



Decision No 2012/04

REPORT TO: POLICE AND CRIME COMMISSIONER FOR LANCASHIRE

REPORT BY: DEPUTY CHIEF EXECUTIVE

DATE: 30 NOVEMBER 2012

APPOINTMENT OF DEPUTY POLICE AND CRIME COMMISSIONER

Appendix A refers

EXECUTIVE SUMMARY

The report concerns a decision to notify the Police and Crime Panel for Lancashire of the Police and Crime Commissioner's proposed appointment of a Deputy Police and Crime Commissioner for Lancashire.

RECOMMENDATION

That the Commissioner agrees to notify the Police and Crime Panel for Lancashire that he proposes to appoint Mr Ibrahim Master as Deputy Police and Crime Commissioner for Lancashire.

Decision taken by the Police and Crime Commissioner for Lancashire:

Original decision, as set out in the attached report, approved without amendment (please delete as appropriate)	YES	
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Original decision required to be amended and decision as detailed below: N/A

The reasons for the amended decision are as detailed below: N/A

Police and Crime Commissioner: Comments

DECLARATIONS OF INTEREST

The PCC is asked to consider any personal / prejudicial interests he may have to disclose in relation to the matter under consideration in accordance with the law, the Nolan Principles and the Code of Conduct.

STATEMENT OF COMPLIANCE

The recommendations are made further to legal advice from the Monitoring Officer and the Section 151 Officer has confirmed that they do not incur unlawful expenditure. They are also compliant with equality legislation.

Signed: Clive Grunshaw

Police and Crime Commissioner

Date: 30 November 2012

Signed: M Carruthers-Watt

Chief Officer:

Date: 30 November 2012

Relates to Decision No 2012/04



Appendix A

THE POLICE AND CRIME COMMISSIONER FOR LANCASHIRE

APPOINTMENT OF DEPUTY AND ASSISTANT POLICE AND CRIME COMMISSIONERS

1. Background and Advice

1.1 Deputy Police and Crime Commissioner

Under Section 18 (1)(a) of the Police Reform and Social Responsibility Act 2011 the Police and Crime Commissioner (Commissioner) for Lancashire may appoint a Deputy Police and Crime Commissioner (Deputy Commissioner) for Lancashire. This is a statutory office that is not politically restricted. The Commissioner may delegate functions to the Deputy Commissioner. The office holder is a member of the Commissioner's staff.

The appointment of Deputy Commissioner is made at the discretion of the Commissioner. Before the Commissioner can appoint a Deputy Commissioner a statutory process must be undertaken. The Commissioner must formally notify the Police and Crime Panel for Lancashire (the Panel) of the proposed appointment. The notification must include the following information (i) the name of the proposed appointee, (ii) the criteria used to assess the suitability of the candidate, (iii) why the candidate satisfies those criteria, and (vi) the terms and conditions on which the candidates is to be appointed.

Within three weeks of receiving the notification, the Panel must review the proposed appointment by holding a public confirmation hearing, which the candidate attends to answer questions about the appointment. The confirmation hearing is scheduled for 17 December 2012. The hearing should focus on assessing the suitability of the candidate for the role in terms of professional competence (the candidate's ability to carry out the role) and personal independence (the need for the candidate to act in a manner which is operationally independent of the Commissioner). In terms of the personal independence of the Deputy Commissioner, this should reflect that the appointment is to provide advice and support to the Commissioner in carrying out the functions of his office and meeting his priorities.

After the confirmation hearing, the Panel must make a report, which must include a recommendation to the Commissioner as to whether or not the candidate should be appointed. The Commissioner may accept or reject the Panel's recommendation and he must notify the Panel of his decision. The Commissioner does not have to give reasons for his decision.

The proposed role statement, criteria for appointment and proposed Terms and Conditions for the post of Deputy Commissioner, and a personal statement from Mr Master which are to given to the Panel are attached at Appendix 1.

2. Consultations

The Commissioner has consulted with Mr Master about the role and he is willing to accept the proposed appointment on the terms and conditions proposed.

3. Implications:

This item has the following implications, as indicated:

3.1 Risk management

The appointment of a Deputy Commissioner to support the Commissioner is intended to provide additional capacity, advice and support for Mr Grunshaw in fulfilling the Commissioner's functions.

