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This circular is about:

**Special Constables:
Dual-Force Service**

From:

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This circular is addressed to:

Chief Officers of Police

Copies are being sent to:

**Chairs to Police Authorities
Special Constabulary Chief Officers
Special Constabulary Coordinators
HR Directors**

ACCESSIBILITY STATEMENT

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Dear Chief Officer

SPECIAL CONSTABLES: DUAL-FORCE SERVICE

This circular contains guidance on:

- **The process to be followed to allow a serving special constable to undertake simultaneous service in more than one Home Office force.**

1. Introduction

- 1.1 The following guidance sets out the protocol for facilitating dual-force service in relation to special constables. This protocol would apply where a special constable is geographically mobile and finds him or herself in a position to give commitment to more than one force, due to personal circumstances (such as work commitments or student status). In such cases, forces should encourage and facilitate, where practicable, the opportunity for an individual to undertake service simultaneously in more than one force.
- 1.2 This protocol applies to the 43 Home Office forces of England and Wales. At the discretion of the force, it may also apply to those special constables applying from non-Home Office forces. For further guidance on the arrangements concerning special constables from British Transport Police (BTP), forces should consider the provisions set out in the Police Act 1996 (as amended). Please see paragraph 6.1 and 6.3 below for further information.
- 1.3 It may be the case that members of employed constabularies or private forces apply to undertake dual-force service in a Home Office force. Forces should note that the legislation governing such police officers is different from Home Office forces, specifically concerning powers and jurisdiction. In addition, the roles and training will often be different from that of a Home Office force which would mean that dual-force service would not be appropriate. Their employment by non-Home Office forces may also be incompatible with the role of special constable. Such individuals should go through the normal special constable recruitment route.
- 1.4 The decision as to whether to permit an individual serving in a Scottish force to undertake dual-force service will ultimately rest on agreement by the Chief Officers of both forces. Forces may wish to refer to NPIA Circular 01/2011 - Special Constables: Eligibility for Recruitment available at: <http://npia.police.uk/en/10193.htm>
- 1.5 It is recognised that dual-force service provides benefits to all forces in that they are able to retain special constables in whom they have invested, and retain the valuable skills and training for the benefit of the local police force area. Offering a dual-force service arrangement may also contribute to the long-term retention of special constables and aid future transferability.
- 1.6 Forces may additionally benefit by temporarily receiving the services of fully trained, special constables to provide operational support, without incurring significant initial training or development costs. It could also be the case that dual-force service is encouraged by there being a national agreement in place.
- 1.7 The process should be managed and monitored locally to ensure that the situation remains practical and advantageous to both the individual and the forces involved.
- 1.8 To-date, there has been no specific national policy or advice on the issue. As such, this guidance has been produced following discussions with key stakeholders and informed by force and regional policies across England and Wales. This protocol was approved by the Special Constabulary National Consultative Group (SCNCG).

2. Definitions

2.1 All references in this guidance to 'home force' refer to the force to which the special constable was initially attested.

2.2 'Second force' refers to the other force in which the special constable intends to perform duty as a result of his or her geographical mobility.

3. Underpinning Principles

- All individuals undertaking dual-force service will have undertaken some service as a special constable in a Home Office force, a Scottish force or the BTP.
- All special constables are warranted officers with the ability to use their powers across England and Wales.
- All special constables will have taken some initial training to enable them to have attained at least the level of accompanied patrol. Please see paragraph 7 for more guidance on training issues.
- Forces should ensure that dual-force service arrangements are administered as promptly and efficiently as possible.

4. General

4.1 Forces should consider nominating a sole point of contact to manage dual-service arrangements.

4.2 Forces should ensure that dual-force service arrangements are administered as efficiently as possible without undue delay.

4.3 Forces should ensure that opportunities for undertaking dual-force service for special constables are equitable. However, individual special constables should be informed at the outset that there is no automatic right to undertake dual-force service. Each individual application should be treated on its own merits, weighing up benefits and drawbacks before deciding whether to allow an individual to perform dual-force service. However, as a general principle, forces are encouraged to be receptive, wherever practicable, to such a request from individual special constables.

4.4 The Chief Officer of each force retains the authority to approve service arrangements within his or her police force area. As such, forces should acquire written agreement from the Chief Officer of the home force as appropriate.

4.5 Dual-force service arrangements should be administered via an application process.

4.6 There may be occasions where the Chief Officer of a receiving force is not minded to accept an application. In these circumstances, it is suggested that the reasons for the rejection of an application are communicated to the home force and the individual special constable be informed as soon as possible. Although there is not a prescriptive list of reasons, forces should ensure their reasoning is consistent, non-discriminatory and justifiable.

4.7 Chief Officers should be aware of their associated responsibilities and duties under a dual-force service arrangement. This may depend on the legal mechanism used to conclude the dual-force service arrangement. Where a collaboration agreement is used, both Chief Officers should ensure that all aspects relating to the dual-force service arrangement are appropriately addressed within any collaboration agreement (see

paragraph 6 below for further information). Where there is ambiguity or forces would like these issues clarified, it is strongly recommended that they seek legal advice from the relevant force legal representatives.

5. Dual-force Policing Co-ordinators

5.1 It is essential that the nominated co-ordinators in both the home and second forces communicate with each other to ensure that:

- There are no delays in sending necessary paperwork and in responding to requests for information.
- Information relating to the special constable's PDR (where applicable) is received or submitted, as appropriate.
- Information relating to the special constable's personal file (including records relating to any disciplinary actions and performance issues) is received or submitted (as appropriate) prior to the start of the dual-force service arrangement.
- Information relating to the special constable's training record is shared appropriately between the forces.
- Appropriate procedures are in place for the retention and provision of uniform items.
- Appropriate communication is maintained with respect to training requirements to address any potential gaps.

6. Legal basis for dual-force service

6.1 Section 30(2) of the Police Act 1996 gives a special constable appointed by one Home Office force jurisdiction in the area of any other Home Office force. This is intended to allow the exercise of police powers in a different area for immediate operational purposes, rather than to provide for dual-force service as envisaged in this circular. Also, it is not applicable to special constables of Scottish forces or BTP.

6.2 There are two legal mechanisms by which dual-force service within the meaning of this circular can be undertaken - a collaboration agreement under section 22A of the 1996 Act, and appointment by the second force under section 27(1) of the 1996 Act.

a. Collaboration agreements

6.3 A collaboration agreement can contain provision for special constables of one force to discharge functions in another force's area. It can also provide for special constables to come under the direction and control of the chief officer of the second force. Where a BTP special constable is under the direction and control of the chief officer of a Home Office force under a collaboration agreement, the special constable has all the powers and privileges of a special constable of the Home Office force.

6.4 Provisions about the discharge of functions and direction and control under a collaboration agreement made under section 22A do not apply to Scottish forces. Accordingly, a collaboration agreement cannot be used to provide for dual-force service as between a Home Office and a Scottish force.

6.5 Forces must ensure that any collaboration agreement complies with the requirements of the 1996 Act, as amended by the Policing and Crime Act 2009 and the Police Reform and Social Responsibility Act 2011. The relevant provisions of each Act can be found at www.legislation.gov.uk.

b. Appointment to second force

6.6 There is no prohibition in legislation on a person being appointed to serve as a special constable in two police areas at the same time. At any particular point in time, the

person would be under the direction and control of the chief officer in whose force with which he or she is volunteering.

- 6.7 It is strongly recommended that a person appointed as a special constable for a second police area is attested on appointment, even though he or she will already have been attested by the home force. Section 29 of the 1996 Act arguably requires a special constable to be attested every time they are appointed.

c. Legal issues arising from dual force service

- 6.8 Forces will need to be clear as to where legal liability lies in relation to a special constable undertaking dual-force service, both with regard to any claim made by the special constable, and any proceedings arising from the special constable's actions.
- 6.9 Several significant legal responsibilities are linked to direction and control:
- i. Under section 88 of the 1996 Act, a chief officer is vicariously liable for any unlawful acts of special constables under his or her direction and control.
 - ii. Under sections 42 and 43 of the Equality Act 2010, a chief officer is treated as the employer of special constables under his or her direction and control for the purposes of employers' duties under the Act.
 - iii. Under section 29(1) of the Police Reform Act 2002, a chief officer is the appropriate authority in relation to complaints, conduct matters or death or serious injury matters concerning special constables under his or her direction and control.
- 6.10 Other significant legal responsibilities are linked to appointment to the force:
- i. Under section 51A of the Health and Safety at Work etc Act 1974, a chief officer is treated as the employer of special constables appointed for the police area for the purposes of employers' duties under the Act (but where a special constable is under the direction and control of a different chief officer under a collaboration agreement, that second chief officer is treated as the employer).
 - ii. Under the Police (Conduct) Regulations 2008, a chief officer is the appropriate authority in relation to allegations of misconduct concerning special constables appointed for the police area.
 - iii. Under the Police (Performance) Regulations 2008, a chief officer is the appropriate authority in relation to unsatisfactory performance or attendance of special constables appointed for the police area.
- 6.11 Particular complications may arise where in relation to legal liability where a special constable is off duty – for example, where an off-duty special constable makes an arrest and the arrested person brings civil proceedings or makes a complaint. In these circumstances it will not be clear which chief officer has direction and control, or which is the relevant chief officer in terms of appointment of the special constable. Before dual-force service commences, the two forces should agree the way in which such a situation would be handled. This could for example be addressed within a collaboration agreement.
- 6.12 All forces should obtain their own legal advice from force solicitors/legal representatives to ensure they are in compliance with the law.

7. Entry into the second force (vetting and other pre-entry checks)

- 7.1 Entry into the second force may depend on the legal mechanism used to conclude a dual-force service arrangement. Please see paragraph 6 above for more information.
- 7.2 Special constables who will be undertaking dual-force service will likely be required to undergo vetting checks by the second force; such decisions are a matter for local determination.
- 7.3 Forces should be aware that vetting requirements may cause some unavoidable delay in the completion of dual-force service arrangements between the home force and second force. It is recognised that vetting forms an integral part of the recruitment process, however forces are encouraged to seek to minimise the time taken while not compromising the integrity of the vetting process. Forces may find it useful to refer to the **ACPO and ACPOS National Vetting Policy for the Police Community** which is available at:
<http://www.acpo.police.uk/documents/workforce/2010/201008WDNVP01.pdf>
- 7.4 It is recognised there may be difficulties in ensuring that special constables from the home force meet the same recruitment standards as those in the second force. Where there is a common recruitment process, such as the National Specials NRS Assessment Process, this could make second forces more confident about taking on new special constables.
- 7.5 It is suggested that second forces conduct suitability interviews with the prospective dual-service candidates, with the aim of establishing their intended level of commitment and area or BCU training requirements, etc.

8. Training

- 8.1 The home force and second forces should share training records as and when required.
- 8.2 Where there are identifiable gaps in special constables' training, the home force should collaborate with the second force to bring the special constable up to the standard required, to ensure that they are able to carry out duty in the second force. This may result in a degree of duplication to ensure such officers are trained and achieving their own minimum standard. However, forces should avoid any unnecessary duplication of training. Harmonisation of training may be made easier if forces are using the NPIA product, Initial Learning for the Special Constabulary (IL4SC).
- 8.3 It should be borne in mind that the responsibility for any additional training required to meet the standard of the second force will rest with that force.
- 8.4 Special constables moving to a second force may still be required to complete some initial familiarisation training in the second force, and should be asked to provide an estimation of how much time they might be able to spend on duty at each, to assist forces in their workforce planning.

9. Special Constables on probation

- 9.1 Special constables who are still in their probationary period remain under the control of the home force, which owns their Personal Development Portfolio (PDP). Any work carried out in the second force during this time should be documented and submitted by the second force to the home force for inclusion on the special constable's PDP.

10. Independent Patrol Status (IPS)

- 10.1 It is the case that not all special constables across the 43 forces in England and Wales have reached or are required to reach Independent Patrol Status (IPS) and may continue to work on Accompanied Patrol. This is a matter for forces.
- 10.2 Given that the deployment of special constables varies from force to force, the decision as to whether to solely allow special constables who have reached IPS to undertake dual-force service will rest with the local force concerned. It may also be the case that this issue is agreed and addressed by a collaboration agreement between the Chief Officers of the two forces involved. Please see paragraph 6 above for more information on collaboration agreements.

11. Keeping rank/ grade

- 11.1 Forces may consider that special constables who have achieved a particular rank/grade should be eligible to apply for a post in the second force at an equivalent level, where vacancies exist. Recent policies developed by ACPO regions also mirror this position. However, it should be noted not all police forces currently follow the suggested national rank/grade structure within their respective Special Constabularies, or, at the time of transfer application, there may not be relevant equivalent rank/grade vacancies within the receiving force. As such, it may not be possible for a second force to accommodate an individual at a particular rank/grade that they previously held at their home force.
- 11.2 In such circumstances, it is suggested the situation be resolved via local agreement on an individual case basis. Both police forces and the special constable undertaking dual-force service should be involved in discussions and give their agreement to the proposed solution.

12. Performance Development Reviews (PDRs)

- 12.1 The home force retains and owns the special constable's Performance Development Review (PDR) throughout the time the special constable undertakes dual-force service. The second force should submit a report to the home force every six months for entry into the PDR. This should be submitted via the nominated force contact.

13. Personal Files

- 13.1 Both the home force and the second force should keep a personal file on the special constable.

14. General HR matters

- 14.1 Both the home force and second force must notify each other in the event that the special constable becomes subject to any grievance, disciplinary, or complaints proceedings.
- 14.2 Chief Officers should be aware of relevant legislation applicable to them in respect of concluding a dual-force service arrangement as the law decides which chief officer is the appropriate authority for the purposes of complaints and discipline. Please refer to paragraph 6 above for more information.

15. Uniform

- 15.1 Uniforms can vary from force to force but some parts of Special Constabulary uniforms (such as trousers, shirt and boots) may be the same. In such cases, the home force should allow the special constable to retain un-badged uniform items for service in the second force. The second force should provide the special constable with any additional uniform items, equipment and warrant cards, as necessary.

