

PFCC Decision Report

Report reference number: 100-24

Classification: Not protectively marked

Title of report: Pension Forfeiture and Set-Off Policy

Area of county / stakeholders affected:

Police pensioners who are criminally convicted in connection with their service with the police force

Report by: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

Chief Officer: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

Date of report: 31 May 2024

Enquiries to: Pippa Brent-Isherwood (Chief Executive and Monitoring Officer)

1. Executive Summary

This decision report seeks the PFCC's approval of a new Pension Forfeiture and Set-Off Policy.

2. Recommendations

That the PFCC approves for adoption the Pension Forfeiture and Set-Off Policy attached at Appendix 1.

3. Background to the Proposal

Following recent high-profile cases within the Metropolitan Police Service, the ethics and integrity of policing have been increasingly in the spotlight over recent years, with the public rightly expecting robust action to be taken in cases where police officer and staff conduct falls below the standards expected generally, but particularly where this meets criminal thresholds. The Pension Supervising Authority (the PFCC in the case of police officer pensions and the Chief Constable in respect of police staff pensions) can apply to the relevant Secretary of State for forfeiture of a pension scheme

member's pension in cases where that individual is convicted of treason or offences under the Official Secrets Acts 1911 to 1939 and has been sentenced to a term of imprisonment of at least 10 years, or is criminally convicted in connection with their service with the police force and where this is certified by the relevant Secretary of State to be gravely injurious to the state and / or likely to lead to serious loss of confidence in policing. Although, in practice, forfeiture has been pursued in appropriate cases in accordance with the legislation, regulations and Home Office guidance, neither the PFCC nor Essex Police currently have a formally documented policy surrounding pension forfeiture. The adoption of this policy aims to address this.

4. Proposal and Associated Benefits

As set out in section 3 above, the Pension Supervising Authority can apply to the relevant Secretary of State for forfeiture of a pension scheme member's pension in cases where that individual is convicted of treason or offences under the Official Secrets Acts 1911 to 1939 and has been sentenced to a term of imprisonment of at least 10 years, or is criminally convicted in connection with their service with the police force and where this is certified by the relevant Secretary of State to be gravely injurious to the state and / or likely to lead to serious loss of confidence in policing. The policy proposed for adoption at Appendix 1 documents the policy and procedure relating to this process and the three key decisions to be made in each case:

- 1) Whether or not to proceed with forfeiture
- 2) The amount to be forfeited
- 3) Whether any forfeiture should be permanent or temporary

It is hoped that the adoption of this policy will have a declaratory effect in preventing serious and criminal misconduct as well as safeguarding the public money that funds police pensions.

5. Options Analysis

The PFCC could chose not to adopt this policy, however this option is not recommended as the current lack of a formally documented pension forfeiture policy risks undermining public confidence and weakening arrangements to safeguard the public money that funds police pensions.

6. Consultation and Engagement

The Deputy Chief Constable (in their capacity as the Delegated Appropriate Authority), the Head of Professional Standards, the Constable's Chief Finance Officer (in their capacity as the Delegated Pension Scheme Manager) and the Force Solicitor have all been consulted on the draft policy and confirmed they are content with it.

The content of the policy also reflects a workshop on the subject hosted by the Home Office and the Association of Policing and Crime Chief Executives (APACCE) in March 2023.

7. Strategic Links

N/A

8. Police operational implications

As set out in section 4 above, it is hoped that the adoption of this policy will have a declaratory effect in preventing serious and criminal misconduct. However, where this does occur, Essex Police's Professional Standards Department (PSD) will have a role to play in identifying and supporting the Pension Supervising Authority to apply for opportunities to secure pension forfeiture where appropriate. This will require proactive monitoring and assessment of potentially eligible cases as they progress through the criminal justice process, along with proactive monitoring of the press and media to identify ex-officers whose pensions could be eligible for forfeiture.

9. Financial implications

It should be noted that, in accordance with the relevant legislation, the Pension Supervising Authority can only forfeit the employer's contribution to the pensioner's pension fund (i.e. up to 65% of the total).

10. Legal implications

The legislative basis for police officer pension forfeiture is set out in the Police Pensions Regulations 1987, 2006 and 2015. The legislative basis for forfeiture of police staff pensions is set out in regulations 91 – 95 of the Local Government Pension Scheme Regulations 2013.

11. Staffing implications

There are no staffing implications arising directly for the PFCC, although their Chief Executive and Monitoring Officer will have a role to play in supporting them through the process of considering opportunities to forfeit police officer pensions, as set out in the proposed policy.

12. Equality, Diversity and Inclusion implications

There are no equality, diversity or inclusion implications arising from the adoption of this policy, which would apply to all current and former officers and staff who are criminally convicted in connection with their service with the police force. The proposed policy emphasises the importance of considering the welfare of those subject to these proceedings throughout the process and requires submission / mitigation from the scheme member to be invited for consideration at various stages.

13. Risks and Mitigations

As set out in section 5 above, the current lack of a pension forfeiture policy risks undermining public confidence and weakening arrangements to safeguard the public money that funds police pensions. Approval of the policy attached at Appendix 1 would mitigate these risks.

Even with a policy in place, there is a risk of decisions around pension forfeiture being challenged. This can be minimised as far as possible through compliance with the policy and through the keeping of clear records throughout the process.

14. Governance Boards

The development and approval of this policy was discussed at Formal Performance Meetings between the PFCC and the Chief Constable on 22 April and 3 June 2024.

15. Links to Future Plans

The Home Office indicated in March 2023 that it was aiming to consult on changes to police pension forfeiture arrangements (including a longer timeline for applying to forfeit police staff pensions) during summer 2024. It is now unlikely that this will happen within this timescale due to the forthcoming General Election. Should any changes be made to the legislation or regulations governing police pension forfeiture in future, the policy will be reviewed and updated as required.

16. Background Papers and Appendices

Appendix 1 – Pension Forfeiture and Set-Off Policy

Report Approval

The report will be signed off by the PFCC's Chief Executive and Chief Finance Officer prior to review and sign off by the PFCC / DPFCC.



Chief Executive / M.O.

Sign:

Print: P. Brent-Isherwood

Date: 31 May 2024

Chief Financial Officer

Sign:



Print: Janet Perry

Date: 24 June 2024

Publication

Is the report for publication?

YES

NO

If 'NO', please give reasons for non-publication (Where relevant, cite the security classification of the document(s). State 'None' if applicable)

None

If the report is not for publication, the Chief Executive will decide if and how the public can be informed of the decision.

Redaction

If the report is for publication, is redaction required:

1. Of Decision Sheet?

YES

2. Of Appendix?

YES

NO

NO

If 'YES', please provide details of required redaction:

N/A

Date redaction carried out:

Chief Finance Officer / Chief Executive Sign Off – for Redactions only

If redaction is required, the Chief Finance Officer or Chief Executive is to sign off that redaction has been completed.

Sign:

Print:

Chief Executive / Chief Finance Officer

Decision and Final Sign Off

I agree the recommendations to this report:

Sign: 

Print: Roger Hirst

PFCC

Date signed: 255/06/2024

I do not agree the recommendations to this report because:

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.....

Sign:

Print:

PFCC/Deputy PFCC

Date signed: