



# Police Act 1996

## 1996 CHAPTER 16

### [<sup>F1</sup>PART 4A

#### POLICE BARRED LIST AND POLICE ADVISORY LIST

##### Textual Amendments

- F1** Pt. 4A inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\), s. 183\(1\)\(5\)\(e\), Sch. 8](#)

#### *Police barred list*

### **88A Duty to report dismissals etc to College of Policing**

- (1) The relevant authority must report a person to the College of Policing where—
- (a) the person ceases to be a member of a police force or a special constable by virtue of being dismissed at proceedings conducted under regulations made in pursuance of section 50(3) or 51(2A);
  - (b) the person is a former member of a police force or a former special constable and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been a member of a police force or a special constable;
  - (c) the person ceases to be a civilian police employee by virtue of being dismissed and the reason, or one of the reasons, for the dismissal relates to conduct, efficiency or effectiveness;
  - (d) the person is a former civilian police employee and there is a finding in relation to the person in disciplinary proceedings that the person would have been dismissed if the person had still been such an employee.
- (2) A report under subsection (1)—
- (a) must be made within such period as is specified in regulations made by the Secretary of State;

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- (b) must include such information as is so specified.
- (3) In this section “relevant authority” means—
- (a) in relation to a person falling within subsection (1)(a), other than a person who was a chief officer of police immediately before being dismissed, the chief officer of police of the police force of which the person was a member, or for which the person was appointed as a special constable, at that time;
  - (b) in relation to a person falling within subsection (1)(a) who was a chief officer of police immediately before being dismissed, the local policing body for the police force of which the person was a member at that time;
  - (c) in relation to a person falling within subsection (1)(b), other than a former chief officer of police, the chief officer of police of the police force of which the person was last a member or for which the person was last appointed as a special constable;
  - (d) in relation to a person falling within subsection (1)(b) who is a former chief officer of police, the local policing body for the police force of which the person was last a member;
  - (e) in relation to a person falling within subsection (1)(c), the chief officer of police under whose direction and control the person was immediately before being dismissed;
  - (f) in relation to a person falling within subsection (1)(d), the chief officer of police under whose direction and control the person was immediately before ceasing to be a civilian police employee.
- (4) In this section “disciplinary proceedings” means—
- (a) in relation to a former member of a police force or a former special constable, proceedings conducted under regulations made in pursuance of section 50(3A) or 51(2B);
  - (b) in relation to a former civilian police employee, any proceedings that are identified as disciplinary proceedings in relation to such a person by regulations made by the Secretary of State.
- (5) For the purposes of this section, a person is a civilian police employee if the person is—
- (a) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011), or
  - (b) a person employed by the Common Council of the City of London in its capacity as police authority who is under the direction and control of the Commissioner of Police for the City of London.
- (6) A person is dismissed for the purposes of subsection (1)(c) if the circumstances in which the person ceases to be a civilian police employee amount to dismissal within the meaning of Part 10 of the Employment Rights Act 1996 (see section 95 of that Act).
- (7) Regulations under this section may make different provision for different cases and circumstances.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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## **88B Duty to maintain police barred list**

- (1) The College of Policing must maintain a list of persons who are reported to the College under section 88A.
- (2) The list maintained under subsection (1) is to be known as the police barred list.
- (3) The police barred list must include such information in relation to a person reported to the College of Policing under section 88A as is specified in regulations made by the Secretary of State.
- (4) Regulations under this section—
  - (a) may make different provision for different cases and circumstances;
  - (b) may confer a discretion on the College of Policing.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

## **88C Effect of inclusion in police barred list**

- (1) A person who is included in the police barred list is a barred person for the purposes of this section and sections 88D and 88E.
- (2) Before employing or appointing any person, a person mentioned in subsection (5) must check with the College of Policing whether the proposed employee or proposed appointee (as the case may be) is a barred person.
- (3) A person mentioned in subsection (5) may not employ a barred person or otherwise appoint a barred person to any position.
- (4) For the purposes of subsections (2) and (3) a person who is to be seconded to work for a person mentioned in subsection (5), and who will not be employed by that person, is to be regarded as being appointed by that person.
- (5) The persons referred to in subsections (2) to (4) are—
  - (a) a chief officer of police;
  - (b) a local policing body;
  - (c) the chief inspector of constabulary;
  - (d) the [<sup>F2</sup>Independent Police Complaints Commission][<sup>F2</sup>Independent Office for Police Conduct];
  - (e) a person specified in regulations made by the Secretary of State.
- (6) A person may be specified in regulations under subsection (5)(e) only if the person has relevant public functions.
- (7) In this section and sections 88D and 88E “relevant public functions” means functions of a public nature exercisable in, or in relation to, England and Wales that relate to policing or law enforcement.
- (8) A statutory instrument containing regulations under subsection (5)(e) may not be made unless a draft of the instrument has been laid before and approved by a resolution of each House of Parliament.
- [<sup>F3</sup>(9) Before designating a person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, a chief officer of police must check with the College of Policing whether the person is a barred person.

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- (10) A chief officer of police may not designate a barred person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002.]

#### Textual Amendments

- F2** Words in s. 88C(5)(d) substituted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 9 para. 65\(3\)\(b\)](#)
- F3** S. 88C(9)(10) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(2\)](#), 183(1)(5)(e)

### 88D Application of section 88C to persons with mixed functions

- (1) If a person to be specified in regulations under section 88C(5)(e) has both relevant public functions and other functions, the person may be so specified as follows (but not otherwise)—
- (a) in relation to the exercise of the person's relevant public functions, or
  - (b) in relation to the exercise of such of those relevant public functions as are of a description specified in the regulations.
- (2) In this section—
- (a) a person who is specified in regulations under section 88C(5)(e) is referred to as a specified person, and
  - (b) in relation to that person, the functions in relation to the exercise of which the person is specified are referred to as specified functions.
- (3) In relation to a specified person—
- (a) the duties in section 88C(2) and (3) apply only to the extent that the proposed employee or proposed appointee (as the case may be) will be involved in the exercise of specified functions;
  - (b) the additional duties in subsections (4) and (5) of this section apply where the specified person is proposing to arrange for an existing employee or existing appointee to become involved in the exercise of specified functions (not having previously been so involved).
- (4) Before making the arrangement, the specified person must check with the College of Policing whether the existing employee or existing appointee (as the case may be) is a barred person.
- (5) The specified person may not arrange for an existing employee or existing appointee who is a barred person to become involved in the exercise of specified functions.
- (6) For the purposes of subsections (3) to (5) a person who is seconded to work for a specified person is to be regarded as an existing appointee of that person (if not an existing employee of that person).

### 88E Prohibition on contractors using barred persons

- (1) A person mentioned in section 88C(5) may not enter into a contract for the provision of services if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions.

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- (2) A local policing body may not enter into a contract for the provision of services to a chief officer of police if the terms of the contract would permit a barred person to be involved in the exercise of relevant public functions.
- (3) Subsection (1) applies in relation to a person specified in regulations under section 88C(5)(e) as described in section 88D(1)(b) as if the reference in subsection (1) to relevant public functions were a reference to those relevant public functions in relation to the exercise of which the person is specified.

## **88F Removal from police barred list**

- (1) This section applies where a relevant authority reports a person to the College of Policing under section 88A and—
  - (a) in relation to a person reported by virtue of section 88A(1)(a), the person is reinstated as a member of a police force or a special constable (as the case may be) at proceedings conducted under rules made under section 85;
  - (b) in relation to a person reported by virtue of section 88A(1)(b), the finding that the person would have been dismissed is set aside at proceedings conducted under rules made under section 85;
  - (c) in relation to a person reported by virtue of section 88A(1)(c), the dismissal is found to have been an unfair dismissal—
    - (i) following a complaint under section 111 of the Employment Rights Act 1996, and
    - (ii) whether by an employment tribunal or on appeal;
  - (d) in relation to a person reported by virtue of section 88A(1)(d), the finding that the person would have been dismissed is set aside at proceedings that are identified as appeal proceedings by regulations made by the Secretary of State.
- (2) Where this section applies, the relevant authority must make a further report to the College of Policing in relation to the person.
- (3) A report under subsection (2)—
  - (a) must be made within such period as is specified in regulations made by the Secretary of State;
  - (b) must include such information as is so specified.
- (4) On receipt of a report under subsection (2) in relation to a person the College of Policing must remove the person from the police barred list.
- (5) The Secretary of State may by regulations make provision in connection with the removal of a person from the police barred list otherwise than under subsection (4).
- (6) Regulations under subsection (5) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (7) “Relevant authority” has the same meaning in this section as it has in section 88A.
- (8) Regulations under this section may make different provision for different cases and circumstances.
- (9) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

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### **88G Publication of information in police barred list**

- (1) This section applies to a person who—
  - (a) is included in the police barred list, and
  - (b) is of a description specified in regulations made by the Secretary of State.
- (2) The College of Policing must (in accordance with subsection (3)) publish such information included in the police barred list in relation to a person to whom this section applies as is specified in regulations made by the Secretary of State.
- (3) Information published under subsection (2) must—
  - (a) be published in such manner as the College of Policing considers appropriate,
  - (b) be published within such period following its inclusion in the police barred list as is specified in regulations made by the Secretary of State,
  - (c) remain published by the College for a period of 5 years beginning with the date on which it is first published, and
  - (d) cease to be published by the College at the end of that period.
- (4) The Secretary of State may by regulations provide for the duty in subsection (2) to be subject to exceptions.
- (5) Regulations under subsection (4) may (amongst other things) make provision which has the effect that—
  - (a) information is never published;
  - (b) information ceases to be published by the College of Policing before the end of the period referred to in subsection (3)(c).
- (6) Regulations which make provision of the type described in subsection (5)(b) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (7) Regulations under this section may make different provision for different cases and circumstances.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

### **88H Power to disclose information in police barred list**

The College of Policing may, if it considers it to be in the public interest to do so, disclose to any person information included in the police barred list which relates to a particular person who is included in the police barred list.

#### *Police advisory list*

### **88I Duty to report resignations and retirements [<sup>F4</sup> etc] to College of Policing**

- (1) The relevant authority must report a person to the College of Policing where—
  - (a) the person ceases to be a person serving with the police by resigning or retiring after a relevant allegation about the person comes to the attention of the relevant authority but before disciplinary proceedings in respect of the allegation are brought or, if brought, before they are concluded;

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- (b) the person is a former member of a police force or a former special constable and a relevant allegation about the person comes to the attention of the relevant authority after the person having ceased to be a member of a police force or a special constable (as the case may be) by resigning or retiring.
  - <sup>F5</sup>(c) [ the person's designation as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002 is withdrawn and the reason, or one of the reasons, for the withdrawal of the designation relates to conduct, efficiency or effectiveness;
  - (d) the person, having been designated as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, decides to stop volunteering as a police volunteer (within the meaning of that section) after a relevant allegation about the person comes to the attention of the relevant authority.]
- (2) But the duty in subsection (1)(a) does not apply if, before the person resigns or retires, it is determined that no disciplinary proceedings will be brought against the person in respect of the allegation.
- (3) A report under subsection (1)—
- (a) must be made within such period as is specified in regulations made by the Secretary of State;
  - (b) must include such information as is so specified.
- (4) In this section “relevant authority” means—
- (a) in relation to a person who was a member of a police force, other than a chief officer of police, immediately before resigning or retiring, the chief officer of police of that police force;
  - (b) in relation to a person who was a chief officer of police immediately before resigning or retiring, the local policing body for the police force of which the person was a member at that time;
  - (c) in relation to a person who was a special constable immediately before resigning or retiring, the chief officer of police of the police force for which the person was appointed as a special constable immediately before resigning or retiring;
  - (d) in relation to a person who was a civilian police employee immediately before resigning or retiring, the chief officer of police under whose direction and control the person was at that time.
  - <sup>F6</sup>(e) [ in relation to a person falling within subsection (1)(c) or (d), the chief officer of police by whom the person was designated.]
- (5) For the purposes of this section a person is serving with the police if the person is—
- (a) a member of a police force,
  - (b) a special constable, or
  - (c) a civilian police employee (within the meaning of section 88A).
- (6) For the purposes of this section an allegation about a person is a relevant allegation if—
- (a) it relates to the conduct, efficiency or effectiveness of the person, and
  - (b) the allegation (if proved) is of a type that might have resulted in the person being dismissed as described in section 88A(1)(a) or (c) if the person had not resigned or retired <sup>F7</sup>or (as the case may be) the person's designation as a community support volunteer or a policing support volunteer being withdrawn if the person had not decided to stop volunteering].

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- (7) Regulations under this section may make different provision for different cases and circumstances.
- (8) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F4** Word in s. 88I heading inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(3\)\(a\)](#), [183\(1\)\(5\)\(e\)](#)
- F5** [S. 88I\(1\)\(c\)\(d\)](#) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(3\)\(b\)](#), [183\(1\)\(5\)\(e\)](#)
- F6** [S. 88I\(4\)\(e\)](#) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(3\)\(c\)](#), [183\(1\)\(5\)\(e\)](#)
- F7** Words in [s. 88I\(6\)\(b\)](#) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(3\)\(d\)](#), [183\(1\)\(5\)\(e\)](#)

### 88J Duty to maintain police advisory list

- (1) The College of Policing must maintain a list of persons who are reported to the College under section 88I.
- (2) The list maintained under subsection (1) is to be known as the police advisory list.
- (3) The police advisory list must include such information in relation to a person reported to the College of Policing under section 88I as is specified in regulations made by the Secretary of State.
- (4) Regulations under this section—
  - (a) may make different provision for different cases and circumstances;
  - (b) may confer a discretion on the College of Policing.
- (5) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

