STATUTORY INSTRUMENTS

2017 No. 1135

POLICE, ENGLAND AND WALES

The Police Barred List and Police Advisory List Regulations 2017

Made - - - -	*22nd November 2017*
Laid before Parliament	*24th November 2017*
Coming into force - -	*15th December 2017*

The Secretary of State, in exercise of the powers conferred by sections 88A(2), (4)(b) and (7), 88B(3) and (4), 88F(1)(d), (3), (5), (6) and (8), 88G, 88I(3) and (7), 88J(3) and (4) and 88L(3), (6) to (8) and (10) of the Police Act 1996(**1**), makes the following Regulations:

PART 1

General

Citation and commencement

1. These Regulations may be cited as the Police Barred List and Police Advisory List Regulations 2017 and come into force on 15th December 2017.

Interpretation

2.—(1) In these Regulations—

"advisory list" means the police advisory list(**2**);

"barred list" means the police barred list(**3**);

"the College" means the College of Policing;

"former police officer" means a former member of a police force or a former special constable;

"police force concerned", in relation to a person ("P") who at the relevant time—

(**1**) 1996 c.16. Sections 88A to 88M were inserted by section 30 of, and Schedule 8 to, the Policing and Crime Act 2017 (c.3).
(**2**) "Police advisory list" is defined in section 88J of the Police Act 1996.
(**3**) "Police barred list" is defined in section 88B of the Police Act 1996.

(a) was a member of a police force, means the police force of which P was a member at that time;

(b) was a former member of a police force, means the police force of which P was last a member;

(c) was a special constable, means the police force for which P was appointed as a special constable at that time;

(d) was a former special constable, means the police force for which P was last appointed as a special constable;

(e) was a civilian police employee, means—

(i) the police force of which P was a member of the civilian staff at that time; or

(ii) if P was a civilian police employee at that time by virtue of being employed by the Common Council of the City of London, the City of London police force;

(f) was a former civilian police employee, means—

(i) the police force for which P was last employed as a member of the civilian staff; or

(ii) if P was last employed as a civilian police employee by the Common Council of the City of London, the City of London police force;

(g) was a community support volunteer or a policing support volunteer, means the police force of the chief officer of police by whom P was designated under section 38 of the Police Reform Act 2002(**4**);

"police officer" means a member of a police force or a special constable;

"relevant dismissal", in relation to a person ("P") whom the relevant authority is required to report to the College under section 88A(1)(a) or (c), means the dismissal of P by virtue of which that requirement applies;

"relevant event", in relation to a person ("P") whom the relevant authority is required to report to the College under section 88I(1), means—

(a) if paragraph (a) of section 88I(1) applies, P ceasing to be a person serving with the police as mentioned in that paragraph;

(b) if paragraph (b) of section 88I(1) applies, the relevant allegation about P coming to the attention of the relevant authority;

(c) if paragraph (c) of section 88I(1) applies, the withdrawal of P's designation as mentioned in that paragraph;

(d) if paragraph (d) of section 88I(1) applies, P's decision to stop volunteering as mentioned in that paragraph;

"relevant finding", in relation to a person ("P") whom the relevant authority is required to report to the College under section 88A(1)(b) or (d), means the finding by virtue of which that requirement applies;

"relevant time", in relation to a person ("P") whom the relevant authority is required to report to the College under section 88A(1) or 88I(1), means the time immediately before the relevant dismissal, the relevant event or the relevant finding (as the case may be);

"Standards of Professional Behaviour" has the same meaning as in the Police (Conduct) Regulations 2012(**5**);

(**4**) 2002 c.30. Section 38 was amended by section 38 of the Policing and Crime Act 2017. There are other amendments to section 38 which are not relevant for the purposes of these Regulations.
(**5**) S.I. 2012/2632. See regulation 3, which was amended by S.I. 2015/626.

"working day" means a day other than a Saturday or a Sunday, Christmas Day, Good Friday or a day which is a bank holiday in England and Wales under the Banking and Financial Dealings Act 1971(**6**).

(2) In these Regulations, and for the purposes of section 88A(4)(b), "disciplinary proceedings" in relation to a former civilian police employee ("P") means any proceedings or management process during which P's conduct while a civilian police employee is considered in order to determine whether a finding should be made that P would have been dismissed if P had still been such an employee.

(3) A reference in these Regulations to any provision of an Act is (unless expressly provided otherwise) a reference to a provision of the Police Act 1996.

PART 2

The Barred List

Report by relevant authority to College under section 88A: timing and content

3.—(1) Where the relevant authority(**7**) is required to report a person ("P") to the College under section 88A(1), the authority must do so before the end of 5 working days beginning with—

(a) where paragraph (a) or (c) of section 88A(1) applies to P, the date of the relevant dismissal;

(b) where paragraph (b) or (d) of section 88A(1) applies to P, the date of the relevant finding.

