

## **NPIA 01/2011**

This circular is about:	<b>Special Constables: Eligibility for Recruitment</b>
From:	<b>Workforce Strategy Unit, NPIA</b>
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This circular is addressed to:	<b>Chief Officers of Police</b>
Copies are being sent to:	<b>Chairs to Police Authorities, Special Constabulary Chief Officers Special Constabulary Coordinators H R Directors</b>

Dear Chief Officer

## **SPECIAL CONSTABLES: ELIGIBILITY FOR RECRUITMENT**

**This circular contains guidance on:**

- **Qualifications for appointment (paragraphs 2.1 to 2.9);**
- **Eligibility for appointment (paragraphs 3.1 to 3.6);**
- **Other activities (paragraphs 4.1 to 4.6).**
- **Annex A, B and C (pages 6, 9 and 11, respectively)**

### **1. Introduction**

1.1 This Circular supersedes the guidance contained in the previous NPIA circular NPIA (WSU)(SC)(07)1. In relation to the list of occupations mentioned in this document, other than those occupations where there are specific legal or employer related considerations debarring appointment (see Annex A), it is intended as guidance. It therefore does not preclude forces from appointing persons to the Special Constabulary who they consider to be individually suitable. The decision to appoint individual special constables remains at the discretion of the Chief Officer of the Force concerned.

1.2 The Government policy objective concerning Special Constabulary recruitment is to encourage individuals from all backgrounds with the necessary attributes and motivation to apply to join. It is important that, wherever possible, and without any lowering of standards, unnecessary barriers are removed in the recruitment process and to ensure that the Special Constabulary is representative of the communities it serves.

### **2. Qualifications for appointment**

2.1 [The Special Constables \(Amendment\) Regulations 2002](#) made a number of amendments to The Special Constables Regulations 1965 in respect of qualifying for appointment. The position as it now stands as a result of those amendments is set out below.

2.2 In terms of the general recruitment process, forces should ensure that any recruitment literature they produce is clear and reader friendly and available in accessible format. Where forces do not use the Specials National Recruitment Standards process and establish their own assessment model, they should ensure that this model is an appropriate one which tests the basic ability of candidates based on the role of special constable. The Home Office, NPIA and ACPO have jointly developed some good practice guidance on recruitment,<sup>1</sup> which can be found on the Special Constables page of the NPIA Website:

[http://www.npia.police.uk/en/docs/Imp\\_Strategy\\_updated.pdf](http://www.npia.police.uk/en/docs/Imp_Strategy_updated.pdf)

It is recommended that forces familiarise themselves with this in examining their processes.

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<sup>1</sup> See the Special Constabulary National Strategy Implementation Advice document.

## **Role Related Competencies**

2.3 All candidates for appointment as a special constable must satisfy the Chief Officer of Police that they are sufficiently competent to perform the role of special constable, and be able to demonstrate competency in written and spoken English and numeracy. Forces may adopt the Specials National Recruitment Process to assess individuals against job related competencies or have in place their own assessment, if by passing such assessment candidates can show they have met the required standard in such competencies as determined by the Chief Officer of Police.

## **Nationality**

2.4 A candidate for appointment as a special constable who is not a national of an European Economic Area (EEA) member state must have permission to enter or leave to remain in the United Kingdom for an indefinite period. That is to say that applicants must be resident in the United Kingdom free of restrictions or have an entitlement to do so.

## **Age**

2.5 All candidates for appointment as a special constable must have attained the age of 18 years. They cannot begin the recruitment process before they are 18 years of age, as clarified in the explanatory memorandum to the police (minimum age for appointment) regulations 2006:

<http://www.legislation.gov.uk/ukxi/2006/2278/contents/made>

2.6 There is no upper age limit for appointment to the Special Constabulary, but candidates must be in good health and able to satisfy forces' fitness, medical and eyesight standards (see paragraph 2.09). The Special Constables Regulations 1965 states at Regulation 3(2):

The chief constable may require a special constable to retire on such date as he may specify —

- (a) on account of age;
- (b) on the grounds that he is disabled to perform the ordinary duties of a special constable and the disablement is likely to be permanent, or
- (c) as an alternative to dismissal, where he has been remiss or negligent in the discharge of his duty or otherwise unfit for the same.

