Northern Ireland Policing Board

NORTHERN IRELAND POLICING BOARD

POLICE PENSION FORFEITURE PROCEDURE

NORTHERN IRELAND POLICING BOARD'S FORFEITURE PROCEDURE

This document sets out the procedure to be followed by both Officials within Police Pension and Injury Benefits (**PPIB**) Directorate when processing a potential forfeiture case, and the Northern Ireland Policing Board's (the **Board**) Resources Committee when considering a potential forfeiture case under the:

- *Regulation K5 and H5* of the *RUC Pensions Regulations 1988*, (the ***1988 Regulations***).
- *Regulation 52* of the *Police Pension (Northern Ireland) Regulations 2009* (the ***2009 Regulations***).
- Part 13, Chapter 5 of the *Police Pension Regulations (Northern Ireland) 2015 (the **2015 Regulations**);*
- *Regulation 38* of the *PSNI and PSNI Reserve (Injury Benefit) Regulations 2006* (the ***2006 Regulations***);
- *Section 18 of, or listed in section 33(3)(a) [1]of, the National Security Act 2023*

The relevant extracts from each set of Regulations along with paragraphs 1 and 3 of Section 33 (3) (a) of the *National Security Act 2023* have been provided at **Annex A**.

BACKGROUND AND RESPONSIBILITIES

Members will be aware that the Board has various statutory responsibilities under the aforementioned Regulations with regard to forfeiture. The 1988, 2009, and 2015 regulations contain provisions that allow the Board to determine that forfeiture may apply, subject to a Ministerial certificate, in cases where either:

- a member of the police service has been convicted of treason[(2)] or of offences under the Official Secrets Acts 1911, 1939, 2023 and has been sentenced to a term (or terms) of imprisonment of at least ten years.
- where a member of the police service has been convicted of an offence committed in connection with their service as a member of a police service, which is certified by the Minister of Justice either to have been gravely injurious to the interests of the State or to be liable to lead to a serious loss of confidence in the public service.

[1] In accordance with *Schedule 1, paragraphs 2, 17, 28 and 51* of *The National Security Act 2023 (Consequential Amendments of Subordinate Legislation) Regulations 2023,* each of the above Regulations have been amended to include *Section 18 of, or listed in section 33(3)(a) of, the National Security Act 2023*.

[(2)] The crime of treason is no longer included as a reason for forfeiture in the 2015 Regulations.

In order to be eligible for a forfeiture certificate, the offence(s) must have been committed in connection with their service as a member of the Police Service.

Resources Committee is responsible for implementing the certificate decision under delegated authority from the Board, as well as the amount to be forfeited and the duration that forfeiture should apply for. The Resources committee may delegate initial consideration of the issue to the Forfeiture sub-group and will consider any recommendation from the Forfeiture sub-group before reaching its decision.

Whilst the Board cannot forfeit a pension without a certificate from the Minister of Justice, the issuing of such a certificate does not oblige them to proceed with forfeiture.

The baseline position in principle is that pension rights, once earned, will only be forfeited in serious circumstances. A person's rights to a police pension are part of the remuneration package to which their service has entitled them, and a conviction will not automatically result in a certificate being issued.

This procedure takes account of the updated Pensions Forfeiture Guidance and Toolkit September 2024 issued by the Association of Policing and Crime Chief Executives (**APACCE**) and the PPSD 03/2024 Circular issued by the Department of Justice (**DOJ**), appended at Annex B and C, consecutively.

PENSION SURVIVOR FORFEITURE

It should be noted that this procedure will be implemented where it is considered that the beneficiary of a deceased member is convicted of a relevant criminal offence. In such cases, the Board may require the scheme manager to withhold benefits payable to the beneficiary in respect of the member.

1.15 A relevant criminal offence" means—

(a) the murder of the member;

(b) the manslaughter of the member; or

(c) any other offence of which the unlawful killing of the member is an element.

FORFEITURE PROCESS

The flowchart below sets out the process that Board Officials will follow when they are made aware of a potential case for forfeiture either via PSNI Professional Standards Directorate (**PSD**) or by any other means.

