On receipt of a notice given under paragraph (1) the chief officer shall direct the appropriate officer to decide whether or not the business interest is compatible with the member concerned remaining a member of the police force.
- (3) In deciding whether the business interest is compatible with the member concerned remaining a member of the police force, the appropriate officer shall have regard to whether, as a result of the business interest, the member's conduct fails or would fail to meet the standards of professional behaviour set out in the Schedule to the Police (Conduct) Regulations 2008⁶.
- (4) Where the appropriate officer is minded to decide that the business interest is not compatible with the member concerned remaining a member of the police force, or is not so compatible unless conditions are imposed, the officer shall -
 - (a) notify the member in writing of this preliminary view and the reasons for it;
 - (b) give the member the opportunity to make representations in writing, at a meeting or both, at the discretion of the member; and
 - (c) take any such representations into account.
- (5) Whether or not paragraph (4) applies, the appropriate officer shall, within 28 days of receipt of the notice given under paragraph (1) notify the member concerned of the officer's decision in relation to the business interest.
- (6) Notification under paragraph (5) shall be in writing; and
 - (a) where the decision is that the business interest is compatible with the member concerned remaining a member of the police force, may require the member to furnish particulars of changes in the business interest, as respects its nature, extent or otherwise; and
 - (b) where the decision is that the business interest is not compatible with the member concerned remaining a member of the police force, or is not so compatible unless conditions are imposed, shall
 - (i) include a statement of the reasons for the decision;
 - (ii) be accompanied by copies of any document on which the officer relies in support of the decision, and
 - (iii) inform the member of the existence of the right of appeal under regulation 9.
- (7) Where a member of a police force is required to furnish particulars of changes in a business interest under paragraph (6)(a), in the event of any such change being proposed or occurring this regulation shall have effect as though the changed business interest were a newly proposed or newly acquired business interest.

Business interests: appeal

- (viii) 9.-(1) Within 10 days of being notified of an appropriate officer's decision under regulation 8(5), or within such longer period as the chief officer may in all the circumstances allow, a member of a police force may appeal against that decision by sending written notice to the chief officer.
- (2) On receiving notice of appeal under paragraph (1) the chief officer shall
 - (a) give the member the opportunity to make representations in writing, at a meeting, or both, at the discretion of the member; and
 - (b) take any such representations into account.
- (3) The chief officer shall decide the appeal unless it appears to the chief officer that -
 - (a) the member has adduced substantive reasons why he should be permitted to have the business interest, or why conditions should not be imposed, which were not considered by the appropriate officer; or
 - (b) the appropriate officer failed to apply fair procedures,
 in which case the chief officer may direct the appropriate officer to decide the matter again under regulation 8.
- (4) Subject to paragraph (5), the chief officer shall, within 28 days of receipt of the notice of appeal under paragraph (1), notify the member concerned in writing of the outcome of the appeal and provide a statement of the reasons for the decision.
- (5) The chief officer may extend the period specified in paragraph (4), where the chief officer considers that it would be in the interests of justice to do so.
- (6) Where the chief officer decides to extend the period under paragraph (5), the chief officer shall provide written notification of the reasons for that decision to the member concerned."
- (3) In regulation 10 (qualifications for appointment to a police force) -
 - (a) after paragraph (1) insert -

"(1A) A candidate is not eligible for appointment to a police force if the candidate, or a relative included in the candidate's family, has a business interest which is to

⁶ S.I.2008/2864 as amended by S.I.2011/3027

be retained after appointment, unless the business interest is approved by the chief officer or, in the case of a candidate for appointment as chief officer, by the local policing body.";

(b) in paragraph (3)

(i) in sub-paragraph (a) omit "and";

(ii) after sub-paragraph (b) insert

"(c) "relative", in relation to a candidate for appointment to a police force, means

a spouse or civil partner who is not separated from the candidate,

a person living with the candidate as if they were the candidate's spouse

or civil partner, or

a parent, son, daughter, brother or sister of the candidate; an

(d) a person has a business interest if

(i) being a candidate for appointment to a police force, the person holds any office or employment for hire or gain or carries on any business, or

(ii) being a candidate for appointment to a police force or a relative included in such a candidate's family, the person holds or possesses a pecuniary interest in a licence or permit granted in pursuance of the law relating to liquor licensing, refreshment houses or betting and gaming or regulating places of entertainment in the area of the police force in question".

Home Office

Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police Regulations 2003 ("the 2003 Regulations") by replacing the provisions about business interests held by police officers, candidates for appointment to police forces, and their relatives.

New regulation 7 of the 2003 Regulations, substituted by these Regulations, defines key terms such as "business interest" and "relative". These carry the same meaning as under the existing provisions. New regulation 7 also sets out the consequences if a police officer's business interest is held to be incompatible with the officer's continued membership of the force. In the event of a failure by the officer to abide by such a decision, the officer is treated as though a finding had been made that he had a case to answer in respect of gross misconduct under the Regulations dealing with police conduct, and proceedings may be taken against him under those Regulations accordingly. This is a change from the current position, whereby the chief officer of police has the power to dismiss the officer in the event of a failure to abide by a decision, with the approval of the police authority but without undertaking disciplinary proceedings.

New regulation 7 further requires the functions of the chief officer under the business interest provisions to be performed by the chief officer personally, or by a senior officer standing in for the chief officer under specific statutory provisions that permit this. Delegation of the chief officer's functions is prohibited - this is a change from the position under the current Regulations.

Finally, new regulation 7 allows a police officer to be supported, during the process of consideration of a business interest, by a police friend. This accords with the position for proceedings under the Regulations dealing with police conduct and performance.

New regulation 8 of the 2003 Regulations sets out the process for notification of a business interest by a police officer, and for consideration by an authorised officer within the force's professional standards department (the "appropriate officer") of whether the business interest is compatible with membership of the force. The regulation provides for the police officer concerned to be able to make representations, either orally or in writing, and to receive written notice of the decision of the appropriate officer.

New regulation 9 of the 2003 Regulations provides a right of appeal to the chief officer, in the event that the appropriate officer finds that the business interest is incompatible with membership of the force, or is only compatible if conditions are imposed. This replaces the rights of appeal to the police authority and the Secretary of State under the current Regulations.

NOT PROTECTIVELY MARKED
NOT PROTECTIVELY MARKED

Again, the regulation provides for the police officer concerned to make oral or written representations. On an appeal the chief officer may uphold or reverse the decision of the appropriate officer or, in defined circumstances, may remit the matter to the appropriate officer for reconsideration.

These Regulations also amend regulation 10 of the 2003 Regulations, which deals with qualifications for appointment to a police force. The existing provisions about approval of a business interest of a candidate for appointment, or a candidate's relative, are moved to this regulation from the existing regulation 9.

NOT PROTECTIVELY MARKED