
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 242

Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008

PART V

DESIGNATED PERSON EMPLOYED BY A CONTRACTOR

Employee of contractor: determination of Ombudsman

27.—(1) Section 59 of the 1998 Act (steps to be taken after investigation — disciplinary proceedings) shall not apply in relation to a report under section 56(6) or 57(8) of that Act concerning the relevant conduct of a designated person employed by a contractor.

(2) Where—

- (a) a report under section 56(6) or 57(8) of the 1998 Act concerning the relevant conduct of a designated person employed by a contractor is submitted to the Ombudsman, and
- (b) paragraph (3) or (4) applies to the relevant conduct,

the Ombudsman shall consider whether he is satisfied that, on the balance of probabilities, the relevant conduct failed to meet the appropriate standard.

(3) This paragraph applies to the relevant conduct of a designated person if the report mentioned in paragraph (2) is sent to the Director under section 58(2) of the 1998 Act, and—

- (a) the Director decides not to initiate criminal proceedings against the designated person concerned in relation to the subject matter of the report, or
- (b) criminal proceedings initiated by the Director against the designated person concerned in relation to the subject matter of the report have been concluded.

(4) This paragraph applies to the relevant conduct of a designated person if the Ombudsman determines that the report mentioned in paragraph (2) does not indicate that a criminal offence may have been committed by the designated person concerned and—

- (a) he determines that the complaint is not suitable for resolution through mediation under section 58A; or
- (b) he determines that the complaint is suitable for resolution through mediation under that section but—
 - (i) the complainant or the designated person concerned does not agree to attempt to resolve it in that way; or
 - (ii) attempting to resolve the complaint in that way has been unsuccessful.

(5) Where the Ombudsman considers under paragraph (2) whether the relevant conduct of a designated person failed to meet the appropriate standard, he shall send the Chief Constable a memorandum containing—

- (a) his determination as to whether the conduct failed to meet the appropriate standard, and

- (b) a written statement of his reasons for making that determination, and
- (c) if he thinks fit, any recommendation as to the withdrawal or modification of the designation of the designated person concerned.

(6) Where the Ombudsman considers under paragraph (2) whether the relevant conduct of a designated person failed to meet the appropriate standard, he shall deal with the case without undue delay and shall, as soon as practicable, send the Chief Constable all relevant material and a memorandum such as is described in paragraph (5).

(7) In a case such as is mentioned in paragraph (4)(b), the Ombudsman shall, in considering whether to make a recommendation under paragraph (5)(c), take into account the conduct of the designated person concerned in relation to the proposed resolution of the complaint through mediation.

(8) The Chief Constable shall advise the Ombudsman of what action he has taken in response to any recommendation in a memorandum sent to him under paragraph (5).

Employee of contractor: supervising member

28. A case which arises from a complaint, report or allegation which indicates that the relevant conduct of a designated person employed by a contractor did not meet the appropriate standard may be referred for examination to a police officer of at least the rank of superintendent, who must not be an interested party (“the supervising member”).

Employee of contractor: appointed officer

29.—(1) Where a case concerning the relevant conduct of a designated person employed by a contractor is referred to a supervising member under regulation 28, the supervising member may appoint a police officer (“the appointed officer”) of at least the rank of inspector, who must not be serving in the same district or branch as the designated person concerned and must not be an interested party, to prepare a report on the case.

(2) Where an officer is appointed under paragraph (1) to prepare a report on a case concerning the relevant conduct of a designated person employed by a contractor, he shall submit his report in writing to the supervising member.

Notice to designated person employed by contractor

30.—(1) An appointed officer shall, as soon as is practicable (without prejudicing the preparation of his report under regulation 29(1) or any investigation of the matter) cause the designated person concerned to be given written notice—

- (a) that he is preparing a report on the case,
- (b) that where he is investigating a case arising as a result of a complaint, the investigation will be carried out under section 56 or 57 of the 1998 Act, as applicable,
- (c) of the nature of the report, complaint or allegation,
- (d) informing him that he has the right to seek advice from his trade union, and
- (e) informing him that he has the right to be accompanied as set out in paragraph (2).

(2) A designated person employed by a contractor may be accompanied to any meeting or interview by a person selected by him, who is not an interested party, and who is—

- (a) a police officer,
- (b) a member of a police force in Great Britain,
- (c) a member of the police support staff,

- (d) a representative of a trade union,
- (e) the contractor concerned, or
- (f) an employee of the contractor concerned.

(3) Where an appointed officer causes notice to be given under paragraph (1) to a designated person employed by a contractor, he shall at the same time cause the contractor concerned to be given written notice of the matters set out in paragraphs (1)(a) to (e) and (2) (without prejudicing the preparation of his report or any investigation of the matter).

Employee of contractor: question of appropriate standard of conduct

31.—(1) The supervising member shall review any report submitted to him under regulation 29(2) and shall consider whether or not the conduct of the designated person concerned met the appropriate standard.

(2) The supervising member shall not find that the relevant conduct of the designated person concerned failed to meet the appropriate standard unless—

- (a) the conduct is admitted by the designated person concerned, or
- (b) the supervising member is satisfied on the balance of probabilities that it failed to meet that standard.

(3) Where a case concerning the relevant conduct of a designated person employed by a contractor is referred to a supervising member under regulation 28 and falls to be investigated under section 56 or 57 of the 1998 Act, no finding may be made under this regulation about the relevant conduct until the Chief Constable receives a memorandum from the Ombudsman in respect of the relevant conduct under regulation 27(5).

(4) The supervising member shall give notice in writing of his finding under this regulation to the designated person concerned and to the contractor concerned within three working days of the finding.

Employee of contractor: recommendation to Chief Constable

32.—(1) Where the supervising member finds under regulation 31 that the conduct of the designated person concerned did not meet the appropriate standard, he may recommend to the Chief Constable that he modify or withdraw the designation of that person under section 33(4) of the 2003 Act.

(2) Where the supervising member is considering the question of the recommendation to be made under paragraph (1)—

- (a) the designated person concerned shall be afforded an opportunity to make oral or, if appropriate, written representations as respects the question or to adduce evidence relevant thereto, and
- (b) the supervising member may receive evidence from any witness whose evidence would, in the opinion of the supervising member or designated person concerned, assist in determining the question.