

EXPLANATORY MEMORANDUM TO
THE POLICE AUTHORITIES (PARTICULAR FUNCTIONS AND
TRANSITIONAL PROVISIONS) ORDER 2008

2008 No. 82

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

2. **Description**

2.1 This Order confers particular functions on police authorities in addition to those imposed by section 6 of the Police Act 1996. The additional functions are to monitor the performance of their police force in complying with the Human Rights Act 1998 and in carrying out any plan issued by virtue of section 6ZB of the Police Act 1996, to secure that arrangements are made for their police force to cooperate with other forces in the interests of efficiency and effectiveness and to promote diversity and equality within their police force and their authority.

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

3.1 None.

4. **Legislative background**

4.1 Section 6 of the Police Act 1996 sets out the general functions of police authorities. Primarily it provides that every police authority (established under section 3) shall secure the maintenance of an efficient and effective police force for its area. Section 6ZA, inserted by the Police and Justice Act 2006, provides the Secretary of State with a power to confer additional particular functions on police authorities through an order.

4.2 This is the first time an order has been made under section 6ZA.

4.3 As required by section 6ZA paragraph (3), consultation has taken place with the Association of Police Authorities, the Association of Chief Police Officers and such other persons as the Secretary of State thought fit.

5. **Extent**

5.1 This instrument applies to England and Wales.

6. **European Convention on Human Rights**

6.1 No statement is required because the instrument is subject to negative resolution procedure and does not amend primary legislation,

7. **Policy Background**

7.1 Article 3 of the Order introduces a new function for police authorities to monitor their forces in respect of their compliance with the Human Rights Act 1998. While forces and authorities are already required to comply with this Act, the function for police authorities of monitoring the compliance of their forces is also in keeping with the functions under Article 5 of this Order to promote equality and diversity.

7.2 Article 3 of the Order also introduces a new function for police authorities to monitor the performance of their forces in carrying out their policing plans (plans issued by virtue of Section 6ZB of the Police Act 1996, which was inserted into the Police Act 1996 by the Police and Justice Act 2006). Section 6ZB has not yet been commenced and the detailed content of plans under section 6ZB will be the subject of separate regulations and guidance which it is anticipated will be made in the New Year. Under other amendments to the Police Act 1996 Chief Constables have to have regard to the policing plan for their area issued under section 6ZB. This new function enables the police authority to then monitor the performance of the force in carrying out the plan.

7.3 The White Paper 'Building Communities, Beating Crime' (CM 6360) published in November 2004, proposed placing a duty on police authorities to co-operate with neighbouring authorities to help tackle cross border crime (known as level 2 crime) and to analyse the effectiveness of their forces' performance in this area of activity.

7.4 Besides dealing with cross-border crime, the Government believes that joint working should embrace all areas of policing where there will be benefit from the collaboration.

7.5 Article 4 of the Order provides a function for police authorities to develop collaborative working arrangements between the forces they maintain and other forces where it is in the interests of greater efficiency and effectiveness for either party and to pursue those collaborative opportunities where merited in the light of that consideration. It allows a police authority to take account of the interests of policing in wider geographic terms (where its statutory sphere of interest had formerly been restricted to its own force area), and it is anticipated that police authorities will consider joint working arrangements as part of its strategic planning. There is expected to be a continuous process of assessment of the opportunities available.

- 7.6 The intention of Article 4 of the Order is to ensure that police authorities are not constrained by the scope of their duties from exploring and pursuing collaborative opportunities and to ensure that such exploration is integral to their strategic planning. The decision taken by a police authority whether to support a joint working opportunity should be based on an assessment of the benefits and dis-benefits both for the force which it maintains and for other police forces. Where such a proposal might offer greater benefits to one force than another, the effect of this new function should be to allow the police authority whose force would expect the lesser benefits to support that proposal, as well as providing a stronger case for supporting it to the police authority whose force was expecting the greater benefit. There is no expectation that a police authority should pursue a proposal which it considers would be detrimental to its own efficiency and effectiveness. Decisions should also include consideration of potential additional benefits to policing generally, such as the development of best practice or the establishment of services which would improve the management of intelligence.
- 7.7 The White Paper 'Building Communities, Beating Crime' also proposed placing a duty on police authorities to promote diversity within the police force and authority. The Government regards it as critical to ensure that both police forces and police authorities reflect and represent the diverse backgrounds of the communities they serve.
- 7.8 The function of police authorities created under Article 5 of the Order is therefore to promote equality and diversity within the force and the authority. Much of the existing legislation on race, age, gender makes reference to equality rather than diversity. Police authorities are to recognise that this function should be viewed as promoting equality and diversity equally, within both the force and authority.
- 7.9 The Home Office will be working closely with the Association of Police Authorities and the Association of Chief Police Officers to provide detailed guidance on how this function will be carried out by police authorities. This guidance will also cover how the police authority will monitor the police force in complying with the Human Rights Act 1998 under Article 3.
- 7.10 Article 6 of the Order provides that the function of a police authority to monitor the performance of the police force maintained for its area in carrying out its policing plans shall first come into effect with the first policing plans issued by virtue of section 6ZB of the 1996 Act, which is expected to be the policing plans for 2008/09 onwards. Therefore it does not apply to local policing plans published under existing provisions of the Police Act 1996 that section 6ZB replaces.

8. Impact

- 8.1 An Impact Assessment has not been prepared for this instrument as it has no impact on business, charities or voluntary bodies.

8.2 The instrument does not impose any specific requirements on the public sector. The benefit of Article 4 is that it allows and encourages police authorities to consider a wider range of opportunities for achieving more efficient and effective delivery of police services, improving their ability to discharge their functions and meet existing obligations on service delivery and cost effectiveness.

8.3 Police authorities are already required to comply with broader legislation on equality and diversity and police forces already comply with the Human Rights Act 1998. The function is for the police authority to monitor the performance of the forces in complying with this Act. This duty does not impose a new burden.

9. **Contact**

9.1 Neil King/Robert Peacock at the Home Office (tel. 020 7035 4858 / 1941 or email neil.king12@homeoffice.gsi.gov.uk/robert.peacock4@homeoffice.gsi.gov.uk) can answer any queries regarding this instrument.