2.7 The compulsory retirement age set out in [Home Office Circular 30/2006](#) is 60 years for Federated officers with effect from 1 October 2006. Whilst this circular refers to the Police Pension Scheme, which does not apply to special constables, it does give an indication of the age of retirement which could be applied by forces to their special constables. As retiring a special constable on grounds of age could constitute direct discrimination Chief Constables should ensure that the decision can be shown to be a proportionate means of achieving a legitimate aim and thus be covered by section [13 \(2\) of the Equality Act 2010](#) .

## **Character**

2.8 All candidates for appointment as a special constable must be of good character. Suitability as regards character should be assessed in line with the guidance for

regular police officers contained in [NPIA 02/2011](#) (National Recruitment Standards – Eligibility Criteria for Police Recruitment and Consistent Recruitment Practices). This includes the criteria for applying the policy on criminal convictions, financial vetting checks, references, etc.

## **Health**

2.9 All candidates for appointment as a special constable must be in good health. As agreed by the Special Constabulary National Consultative Group<sup>2</sup>, it is strongly recommended that forces apply the existing standards and assessments as apply to regular officers. These are set out in Home Office circulars:

- HOC [43/2004](#) on fitness standards
- HOC [59/2004](#) on medical standards
- HOC [25/2003](#) on eyesight standards

## **3. Eligibility for appointment**

### **Occupations where staff are ineligible to be appointed as special constables**

3.1 Employees in certain occupations are ineligible to be appointed as Special Constables due to legislation. In the case of certain other occupations, employers have stated that they consider it to be inappropriate for their employees to become Special Constables, for example because they perform public-facing uniformed roles.

3.2 Such persons are therefore not eligible to be appointed as special constables. See **Annex A** for a list of such occupations.

### **Occupations where staff are eligible to be appointed as special constables subject to agreement of their employer and at the discretion of the Chief Officer**

3.3 The nature of some occupations may make them unsuitable for the employment of a special constable where there is a significant potential for individuals in these organisations to abuse their powers and privileges as a police officer, either on or off duty. It is important to minimise the risk of this happening and forces should take this into account when assessing individual candidates. Persons in other occupations may be eligible to be appointed as special constables provided that an employer's specific concerns or requirements are addressed or taken into account.

3.4 Accordingly, forces should consider carefully, on an individual basis, whether it would be appropriate to appoint a candidate as a special constable if it would potentially:

- enhance their employed function by going beyond the bounds of their job description, or beyond the restricted law enforcement powers considered suitable by Parliament for their profession e.g. PCSOs;
- enable them to gain a business advantage over competitors by using Special Constabulary status;
- mean a significant chance that this would lead to conflicts of interest, for themselves or for others, between their obligations as a special constable and their effectiveness in their employment or another volunteering role;

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<sup>2</sup> This is the national governance board for the Special Constabulary in England and Wales.

- conflict with an employer's specific concerns or requirements.

See **Annex B** for a list of such occupations (although this list is not exhaustive).

### **Other occupations where staff are eligible to be appointed as special constables at the discretion of the Chief Officer**

3.5 While some candidates will be in occupations where their employers do not have specific concerns or requirements which need to be taken into account, some may be employed in occupations which involve similar factors to those described in paragraph 3.4 above. In such cases, individual applications will need to be assessed at the discretion of the Chief Officer. See **Annex C** for a list of such occupations.

3.6 Many other occupations will not pose such potential difficulties. The final decision on all such applications to join the Special Constabulary rests with the Chief Officer of the force concerned.

## **4. Other activities incompatible with the role of Special Constable**

### **Activity likely to interfere with the impartial discharge of duty**

4.1 At present there are no specific legislative restrictions on political activity by special constables, unlike those in place for regular officers by virtue of regulation 6 of the Police Regulations 2003. This regulation prohibits regular officers taking an active part in politics.

4.2 However, it is considered by the Special Constabulary National Consultative Group that the principle that police officers should not be seen to be politically partial should also apply to special constables. It is therefore recommended that Chief Officers decide if a special constable's involvement in party politics is such as to prejudice his role as a police officer.

