

Police, Fire and Crime Commissioner for Essex

Pension Forfeiture and Set-Off Policy

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Police, Fire and Crime Commissioner for Essex Pension Forfeiture Policy

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1. Introduction

- 1.1 Pension forfeiture is a feature of all public service pension schemes. This document sets out the policy and procedure to be followed for the forfeiture of police officer and police staff (including PCSO) pensions and has been drafted in accordance with the Home Office Pension Forfeiture Guidance published on 11 February 2021.
- 1.2 Depending on which pension scheme(s) a current or former police officer is in, the legislative basis for pension forfeiture is set out in either Regulation K5 of the Police Pensions Regulations 1987 (as amended by the Police Pensions (Amendment) Regulations 2011), Regulation 55 of the 2006 Regulations, and / or Chapter 5 of Part 13 of the 2015 Regulations (as amended by the National Security Act 2023 (Consequential Amendments of Subordinate Legislation) Regulations 2023).
- 1.3 Regulation 212 of the Police Pension Regulations 2015 also allows for the forfeiture of a survivor's pension where the survivor has been convicted of a crime leading to the pension scheme member's death.
- 1.4 The legal framework relating to police staff pension forfeiture is set out in Regulations 91 – 95 of the Local Government Pension Scheme Regulations 2013 (as amended by the Local Government Pension Scheme (Amendment) Regulations 2015 and the National Security Act 2023 (Consequential Amendments of Subordinate Legislation) Regulations 2023).
- 1.5 Consideration should be given to applying for pension forfeiture certificates in relation to any and all pension schemes in the event of the conviction of a retired or otherwise former police officer who was re-employed as a police staff member.

2 Scope

- 2.1 This policy applies to all current and former Essex Police officers and staff.
- 2.2 All instances of pension scheme members being convicted of criminal offences should be reviewed and consideration given as to whether they meet the eligibility criteria for pension forfeiture (see below). This requires proactive monitoring and assessment of relevant cases as they progress through the criminal justice process. Proactive monitoring of the press and media is also required to identify ex-officers and staff whose pensions may be eligible for forfeiture.
- 2.2 The term 'pensioner' is used throughout this policy to refer to the police officer or member of staff subject to pension forfeiture proceedings who is in receipt of or eligible to receive a relevant pension.
- 2.3 Forfeiture can only be applied for in cases where there is a criminal conviction. The decision maker may determine forfeiture, and the extent of forfeiture, where a pensioner (whether they are eligible for an immediate or deferred pension) has been convicted of either:

Eligibility criteria 1

An offence of treason, or one or more offences under the Official Secrets Acts 1911 and 1989, or under section 18 of, or listed in section 33(3)(a) of the National Security Act 2023, where the sentence imposed is a term of imprisonment of, or two or more consecutive terms amounting in the aggregate to, at least 10 years.

Eligibility criteria 2

A criminal offence committed in connection with a person's service as a member of a police force which the Secretary of State has certified was:

- Gravely injurious to the interests of the State, or
- Liable to lead to serious loss of confidence in public service.

The pensioner need not have been a serving officer / member of staff at the time of the offence in order to meet the requirement that it must be connected with their service (e.g. a relevant offence may be committed after the pensioner has retired or resigned). In addition, the offence does not need to have been committed on duty in order to be connected to their service.

2.4 The procedures set out in this policy are concerned primarily with cases falling within eligibility criteria 2.

2.5 Cases falling within eligibility criteria 1 will follow similar procedures but are relatively rare and do not require a certificate to be issued by the relevant Secretary of State. Consequently, the decision maker can proceed directly to the consideration of forfeiture. In such cases involving a police officer, the Police, Fire and Crime Commissioner may still require the Chief Constable, or their representative, to prepare a report including the information set out in sections 4 and 5 of this policy.

2.6 Whilst the relevant Pension Supervising Authority (PSA) cannot forfeit a pension without a certificate from the relevant Secretary of State, the issuance of such a certificate does not oblige them to proceed with forfeiture. This is a matter for the PSA to determine.