3.2 Financial considerations

It is proposed that the salary for the post of Deputy Commissioner is set at 70% of the salary of the Police and Crime Commissioner for Lancashire, which is determined by the Home Secretary. The Deputy's salary would therefore be linked to any movement in the pay scale for the Commissioner, as determined nationally.

On this basis, the salary for the Deputy, pro rata based on 2.5 working days per week, would equate to £30,000 in a full year, based on the Commissioner's salary of £85,000.

Early indications are that this approach is in line with arrangements that are being established by Police and Crime Commissioners in other areas.

There is provision in the Commissioner's budget to cover these proposals.

3.3 Legal considerations

The Police Reform and Social Responsibility Act 2011 (the Act) provides that the Commissioner may appoint a person as the Deputy Commissioner for the police area, and arrange for the Deputy Commissioner to exercise any function of the Commissioner save for issuing a police and crime plan, appointing the Chief Constable, suspending the Chief Constable or calling for the Chief Constable to retire or resign and calculating a budget requirement

The Act applies a number of disqualifications to the post of Deputy Police and Crime Commissioner. Mr Master has confirmed that to the best of his belief, he is eligible for appointment to this post and he is not subject to any relevant disqualification. A copy of the form is attached at Appendix 1.

Details of the legal requirements of the appointment process are set out in the report.

3.4 Equality considerations

The appointment of Deputy Commissioner is exempt from the requirement of Section 7 of the Local Government and Housing Act 1989 that all staff appointments should be made on merit. There is no requirement for an open recruitment process to this office. The appointment would



Deputy Police and Crime Commissioner for Lancashire Role Statement

Focus for the role

1. Support the Commissioner in the development of strategy and performance improvement in policing and crime, with particular emphasis on:
 - a) providing a visible lead on business crime,
 - b) enhancing the customer service focus within the Constabulary, and
 - c) improving diversity, including diversity in recruitment, within the Constabulary.
2. Deputise for the Commissioner, especially on community engagement activities.
3. Develop the civic role of the Commissioner's office.

Criteria for appointment

Knowledge and Understanding

1. Knowledge and understanding of crime and policing strategy and policy
2. Knowledge and understanding of local communities and community issues within Lancashire
3. Understanding the importance of community views in shaping the local policing style and culture
4. Understanding of governance and finance matters in relation to policing
5. Understanding of police accountability

Skills

1. Political awareness and skills to enable new policy initiatives to be implemented within complex local circumstances
2. Confidence to lead by example, to help set and communicate the Commissioner's strategic vision, establish clear goals and objectives, and build support and commitment within the Constabulary, as well as with partner organisations and the wider community
3. Capacity to treat all people fairly and with respect, value diversity and respond sensitively to difference
4. Ability to engage in constructive dialogue with communities and partners to understand and determine priorities for the future and ability to represent their views in an impartial way to influence policy-making and improve services

5. Ability to rise above the detail and to see problems and issues from a wider, forward-looking perspective
6. Ability to recognise and respond positively to the need for change, to identify where improvements can be made and to challenge accepted views, policies and practices constructively, without being confrontational

Experience

1. Building effective long term relationships and working with others to achieve positive outcomes for the community
2. Contributing to decision making and performance management at strategic, partnership or board level and influencing others to bring about improvements in performance
3. Chairing meetings
4. Involvement in making senior appointments

Other

1. Ability to travel on official business locally, regionally and nationally and represent the Commissioner as required
2. Ability to work flexibly as required

November 2012

Deputy Police and Crime Commissioner for Lancashire

PERSONAL STATEMENT BY MR IBRAHIM MASTER

Knowledge and Understanding of:

Crime and policing strategy and policy; local communities and community issues within Lancashire; the importance of community views in shaping the local policing style and culture; governance and finance matters in relation to policing; and police accountability.

I have had over thirteen years' experience as one of the appointed members of the Lancashire Police Authority (LPA) and have experience of sitting on all the different committees of the LPA over the years.

This has meant that I have been appointed and reappointed three times onto the LPA by my peers, after an open, rigorous, competitive Lancashire wide process. This, I hope, is evidence of my competencies and a recognition of my skills and ability in the field of holding the Chief Constable to account on behalf of the community.

The LPA was regarded as a top performing Police Authority, whilst Lancashire Constabulary has consistently been one of the top performing Forces in the UK. To have been part of this success as an Independent Member of the LPA for over 13 years has enabled me to acquire the necessary competencies, skills and experience required for the role of the DPCC, for example strategic skills, analytical/scrutiny skills, communications, sound judgement, self-confidence, community engagement and leadership skills.