### **Membership of the British National Party or similar organisation**

4.3 Special constables must not belong to the British National Party (BNP), National Front, Combat 18 or any other organisation whose constitution, aims, objectives or pronouncements are incompatible with the duty under legislation (at the time of writing Section 71 of the Race Relations Act 1976)<sup>3</sup> to promote racial equality. This is to be superseded in April 2011 by the Equality Act 2010, specifically relevant is [section 149](#) concerning the duty on public authorities to tackle prejudice and promote understanding.

### **Seasonal or temporary work**

4.4 At present, a special constable who is offered seasonal or temporary work in an occupation considered incompatible with police service has little option but to resign. The special constable concerned would have to formally resign and lose his or her status as a member of the Special Constabulary. However, if the individual returned within an agreed limited period of time, it may be possible for re-attestation without loss of seniority or status.

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<sup>3</sup> Persons covered by present legislation should, in carrying out their functions, have due regard to the need to (a) eliminate unlawful racial discrimination; and, (b) promote equality of opportunity and good relations between persons of different racial groups. The 1976 Act was amended to include this general duty by the Race Relations Amendment Act 2000.

4.5 It is recommended that Chief Officers consider allowing Special Constables who resign for the purposes of taking up incompatible employment to have a "return ticket" for a limited period. This should be included within forces' leave of absence policy.

### **Change of employment**

4.6 Some special constables will change their occupation during their time serving as a police officer. It is therefore recommended that forces include in their recruitment literature a stipulation that special constables notify the force of any change in employment, including giving their force details of the number of hours they will be working so as to ensure compliance with the Working Time Regulations 1998.

Chief Officers will need to consider whether the change in employment means that the individual concerned remains eligible to serve as a special constable.

## **ANNEX A TO NPIA Circular 01/2011**

### **Occupations where staff are ineligible to be appointed as special constables**

#### **1. The armed forces**

1.1 The Ministry of Defence have confirmed that armed forces personnel are held to be on a 24-hour-a-day availability basis for essential duties at short or no notice. As a result, it is undesirable for them to enter into an agreement with the local police force if their availability cannot be guaranteed.

1.2 Additionally, any serviceman attempting to join the Special Constabulary would be in direct contravention of Queen's Regulations. See Annex B (1) re: armed forces reserve

- **Armed forces personnel are ineligible to be appointed as special constables.**

#### **2. Traffic wardens, civil enforcement officers and school crossing patrols**

2.1 Section 95(6) of the Road Traffic Regulation Act 1984 provides that "a police authority shall not employ as a traffic warden any person who is a constable". Section 26 of the Road Traffic Regulation Act 1984, prohibits constables from working as a school crossing officer.

2.2 Civil enforcement officers (CEOs) are increasingly being used instead of traffic wardens. They are employed by local authorities as opposed to police authorities with responsibilities that are similar, but not identical, to those of traffic wardens. Regulations do not bar CEOs from joining the Special Constabulary. However, guidance given by the Department for Transport in the [operational guidance on parking policy and enforcement](#) states: "The Secretary of State's view is that CEOs should only be used for duties related to those road traffic contraventions that their authority is responsible for enforcing."

- **Traffic wardens, civil enforcement officers and school crossing patrols are ineligible to be appointed as special constables**

### **3. Neighbourhood and street wardens and other uniformed patrol wardens**

3.1 Part of these roles is that of security, crime prevention and dealing with minor offences. A neighbourhood warden does not have constabulary powers and being a special constable would give such a person more power than was intended for that role.

- **Neighbourhood and street wardens and other uniformed patrol wardens are ineligible to be appointed as special constables**

### **4. Highways Agency Traffic Officers (including Welsh Assembly Traffic Officers)**

4.1 Highways Agency Traffic Officers wear uniform, use marked patrol cars and have powers relating to traffic management on motorways in England and Wales as laid down in the Traffic Management Act 2004. They do not have constabulary powers and if attestation as special constables were allowed, their law enforcement powers during hours of duty in their regular role would be greater than Parliament had intended.

4.2 However, a distinction can be made between Highways Agency Traffic Officers who work in an operational 'on-road' capacity (as described above) and those who work in an office-based 'off-road' capacity. Those working in 'on-road' roles are ineligible to serve as special constables while those in 'off-road' roles can be regarded as eligible, subject to careful scrutiny of their role and the powers it conveys prior to appointment. Any 'off-road' Highways Agency Traffic Officer who, on or after the release of this circular, changes roles to an 'on road' position will be considered ineligible to serve as a special constable and must inform their force.

- **Highways Agency Traffic Officers employed in an "on-road" capacity are ineligible to be appointed as special constables.**
- **Highways Agency Traffic Officers employed in an "off-road" capacity are eligible to be appointed as special constables**

### **5. Police Community Support Officers (PCSOs)**

5.1 PCSOs complement the work of police officers, including special constables. They focus on low level crime, anti-social and nuisance behaviour, help ensure high levels of visible police and strengthen links with the local community to increase public reassurance. While being an integral part of policing, their roles are different to that of their police officer colleagues. Accordingly, a PCSO does not have full constabulary powers or the power of arrest. Were a PCSO to be appointed as a special constable, this would give such a person more power than Parliament intended for that role.

- **PCSOs are ineligible to be appointed as special constables.**

### **6. Employers' police forces and private constabularies**

6.1 Similar considerations to those concerning traffic wardens and parking attendants apply to members of what are referred to as non Home Office constabularies or private police forces e.g. police forces maintained by government departments and other bodies with constabulary powers not maintained under the Police Act 1996. The powers of such persons are prescribed by law and relate to the particular duties they are asked to perform on behalf of their employers. Special Constabulary status may

enable them to go beyond the confines of existing legislation in respect of their normal employment. There may also be difficulties in ascertaining accountability if they were involved in a policing incident during their normal employment.

- **Members of employers' police forces and private constabularies are ineligible to be appointed as special constables.**

## **7. Certain roles concerned with the administration of the law**

7.1 It is the view of the Ministry of Justice that, because of the potential for a conflict of interest, magistrates, judges, and justices' clerks, should be ineligible for membership of the Special Constabulary. Additionally, the Crown Prosecution Service (CPS) does not permit their staff to volunteer as special constables.

- **Magistrates, judges, justices' clerks, and CPS employees are ineligible to be appointed as special constables.**

7.2 All other Ministry of Justice employees (including prison officers) are eligible to be appointed as special constables, subject to the approval of their employer and at the discretion of the Chief Officer of the force.

## **8. SOCA staff designated with immigration officer or revenue and customs officer powers**

8.1 Under section 43 of the Serious Organised Crime and Police Act 2005, the Director General of SOCA has the power to designate SOCA staff with immigration officer, revenue and customs officer, and police constable powers. Where a SOCA employee does not have constable powers, but has either immigration officer and/ or revenue and customs officer powers, he or she is ineligible to become a special constable as such a position would give them greater powers than Parliament (and the Director General) intended for that role.

- **SOCA staff designated with immigration officer and/or revenue and customs officer powers are ineligible to be appointed as special constables.**
- **SOCA staff designated with the powers of constable (whether or not they have the powers of immigration officer and/ or revenue and customs officer) are eligible to be special constables.<sup>4</sup>**

## **9. Members of Police Authorities**

9.1 It is the view of the Association of Police Authorities that there would be a conflict of interest if members of police authorities served in the force for which they were a police authority member.

- **Members of police authorities are ineligible to be appointed as special constables in the area where they are a member of the police authority.**

9.2 Members of a police authority wanting to become special constables in another police authority area are, however, eligible to become special constables, subject to the agreement of the police authority and at the discretion of the Chief Officer of the force.

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<sup>4</sup> See also paragraph 6 of Annex B



## **10. Immigration officers**

10.1 The UK Borders Act 2007 grants officers powers to detain a person who may be liable to arrest by a constable or who is subject to a warrant for arrest. The Immigration and Asylum Act 1999 grants immigration officers the power of arrest should a person be about to assault or have already assaulted an immigration officer. Granting immigration officers special constabulary status would give them more powers than parliament had intended for their role.

- **Immigration Officers are ineligible to be appointed as special constables**

## **ANNEX B TO NPIA Circular 01/2011**

**Occupations where staff are eligible to be appointed as special constables subject to agreement of their employer and at the discretion of the Chief Officer.** This list is not exhaustive, and there may well be other occupations not listed here that will need to be carefully scrutinised, using the guidelines given in paragraph 3.4.

### **1. Armed forces reserves**

1.1 Those whose reserve liability is derived from former service in the regular forces are unlikely to be called out in peacetime. Members of the volunteer reserve forces, namely the Royal Naval Reserve, the Royal Marines Reserve, the Territorial Army and the Royal Auxiliary Air Force have a statutory obligation to train on a regular basis in peacetime as well as having call-out liabilities.

1.2 The Ministry of Defence has no objection to members of the reserves joining the Special Constabulary on the understanding that the Chief Officer is aware that reserve commitments take precedence.

- **Members of the armed forces reserves are eligible to be appointed as Special Constables, subject to their reserve commitments taking precedence over their Special Constabulary duty.**

### **2. The Fire Service**

2.1 Section 37 of the Fire and Rescue Services Act 2004 prohibits the employment of members of a police force by a fire and rescue authority for the purpose of discharging any of the authority's functions under the Act. However, special constables are not members of a police force according to the Police Act 1996 which means that there is no statutory provision prohibiting whole or part time fire-fighters from becoming special constables or vice versa.

2.2 The suitability of a whole time, part time or retained fire-fighter to become a special constable is a matter which should be agreed locally between the Chief Officer of the force and the Chief Fire Officer.

2.3 See also the Department of Communities and Local Government guidance concerning the employment of members of police forces by fire and rescue authorities (Fire and Rescue Service Circular 62/2009).

- **Fire service personnel are eligible to be appointed as special constables, subject to agreement being reached between the Chief Officer of the force and the Chief Fire Officer.**

### **3. Occupations with client privilege**

3.1 There are professions whose practitioners have a code of ethics or an assumption of client privilege which might cause a conflict of interest to an individual as a special constable. Forces' recruitment personnel should discuss and assess with individual applicants the risks of unacceptable conflicts of loyalty in these circumstances.

3.2 It is for Chief Officers to decide whether such a conflict is sufficient to exclude an applicant. If not, applicants should nevertheless be advised of any possible conflict of interest identified and, if considered necessary, they should be asked to provide evidence that their employers have no objection to their appointment as a special constable.

- **Persons where employment bestows client privilege are eligible to be appointed as special constables at the discretion of the Chief Officer and, where considered necessary, subject to the approval of the employer.**

### **4. Members of the medical and health professions**

4.1 The relationship between patient and health practitioner could be inhibited by the practitioner holding the office of constable in terms of information given or received within this relationship. This may be a particular concern in a small community with little choice of medical services. Not all members of these professions are in a position in which such conflicts of interest are likely to occur and the Department of Health has previously agreed that such persons may apply to join the Special Constabulary, providing their local NHS Trust or Health Authority confirm that there is no objection to their becoming a special constable.

- **Members of the medical and health professions are eligible to be appointed as special constables subject to confirmation that their local NHS Trust or Health Authority would not object to their becoming a special constable.**

### **5. SOCA Staff, including staff designated with constable powers**

5.1 Under 43 of the Serious Organised Crime and Police Act 2005, the Director General of SOCA has the power to designate SOCA staff with immigration officer, revenue and customs officer and police constable powers. Where a SOCA employee does not have constable powers, but has either immigration officer and/ or revenue and customs officer powers, he or she is ineligible to become a special constable as such a position would give them greater powers than Parliament (and the Director General) intended for that role.

5.2 However, where the member of staff has the power of constable (irrespective of whether they have other powers) or no powers at all, they are eligible for appointment as a special constable.

- **Regular SOCA staff and SOCA staff designated with constable powers are eligible to join the special constabulary subject to the agreement of the Director General of SOCA and the Chief Officer of the force.<sup>5</sup>**

## **ANNEX C TO NPIA Circular 01/2011**

**Occupations where eligibility to be appointed as special constables should be carefully scrutinised by the Chief Officer**

### **General Considerations**

(a) In the case of all other occupations, it is recommended that Chief Officers use their discretion to make decisions on an individual basis, having considered all relevant information that may reflect on the person's ability to perform the role of special constable with impartiality e.g. duties, background, age, experience, position in the community, etc.