Notification of potential forfeiture case to Board Officials via PSNI or by any other means.

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Serving officer cases - Board Officials request PSNI PSD organise the completion of the pro-forma detailed at **Annex D** and return.
Former officer cases - Board Officials gather requisite information for the pro-forma with input from PSNI PSD, where appropriate.

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Board Officials request any submissions from the officer/ former officer. Submissions should be provided within 28 days of receipt of the letter requesting same.

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Following receipt of all information Board Officials will present the case to Resources Committee.

To inform decision making Members will be provided with:

- The completed pro forma documented at **Annex D**.
- Any submissions from the officer/ former officer; and
- The list of considerations set out in Table 1 (below).

Members should take into consideration:

- If there is a link between the officer/ former officer's offending and their service as a police officer.
- The degree of severity of the offence as this will feed into the consideration of whether the offence will lead to a serious loss of confidence in the Police Service[3].

Based on the information provided, Members will be requested to take one of the following decisions:

- **That Forfeiture applies** and a request to the Minster should be made.
- **That Forfeiture does not apply** – no further action required.
- **Legal advice is required** to enable a forfeiture decision.

Detailed notes will be made of the rationale for the decision to demonstrate that that all issues were considered and given the appropriate weight.

[3] *It will be for the Minister of Justice to determine whether the offence Is liable to lead to a serious loss of confidence or is gravely Injurious to the interests of the State.*

Table 1: List of considerations that Members should consider in order to inform decision making

- The circumstances surrounding the offence and investigation; the seriousness with which the Court viewed the offence(s) (as demonstrated by the punishment imposed and the sentencing remarks); and the seniority of the officer (pension scheme member) or former officer (the more senior, the greater the loss of credibility and confidence).
- The extent of publicity and media coverage.
- Whether the offence involved:
  - i. conspiracy amongst several officers.
  - ii. active support for criminals.
  - iii. the perversion of the course of public justice.
  - iv. the betrayal of an important position of trust for personal gain; and/or
  - v. the corruption or attempted corruption of junior officers.
- Mitigating circumstances.
- Disability in the family.
- Illness at the time of the offence.
- Assistance or information given to the police during the investigation or following

Any mitigating factors will need to be considered in full and will be unique to each case.

Note: *If an officer / former officer is intending to appeal against a conviction or sentence, the pension forfeiture procedures should be stayed pending the conclusion of appeal proceedings. Forfeiture may only be considered in respect of a pension currently in payment or about to be brought into payment.*

The following points have been taken from the guidance document at **Annex C** to further assist Members in their decision making:

- High levels of media coverage should not be the sole basis for decision making.
- Members should not limit themselves to what could be considered the 'upper end' of offences. Nor should they be persuaded that an offence is not 'serious' enough to warrant consideration. Whilst the current guidance notes that forfeiture should be for 'serious' cases, this has not been defined. It is for this Committee and then the Minister of Justice to decide what they believe is serious.
- Any request for legal advice should be considered for each case, on its merits.
- Members should be supported in their decision making by the Chief Executive/ Monitoring Officer of the Board.

PROCESS FOLLOWING RESOURCES COMMITTEE DECISION

Where Members decide that forfeiture:

- **Does not apply** – Board Officials will inform the officer/ former officer and PSNI Pensions Branch and the case will be closed.
- **Legal advice is required** - Board Officials will request same from the Crown Solicitors Office (**CSO**).
- **Does apply** - Board Officials will prepare the requisite information, to include the pro-forma attached at Annex D, and any submissions made by the officer/ former officer and this will be forwarded to the Department of Justice, electronically, for consideration. The officer/ former officer and PSNI Pension Branch will also be informed.

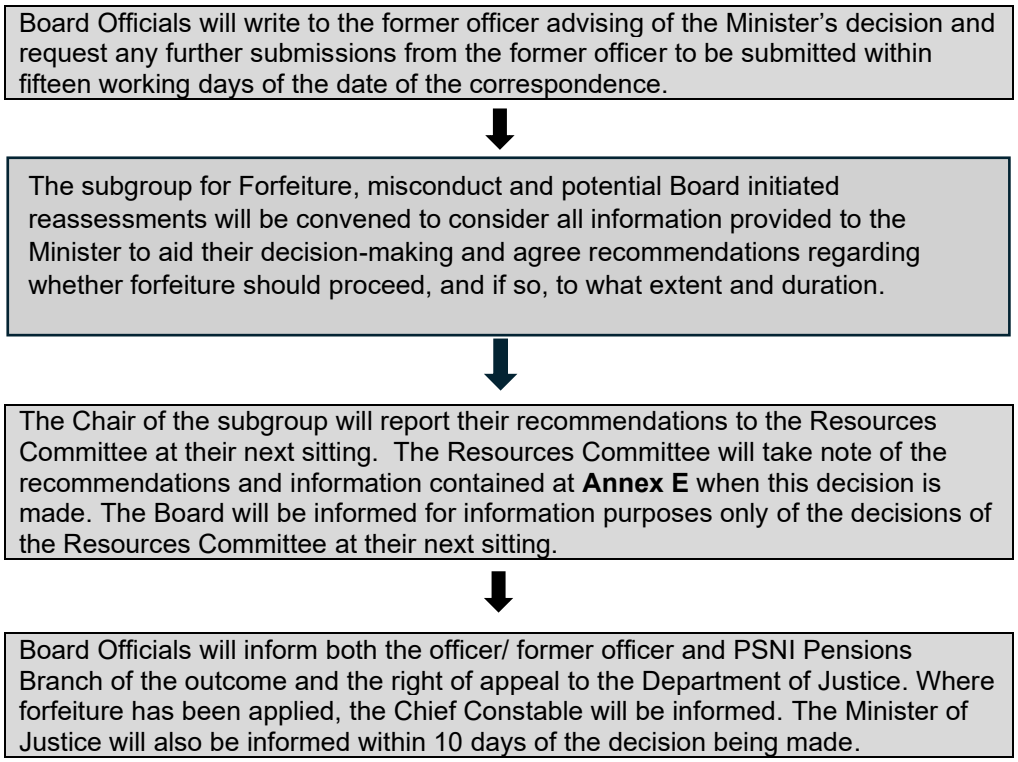
The role of the Minister of Justice is to certify whether the offence committed is considered to be -

(a) gravely injurious to the interests of the State, or

(b) liable to lead to a serious loss of confidence in the public service.

If the Minster of Justice accepts that the criteria for forfeiture has been met and issues a certificate, Board Officials will be informed with the reasons for same.

The flowchart below sets out the steps that should be taken if the Minister of Justice issues a forfeiture certificate.



ANNEX A

RELEVANT REGULATIONS

(reference also made to *The Police Pensions (Amendment) Regulations (Northern Ireland) 2024*) and *National Security Act (Consequential Amendment of Subordinate Legislation) 2023*

- ***RUC PENSIONS REGULATIONS 1988***

K5 – (1) This regulation shall apply to a pension payable to or in respect of a member under Part B or C or to a person payable to a pension credit member under regulations NI (pension credit member's entitlement to pension.

K5 – (2) (or under Part 3, Regulation 50 of The Police Pensions (Amendment) Regulations (Northern Ireland) 2024). Subject to paragraph (5), the Policing Board may determine that the pension be forfeited, in whole or in part and permanently or temporarily as they may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and, in the case of a widow's pension, that offence was committed after the death of the pensioner's husband.

K5 – (3) The offences referred to in paragraph (2)(a) are:

(a) An offence of treason.

(b) one or more offences under the Official Secrets Acts 1911 to 1939(a), or under section 18 of, or listed in section 33(3)(a) of the National Security Act 2023 for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least 10 years.

K5 - (3A) The relevant criminal offences referred to in paragraph (2)(b) are—
(i) the murder of the member;
(ii) the manslaughter of the member; or
(iii) any other offence of which the unlawful killing of the member is an element."