I have a track record of working with a diverse range of voluntary sector organisations, promoting social inclusion, a fair and just society, interfaith dialogue and community cohesion. My work in the voluntary sector has made me acutely aware of the disparate needs of the many stakeholders the PCC will have to engage with.

The work of my Deputy Lieutenant role also takes me across Lancashire, primarily to deputise for the Lord Lieutenant at presentation giving or community events and has allowed me to engage with the wider community.

Shaping and delivering an effective and efficient policing service based on the needs of our communities ie citizen focused, is a key feature of how I (and the PCC) would do my business with the Constabulary. Both, the PCC and I, want to see the community's priorities reflected in the policing service. What this means is that, irrespective of the financial constraints placed upon the service, we will always endeavour to take into account the views, needs and priorities of our diverse communities when setting our priorities for the future, in tandem with a clear assessment of the threats, risks and harm that face our communities.

As an LPA member, I have dealt with police governance, police performance, achieving value for money, setting the council tax precept and budget, developing Policing Priorities and the Policing Plan, managing financial and strategic risks, complaints against senior officers, appointed senior officers, consultation with the community, training and development policies and much more.

As a member of both the Blackburn with Darwen Primary Care Trust and the LPA I have assisted in planning and setting budgets and developing financial strategies for both these organisations. In both cases, the processes involved a full assessment of the assets required to meet operational requirements, including in terms of human resources, infrastructure, land, property and equipment.

As Chair of the LPA's Human Resources (HR) Committee I have also assisted in the development of costed HR plans, which would make an assessment of the resources, both financial and human, required to meet operational objectives of the constabulary as set out in the Policing Plan.

Skills:

Political awareness and skills to enable new policy initiatives to be implemented within complex local circumstances. Confidence to lead by example, to help set and communicate the Commissioner's strategic vision, establish clear goals and objectives, and build support and commitment within the Constabulary, as well as with partner organisations and the wider community.

Through my involvement with local and national politicians, I have gained a first class knowledge of local and regional government structures, supported by a sound understanding of central government structures.

In the area of partnership working, I have been able to use my extensive links, networks and local knowledge effectively to assist and inform the service delivery of both the PCT and the LPA.

As a member of the Constabulary's Confidence and Equality Board and the People Tasking and Coordination Group, I feel that I have helped shape the direction of the Force's Diversity and People strategy. The Constabulary is now regarded as a leading Force in equality and diversity issues.

I have also played an important role in interfaith dialogue. I have an excellent relationship with other faith leaders, including the Bishop of Blackburn and have been instrumental in forging strong links between the Christian and Muslim communities across Lancashire.

Skills:

Capacity to treat all people fairly and with respect, value diversity and respond sensitively to difference. Ability to engage in constructive dialogue with communities and partners to understand and determine priorities for the future and ability to represent their views in an impartial way to influence policy-making and improve services.

The PCC will have to ensure that the Force's Diversity strategy is implemented properly and in a timely manner if it is to deliver an equitable service to all the people of Lancashire, which in turn will lead to increased public confidence in the policing service.

I believe that respecting the values of others, different from you and recognising the needs of the diverse community are important aspects of equitable service delivery. I believe in showing respect for the opinions and feelings of others, no matter what their race, religion, sexual orientation gender, age, disability or belief.

Every person is unique, equally valued and should be treated with dignity and respect. It will be important for the police to understand and be sensitive to social, cultural and racial differences and to people's problems, vulnerabilities and needs.

In order to achieve all this within the police service, the PCC/DPCC must challenge police attitudes and behaviour which are abusive, aggressive and discriminatory to the people of Lancashire. If the community is to be re-assured, then the Police must respond sensitively to the diverse needs and be even handed in their policing.

I also believe that if relations between the police and the community are to be enhanced, then it will be vitally important that both the PCC and the police enhance their community contacts and extend their links with the community; *they must start to build the bridges now to reach what lies ahead.*

Partnership working can be a means through which community bridges can be built and can also be a means by which community safety can be achieved. I would therefore encourage working with our key partners to ensure that Lancashire is a safer place to live in.

Consulting with key partners and the community will be a statutory requirement and will be key to determining the priorities to be included in the Police & Crime Plan and in developing performance indicators.

Skills:

Ability to rise above the detail and to see problems and issues from a wider, forward-looking perspective. Ability to recognise and respond positively to the need for change, to identify where improvements can be made and to challenge accepted views, policies and practices constructively, without being confrontational.

I am able to quickly differentiate between key facts and salient points, from the more generalised information and have often had to interpret a mass of complex information, ranging from key Performance Indicators, to Policy documents to Her Majesty's Inspectorate of Constabulary reports, and then to articulate the possible impact/implications on the community.

An effective, cooperative and constructive working relationship between the PCC office and the Chief Constable will be paramount in securing an effective and efficient policing service in Lancashire. My relationships with all of the ACPO (Association of Chief Police Officers) team of senior officers have been first class over the 13 years that I have been on the LPA. I have always enjoyed a respectful and professional relationship with the senior officers without allowing the relationships to become cosy.

I believe it is important that the PCC/DPCC avoid public confrontations with the Chief Constable or his Chief officers, leaving the more searching and assertive questions in private, so that we would not be seen in public to be opposing each other. Notwithstanding this, my role would be to represent the community, so if the Force performance dipped for example, I would challenge, but challenge assertively, not aggressively always keeping my focus on the policing outcomes.

Experience:

Building effective long term relationships and working with others to achieve positive outcomes for the community. Contributing to decision making and performance management at strategic, partnership or board level and influencing others to bring about improvements in performance. Chairing meetings. Involvement in making senior appointments

As part of my roles on the LPA and Blackburn with Darwen Primary Care Trust, I have gained considerable experience of monitoring and scrutinising key areas of both the Constabulary's and the PCT's work, such as: health standards, financial reports, financial compliance, Clinical and Corporate Governance, Financial Planning, Risk Register, Internal and External Audit Reports, statistics on recruitment and retention, stop and search, equitable service delivery targets, complaints, recruitment, Equality Impact Assessments and a whole suite of other performance metrics.

As chair of the LPA Human Resources Committee, I have regularly sat on Quarterly Performance Reviews of Police Divisional performance. I have also sat on senior Officers Professional Development Reviews (PDRs), as well as in meetings with Staff unions and associations. I have also sat on Appointment and Remuneration Committees of both the PCT and LPA.

My senior level experience also includes chairing both the Audit Committee and the Provider Services Unit (PSU), two major committees of the PCT. My role on the PCT included giving a strategic lead to both these committees and to the PCT, ensuring that it met its statutory, financial and legal responsibilities. I worked with other Non Executive Directors and had to supervise and have oversight of the delivery of integrated healthcare for the local community; holding to account the professionally-led Executive. I contributed to the strategic development of health improvement plans and ensured the best use of financial resources. I also helped to ensure that the PCT promoted equality of opportunity in its service provision and that it met its healthcare targets.

Other:

Ability to travel on official business locally, regionally and nationally and represent the Commissioner as required. Ability to work flexibly as required

I am a local businessman and entrepreneur who has been in business for over 25 years now and have extensive experience in retailing as well as property management. I have gained an enviable reputation as an effective business manager and this was recognised when I was asked, as part of the Blackburn Partnership Board, to act as a "Guardian Angel" or mentor for some fledgling businesses and new start-ups in Blackburn. This involved giving business appraisal advice and support to these new businesses, instilling confidence and stability into the new businesses during the first year.

I have addressed various public conferences across the UK, sharing speaking platforms with many senior and prominent politicians. I have experience of successfully handling the media and have appeared on many live TV and radio current affairs and Political programmes, including an appearance on the BBC's Hard Talk programme in 2005.

In terms of time commitment, I would have no problems taking over the role of the DPCC, as other family members would continue to run my businesses in my absence. My general interests and hobbies include cricket, following Blackburn Rovers FC, browsing the internet news sites, reading the financial press and community work.

I am married with five grown up children and am a family orientated person who believes in core family values.