### 88K Effect of inclusion in police advisory list

- (1) Before employing or appointing any person, a person mentioned in subsection (3) must check with the College of Policing whether the proposed employee or proposed appointee (as the case may be) is included in the police advisory list.
- (2) For the purposes of subsection (1) a person who is to be seconded to work for a person mentioned in subsection (3), and who will not be employed by that person, is to be regarded as being appointed by that person.
- (3) The persons referred to in subsections (1) and (2) are—
  - (a) a chief officer of police;
  - (b) a local policing body;
  - (c) the chief inspector of constabulary;
  - (d) the <sup>F8</sup>Independent Police Complaints Commission][<sup>F8</sup>Independent Office for Police Conduct];



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- (e) a person specified in regulations made by the Secretary of State for the purposes of section 88C(5)(e).
- (4) In this section—
- (a) a person who is specified in regulations under section 88C(5)(e) is referred to as a specified person, and
  - (b) in relation to that person, the functions in relation to the exercise of which the person is specified are referred to as specified functions.
- (5) In relation to a specified person—
- (a) the duty in subsection (1) applies only to the extent that the proposed employee or proposed appointee (as the case may be) will be involved in the exercise of specified functions;
  - (b) the additional duty in subsection (6) applies where the specified person is proposing to arrange for an existing employee or existing appointee to become involved in the exercise of specified functions (not having previously been so involved).
- (6) Before making the arrangement, the specified person must check with the College of Policing whether the existing employee or existing appointee (as the case may be) is included in the police advisory list.
- (7) For the purposes of subsections (5) and (6) a person who is seconded to work for a specified person is to be regarded as an existing appointee of that person (if not an existing employee of that person).
- [<sup>F9</sup>(8) Before designating a person as a community support volunteer or a policing support volunteer under section 38 of the Police Reform Act 2002, a chief officer of police must check with the College of Policing whether the person is included in the police advisory list.]

#### Textual Amendments

- F8** Words in s. 88K(3)(d) substituted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), s. 183(1)(5)(e), [Sch. 9 para. 65\(3\)\(c\)](#)
- F9** [S. 88K\(8\)](#) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(4\)](#), 183(1)(5)(e)

## 88L Removal from police advisory list

- (1) Subsection (2) applies where a relevant authority reports a person to the College of Policing under section 88I(1)(a) or (b) and—
- (a) it is determined that no disciplinary proceedings will be brought against the person,
  - (b) the disciplinary proceedings brought against the person are withdrawn, or
  - (c) the disciplinary proceedings brought against the person are concluded without there being a finding that the person would have been dismissed if the person had still been a person serving with the police.
- (2) Where this subsection applies, the relevant authority must make a further report to the College of Policing in relation to the person.
- (3) A report under subsection (2)—

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- (a) must be made within such period as is specified in regulations made by the Secretary of State;
  - (b) must include such information as is so specified.
- (4) On receipt of a report under subsection (2) in relation to a person the College of Policing must remove the person from the police advisory list.
- (5) The College of Policing must remove a person from the police advisory list if the person becomes included in the police barred list by virtue of section 88A(1)(b) or (d).
- (6) The Secretary of State may by regulations make provision in connection with the removal from the police advisory list (otherwise than under subsection (4) or (5)) of a person who, immediately before resigning or retiring, was a member of a police force or a special constable.
- (7) The Secretary of State must by regulations make provision in connection with the removal from the police advisory list (otherwise than under subsection (4) or (5)) of [<sup>F10</sup>a person who, immediately before resigning or retiring, was a civilian police employee.]
- [ a person who, immediately before resigning or retiring, was a civilian police <sup>F10</sup>(a) employee]
  - [ a person who was designated as a community support volunteer or a policing <sup>F11</sup>(b) support volunteer under section 38 of the Police Reform Act 2002.]
- (8) Regulations under subsection (6) or (7) may confer functions on the College of Policing including functions which involve the exercise of a discretion.
- (9) In this section—
- “civilian police employee” has the same meaning as in section 88A;
  - “disciplinary proceedings” has the same meaning as in section 88A;
  - “person serving with the police” has the same meaning as in section 88I;
  - “relevant authority” has the same meaning as in section 88I.
- (10) Regulations under this section may make different provision for different cases and circumstances.
- (11) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

#### Textual Amendments

- F10** Words in s. 88L(7) renumbered as s. 88L(7)(a) (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(5\)\(a\)](#), [183\(1\)\(5\)\(e\)](#)
- F11** S. 88L(7)(b) inserted (31.1.2017 for specified purposes) by [Policing and Crime Act 2017 \(c. 3\)](#), [ss. 42\(5\)\(b\)](#), [183\(1\)\(5\)\(e\)](#)

### 88M Power to disclose information in police advisory list

The College of Policing may, if it considers it to be in the public interest to do so, disclose to any person information included in the police advisory list which relates to a particular person who is included in the police advisory list.]

**Status:**

Point in time view as at 31/01/2017.

**Changes to legislation:**

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