(b) It is advisable that Chief Officers take into account concerns over certain specific occupations that are listed below. For each individual application the Chief Officer should use all relevant information available to make his or her decision.

(c) Special constables provide an invaluable contribution to policing. Not only in terms of providing their spare time unpaid to service the community, but also in terms of the diverse range of skills that they have to offer. It is therefore recommended that forces consider targeted as well as general recruitment strategies. For example, forces may wish to target specific service or industrial sectors where there may be skills particularly suited to roles. As part of this, forces may wish to consider deploying special constables in a wider range of roles e.g. fraud investigation, etc.

### **1. Holders (and their partners) of premises licences and designated premises supervisors, personal licences and licensees of betting/gaming premises**

1.1 A regular police officer is required by the Police Regulations 2003 to notify the Chief Officer of any business interest held by himself or a member of his immediate family. This may relate to the sale of alcohol and other regulated activities, and betting or gaming establishments. It is then for the Chief Officer to decide whether that business interest is compatible with the officer remaining a member of a police force.

1.2 The same considerations should also apply in the case of special constables. For example, a special constable may be placed in a position where they will have some influence as to whether a licence is granted. A special constable may also have responsibility for policing licensed premises in their area. This could present a conflict of interest if they have a competing business interest.

- **Holders of premises licences, designated premises supervisors, personal licences<sup>6</sup> and licensees of betting/gaming premises are eligible at the discretion of the Chief Officer of the force.**

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<sup>5</sup> See also paragraph 8 of Annex A.

<sup>6</sup> The Licensing Act 2003 created the personal licence. Bar staff are sometimes required by their employers to have personal licences. Personal licences are not granted by local authorities. Often bar staff will have no management responsibilities and therefore the extent

## **2. Probation officers and youth and social workers involved in the administration of criminal law**

2.1 The roles of probation officers, youth and social workers involved in the administration of criminal law may mean that their responsibilities within the Criminal Justice System would be likely to bring them into conflict with those of a constable.

- **Probation officers and youth and social workers involved in the administration of criminal law are eligible at the discretion of the Chief Officer of the force.**

## **3. Bailiffs, warrant officers, private detectives and inquiry agents**

3.1 Holders of these occupations may encounter a potential conflict of interest. As police officers, they may also have access to information which could potentially advance their business interests over that of competitors.

- **Bailiffs, warrant officers, private detectives and inquiry agents are eligible at the discretion of the Chief Officer of the force.**

## **4. Employees of security organisations and security personnel, guards and door supervisors**

4.1 Under previous guidance anyone employed by a "private security organisation" was ineligible to serve as a special constable. This has become an umbrella term which covers all members of private security organisations - whether directors, partners or employees - and includes employees of private contractors paid to undertake court services and prisoner escort duties.

4.2 Normally persons involved in the private security industry should not be eligible to become a special constable if their job involves the potential for them to use their position in the police for their own advantage or the advantage of their employer e.g. such as the patrolling and guarding of buildings, the transit of cash and valuables, wearing uniforms, and contact with the public.

- **It is at the discretion of the Chief Officer as to whether to accept applications from those involved in the private security industry.**

## **5. Civilian staff employed by police authorities**

5.1 A number of civilian staff employed by police authorities have roles which bring them into direct contact with the public and suspects, yet they do not have constabulary powers.

5.2 In considering applications to become a special constable from this category of employee the Chief Officer should consider each case on its merits. For example, where staff work under close supervision and there is a clear separation between their main occupation and their role as a special constable, then it should be up to the Chief Officer's discretion. Such staff might include detention officers who work under the supervision of a custody officer always on police premises where it is clear that they

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to which they would have a business interest as such is likely to be minimal. Forces may wish to make their own assessments.

can only use those powers available to them as detention officers. Front office staff would also fall into this category.

- **It is at the discretion of the Chief Officer as to whether to accept applications from civilian staff employed by police authorities.**