Signed: **Ibrahim Master** **Date:** **29.11.12**



SUMMARY OF THE TERMS AND CONDITIONS OF APPOINTMENT OF DEPUTY POLICE AND CRIME COMMISSIONER 2012

SUMMARY TERMS AND CONDITIONS	
1.	The appointment will be subject to the provisions of the Police Reform and Social Responsibility Act 2011.
2.	<p>The appointment is made at the discretion of the Police and Crime Commissioner and runs to</p> <ul style="list-style-type: none">i. the end of the present Administration; orii. when Clive Grunshaw leaves his office as Commissioneriii in the event of the election for Police and Crime Commissioner for Lancashire, the day after the election. <p>If the postholder wishes to resign, he will be required to give one month's notice of termination of his appointment, unless the Commissioner agrees otherwise.</p>
3.	The principal duties and responsibilities of the appointment will be set out in the Role Statement.
4.	The salary will be 70% of the salary of the Police and Crime Commissioner for Lancashire, which is set by the Home Secretary, (currently £85,000) pro rata, based on 2.5 working days per week, (currently £60,000; pro rata £30,000), and will be paid monthly by credit transfer on the 28 th day of each calendar month.
5.	<p>Working hours will be a minimum of 2.5 days per week on a flexible basis to meet the needs of the Office.</p> <p>There will be a requirement to work additional hours as may from time to time be reasonable and necessary for the efficient performance of the duties.</p>

SUMMARY TERMS AND CONDITIONS

6.	Full reasonable travel and subsistence costs incurred in the performance of duty will be reimbursed, in accordance with Police Staff allowances currently in force.
7.	Appropriate Information Technology and Communications support will be provided in the workplace and for use away from the workplace (eg at home) in connection with work related duties.
8.	Any grievances relating to the actions of the Commissioner, or any officers in the Commissioner's office, should be raised initially with the Commissioner or the Chief Executive and Solicitor. The Commissioner's decision on any such matter will be final, subject only to any relevant provisions of the Employment Act 2002, the ACAS Code of Practice on disciplinary and grievance procedures, Fairness at Work and any amendment or re-enactment thereof.
9.	The post holder is eligible to join the Local Government Pension Scheme.
10.	The post holder's performance will be subject to regular review by the Commissioner. The first review will take place six months after appointment.

November 2012



The Police and Crime Commissioner for Lancashire
Declaration by proposed appointee to office of Deputy Police and Crime Commissioner

I Mr Ibrahim Master
Of
declare that I am aware of the provisions of the Police Reform and Social Responsibility Act 2011 and to the best of my knowledge and belief I am eligible for appointment as Deputy Police and Crime Commissioner and I am not subject to a relevant disqualification.
I acknowledge that I hold office subject to the requirements of paragraph 8 of Schedule 1 of the Police Reform and Social Responsibility Act 2011.

Signed..... Mr I Master

Witnessed... Christine Durber,
 Deputy Chief Executive

Dated:29 11 12

Extracts from the Police Reform and Social Responsibility Act 2011 Disqualifications relating to role of Deputy Police and Crime Commissioner

Section 18 to the Police Reform and Social Responsibility Act 2011

(3) (a) But a police and crime commissioner may not appoint a person listed in subsection (6) as the deputy police and crime commissioner.

(6) The persons referred to in subsection (3)(a) are:-

- (a) a constable (whether or not in England and Wales);
- (b) a police and crime commissioner;
- (c) the Mayor's Office for Policing and Crime;
- (d) the Deputy Mayor for Policing and Crime appointed by the Mayor's Office for Policing and Crime;
- (e) the Mayor of London;
- (f) the Common Council of the City of London;
- (g) any other person or body which maintains a police force;
- (h) a member of the staff of a person falling within any of paragraphs (a) to (g)

8 (1) This paragraph applies to a person appointed under section 18 by a police and crime commissioner to be the deputy police and crime commissioner.

(2) None of the following may be appointed as the deputy police and crime commissioner—

- (a) a person who has not attained the age of 18 on the day of the appointment;
- (b) a person who is subject to a relevant disqualification;
- (c) a Member of the House of Commons;
- (d) a member of the European Parliament;
- (e) a member of the National Assembly for Wales;
- (f) a member of the Scottish Parliament;
- (g) a member of the Northern Ireland Assembly.

Schedule 1 to the Police Reform and Social Responsibility Act 2011

(3) The terms and conditions of a person who is appointed as the deputy police and crime commissioner must provide for the appointment to end not later than the day when the current term of office of the appointing police and crime commissioner ends.

(4) Section 7 of the Local Government and Housing Act 1989 (appointment of staff on merit) does not apply to the deputy police and crime commissioner.

