

**EXPLANATORY MEMORANDUM TO**  
**THE POLICE (COLLABORATION: SPECIFIED FUNCTION) ORDER 2012**

**2012 No. [XXXX]**

1. This explanatory memorandum has been prepared by the Home Office and is laid before Parliament by Command of Her Majesty.

**2. Purpose of the instrument**

2.1 This Order specifies the provision of police air support as a function that must be carried out through a collaboration agreement applying to all the police areas in England and Wales. The chief officer of each police force and the policing body responsible for maintaining each force must be parties to the collaboration agreement. The scope of the collaboration agreement will include the operation of aircraft, staffing, equipment, airbases, ground control facilities, and maintenance arrangements and facilities and other resources necessary for such air operations operate to cover all force areas in England and Wales.

2.2 The Order will support the more economic, effective and efficient use of the resources allocated to the provision of police air support in the 43 police areas in England and Wales. The Order establishes the required outcome – a national collaborative agreement for the provision of air support, but the detailed terms are a matter for policing bodies and forces to agree.

**3. Matters of special interest to the Joint Committee on Statutory Instruments**

3.1 None

**4. Legislative Context**

4.1 Sections 22A to 23I of the Police Act 1996 (“the 1996 Act”) make provision about police collaboration in England and Wales. Section 22A provides for the making of collaboration agreements involving policing bodies and chief officers of police. Collaboration agreements may contain provision about the discharge of functions of members of police forces, the provision of support by one policing body to another, and the provision of support by one policing body to the police force maintained by another policing body.

4.2 Section 23FA of the 1996 Act enables the Secretary of State to specify police functions that must be the subject of collaboration. This Order specifies police air support as such a function. Police air support is defined in the Order so as to include the operation of aircraft, staffing, equipment, airbases, ground control facilities, and maintenance arrangements and facilities and other resources necessary for such air operations operate to cover all force areas in England and Wales. This is the first Order made under section 23FA, which

was inserted by the Police Reform and Social Responsibility Act 2011 with effect from 16 January 2012.

## 5. Territorial Extent and Application

5.1 This instrument applies to England and Wales.

## 6. European Convention on Human Rights

6.1 The Minister of State for Policing and Criminal Justice has made the following statement regarding Human Rights:

In my view the provisions of the Police (Collaboration: Specified Function) Order 2012 are compatible with the Convention rights.

## 7. Policy background

7.1 In 2009 the then lead for police air support in the Association of Chief Police Officers (ACPO), Bernard Hogan-Howe, undertook a review of the arrangements for police air support. This review identified scope to rationalise provision – reducing the number of aircraft and bases – while providing a more consistent service, saving £15 million per year on the cost of air support. Since 2010 proposals for a collaboratively organised National Police Air Service have been in development under the leadership of Chief Constable Alex Marshall (Hampshire), who is now the ACPO lead for air support. The principle of a national service has been endorsed by all Chief Constables and most police authorities.

7.2 In 2010 in **Policing in the 21st Century: Reconnecting police and the people** the Government said that some policing functions can most sensibly be organised nationally and noted the example of the police service working to put in place a National Police Air Service (NPAS). (<http://www.homeoffice.gov.uk/publications/consultations/>)

7.3 In March 2011, speaking to the police National Collaboration Conference, the Minister of State for Policing and Criminal Justice, Nick Herbert, said of NPAS

“If the service's operational leaders have concluded that this is the way forward, I very much hope and expect that police authorities will rapidly endorse the proposals that are clearly in the interests of policing. I will not be afraid to consider the use of powers if progress in this area is unnecessarily delayed.”

7.4 Discussions between the NPAS project team police forces and authorities have continued, but full agreement has not been achieved. In January 2012, in a speech to the CityForum the Minister noted that to get full benefits from a collaborative approach to air support the commitment of the whole police service in England and Wales was needed. He went on to announce

“... that I intend to make an Order requiring the police service to collaborate in the provision of air support. This Order will be made using the new powers brought in by the Police Reform & Social Responsibility Act. It will require all authorities and forces to collaborate in the provision of air support through a single collaboration agreement for England and Wales.

7.5 Following consultation with the police service, this Order takes forward the intention announced in January 2012. The Order will support the more economic, effective and efficient use of the resources allocated to the provision of police air support in the 43 police areas in England and Wales. The Order establishes the required outcome – a national collaborative agreement for the provision of air support, but the detailed terms are a matter for policing bodies and forces to agree. The benefits of a national collaborative approach will be:

- Reduced costs – as a consequence of a smaller fleet of aircraft to operate and maintain, a reduced number of air bases and reduced staff costs
- More consistent service with coverage 24 hours per day, 7 days per week and coverage for periods when aircraft are out of service for maintenance.

7.6 In a separate measure, to support the police service in reaching agreement on collaboration terms, the Government has decided to allocate part of the police capital grant allocation to support the capital requirements of the NPAS. This was announced in a Written Ministerial Statement on 31 January. The allocation will ensure that the full capital requirements of NPAS can be met and that all police authorities (and Police and Crime Commissioners) contribute to the costs of a service that will be available to all.

## **8. Consultation outcome**

8.1 The Government is under no legal obligation to run a consultation, but has nevertheless consulted on the Order with the Association of Chief Police Officers ACPO, the Association of Police Authorities (APA), The Mayor’s Office for Policing and Crime (MOPC) and Her Majesty’s Inspectorate of Constabulary (HMIC). The Consultation was conducted between 26 January and 16 February. The short consultation period reflected the limited number of consultees and their broad familiarity with the development of proposals for collaborative provision of air support.

8.2 Responses were received from ACPO, APA and MOPC. HMIC did not respond on the substance of the consultation, regarding it as outside their remit. In addition responses were received from the Association of Police Authority Chief Executives (APACE), the Police Authority Treasurers Society (PATS), Gwent Police Authority and West Midlands Police Authority

8.3 No responses were directly opposed to the Order. Some responses suggested it was premature to make an Order. Some responses expressed concerns about financial and operational aspects of the business case for NPAS including that costs and benefits were not yet sufficiently quantified or the governance structure for the service was not yet defined. A Gateway Review of the project was proposed by several respondents.

8.4 A Gateway review has been completed, making a number of recommendations which are being taken forward by the project team. A draft collaboration agreement, which will provide the means to clarify financial and governance aspects of the project is also in preparation, for circulation to all police forces, authorities and MOPC.

8.5 Several respondents to the consultation agreed specifically that it would be necessary for any authority taking lead responsibility for air support collaboration to have confidence in the continuing commitment to collaboration of forces, authorities and Police and Crime Commissioners.

8.6 The concerns expressed by consultation respondents about the governance and management of the NPAS service and about precise costs and savings are important. The Government takes the view that the best way to resolve those concerns is through the detailed negotiation of a collaboration agreement by all forces, authorities and MOPC. Making the collaboration Order will ensure that all forces and authorities focus on reaching an agreed set of terms and conditions and governance arrangements. In doing so they will be bound by the provisions introduced by the Police Reform and Social Responsibility Act which require them to take account of the benefits of collaboration to other forces and authorities, not just to their own.

## **9. Guidance**

9.1 No specific guidance for the Police Service is proposed in relation to this Order. Extensive guidance on collaboration is already in place and is being revised to take account of the new collaboration arrangements introduced by the Police Reform and Social Responsibility Act 2011.

## **10. Impact**

10.1 This Order will have no impact on charities or voluntary bodies. Nor does the Order have an impact on businesses.

10.2 The impact on the public sector is to ensure that police forces and authorities, the MOPC and, in future, Police and Crime Commissioners collaborate to provide air support services. In some areas it is expected that this will result in some increases in response times for air support. On the other hand a 24 hour service will be available to all forces throughout the year. In addition to the benefits of consistent 24 hour coverage, the overall benefit of a collaborative approach to air support is estimated to be up to £15 million per year savings compared to previous arrangements. Some of these savings have already been achieved as forces move to working arrangements in line

with NPAS proposals and others will be realised even without a national agreement. Some £9.5m of savings are unlikely to be achieved without a formal collaboration agreement. It is possible that a collaboration agreement might be reached without the collaboration Order, but it is estimated that this would take at least six months longer than with the Order in place. A six month delay represents a cost of about £4m in savings foregone. It is more likely that without the collaboration Order one or more forces and authorities would not participate in the collaboration. This would be likely to require the retention of at least one more air support unit than would otherwise be necessary at a cost to the police service of about £1.7m per year. At worst, in the absence of a collaboration Order, it might prove impossible to identify a lead force and authority for the collaboration and savings of £9.5m would be lost. On balance the most likely impact of the Order is to avoid: a one off cost of delay of £4m and a recurring cost of £1.7m per year for the retention of an additional air support unit.

10.3 A separate Impact Assessment has not been prepared because no impact on the private or voluntary sector is foreseen.

## **11. Regulating small business**

11.1 The legislation does not apply to small business.

## **12. Monitoring & review**

12.1 Success criteria for this Order are that:

- A collaboration agreement is established for the provision of air support to all the police force areas in England and Wales.
- The collaboration enables a reduction in the overall cost per annum to the police service of air support
- The collaboration enables a consistent level of air support coverage across England and Wales, including coverage for 24 hours per day, seven days per week and coverage for periods of aircraft maintenance.

12.2 The delivery of savings will be monitored by comparing total police service spend on air support, including staffing costs, maintenance, costs of running air bases and flying costs with 2009/10 data using information published by the Chartered Institute of Public Finance Accountants. The success of the Order in delivering the forecast savings will be reviewed by the Home Office in 2015 and reported on after final data for 2014/15 is available.

## **13. Contact**

Michael Grimwood at the Home Office Tel: 020 7035 3085 or email: MichaelP.Grimwood@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.