

EXPLANATORY MEMORANDUM TO
THE POLICE SUPER-COMPLAINTS (CRITERIA FOR THE MAKING AND
REVOCAION OF DESIGNATIONS) REGULATIONS 2018

2018 No. 412

1. Introduction

- 1.1 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 purpose of this instrument is to set out the criteria that an organisation must fulfil in order to become a designated body under the police super-complaint system – only designated bodies are able to raise super-complaints, which should raise concerns about systemic issues in policing. The instrument also sets out the circumstances under which designation can be revoked and gives Her Majesty’s Chief Inspector of Constabulary the power to issue guidance to the designated bodies.

3. Matters of special interest to Parliament

Matters of special interest to the Joint Committee on Statutory Instruments

- 3.1 None.

Other matters of interest to the House of Commons

- 3.2 As this instrument is subject to negative resolution procedure and has not been prayed against, consideration as to whether there are other matters of interest to the House of Commons does not arise at this stage.

4. Legislative Context

- 4.1 Chapter 2 of Part 2 of the Policing and Crime Act 2017 introduces the police super-complaints system. It inserts Part 2A (sections 28A-28C) of the Police Reform Act 2002 (‘the 2002 Act’).
- 4.2 New section 28A of the 2002 Act allows designated bodies to make super-complaints, being complaints that a feature, or combination of features, of policing in England and Wales by one or more police force is, or appears to be, significantly harming the interests of the public.
- 4.3 New section 28B of the 2002 Act defines “designated body”. It means a body designated in regulations made by the Secretary of State. In making (or revoking) a designation, the Secretary of State must apply criteria set out in regulations. This instrument sets out these criteria.
- 4.4 New section 29C of the 2002 Act allows the Secretary of State to make regulations making provision about super-complaints. In reliance of that power, this instrument also allows Her Majesty’s Chief Inspector of Constabulary to give (and revoke) guidance to designated bodies.

4.5 This instrument will be followed by another instrument designating bodies and making further provision about super-complaints (e.g. setting out the procedures through which the super-complaints will be processed). This instrument will likely be laid in June 2018.

5. Extent and Territorial Application

5.1 The extent of this instrument is England and Wales.

5.2 The territorial application of this instrument is 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 police super-complaints system is a new system which will provide an avenue to raise concerns about systemic issue in policing, which are not being currently captured by the existing complaints system. The existing complaints system can be used to complain about individual police officers and members of staff working for a police force or particular incidents. Systemic issues may include raising a concern about how police across a number of force areas consistently respond to or handle a particular type of crime.

7.2 The new system will enable organisations, such as charities, to apply to become designated bodies so that they can raise issues or concerns on behalf of the public about patterns or trends in policing which are, or appear to be, significantly harming the interests of the public. There has been moderate public interest in the system, 27 organisations responded to the consultation, but there has been strong interest from the voluntary sector following tailored communications with the sector.

7.3 These Regulations set out the nine criteria an organisation must fulfil in order to become a designated body. The designated body criteria are crucial to ensuring the effectiveness of the new police super-complaints system – they will ensure that the right balance is struck between providing maximum access to the system for key groups, charities and the public, whilst ensuring that those designated are able to meet the responsibilities involved.

Consolidation

7.4 These Regulations do not amend any other legislation, and there is accordingly no scope for consolidation.

8. Consultation outcome

8.1 On 16 October 2017, the Government launched a public consultation on ‘Criteria for Designating Bodies in the Police Super-Complaints System’, inviting comments from the public and key stakeholders on the proposed criteria organisations need to meet in order to be eligible to become a designated body in the new police super-complaints system. The consultation closed on 8 December 2017 and 27 responses were received. There was overall broad support for the criteria proposed, and minor amendments were made following the analysis.

9. Guidance

- 9.1 Home Office guidance on how to apply to become a designated body will be published when the application window opens.

10. Impact

- 10.1 There is no impact on business, charities or voluntary bodies as they are not obliged to apply, they can, however, choose to apply to become designated bodies.
- 10.2 The impact on the public sector is minimal and is limited to the police, HMICFRS, IOPC and the College of Policing.
- 10.3 No Impact Assessment has been prepared.

11. Regulating small business

- 11.1 The legislation does not apply to activities that are undertaken by small businesses.

12. Monitoring & review

- 12.1 The Home Office will keep the operation of these regulations under review.

13. Contact

- 13.1 Victoria Arnott at the Home Office, 0207 035 8422, victoria.arnott@homeoffice.gsi.gov.uk can answer any queries regarding the instrument.