(5) In this paragraph "current term of office", in relation to the appointment of a deputy police and crime commissioner by a police and crime commissioner, means the commissioner's term of office which is running at the time the appointment is made.

(6) For the purposes of this paragraph, a person is subject to a relevant disqualification if the person is disqualified from being elected as, or being, a police and crime commissioner under—

- (a) section 65(1) (police officers, police-related employment etc), other than paragraph (e)(ii);
or
- (b) section 66(1), (3)(a)(iii) or (iv), (3)(c) or (3)(d) (citizenship, bankruptcy, criminal convictions & corrupt or illegal election practices).

Relevant disqualification

Section 65(1) Police Reform and Social Responsibility Act 2011

Disqualification from election or holding office as police and crime commissioner: police grounds

(1) A person is disqualified from being elected as, or being, a police and crime commissioner if the person—

(a) is disqualified from being a member of the House of Commons under section 1(1)(d) of the House of Commons Disqualification Act 1975 (members of police forces for police areas in the United Kingdom);

(b) is a member of—

- (i) the British Transport Police Force;
- (ii) the Civil Nuclear Constabulary;

(c) is a special constable appointed—

- (i) under section 27 of the Police Act 1996 for a police area or the City of London police area;
- (ii) under section 25 of the Railways and Transport Safety Act 2003 (British Transport Police Force);

(d) is a member of staff of the chief officer of police of any police force maintained for a police area;

(e) is a member of staff of—

- (i) a police and crime commissioner; (excluded)
- (ii) the Mayor's Office for Policing and Crime;

(f) is the Mayor of London;

(g) is a member of the Common Council of the City of London or a member of staff of that Council in its capacity as a police authority;

(h) is a member (including a member who is chairman or chief executive), or member of staff, of—

- (i) the British Transport Police Authority;
- (ii) the Civil Nuclear Police Authority;
- (iii) the Independent Police Complaints Commission;
- (iv) the Serious Organised Crime Agency;
- (v) the National Policing Improvement Agency;

(i) holds any employment in an entity which is under the control of—

- (i) a local policing body;
- (ii) any body mentioned in paragraph (h);

- (iii) the chief officer of police for any police force maintained for a police area or the City of London police area;
- (iv) the chief officer of police for any police force mentioned in paragraph (b).

Section 66 Police Reform and Social Responsibility Act 2011 (relevant parts)

Disqualification from election or holding office as police and crime commissioner: other grounds

(1) A person is disqualified from being elected as, or being, a police and crime commissioner unless the person satisfies the citizenship condition (see section 68).

(3) A person is disqualified from being elected as, or being, a police and crime commissioner if—

(a) the person is the subject of—

(iii) a bankruptcy restrictions order under paragraph 1 of Schedule 4A to the Insolvency Act 1986;

(iv) a bankruptcy restrictions interim order under paragraph 5 of the Schedule 4A to the Insolvency Act 1986;

(c) the person has been convicted in the United Kingdom, the Channel Islands, or the Isle of Man, of any imprisonable offence (whether or not sentenced to a term of imprisonment in respect of the offence); or

(d) the person is incapable of being elected as a member of the House of Commons, or is required to vacate a seat in the House of Commons, under Part 3 of the Representation of the People Act 1983 (consequences of corrupt or illegal practices).

Citizenship condition (Section 68 Police Reform and Social Responsibility Act 2011)

68 Citizenship condition

(1) This section applies for the purposes of section 66.

(2) A person satisfies the citizenship condition if the person is—

- (a) a qualifying Commonwealth citizen,
- (b) a citizen of the Republic of Ireland, or
- (c) a citizen of the Union.

(3) For the purposes of this section, a person is a qualifying Commonwealth citizen if the person is a Commonwealth citizen and—

- (a) is not a person who requires leave under the Immigration Act 1971 to enter or remain in the United Kingdom, or
- (b) is a person who requires such leave but for the time being has (or is, by virtue of any enactment, to be treated as having) indefinite leave to remain within the meaning of that Act.

(4) But a person who does not require leave to enter or remain in the United Kingdom by virtue only of section 8 of the Immigration Act 1971 (exceptions to requirement for leave in special cases) is not a qualifying Commonwealth citizen by virtue of subsection (3)(a).

(5) In this section the expression "citizen of the Union" is to be construed in accordance with Article 20(1) of the Treaty on the Functioning of the European Union.