

Police Reform (Performance and Disciplinary) Bill

EXPLANATORY NOTES

Explanatory notes to the Bill, prepared by the Home Office with the consent of Harriet Harman, the member in charge of the Bill, are published separately as Bill [X]-EN.

Police Reform (Performance and Disciplinary) Bill

CONTENTS

- 1 Automatic dismissal on conviction for a serious criminal offence
- 2 Automatic suspension of officers charged with specified allegations
- 3 Automatic dismissal of officers who fail vetting
- 4 Duty of candour
- 5 Chief constables' right of appeal to the Police (Discipline) Appeal Tribunal
- 6 Duty of officer to handover personal mobile phone
- 7 Power to make consequential provision
- 8 Extent, commencement and short title

A
B I L L

TO

Make miscellaneous provision relating to police performance and disciplinary matters.

BE IT ENACTED by the Queen's most Excellent Majesty, by and with the advice and consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the authority of the same, as follows: —

1 Automatic dismissal on conviction for a serious criminal offence

(1) Section 50 of the Police Act 1996 (Regulations for police forces) is amended in accordance with subsections (2) and (3).

(2) After subsection (3) insert-

“and subject to any regulations made under subsection (3ZA)”.

(3) After subsection (3G) insert –

“(3ZA) Regulations made under this section may provide that upon the conviction of a member of a police force for a certain type of criminal offence, that person shall be dealt with by way of automatic dismissal without the taking of any disciplinary proceedings against that person.”.

2 Automatic suspension of officers charged with specified allegations

(1) Subsection (2) specifies further provision which may be made in regulations made by the Secretary of State pursuant to section 50 of the Police Act 1996.

(2) “**Suspension (Criminal Charges)**

(1) Where an officer is charged with an indictable-only or an either-way offence, the Police (Conduct) Regulations, Regulation 11 [*and any other relevant legislation*] shall not initially apply.

(2) In a case falling within regulation (1), the appropriate authority shall automatically suspend the officer from the office of constable for an initial period of 30 days.

- (3) An officer suspended under regulation (2) remains a police officer for the purpose of the Police (Conduct) Regulations.
- (4) An officer suspended under regulation (2) must be with pay.
- (5) At or prior to the expiry of the initial period of suspension referred to in regulation (2), the appropriate authority must make a determination as to whether the suspension conditions in the Police (Conduct) Regulations 2020, regulation 11, are satisfied.
- (6) Upon the making of a determination under regulation (5) that an officer should remain suspended, the Police (Conduct) Regulations, regulation 11, shall apply thereafter to that officer."

3 Automatic dismissal of officers who fail vetting

- (1) The Police Act 1996 is amended in accordance with subsection (2).
- (2) In section 39A (Codes of practice for chief officers), after subsection (1) insert –
 - “(1A)(1) Without prejudice to subsection (1) a code of practice may relate to circumstances where an officer fails vetting and it is not reasonable to expect that the officer will be capable of being deployed to full duties within a reasonable timeframe, subject to (1A)(2) below, for the officer to be dismissed without notice.
 - (1A)(2) Subsection (1A)(2) does not apply where a chief officer concludes that:
 - (a) the officer, notwithstanding his vetting failure, is capable of being deployed to a substantial majority of duties appropriate for an officer of his rank; and
 - (b) it would be disproportionate to the operational effectiveness of the force for the officer to be dismissed without notice.”.

4 Duty of candour

- (1) The Police Reform Act 2002 is amended in accordance with subsection (2).
- (2) After section 19 insert –
 - “(19A)(1) All members of police forces shall be under a duty of candour, and it shall be the duty of every officer to report to a senior officer each and any of the following:
 - (a) any conduct by the officer which might constitute misconduct;
 - (b) any circumstances relating to the officer which might reasonably be regarded as affecting the officer’s aptitude or sustainability to perform his or her duties, or some of them;
 - (c) any conduct by another police officer which might constitute misconduct;

(d) any circumstances relating to another officer which might reasonably be regarded as affecting that other officer's aptitude or sustainability to perform his duties, or some of them.

(2) Any breach of the duty of candour may be the subject of disciplinary proceedings instituted pursuant to regulations made under section 50 of the 1996 Act."

5 Chief constables' right of appeal to the Police (Discipline) Appeal Tribunal

(1) The Police Act 1996 is amended in accordance with subsection (2).

(2) In section 85(1), after 'former special constable,' insert "or a chief constable of police".

6 Duty of officer to handover personal mobile phone

(1) Section 50 of the Police Act 1996 is amended in accordance with subsection (2).

(2) After subsection (4) insert-

"(4A) Regulations under this section may, in connection with the procedures that are established by or under regulations made by virtue of subsection (3), provide that an officer has a duty to handover to the appropriate authority a personal telecommunications device capable of storing information in any electronic format which can readily be produced in a visible and legible form, belonging to that police officer where there is a request by the appropriate authority in circumstances where the appropriate authority has reasonable grounds to suspect the police officer of behaving in a way that could amount to gross misconduct and in respect of which information stored on the device may be relevant to the suspected misconduct.

(4B) Without prejudice to the generality of subsection (4A), regulations may provide for-

- (a) the form of the request to be made to the police officer concerned and any related information that must be provided by the police officer in releasing the device including, but not limited to, any passcode required to access information stored on the device,
- (b) the time period within which the device must be provided to the appropriate authority and any sanction which may be imposed on the police officer for failing to do so,
- (c) the provision to the police officer concerned of reasons for the requested possession of a device,
- (d) the arrangements to be put in place for the protection of confidential, privileged or sensitive information stored on the device which is not relevant to the matter under investigation,
- (e) the period of time that the device may be retained by the appropriate authority and arrangements for the return of the device when it is no longer required for the purposes of the investigation,

(f) the deletion of information obtained from the device and retained by the appropriate authority other than information which is reasonably required to be retained in connection with the matter under investigation, and

(g) the making of ancillary and consequential amendments to other regulations as may be considered necessary.

(4C) In subsections (4A) and 4(B) ‘appropriate authority’ has the meaning given in article 2 (interpretation) of the Police (Conduct) Regulations 2020.”.

7 Power to make consequential provision

- (1) The Secretary of State may by regulations make provision that is consequential on this Act.
- (2) The regulations are to be made by statutory instrument.
- (3) A statutory instrument containing regulations under this section is subject to annulment in pursuance of a resolution of either House of Parliament.

8 Extent, commencement and short title

- (1) This Act extends to England and Wales.
- (2) Apart from this section, this Act comes into force on such day as the Secretary of State may by regulations made by statutory instrument appoint; and different days may be appointed for different purposes.
- (3) This section comes into force on the day on which this Act is passed.
- (4) This Act may be cited as the Police Reform (Performance and Disciplinary) Act 2023.

Police Reform (Performance and Disciplinary) Bill

A

B I L L

To make miscellaneous provision relating to police performance and disciplinary matters

Presented by Harriet Harman.

*Ordered, by The House of Commons,
to be Printed, [X] 2023.*

© Parliamentary copyright House of Commons 2023

*This publication may be reproduced under the terms of the Open Parliament Licence, which is published at
www.parliament.uk/site-information/copyright*

PUBLISHED BY AUTHORITY OF THE HOUSE OF COMMONS