PART 1 – POLICE OFFICER PENSION FORFEITURE PROCEDURE

3 Roles and Responsibilities

3.1 The procedure relating to police officers is summarised at Appendix 1. There are four stages to the procedure:

- Following the conviction of the pensioner, the Chief Constable, or their representative, shall notify the Police, Fire and Crime Commissioner that there may be a case for pension forfeiture and provide the PFCC with a position report.
- The Police, Fire and Crime Commissioner, as the Pension Supervising Authority (PSA), shall decide whether to proceed with the forfeiture process by making an application to the Home Secretary for the issue of a certificate of forfeiture.
- Following receipt of an application from the Police, Fire and Crime Commissioner, the Home Secretary will consider whether to issue a certificate of forfeiture.
- If a certificate is issued, the Police, Fire and Crime Commissioner shall consider whether the pension is to be forfeited and, if so, to what extent it should be forfeited.

3.2 The pensioner must be kept informed throughout the process by the Police, Fire and Crime Commissioner's office. Consideration must also be given to their welfare, including through liaison with the relevant Prison Governor if they are in prison.

4 The Chief Constable's Report

4.1 As soon as practical following the conviction of the pensioner of a criminal offence as set out in paragraph 2.3, the Chief Constable, or their representative, shall provide the Police, Fire and Crime Commissioner with a position report using the template attached at Appendix 2.

The report should contain a view, with reasons, as to whether forfeiture should be considered, based on the requirements of eligibility criteria 2, namely:

- Whether the criminal offence has been committed in connection with a person's service as a member of a police force, and
- Whether it was gravely injurious to the interests of the state and / or liable to lead to serious loss of confidence in the public service.

4.2 The report should contain as much relevant information as possible, to enable the Police, Fire and Crime Commissioner to consider whether to apply to the Home Secretary for a certificate, to allow the Home Secretary to consider whether to grant a certificate, and for the PFCC subsequently to determine whether a pension should be forfeited, and to what extent. The force should consider ensuring the attendance at the sentencing court of a sufficiently senior police officer or member of staff to record any information that may be relevant to the report.

4.3 The report should also include relevant financial information, including pension details and four examples illustrating the effects of different percentage reductions in pension.

4.4 Further details as to the information required within the report in respect of the pensioner and the circumstances of the offence(s) is outlined in paragraphs 5.6 and 5.7 of this policy.

5 Procedure on receipt of the Chief Constable's Report

5.1 As soon as practical on receipt of the Chief Constable's report, the Police, Fire and Crime Commissioner's Chief Executive and Monitoring Officer will arrange for the PFCC to consider the case for pension forfeiture. At this stage, the PFCC must decide only whether to apply to the Home Secretary for a certificate.

5.2 Although there is no statutory limit on the time in which an application can be made to the Home Secretary, such applications should be made in a timely manner wherever possible.

5.2 If the pensioner has been granted leave to appeal their conviction, the Police, Fire and Crime Commissioner should await the outcome of the appeal before proceeding. This provision does not apply where leave to appeal is initially refused, and the pensioner seeks leave to appeal to a higher court. In those circumstances, the PFCC should proceed unless and until any leave to appeal is granted.

5.3 Once the PFCC is able to proceed, they or their representative will notify the pensioner that forfeiture is being considered, and offer them the opportunity to make representations in writing, in person or via video link from prison. The pensioner's representations should include all matters that they would wish to put before the Home Secretary should an application be submitted.

5.4 The Chief Constable, or their representative, will be invited to provide a further written response based on the information supplied by the pensioner.

5.5 Forfeiture is an additional penalty to the penalty of a court and pension rights should only be forfeited in serious circumstances. Forfeiture will not be appropriate in every case where a pensioner has committed a criminal offence but should always be considered where the offence is serious and there is, or might be, public concern about the pensioner's abuse of their position of trust. The Police, Fire and Crime Commissioner should specifically consider the requirements under eligibility criteria 2 (see paragraph 2.2) and provide a statement in respect of these matters in any application for a certificate (see paragraph 5.6). When evaluating

whether a conviction was in connection with the pensioner's service in the police force, the PFCC should consider whether they used their skills and knowledge gained through being an officer to commit the crime, or whether they abused their position of trust.

- 5.6 An application by the Police, Fire and Crime Commissioner to the Home Secretary should be made using the template attached at Appendix 3 (also available here: [Police pension forfeiture - GOV.UK \(www.gov.uk\)](http://www.gov.uk)) and include the following information:
- A statement that, in the view of the PFCC, the offence was committed in connection with service as a member of the police force and was gravely injurious to the interest of the State and / or liable to lead to serious loss of confidence in public service.
 - Full details of the offence(s) and the perceived connection with the police service.
 - Details of the circumstances surrounding the offence and investigation and, in particular, whether the offence involved:
 - Organised conspiracy amongst several officers or staff
 - Active support for criminals
 - Perversion of the administration of justice
 - Betrayal of an important position of trust for personal gain
 - Corruption or attempted corruption of junior officers or staff.
 - Details of punishment imposed by the Court and the Judge's sentencing remarks if known.
 - Details of local and / or national publicity and media coverage (though inaccurate reporting should always be disregarded).
 - Brief details of the pensioner's service, length of service and seniority.
 - Financial implications, including pension details, widower's and / or children's allowances.
 - Details of any associated misconduct proceedings (including the outcome, the outcome of any subsequent appeal and whether the pension scheme member has been included on the Barred and Advisory List).
- 5.7 Other information relevant to the application may include the effect of the offence on victims and witnesses.
- 5.8 It is expected that the information required under paragraphs 5.6 and 5.7 will be included within the Chief Constable's report.
- 5.9 Applications are liable to disclosure and care should be taken to provide only relevant information.
- 5.10 The Police Integrity Unit in the Home Office is responsible for handling and processing all application for police pension forfeiture certificates. Applications should be sent via recorded delivery to:

Pension Forfeiture
Police Integrity Unit
Crime, Policing and Fire Group
6th Floor Fry Building
2 Marsham Street
London
SW1P 4DP

Or via email pension.forfeiture@homeoffice.gov.uk

5.11 The pensioner should be notified of the application to the Home Secretary as soon as possible.

6 Consideration of the Application by the Home Secretary

6.1 Home Office officials will review and process the application before seeking a decision from the Home Secretary. This process can take some time, so the Home Office should be advised on submission of any pressing issues (e.g. if the officer is already in receipt of their pension).

6.2 Either the Home Secretary or a Minister of State acting on their behalf under delegated authority will then consider whether the pensioner's offence was either gravely injurious to the interests of the State and / or liable to lead to serious loss of confidence in the public service, and therefore whether to issue a certificate. In considering the application, the Home Secretary will take account of the information set out in paragraphs 5.6 and 5.7.

6.3 The Police, Fire and Crime Commissioner is not required to give any indication as to any amount, proportion or duration of forfeiture they may be considering when applying for a certificate from the Home Secretary.

6.4 The Police, Fire and Crime Commissioner and the pensioner will be notified of the Home Secretary's decision and the reasons for it. A copy of the certificate, if issued, will also be forwarded.

6.5 The issue of certificates is solely at the discretion of the Home Secretary. If a certificate is refused, forfeiture cannot proceed. The Home Secretary's decision can be challenged by Judicial Review, but only if it is unlawful or manifestly unreasonable or irrational.

7 Consideration of Forfeiture by the Police, Fire and Crime Commissioner

7.1 The PFCC cannot make a decision in respect of forfeiture unless and until a certificate is issued by the Home Office. Where the Home Secretary determines that it is appropriate to issue a certificate of forfeiture, it is then for the Police, Fire and Crime Commissioner to determine whether the pension should be forfeited and the extent of forfeiture. This is in terms of both the proportion of pension to be forfeited and the period over which that forfeiture is to take place (see Section 8).

7.2 The Police, Fire and Crime Commissioner must ensure that the pensioner is informed of the outcome of the application and the reasons for it as soon as possible, and must also provide them with a copy of the following documents prior to making any decision regarding forfeiture:

- A copy of the certificate,
- The Home Secretary's reasons for granting the certificate, and
- A copy of the Chief Constable's report and any documents / materials relied on by the Home Secretary and the Police, Fire and Crime Commissioner. Legal advice should be sought if it is intended to withhold sensitive information from the pensioner.

7.3 The pensioner will be informed of the procedure below and will be invited to submit representations / mitigation for the Police, Fire and Crime Commissioner's consideration within 14 days of receiving the certificate. Such submissions may be made in writing, in person or via video link from prison where appropriate. The time period for receipt of submissions may be extended by the PFCC on receipt of representations from the pensioner.

- 7.4 The Chief Constable, or their representative, will be invited to submit further written representations in response to the information supplied by the pensioner within 14 days of receipt of the pensioner's representations.
- 7.5 Following receipt of the representations set out in paragraphs 7.3 and 7.4, the Police, Fire and Crime Commissioner may arrange a private meeting with the pensioner and the Chief Constable, or their representative, to hear oral representations based upon the representations already received. The pensioner may be assisted at the meeting by a friend or legal adviser.
- 7.6 The PFCC shall attempt to agree a suitable date for any such meeting with all parties and will consider an adjournment if there are extenuating circumstances preventing the pensioner attending on the set day. If the pensioner is unable to attend any meeting (or where practical considerations prevent attendance), the following safeguards should apply:
- The only individuals present at the meeting should be the Police, Fire and Crime Commissioner and his / her representative(s) (e.g. their Chief Executive and Monitoring Officer and legal advisors). Police force representatives should not attend when the pensioner is not present on fairness grounds.
 - If, at any time during the meeting, the Police, Fire and Crime Commissioner decides that a point of detail needs to be clarified, proceedings may be adjourned to clarify the detail required.
- 7.7 The Police, Fire and Crime Commissioner may also adjourn the meeting if necessary to assist with the consideration of a decision or to consider a final determination.
- 7.8 Full and accurate notes will be taken and retained of any such meeting.
- 7.9 The Police, Fire and Crime Commissioner shall, as soon as practical, determine whether forfeiture is to take place, and if so to what extent (see Section 8). The PFCC will make this decision in private with advice from their Chief Executive and Monitoring Officer and legal advisors as appropriate. The information submitted by all parties at each stage of the process should be considered by the PFCC when determining whether the pension shall be forfeited. Home Office guidance (summarised in Section 8 below) should also be taken account of in determining the extent and duration of any forfeiture.

8 Extent and Duration of Forfeiture

- 8.1 For the purpose of these procedures, pension does not include an allowance, a gratuity, a lump sum, or an award by way of repayment of aggregate pension contributions. It means a personal pension, a widow's pension, or a dependent relative's special pension. A commuted lump sum may not be forfeited but, if a pension is forfeited before it becomes payable (e.g. an ordinary pension before the age of 50 or a deferred pension before the age of 60), there will be little or no pension left to commute for a lump sum.
- 8.2 The Police, Fire and Crime Commissioner, as the Pension Supervising Authority (PSA), may determine that forfeiture be applied either permanently or temporarily and in whole or in part, if the pensioner has been convicted of a relevant offence and, in the case of a widow's pension, that offence was committed after the death of the pensioner's husband, if the grantee has been convicted of an offence committed in connection with their service as a member of a police force which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service. Similarly, the PSA may determine that a pension is to be forfeited, in whole or in part, and

either permanently or temporarily, if the pensioner has been convicted of a relevant offence and, in the case of an adult survivor's pension, that offence was committed after the death of the police officer in respect of whom the pension is payable, if the grantee has been convicted of an offence committed in connection with their service as a member of a police force which is certified by the Secretary of State either to have been gravely injurious to the interests of the State or to be liable to lead to serious loss of confidence in the public service.

- 8.3 As referenced at paragraph 1.3 above, under section 212 of the Police Pension Regulations 2015, if the beneficiary of a deceased member of an eligible pension scheme is convicted of a relevant criminal offence, the Police, Fire and Crime Commissioner, as the Pension Supervising Authority, may also, to the extent they consider appropriate, require the Pension Scheme Manager to withhold the benefits payable to the beneficiary in respect of that member. For these purposes, "relevant criminal offence" means the murder of the member, the manslaughter of the member, or any other offence of which the unlawful killing of the member is an element.
- 8.4 The Police, Fire and Crime Commissioner, as the Pension Supervising Authority, may also, at their discretion and to the extent they deem fit, restore to the pensioner, or apply for the benefit of an eligible adult or child survivor of the pensioner, any amount(s) of any pension that has or have been forfeited.
- 8.5 Temporary forfeitures are relatively rare but may be considered appropriate, for example, where suspended sentences are handed down. In addition, the secured portion of a pension can only be forfeited temporarily, that is, until a pensioner reaches state pensionable age. After that, it may only be forfeited if the pensioner is in legal custody.
- 8.6 A pensioner who is dismissed after completing 25 years' service will not be entitled to an ordinary pension if he / she was dismissed for a cause for which the pension could be forfeited. In these circumstances, the pensioner will only become entitled to a deferred pension at the age of 60 and it will be for the Police, Fire and Crime Commissioner to determine whether the deferred pension should be forfeited and to what extent.
- 8.7 If the pension is a deferred one, the Police, Fire and Crime Commissioner may decide (once a certificate has been issued) to keep the question of forfeiture under review. However, delay in determining forfeiture following the issue of a certificate might, in some circumstances, be prejudicial to a successful appeal and could be challenged in the courts. Whether or not to delay the decision will depend on the individual circumstances of each case.
- 8.8 The Police, Fire and Crime Commissioner may only withhold that part of a person's pension that exceeds any guaranteed minimum to which the person is entitled under section 14 of the Pensions Schemes Act 1993 (earner's guaranteed minimum) or section 17 of that Act (minimum pension for surviving spouses and civil partners). The courts have ruled that a police officer's pension may be forfeited by no more than 65%, the remainder reflecting the pensioner's own contributions which cannot be forfeited. There is no minimum amount, proportion or duration.
- 8.9 In making their decision as to the level of forfeiture, the Police, Fire and Crime Commissioner should consider the following factors:
- Those listed in paragraphs 5.6 and 5.7 above which reflect the gravity of the pensioner's conduct.
 - Length of service – Pension rights are deferred pay earned by service. At one end of the scale lies cases where officers engage in corrupt activities over a significant period of time.

In such cases, it would be difficult to regard the pension rights relating to that period of corrupt service as having been truly “earned”. At the other end of the scale lie cases where the careers of officers with many years of unblemished service are ended by a moment of reckless behaviour. In such cases, it may be considered disproportionate to deprive the individual of some or all their pension rights in addition to the punishment already received. Such cases may be considered more suitable for time limited forfeiture.

- The pensioner’s conduct of defence of the charges.
- Any mitigating circumstances.
- Any known disability in the family.
- Any known illness at the time of the offence(s).
- Assistance or information given to the police by the pensioner during the investigation and / or following conviction.

8.10 If several officers and / or staff were involved in the commission of the relevant offence(s), the Police, Fire and Crime Commissioner may decide to reflect different levels of culpability in the extent of forfeiture for each. For example, officers or staff of a senior rank may be considered more culpable than junior officers or staff.

8.11 The Police, Fire and Crime Commissioner should also consider the examples of different percentage reductions provided by the Chief Constable or their representative, as referenced in paragraph 4.3.

9 Procedure following the Police, Fire and Crime Commissioner’s Decision

9.1 If forfeiture is to take place, the pensioner shall be informed in writing of the Police, Fire and Crime Commissioner’s decision (including the extent of forfeiture) and the reasons for it as soon as possible, and in any event within 14 days of the decision being made. They shall also be informed of their right of appeal, as set out in section 11 of this policy.

9.2 The PFCC’s Chief Executive and Monitoring Officer will inform the Home Office of the final outcome of the case, including whether the pension was forfeited, the extent and duration of any forfeiture.

9.3 The Chief Constable and the pension scheme administrator will also be informed of the decision, and confirmation sought that the pension scheme administrator has taken appropriate actions in response.

9.4 The decision and rationale for the decision will be recorded in a decision report published by the PFCC. Given that pension forfeiture has a declaratory effect in preventing serious criminal misconduct, consideration should also be given to promoting the outcome internally and externally, weighed against any implications in terms of data protection.

9.5 The forfeiture process is triggered by the relevant conviction, so does not generally need to await the outcome of any appeal. There may, however, be exceptions based on the facts, so legal advice should be taken in these circumstances.

10. Relevant Monetary Obligations and Relevant Monetary Losses

10.1 If a pensioner owes a relevant monetary obligation or has caused a relevant monetary loss, the Police, Fire and Crime Commissioner may, as the Pension Supervising Authority, to the extent they consider appropriate, require the Pension Scheme Manager to withhold benefits payable to the pensioner that exceed any guaranteed minimum to which they are entitled under section 14 of the Pension Schemes Act 1993, so long as:

- (a) There is no dispute as to the amount of the relevant monetary obligation or relevant monetary loss, or
 - (b) The relevant monetary obligation or relevant monetary loss is enforceable under an order of a competent court or in consequence of an award of an arbitrator.
- 10.2 For the purposes of paragraph 10.1, a “relevant monetary obligation” is a monetary obligation which:
- (a) Was incurred to the Crown or the pensioner’s employer,
 - (b) Was incurred after the pensioner became an active member of the scheme,
 - (c) Arose out of the pensioner’s criminal, negligent or fraudulent act or omission, and
 - (d) Arose out of, or was connected with, the pensioner’s service as a member of a police force.
- 10.3 For the purposes of paragraph 10.1, a “relevant monetary loss” is a monetary loss which was caused to the scheme and arose as a result of the pensioner’s criminal, negligent or fraudulent act or omission.
- 10.4 The Scheme Manager may not withhold more than the lesser of the amount of the relevant monetary obligation or relevant monetary loss and the value of the pensioner’s entitlement to benefits.
- 10.5 The Police, Fire and Crime Commissioner, as the Pension Supervising Authority, may also require the Pension Scheme Manager to set off a relevant monetary obligation against a pensioner’s entitlement to benefits, if:
- (a) There is no dispute as to the relevant monetary obligation, or
 - (b) The relevant monetary obligation is enforceable under an order of a competent court or in consequence of an award of an arbitrator.
- 10.6 For the purposes of paragraph 10.5, a “relevant monetary obligation” is a monetary obligation owed by the pensioner which satisfies one of the following conditions:
- (a) The monetary obligation was incurred to the Crown or the pensioner’s employer, was incurred after the pensioner became an active member of the scheme, and arose out of, or was connected with, the pensioner’s service as a member of a police force.
 - (b) The monetary obligation was incurred to the scheme and arose out of the pensioner’s criminal, negligent or fraudulent act or omission.
 - (c) The monetary obligation was incurred to the scheme and arose out of a payment made to the pensioner in error by the Scheme Manager.
- 10.7 Where condition (a) above is satisfied, the Scheme Manager may not apply a set-off against that part of a pensioner’s entitlement to benefits that represent transfer credits within the meaning of section 124(1) of the Pensions Act 1995 (other than prescribed transfer credits for the purposes of section 91(5)(d) of that Act).
- 10.8 The Scheme Manager may only apply a set-off against that part of a person’s pension that exceeds any guaranteed minimum to which they are entitled under section 14 of the Pension Schemes Act 1993.
- 10.9 The value of the set-off applied must not exceed the lesser of the amount of the relevant monetary obligation and the value of the pensioner’s entitlement to benefits.

- 10.10 If the Police, Fire and Crime Commissioner, as the Pension Supervising Authority, proposes to require the Scheme Manager to withhold benefits or apply a set-off against a pensioner's entitlement to benefits, they must notify the pensioner of the proposal in writing.
- 10.11 If the Scheme Manager withholds benefits or applies a set-off against an entitlement to benefits in relation to a relevant monetary obligation of relevant monetary loss, they must give the pensioner a certificate showing the amount withheld or set off on the member's benefits under the scheme.

11. Appeals

- 11.1 If the Police, Fire and Crime Commissioner, as the Pension Supervising Authority, proposes to require the Scheme Manager to withhold any benefits payable in respect of the pensioner's service as a member of a home police force, the pensioner or person claiming payment of a benefit in respect of the pensioner may, subject to any relevant limitations set out in regulation 209 of the Police Pensions Regulation 2015, appeal against the proposal to the Crown Court.
- 11.2 The Crown Court may by order confirm or reject the proposal, or amend it so as to reduce the extent to which the benefits are withheld.
- 11.3 The Scheme Manager must comply with any order made by the Crown Court.
- 11.4 The Home Office should be informed within 14 days if an individual appeals any aspect of forfeiture, and of the subsequent outcome of any such appeal within 14 days of the decision being made.