(2) The report must include the following information—

(a) P's full name;

(b) the police force concerned;

(c) P's date of birth;

(d) whether P was a police officer, a former police officer, a civilian police employee or a former civilian police employee at the relevant time;

(e) where P was a police officer at the relevant time—

(i) P's rank at that time; and

(ii) any number used at that time to identify P as a police officer (for example a warrant number);

(f) where P was a former police officer at the relevant time—

(i) P's rank when P was last a police officer; and

(ii) any number used when P was last a police officer to identify P as such (for example a warrant number);

(g) where P was a civilian police employee at the relevant time, any number used at that time to identify P as such an employee;

(h) where P was a former civilian police employee at the relevant time, any number used when P was last a civilian police employee to identify P as such;

(i) the reasons for the relevant dismissal or the relevant finding, including (where applicable) —

(i) a description of P's conduct which led to the relevant dismissal or the relevant finding; and

(**6**) 1971 c.80. See section 1 of, and Schedule 1 to, that Act.
(**7**) "Relevant authority" in relation to the police barred list, is defined in section 88A(3) of the Police Act 1996.

(ii) any provision of the Standards of Professional Behaviour breached by P;

(j) the date of the relevant dismissal or the relevant finding;

(k) where the relevant authority was required to report P to the College under section 88I(1)(a) or (b), that fact, the date of the report and whether P resigned or retired;

(l) any information which the relevant authority considers it appropriate to include for the purpose of assisting the College in considering whether regulation 10(4) applies in relation to information contained the report.

Information to be included in the police barred list

4. The information that must be included in the barred list in relation to a person reported to the College under section 88A(1) is the information contained in the report by virtue of regulation 3(2)(a) to (k).

Further report by relevant authority to College under section 88F: timing and content

5.—(1) Where the relevant authority is required to make a further report to the College under section 88F(2) in relation to a person ("P"), the relevant authority must do so before the end of 5 working days beginning with the date on which the removal condition is satisfied in relation to P.

(2) The further report must include the following information in relation to P—

(a) the information mentioned in regulation 3(2)(a) to (c);

(b) the date on which the removal condition was satisfied;

(c) where paragraph (a) or (b) of section 88F(1) applies to P, the nature of the proceedings mentioned in the applicable paragraph;

(d) where paragraph (c) of section 88F(1) applies to P, the nature of the complaint under section 111 of the Employment Rights Act 1996(**8**) and a summary of the finding mentioned in that paragraph;

(e) where paragraph (d) of section 88F(1) applies to P, the nature of the appeal proceedings, and the finding made in those proceedings.

(3) For the purposes of this regulation, "the removal condition" is satisfied in relation to P—

(a) where paragraph (a) of section 88F(1) applies to P, when P is reinstated as mentioned in that paragraph;

(b) where paragraph (b) or (d) of section 88F(1) applies to P, when the finding mentioned in that paragraph is set aside as so mentioned;

(c) where paragraph (c) of section 88F(1) applies to P, when the finding mentioned in that paragraph is made.

(4) For the purposes of paragraph (2)(e), "appeal proceedings" means any internal review or appeal during which a decision taken in disciplinary proceedings in relation to P is considered and may be set aside.

Removal from barred list following review or appeal

6.—(1) If regulation 5 does not apply, this regulation applies where—

(a) a person ("P") has been included in the barred list in consequence of a report made in relation to P under section 88A(1);

(**8**) 1996 c.18. Section 111 was amended by section 1 of the Employment Rights (Dispute Resolution) Act 1998 (c.8). There are other amendments to section 111 which are not relevant for the purposes of these Regulations.

(b) one of the following applies—

(i) P is reinstated as a police officer or a civilian police employee following the decision of any court or tribunal;

(ii) the relevant dismissal is found to have been an unfair dismissal by any court or tribunal;

(iii) the relevant finding is set aside following an internal review or appeal.

(2) The relevant authority must give the College notice of the decision or finding referred to in paragraph (1)(b) before the end of five working days beginning with the date on which the finding or decision was made.

(3) That notice must contain the following information—

(a) the information mentioned in regulation 3(2)(a) to (c);

(b) the nature of the internal review or appeal, or the application to a court or tribunal, and the decision or finding made;

(c) the date of the decision or finding referred to in paragraph (1)(b).

(4) On receipt of notice under paragraph (2) in relation to P, the College must remove P from the barred list.

Removal from barred list on application of barred person

7.—(1) Paragraph (2) applies where a person ("P") has been included in the barred list for the relevant minimum period or longer.

(2) P may apply to the College to be removed from the barred list if—

(a) the application is P's first application under this regulation; or

(b) in any other case, the condition set out in paragraph (3) is met.

(3) The condition is met if P makes the application—

(a) on or after the date specified by the College under paragraph (7) when dismissing P's most recent application; or

(b) if no date was specified under paragraph (7), after the expiry of the relevant minimum period beginning with the date on which the College dismissed P's most recent application.

(4) An application under paragraph (2)—

(a) must be made in the form and manner determined by the College; and

(b) may contain any information or be accompanied by any other documents that P considers relevant to the application.

(5) If, on considering P's application, the College is satisfied that it is appropriate for P to be removed from the barred list, the College must remove P from the list; otherwise the College must dismiss the application.

(6) In determining whether it is appropriate for P to be removed from the barred list the College may have regard (among other things) to—

(a) the extent to which P has shown that P is suitable to be employed or otherwise appointed by a person mentioned in section 88C(5) (policing positions)(**9**);

(b) the circumstances of the relevant dismissal or which led to the relevant finding;

(c) the impact on public confidence in the police of removing P from the barred list.

(**9**) Section 88C(5) was amended by section paragraph 65 of Schedule 9 to the Policing and Crime Act 2017 (c.3).