K5 – (4) Subject to paragraph (5), the Policing Board may determine that the pension to which this regulation applies be forfeited, in whole or in part and permanently or temporarily as they may specify, if the grantee has been convicted of an offence committed in connection with his service as a member which is certified by the Minister of Justice 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.

K5 (4A) –) If the Board as per Part 3, Regulation 50 (5) of The Police Pensions (Amendment) Regulations (Northern Ireland) 2024 withholds all of the benefits payable to a beneficiary, Parts C, D, and E apply as if the beneficiary has died before the member.

K5 – (5) In the case of a pension to which this regulation applies, other than an injury pension, the Policing Board in determining whether a forfeiture should be permanent or temporary and affect a pension in whole or in part, may make different determinations in respect of the secured and unsecured portions of the pension; but the secured portion of such a pension shall not be forfeited permanently and may be only forfeited temporarily for a period expiring before the grantee attains state pensionable age or for which he is imprisoned or otherwise detained in legal custody.

K5 – (6) To the extent to which a pension is forfeited under this regulation, the Policing Board shall be discharged from all actual or contingent liability in respect thereof.

K5 – (7) This regulation has effect subject to regulation J1 (6)(c)

K5 – (8) In this regulation, "beneficiary" means –

(i) a widow to whom Part C applies;
(j) a child to whom Part D applies

Regulation J1 (6)(c)

Regulation K5 (forfeiture of pension) shall apply in relation to a pension under paragraph (2) or (4) [or (4A) of Regulation 4 of the Royal Ulster Constabulary Pensions (Amendment) Regulations 1990 as it applies in relation to a pension under Part B or C but as if paragraph (4) thereof were omitted.

Please note: **A Minister of Justice Certificate is not required in respect of the offences specified in Regulation K5 (3) (a) or (3)(b) of the RUC pensions Regulations 1988. The Policing Board therefore considers straight away the question of the extent of forfeiture.**

- ***PSNI and PSNI RESERVE (INJURY BENEFIT) REGULATIONS 2006***

Forfeiture

***38** – (1) This regulation applies to a pension payable to or in respect of a police officer under regulation 10, regulation 12 or regulation 19.*

***38** – (2) The Board may determine that a pension to which this regulation applies be forfeited, in whole or in part and permanently or temporarily as it may specify, if the pensioner has been convicted of an offence mentioned in paragraph (3) and, in the case of an adult survivor's pension, that offence was committed after the death of the pensioner's spouse or, as the case may be, civil partner.*

***38** – (3) The offences referred to in paragraph (2) are:-*

a) an offence of treason;

b) one or more offences under the Official Secrets Act 1911 to 1989 or under section 18 of, or listed in section 33(3)(a) of, the National Security Act 2023 for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least ten years.

***38** – (4) The Board may determine that a pension to which this regulation applies be forfeited, in whole or in part and permanently or temporarily as it may specify, if the grantee has been convicted of an offence committed in connection with his service as a police officer which is certified by the Minister of Justice 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** – (5) To the extent to which a pension is forfeited under this regulation, the Board shall be discharged from all actual or contingent liability in respect of that pension.*

Please note:

Regulation 10 Relates to a police officer's Injury on Duty Award

Regulation 12 **Relates to an Adult Survivor's Special Award**

Regulation 19 **Relates to an Adult Dependent Relative's Special Pension**

THE POLICE PENSION (NORTHERN IRELAND) REGULATIONS 2009 (and The Police Pensions (Amendment) Regulations (Northern Ireland) 2024)

Forfeiture of Pension

52 *– (1) This regulation applies to a pension payable*

a) under this Part, to a police officer or former police officer;

b) under regulation 36, to a survivor of such a police officer; and

c) under Part 6, to a pension credit member.

52 *– (2) The Board may determine that the pension be forfeited, in whole or in part and permanently or temporarily as it may specify, if –*

a) the pensioner has been convicted of an offence mentioned in paragraph (3); and,

b) the beneficiary of a deceased member of this scheme is convicted of a relevant criminal offence mentioned in paragraph (3A).

(3) The offences referred to in paragraph (2)(a) are—

(a) an offence of treason;

(b) one or more offences under the Official Secrets Acts 1911 to 1989 or under section 18 of, or listed in section 33(3)(a) of, the National Security Act 2023, for which the grantee has been sentenced on the same occasion to a term of imprisonment of, or to two or more consecutive terms amounting in the aggregate to, at least ten years.

(3A) the relevant criminal offences referred to in paragraph (2)(b) are—

(a)the murder of the member;

(b)the manslaughter of the member; or

(c)any other offence of which the unlawful killing of the member is an element

52 *– (4) The Board may determine that the pension be forfeited, in whole or in part and permanently or temporarily as it may specify, if –*

a) the grantee has been convicted of an offence committed in connection with his service as a member of the police service; and

b) that offence is certified by the Minister of Justice 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.

52. *(4A) If the scheme manager withholds all of the benefits payable to a beneficiary, regulations 36 to 39 apply as if the beneficiary has died before the member."*

52 *– (5) The Board may, to such extent as it at any time in its discretion thinks fit–*

a) apply for the benefit of any adult or child survivor of the grantee of the pension; or

b) restore to the grantee of the pension,

any amount or amounts of the pension that has or have been forfeited under this regulation.

***52** – (6) To the extent to which a pension is forfeited under this regulation, the Board shall be discharged from all actual or contingent liability in respect of it.*

***52** -(8) In this Regulation, "beneficiary" means either a child survivor or an adult survivor as defined in regulation 37.*

- ***THE POLICE PENSION REGULATIONS (NORTHERN IRELAND) 2015 (and The Police Pensions (Amendment) Regulations (Northern Ireland) 2024*)**

Forfeiture: offences committed by members

209.*—(1) If a member is convicted of a relevant offence, the pension supervising authority may to the extent the pension supervising authority considers appropriate require the scheme manager to withhold benefits payable under this scheme to or in respect of the member.*

(2) *Paragraph (3) applies if benefits are to be withheld as a result of an offence falling within paragraph (b) of the definition of "relevant offence".*

(3) *The scheme manager may only withhold that part of a person's pension that exceeds any guaranteed minimum to which the person is entitled under—*

(a)section 10 of the 1993 Act (earner's guaranteed minimum); or

(b)section 13(2)of that Act (minimum pension for surviving spouses and civil partners).

*3A) The pension supervising authority may to the extent that in its discretion it thinks fit restore to the member or apply for the benefit of an eligible child or surviving adult of the member any amount of pension that has been forfeited under this regulation." (*Amended as per Part 1, Regulation 38 of *The Police Pensions (Amendment) Regulations (Northern Ireland) 2024*)

(4) *In this regulation—*

"forfeiture certificate" means a certificate given by the Department stating that the Department considers that the offence—

(a) has been gravely injurious to the interests of the State; or

(b) is liable to lead to serious loss of confidence in the public service; and

"relevant offence" means –

(a) one or more offences under the Official Secrets Acts 1911 to 1989, or under section 18 of, or listed in section 33(3)(a) of, the National Security Act 2023 for which the member has been sentenced on the same occasion to—

(i) a term of imprisonment of at least 10 years; or

(ii) 2 or more consecutive terms of imprisonment which add up to at least 10 years;

(b) an offence committed as per Part 1, Regulation 39 of The Police Pensions (Amendment) Regulations (Northern Ireland) 2024) in connection with service as a member of the police service and in respect of which the Department has issued a forfeiture certificate

Forfeiture: offences committed by a member's beneficiary

210.*—(1) If the beneficiary of a deceased member of this scheme is convicted of a relevant criminal offence, the pension supervising authority may to the extent the pension supervising authority considers appropriate, require the scheme manager to withhold benefits payable to the beneficiary in respect of the member.*

(2) The scheme manager may withhold benefits but may only withhold that part of a pension that exceeds any guaranteed minimum to which the beneficiary is entitled under section 13 of the 1993 Act.

(3) If the scheme manager withholds all of the benefits payable to a beneficiary, Part 9 (death benefits) applies as if the beneficiary had died before the member.

(4) In this regulation—

"beneficiary" in relation to a deceased member of this scheme, means surviving adult or eligible child of the member,"

(a) the murder of the member;

(b) the manslaughter of the member; or

(c) any other offence of which the unlawful killing of the member is an element.

- ***NATIONAL SECURITY ACT 2023 [Section 33 (3)(a)]***

Foreign power threat activity and involvement in that activity

(1) In this Part references to foreign power threat activity and to involvement in foreign power threat activity are to one or more of the following—

(a) the commission, preparation or instigation of acts or threats within subsection (3);

(3) References to acts or threats within this subsection are to—

(a) acts which constitute an offence under—

(i) obtaining or disclosing protected information;

(ii) obtaining or disclosing trade secrets;

(iii) assisting a foreign intelligence service;

(iv) entering etc. a prohibited place for a purpose prejudicial to the UK;

(v) sabotage;

(vi) foreign interference: general;

(vii) obtaining material benefits from a foreign intelligence service;

ANNEX B

PPSD CIRCULAR 03/2024 DEPARTMENT OF JUSTICE



PPSD CIRCULAR 03 2024 -Department of

ANNEX C

PENSION FORFEITURE GUIDANCE VERSION 1 SEPTEMBER 2024



Pension forfeiture guidance V1.0 Septem

ANNEX D

PRO FORMA TO BE COMPLETED BY PSNI

Name:	
Force Number:	
Date of Birth:	
Is officer Serving or Retired:	
Dates of Service:	
Information about the offence(s) including:	
Was the offence committed when the officer was on or off duty:	
The charge(s) brought against the officer/ / former officer:	
The offence(s) for which the officer / former officer was convicted:	
The sentence imposed:	
The circumstances surrounding the offence(s) and the investigation:	
Whether the offence(s) involved:	
An organised conspiracy among a number of police officers:	
Active support for criminals:	
The perversion of the court of public justice:	
The betrayal of an important position of trust for personal gain:	
The corruption or attempted corruption of junior officers:	
Details of any appeal:	
Judge's sentencing remarks:	
Press and media coverage of the conviction:	**TO BE COMPLETED BY NIPB**
Details of any disciplinary action taken against the officer / former officer and the outcome of such action:	

Details of any pending appeal:	
Details of the officer / former officer's service history and rank at the time of the offence:	
The officer / former officer's current address and / or contact details of any legal representative:	
An estimate of the officer / former officer's pension:	
Details of any dependents:	
Any other factors such as:	
Disability in the family:	
Illness at the time of the offence:	
Assistance or information given to the police during the investigation or following conviction:	
Any other mitigating factors:	

ANNEX E

OFFENCE TYPE AND FORFEITURE AMOUNT

To assist Members further, outcomes from England and Wales have been collated to provide a guide to the percentages forfeited for certain crime types, in the manner of sentencing guidelines. This in no way compels Members to stick to these guidelines, as each case will have its own specific circumstances and potential mitigations. Furthermore, some of the areas, such as 'misconduct in public office' can cover an exceptionally broad set of circumstances. Nevertheless, the table should provide a wider understanding to the amounts that have been forfeited previously.

Offence	Forfeiture amount
Common Assault	10-20%
Theft	25-35%
Rape/ sex offences (adult)	50-65%
Child sex offences(not IIOC)	60-65%
Misconduct in public office*	20-65%
Corruption	55%
Computer misuse	20%
Perverting the course of justice/ attempting to *	20-65%
ABH	25%

** Both offences of Misconduct in Public Office, and Perverting the Course of Justice, can cover an extremely broad set of circumstances, from computer misuse, to abuse of position for sexual purpose and so on. Therefore, the amounts forfeited will vary significantly. It is suggested that in these cases, the actual detail of the case be considered, as opposed to the criminal conviction.*

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DOCUMENT TITLE

Police Pension Forfeiture Procedure

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