PART 2 – POLICE STAFF PENSION FORFEITURE PROCEDURE

12. Roles and Responsibilities

- 12.1 Police staff are enrolled into the Local Government Pension Scheme, so applications for forfeiture certificates are made to the Department for Levelling Up, Housing and Communities (DLUHC).
- 12.2 The procedure relating to police staff is summarised at Appendix 4. There are four stages to the procedure:
- Following the conviction of a former police staff member which has caused them to leave their employment, the Chief Constable, or their representative, as the former employer and Pension Supervising Authority (PSA), should assess whether the conviction is in connection with the pensioner's employment and whether to apply for a pension forfeiture certificate.
 - If an assessment is made that the conviction is in connection with their employment and that a certificate should be applied for, the Chief Constable or their representative must, within three months of the conviction, email a full case summary to the Department for Levelling Up, Housing and Communities (DLUHC).
 - DLUHC will then consider the application.
 - If a forfeiture certificate is issued, it is then the responsibility of the Chief Constable, or their representative, to decide if, and by how much, the individual's pension should be forfeited.
- 12.3 Consideration must be given to the welfare needs of the pensioner throughout the process, including through liaison with the relevant Prison Governor if they are in prison.

13 Procedure for applying to the Department for Levelling Up, Housing and Communities (DLUHC)

13.1 If an assessment is made that the conviction is in connection with their employment and that a certificate should be applied for, an application must be made to the Secretary of State for Levelling Up, Housing and Communities, who will determine whether the conviction was gravely injurious to the State or liable to lead to serious loss of confidence in the public service.

13.2 Within three months of the relevant conviction, the Chief Constable, or their representative, must email a full case summary to the Department for Levelling Up, Housing and Communities (DLUHC) at LGPensions@communities.gov.uk. The case summary must be detailed and contain:

- A statement that, in the view of the scheme employer, the offence in question was committed in connection with the pensioner's employment, and because of which the person left that employment.
- A statement that, in the view of the scheme employer, the offence is liable to lead to a serious loss of confidence in the public service and / or is gravely injurious to the State and the reason or reasons for this view.
- The relevant pension scheme details.
- Full details of the offence(s) and the connection with the pensioner's employment.
- The date, or dates, of conviction and the details of the conviction(s).
- Where the pensioner is convicted of more than one offence, the scheme employer should highlight which specific offences were committed in connection with the pensioner's employment and ensure that correct dates are provided.
- Details of the circumstances surrounding the offence and investigation, including whether the offence involved an organised conspiracy amongst a number of members and / or the betrayal of an important position of trust, including for personal gain.
- Any relevant information on the overall behaviour of the pensioner during trial and investigation, including plea, co-operation etc.
- Details of the sentence imposed by the court (length of sentence etc), and the Judge's sentencing remarks (if known).
- Details of any local and national publicity and media coverage (although inaccurate reporting should always be disregarded).
- The details of any misconduct proceedings relating to the pensioner, the outcome, and the outcome of any subsequent appeal.

13.3 It would also be helpful to include:

- Brief details of the pensioner's service, such as their length of service and seniority, and
- The financial implications of any potential forfeiture, including pension details, on widowers or any dependents such as children or family members.

13.4 The convicted person and the appropriate administering authority must be sent a copy of the application at the same time as it is submitted to DLUHC.

14 Consideration of the Application by the Department for Levelling Up, Housing and Communities (DLUHC)

14.1 On receipt of the application, DLUHC officials will write to the pensioner, giving them six weeks to make representations. They will then consider the application and the representations and advise Ministers.

14.2 The factors that DLUHC will consider when reviewing any application include:

- Any punishments that have already been imposed and whether they are proportionate to the offences committed (these include prison sentences, fines, house arrest, etc.)
- Sentencing remarks and the court's view on the seriousness of the offence
- The length of the custodial sentence as an indication of the severity of the offences
- Indications of co-operation during the process
- Expressions of remorse and regret, usually shown when making representation
- Mitigating factors including any history of mental health problems or troubling family circumstances
- The extent of media coverage on the case, whether local or national
- The seniority of the pensioner - The more senior they are, the greater the loss of credibility will likely be considered.

14.3 The Secretary of State will then consider whether the conviction was gravely injurious to the State or liable to lead to serious loss of confidence in the public service. If so, they will issue the former employer with a certificate.

14.4 Once the decision is made, DLUHC will write to the Chief Constable, or their representative, as the former employer, to confirm whether a certificate has been issued.

15 Consideration of Forfeiture by the Pension Supervising Authority (PSA)

15.1 If a forfeiture certificate is issued, it is then the responsibility of the Chief Constable, as the former scheme employer, or their representative, to decide if, and by how much, the individual's pension should be forfeited, within the limits set out in regulation 95 of the Local Government Pension Scheme Regulations 2013. As for police officers, police staff will retain their level of contributions in any forfeiture.

15.2 The former scheme employer must serve a notice of its decision to make a direction on the pensioner. If the former scheme employer incurred loss as a direct consequence of the relevant offence, it may only give such a direction if they are unable to recover their loss otherwise, except after an unreasonable time or at disproportionate cost.

15.3 Where a direction for forfeiture is issued following conviction, the appropriate administering authority must transfer out of the pensioner's pension account the benefits which are forfeited and pay the Chief Constable, as the relevant scheme employer, an amount determined by an actuary as representing the capital value of those benefits. If the effect of a forfeiture direction is to extinguish the pensioner's entitlement to benefits, the administering authority must close the pensioner's pension account.

15.3 The final decision should be shared with the Department for Levelling Up, Housing and Communities (DLUHC) for information.

16 Recovery or Retention where the Pensioner has a Misconduct Obligation

16.1 The Chief Constable, as the former scheme employer, may recover or retain out of the appropriate fund the lesser the amount of the monetary obligation, or the value at the time of recovery or retention, of all benefits in respect of the pensioner with respect to their previous pension scheme membership (as determined by an actuary, except where the benefit is a refund of contributions) in circumstances whereby the pensioner:

- (a) Has left an employment in which they were or had at some time been a member of the Local Government Pension Scheme, in consequence of grave misconduct or a criminal, negligent or fraudulent act or omission in connection with that employment,
- (b) Has incurred some monetary obligation arising out of that misconduct, act or omission to the Scheme Employer in that employment, and
- (c) Is entitled to benefits under the Local Government Pension Scheme Regulations 2013, including entitlement to a refund of contributions.

- 16.2 The rights that may be recovered or retained exclude pension credited under regulation 101 of the Local Government Pension Scheme Regulations 2013 (effect of acceptance of transfer value), additional pension purchased by the pensioner under regulation 16 and additional voluntary contributions paid by the pensioner under regulation 17.
- 16.3 The Chief Constable, as the former scheme employer, must give the pensioner at least three months' notice of the amount to be recovered or retained along with a statement showing the amount to be recovered or retained, how it is calculated and the effect on the pensioner's benefits or prospective benefits.
- 16.4 If there is any dispute over the amount of the monetary obligation, the Chief Constable, as the former scheme employer, may not recover or retain any amount until the obligation is enforceable under an order of a competent court or the award of an arbitrator.
- 16.5 Where an amount is recovered or retained in consequence of a misconduct obligation, the appropriate administering authority must transfer out of the pensioner's pension account the amount recovered or retained and pay it to the Chief Constable as the relevant scheme employer. If the effect of the recovery or retention is to extinguish the pensioner's entitlement to benefits, the administering authority must close the pensioner's pension account.

17 Protection of Guaranteed Minimum Pension Rights

- 17.1 The power to direct forfeiture of benefits, or to recover or retain amounts, may not be exercised so as to deprive a pensioner of the guaranteed minimum pension or any widow's, widower's or surviving civil partner's guaranteed minimum pension, unless the pensioner is convicted of the offence of or one of the offences under the Official Secrets Acts 1911 to 1981 or under section 18 of, or listed in section 33(3)(a) of, the National Security Act 2023, for which the pensioner was sentenced to a term of imprisonment of at least 10 years, or to two or more consecutive terms amounting in the aggregate to at least 10 years.