
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 315

The Royal Ulster Constabulary (Conduct) Regulations 2000

Part III

Hearing

Notice of hearing

13.—(1) The supervising member shall ensure that, as soon as practicable, the member concerned is given written notice of a decision to refer the case to a hearing and that, not less than 28 days before the date of hearing, the member concerned is supplied with copies of—

- (a) any statement he may have made to the investigating officer; and
- (b) any relevant statement, document or other material obtained by the investigating officer.

(2) The notice given under paragraph (1) shall specify the conduct of the member concerned which it is alleged failed to meet the appropriate standard and the paragraph of the Code of Conduct in respect of which the appropriate standard is alleged not to have been met.

(3) In this regulation any reference to a copy of a statement shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

Limitation on sanctions

14. No sanction may be imposed under regulation 31 unless the case has been referred to a hearing.

Notification of hearing

15.—(1) The supervising member shall ensure that at least 28 days in advance the member concerned is notified of the time, date and place of the hearing.

(2) In a case to which this paragraph applies the hearing may, if the supervising member considers it appropriate in the circumstances, take place before the expiry of the 28 days referred to in paragraph (1).

(3) Paragraph (2) applies where the member concerned is given a written notice under regulation 13(1) of a decision to refer the case to a hearing and—

- (a) at the time he receives such a notice he is detained in pursuance of the sentence of a court in a prison or other institution to which the Prison Act (Northern Ireland) 1953(1) applies, or has received a suspended sentence of imprisonment, and
- (b) having been supplied under regulation 13 with the documents therein mentioned does not elect under regulation 16 to be legally represented at the hearing.

Legal representation

16.—(1) If the supervising member is of the opinion that the hearing should have available the sanctions of dismissal, requirement to resign or reduction in rank he shall cause the member concerned to be given notice in writing of the opportunity to elect to be legally represented at the hearing, at the same time as he is given notice under regulation 13.

(2) Where a member so elects, he may be represented at a hearing, at his option, either by counsel or by a solicitor.

(3) Except in a case where such an officer has been given the opportunity to be legally represented and has so elected, he may only be represented at the hearing by a member of a police force.

(4) No sanction such as is mentioned in paragraph (1) may be awarded unless the member concerned has been given the opportunity to elect to be legally represented at the hearing.

(5) If a member—

(a) fails without reasonable cause to give notice in accordance with regulation 17(1)(b) that he wishes to be legally represented; or

(b) gives notice in accordance with that regulation that he does not wish to be legally represented, any such punishment as is mentioned in paragraph (1) may be awarded without his being legally represented.

(6) If an officer gives notice in accordance with regulation 17(1)(b) that he wishes to be legally represented, the case against him may be presented by counsel or a solicitor whether or not he is actually so represented.

Procedure on receipt of notice

17.—(1) The member concerned shall be invited to state in writing, within 14 days of the date on which he is notified that the last of the documents required by regulation 13(1) to be supplied to him have been so supplied—

(a) whether or not he accepts that his conduct did not meet the appropriate standard laid out in the Code of Conduct;

(b) in a case where regulation 16 applies, whether he wishes to be legally represented at the hearing;

(c) whether he proposes to call any witnesses to relevant facts at the hearing and the names and addresses of any such witnesses whose attendance he wishes the supervising member to take steps to secure.

(2) Any witness whose attendance the member concerned wishes the supervising member to take steps to secure and who is a member shall be ordered to attend at the hearing of the case, and the supervising member, where so requested, shall cause any other such witnesses to be given due notice that their attendance is desired and of the time and place of the hearing.

(3) Nothing in this regulation shall require a hearing to be adjourned where a witness is unable or unwilling to attend the hearing.

Officers conducting the hearing

18.—(1) Where a case is referred to a hearing it shall be heard by three police officers, appointed by the Chief Constable, who shall not be interested parties.

(2) Subject to regulation 29, one such officer who shall be of at least the rank of assistant chief constable or commander, shall be the presiding officer.

(3) The presiding officer, subject to paragraph (4), shall be assisted by two officers, who shall be of at least the rank of superintendent.

(4) Where the member concerned is a superintendent, the presiding officer will be assisted by two officers of the rank of assistant chief constable or commander.

Documents to be supplied to the member concerned

19.—(1) Where the member concerned accepts, in accordance with regulation 17, that his conduct did not meet the appropriate standard, a summary of the facts of the case shall be prepared, a copy of which shall be supplied to the member concerned at least 14 days before the hearing.

(2) If the member concerned does not agree with the summary of facts he may submit a response within 7 days of receipt of the summary.

(3) Where the member concerned does not accept that his conduct did not meet the appropriate standard no summary of facts shall be prepared.

Documents to be supplied to the officers conducting the hearing

20. There shall be supplied to the officers conducting the hearing—

- (a) a copy of the notice given under regulation 13; and
- (b) where a summary of the facts has been prepared under regulation 19, a copy of that summary and of any response from the member concerned.

Representation

21.—(1) Unless the member concerned has given notice that he wishes to be legally represented under regulation 16, the supervising member shall appoint another member to present the case (the presenting officer).

(2) Where the member concerned has, in accordance with regulation 16, elected to be legally represented the supervising member may appoint counsel or a solicitor to present the case.

(3) The case of the member concerned may be conducted by the member in person or by a member of a police force selected by him or, if he has so elected in accordance with regulation 16, by counsel or solicitor.

Conduct of hearing

22.—(1) The officers conducting the hearing may from time to time adjourn if it appears to them to be necessary or expedient to do so for the due hearing of the case.

(2) Any decision of the officers conducting the hearing shall be based on a simple majority, but shall not indicate whether it was taken unanimously or by a majority.

Procedures at hearing

23.—(1) Subject to the provisions of these regulations, the officers conducting the hearing shall determine their own procedures.

(2) Where evidence is given that the member concerned, while subject to investigation—

- (a) after having been given in writing the caution set out in paragraph 1 of Schedule 2 failed to mention any fact relied on in his defence at the hearing, being a fact which in the circumstances existing at the time he could reasonably have been expected to mention during the investigation, or
- (b) after having been given in writing the caution set out in paragraph 2 of Schedule 2 failed or refused to account for any object, substance or mark, or

- (c) after having been given in writing the caution set out in paragraph 3 of Schedule 2 failed or refused to account for his presence at a particular place,

the officers conducting the hearing may draw such inferences from the failure or refusal as appear proper.

(3) The officers conducting the hearing shall review the facts of the case and decide whether or not the conduct of the member concerned met the appropriate standard and, if it did not, whether in all the circumstances it would be reasonable to impose any, and if so which, sanction.

(4) The officers conducting the hearing shall not find that the conduct of the member concerned failed to meet the appropriate standard unless the conduct is—

- (a) admitted by the member concerned; or
- (b) proved by the person presenting the case on the balance of probabilities, to have failed to meet that standard.

Non-attendance

24.—(1) The member concerned shall be ordered to attend the hearing.

(2) If the member concerned fails to attend the hearing it may be proceeded with and concluded in his absence.

(3) Where the member concerned informs the presiding officer in advance that he is unable to attend due to ill-health or some other unavoidable reason the hearing may be adjourned.

(4) Where, owing to the absence of the member concerned, it is impossible to comply with any of the procedures set out in these regulations, that procedure shall be dispensed with.

Attendance of complainant at hearing

25.—(1) This regulation shall apply where there has been a complaint against the member concerned.

(2) Notwithstanding anything in regulation 26(1), but subject to paragraphs (3) and (5), the complainant shall be allowed to attend the hearing while witnesses are being examined, or cross-examined, and may at the discretion of the presiding officer be accompanied by a friend or relative.

(3) Where the complainant or any person allowed to accompany him is to be called as a witness at the hearing, he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence.

(4) Where the member concerned gives evidence then, after the presenting officer has had an opportunity of cross-examining him, the presiding officer shall put to him any questions which the complainant requests should be so put and might have been properly so put by the presenting officer or, at the presiding officer's discretion, may allow the complainant to put such questions to the member concerned.

(5) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt, the hearing; and if he or such a person shall behave in a disorderly or abusive manner, or otherwise misconduct himself, the presiding officer may exclude him from the remainder of the hearing.

(6) In this regulation a reference to the complainant is a reference to the originator of the complaint notwithstanding that it was transmitted to the Ombudsman by some other person or some other body.

Attendance of others at hearing

26.—(1) Subject to regulation 25 paragraphs (2) and (3), the hearing shall be in private: provided that it shall be within the discretion of the presiding officer to allow any authorised officer of the

Ombudsman, any solicitor or any such other persons as he considers desirable to attend the whole or such part of the hearing as he may think fit, subject to the consent of all parties to the hearing.

(2) The member concerned may be accompanied at the hearing by another member who shall be, where the case is to be conducted by another member under regulation 21(3), that member.

(3) The presiding officer may allow witnesses to be accompanied at the hearing by a friend or relative.

Exclusion of public from hearing

27. Where it appears to the presiding officer that a witness may, in giving evidence, disclose information which, in the public interest, ought not be disclosed to a member of the public he shall require any member of the public including the complainant and any person allowed to accompany the complainant or any witness to withdraw while the evidence is given.

Evidence at hearing

28.—(1) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the presiding officer.

(2) With the consent of the member concerned the presiding officer may allow any document to be adduced in evidence during the hearing notwithstanding that a copy thereof has not been supplied to the member concerned in accordance with regulation 13(1).

Remission of cases

29.—(1) The hearing of the case—

- (a) shall, in the circumstances mentioned in paragraph (2), or
- (b) may, in the circumstances mentioned in paragraph (5),

be remitted by the presiding officer concerned to a police officer of equivalent rank who, at the presiding officer's request, has agreed to act as the presiding officer in the matter.

(2) A case shall be so remitted if—

- (a) the presiding officer is an interested party otherwise than in his capacity as such; or
- (b) there would not, because the member concerned was not given an opportunity under regulation 16 to elect to be legally represented at the hearing, be available on a finding against him any of the sanctions referred to in that regulation, and it appears to the presiding officer concerned that those sanctions ought to be so available and that accordingly it would be desirable for there to be another hearing at which the member concerned could, if he so wished, be so represented.

(3) Where a case is remitted to another officer under paragraph (2)(b) notice in writing shall be served on the member concerned inviting him to elect, within 14 days of the receipt thereof, to be legally represented at the hearing before that officer.

(4) An officer remitting a case under paragraph (2)(b) shall not give to the officer to whom the case has been remitted any indication of his assessment of the case or of the sanction which might be imposed.

(5) A case not falling within paragraph (2) may be remitted by the presiding officer in accordance with paragraph (1) if, either before or during the hearing, the presiding officer concerned considers remission appropriate.

Record of hearing

30. A verbatim record of the proceedings at the hearing shall be taken and, if the member concerned so requests within the time limit for any appeal and after he has lodged notice of appeal in accordance with regulation 5 of the Appeals Regulations, a transcript of the record or a copy thereof shall be supplied to him by the presiding officer.

Sanctions

31.—(1) Subject to the provisions of regulation 16 the officers conducting the hearing, or in a directed case, the Chief Constable may impose any of the following sanctions, namely—

- (a) dismissal from the force;
- (b) requirement to resign from the force as an alternative to dismissal taking effect one month from the date of the decision;
- (c) reduction in rank;
- (d) reduction in pay for such a period, not exceeding 12 months, as shall be specified in the decision;
- (e) fine of a sum representing not more than 13 days pay recoverable over a minimum of 13 weeks;
- (f) reprimand;
- (g) caution.

(2) Any sanction imposed under paragraph (1), except a requirement to resign, shall have immediate effect.

(3) A fine imposed under paragraph (1) shall be such that, if it were recoverable by way of deductions from the pay of the member concerned during the period of thirteen weeks following the imposition of the sanction, the aggregate sum which might be so deducted in respect of any one week (whether on account of one or more fines) would not exceed one seventh of his weekly pay.

Personal record to be considered before sanction imposed

32. Where the question of the sanction to be imposed is being considered the officers conducting the hearing—

- (a) shall have regard to the record of police service of the member concerned as shown on his personal record and may receive evidence from any witness whose evidence would, in the opinion of the officers conducting the hearing or member concerned assist in determining the question, and
- (b) the member concerned, or his representative, shall be afforded an opportunity to make oral or, if appropriate, written representations as respects the question or to adduce evidence relevant thereto.

Finding

33. The member concerned shall be informed orally, by the presiding officer, of the finding and of any sanction imposed at the conclusion of the hearing and shall be provided with a written notification and summary of the reasons within three working days.