16. Special constable expenses

- 16.1 Police forces should refer to the relevant Home Office Circulars - in addition to other relevant law, regulations and guidelines - on general practice on paying expenses to special constables. Where special constables accrue expenses as a result of their duty in the home or second force, the expenses should be payable by the force under which they were volunteering at the time they incurred the said expenses. Special constables may be additionally under the direction and control of a Chief Officer of a force other than their home force as agreed via a collaboration agreement. Please see paragraph 6.

17. Disclosure of information about an applicant between forces

- 17.1 Any information held by a police force about an officer or individual is personal data and must be handled in accordance with the provisions of the Data Protection Act 1998. Forces must therefore ensure that they handle information about a special constable wishing to undertake dual-force service in accordance the 1998 Act and any other relevant legislative provisions. Particular care should be taken where a special constable fails a vetting check by the second force. Forces should clarify any legal issues with their appropriate legal representatives.

18. Working Time

- 18.1 Forces should ensure that they are in compliance with the Working Time Regulations 1998 given that special constables undertaking dual-force service will be volunteering in two forces, potentially in addition to other work commitments.
- 18.2 Where a special constable has not opted out of the maximum 48-hour average working week, it is recommended both forces take particular care to record the number of hours a special constable has undertaken to ensure they are not in breach of the Regulations. In addition, it is recommended they request from the special constable, details on the number of hours this individual has worked within their primary employment, every three months.
- 18.3 For further information on this issue, forces should refer to NPIA Circular 03/2011 on the applicability of the Working Time Regulations 1998 to the Special Constabulary. This guidance can be accessed here:
http://www.npia.police.uk/en/docs/NPIA_WTR_and_SC_Circular.FinalV.pdf

19. Employer Supported Policing (ESP)

- 19.1 Where a special constable indicates that they are currently being supported by their employers under the ESP scheme to undertake training and duties in their home force, receiving forces should consider the fact that there may be implications for them. This may be manifested in contacting local businesses, where practicable, to assist the individual set up or ensure the continuation of a similar arrangement in the second force's area.

20. Special constable strength

- 20.1 Forces should ensure that when recording the number of special constables for service strength, care is taken to accurately reflect the current position, taking into account those special constables that are currently undertaking dual-force service. For Home Office Annual Data Return purposes, a special constable attached to a second force should not be counted as part of the force's special constable strength.

SPECIAL CONSTABLES: DUAL-FORCE SERVICE APPLICATION FORM**Section 1: TO BE COMPLETED BY THE APPLICANT**

Name of applicant:

Current address:

Current force:

Start date with current force:

Rank/Grade:

Division/station:

Force in which you wish to undertake dual-force service:

Reason for request to undertake dual-force service:

Are you currently supported by your employer under the Employer Supported Policing (ESP) Scheme to undertake training/duties as a special constable in your home force?

yes no

I agree for my current force to pass on my personal file, part/completed PDP, most recent PDR, confirmation of completion of probation and details of any outstanding complaints or discipline cases:

yes no

Important:

I also acknowledge the following:

- i. That I will be subject to vetting checks (which may include financial checks, the results of which will be treated in confidence) by the second force in line with force policy; and that I may also be required to undergo fitness/health or other checks as required by that force policy.
- ii. If granted permission to undertake dual-force service, I must serve wherever required to do so within the second force's area as directed by the Chief Officer of that force
- iii. The Chief Officer retains the right to reject any application, but in all cases I can request feedback on the decisions that informed the outcome of the application.

(Please tick to indicate acknowledgement)

Applicant signature:

date:

For office use only by home force: date application received:

Standard driving: yes no

Advanced driving: yes no

Details of any other developmental/mandatory training:

Details of long service awards:

Details of any commendations:

Details of any outstanding complaints or disciplinary actions against the applicant:

Details of previous complaints or disciplinary actions against the applicant:

Vetting History

Status:

(Normally ACPO Recruitment Vetting - RV and National Security Vetting Counter Terrorist Check (CTC))

When undertaken:

Expiry date:

Endorsement of request to undertake dual-force service

Please supply any additional information in support of application to undertake dual-force service; (to be completed by supervisor, SC coordinator or recruitment department)

Name:

Signature:

Rank/Grade:

Date:

The following documents are attached in support of transfer application:

Personal file	<input type="checkbox"/> yes	<input type="checkbox"/> no
Part/completed PDP	<input type="checkbox"/> yes	<input type="checkbox"/> no
Most recent PDR	<input type="checkbox"/> yes	<input type="checkbox"/> no
Statement of training	<input type="checkbox"/> yes	<input type="checkbox"/> no
Confirmation of completion of probation/authorisation of independent patrol letter	<input type="checkbox"/> yes	<input type="checkbox"/> no

For office use only by home force: date application forwarded to receiving force: