

EXPLANATORY MEMORANDUM TO
THE POLICE AUTHORITIES (PARTICULAR FUNCTIONS AND
TRANSITIONAL PROVISIONS (AMENDMENT) ORDER 2010

2010 No. 418

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. The Police Authorities (Particular Functions and Transitional Provisions) (Amendment) Order 2010 contains provisions on the functions of police authorities in England and Wales outside London. It will amend the existing order, the Police Authorities (Particular Functions and Transitional Provisions) Order 2008, by giving police authorities an additional function of monitoring and (where necessary) intervening in the handling by police forces of complaints made by members of the public.
3. **Matters of special interest to the Joint Committee on Statutory Instruments**
 - 3.1. None.
4. **Legislative Context**
 - 4.1. Section 6ZA of the Police Act 1996 provides that the Secretary of State may by order confer particular functions on police authorities, in addition to the general functions set out in section 6 of that Act.
 - 4.2. The Police Reform Act 2002 (“the 2002 Act”) contains provision relating to the handling of police complaints, which are defined in section 12 of the 2002 Act as complaints about the conduct of a person serving with the police, made by or on behalf of a member of the public in relation to whom the conduct took place, or who claims to have been adversely affected by the conduct, or who witnessed the conduct. The duties of the relevant police authority in relation to such complaints are set out in Part 2 of and Schedule 2 to the 2002 Act. These include a general duty under section 15 for the police authority to ensure that it is kept informed about all matters in relation to such complaints.
 - 4.3 This Order does not affect police authorities’ duties under the 2002 Act. It relates only to complaints which do not fall within the ambit of the 2002 Act, such as more general concerns expressed by members of the public about local policing which do not arise from the conduct of an individual member of the police force.
5. **Territorial Extent and Application**
 - 5.1. This instrument applies to England and Wales.

6. European Convention on Human Rights

- 6.1. As the instrument is subject to negative resolution procedure and does not amend primary legislation, no statement is required.

7. Policy Background

- 7.1. The Government's Policing White Paper, published 2nd December 2009, contained a commitment to increase the diversity, competence, capability and accountability of police authorities. These regulations are intended to contribute to those aims by introducing new requirements relating to complaints handling.
- 7.2. In relation to complaints not covered by the Police Reform Act 2002, a police authority will be required to monitor issues raised by members of the public in its force area, and intervene if it considers the force's response to be inadequate. It will also be required to ensure that it has sufficient information to keep itself adequately informed of issues raised with the force by the public, monitor the manner in which the force is responding, and challenge the force to improve its processes and/or correct responses when it feels that issues are not being dealt with adequately. It may also pro-actively intervene in a live complaint if the police authority feels that is necessary to deliver a satisfactory response.

8. Consultation Outcome

- 8.1. As required by the Police Act 1996 consultation has taken place with the Association of Chief Police Officers, the Association of Police Authorities, Her Majesty's Inspectorate of Constabulary, The Local Government Association, the Welsh Local Government Association, the Independent Police Complaints Commission, the Greater London Authority, the Metropolitan Police Authority, the British Association of Women in Policing, the Black and Asian Police Association, and the Gay Police Association.
- 8.2. The formal consultation lasted for five weeks, and generally the responses were in favour of the instrument. A key piece of feedback was the risk of cutting across functions under the 2002 Act, and the Order is drafted so as to create functions which are entirely separate and distinct from those under the 2002 Act. It was further suggested that the police authority could still monitor the IPCC's recommendations and challenge the force to take appropriate action. These observations have informed the final draft. Other responses included: concern of the additional responsibility that was perceived as an additional burden on police authorities (we consider that complaints monitoring is a staple duty of police authorities, and this order merely clarifies the obligation); and concern that "intervention" could mean police authorities stepping over the line into force operational independence (we consider that it is a key duty of police authorities to intervene where a force is failing to address an issue).

9. Guidance

- 9.1. Guidance for assessors on the authority selection panels, and for the purposes of police authority public consultation, will be updated by the Association of Police Authorities

10. Impact

- 10.1. A White Paper Impact Assessment has been carried out and it was concluded that the impact on public bodies would be less than £50,000 per annum.
- 10.2. An Equality Impact Assessment has been carried out via consultation with diversity groups in policing. We received no objections to the draft order on the grounds of equality or diversity, and it was broadly welcomed.

11. Regulating small business

- 11.1. The legislation does not apply to small business.
- 11.2. Business is, however, included as one of the groups who should be consulted in obtaining the views of the public.

12. Monitoring & review

- 12.1 We will continue to work closely with the APA and individual police authorities as these regulations are implemented, including in the writing of guidance.

13. Contact

- 13.1. Benedict Collins at the Home Office (tele: 020 7035 1896 or email: benedict.collins11@homeoffice.gsi.gov.uk) can answer any queries regarding this instrument.

EQUALITY IMPACT SCREENING REPORT

Background:

These regulations update requirements for producing policing plans so that the general public can readily see how their Police Force and Authority are making the most of the money invested in them.

Screening analysis:

A wide range of organisations representing a number of groups were invited to respond to the consultation on the draft Policing Plan (Amendment) Regulations 2010. These included The Black and Asian Police Association, The British Association of Women in Policing, British Sikh Police Association, The Christian Police Association, The Evangelical Alliance, The Gay Police Association, The National Disabled Police Association and The Stephen Lawrence Charitable Trust.

Comments were requested as to whether the draft regulations presented any potential implications for equality and diversity in police authorities or in police authority work.

No organisation responded that they thought the regulations would have implications for equality and diversity.

The regulations amend the specific requirements to be published on efficiency and productivity in the policing plan. They require more detailed reporting in the form of a Value for Money Statement. There is no change to the work of the force as a result of the new reporting requirements that will have an impact on equality.