

## SCHEDULE 3

### SPECIAL CASES

## PART 2

### Modifications

The following modifications apply in cases referred to a hearing under regulation 40.

2. For regulations 43 (withdrawal of case) and 44 (notice of decision to refer case to hearing) substitute the following regulations—

“43. At any time before the beginning of the hearing of a case the appropriate officer may direct that the case be returned to the supervising member or, in the case of an investigation under section 56 or 57 of the 1998 Act, the Ombudsman.

44.—(1) The appropriate officer shall ensure that, as soon as practicable, the designated person concerned is invited to an interview with the appropriate officer at which he shall be given written notice of the decision to refer the case to a hearing and supplied with copies of—

- (a) the certificate issued under regulation 40;
- (b) any statement he may have made to the appointed officer; and
- (c) any relevant statement, document or other material obtained during the course of the investigation.

(2) The notice given under paragraph (1) shall specify the conduct of the designated person concerned which it is alleged failed to meet the appropriate standard and the paragraph of the code of ethics 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.

(4) Where the designated person concerned fails or is unable to attend the interview referred to in paragraph (1), the notice and copy documents referred to in that paragraph shall be—

- (a) delivered to the designated person concerned personally, or
- (b) left with some person at, or sent by recorded delivery to, the address at which he is residing.”

3. For regulation 45 (notification of hearing) substitute the following regulation—

“45. The appropriate officer shall fix a date for the hearing which shall be not less than 21 and not more than 28 days from the date on which notice is given under regulation 44 and shall ensure that the designated person concerned is forthwith notified of the time, date and place of the hearing.”

4. In regulation 46 (procedure on receipt of notice)—

- (a) in paragraph (1), for the words from “on which he is notified” to the end substitute the words “on which he receives the documents referred to in regulation 44, whether or not he accepts that his conduct did not meet the appropriate standard.”; and
- (b) omit paragraphs (2) and (3).

5. For regulation 47 (panel conducting the hearing) substitute the following regulation—

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

“47.—(1) Subject to paragraph (2), a case which is referred to a hearing under regulation 40 shall be heard by the Chief Constable.

(2) Where the Chief Constable is an interested party, the case shall be heard by the chief officer of a police force in Great Britain who has agreed to act in that capacity.”

6. Omit regulation 48 (documents to be supplied to the designated person concerned).
7. In regulation 49 (documents to be supplied to the panel conducting the hearing)—
  - (a) for “panel” substitute “officer”, and
  - (b) for paragraphs (a) and (b) substitute the words “a copy of the notice given, and of any documents provided to the designated person concerned, under regulation 44”.
8. In regulation 50 (representation), in paragraph (1) for “supervising member” substitute “appropriate officer”.
9. For regulation 51 (conduct of hearing) substitute the following regulation—

“51. The officer conducting the hearing may adjourn if it appears to him to be necessary or expedient to do so; but he—

  - (a) shall not exercise the power to adjourn more than once; and
  - (b) shall not adjourn for longer than a period of one week or, on application by the designated person concerned, 4 weeks.”
10. In regulation 52 (procedures at hearing)—
  - (a) for “panel” (wherever occurring) substitute “officer”; and
  - (b) in paragraph (1) for “their own procedures” substitute “his own procedures”.
11. In regulation 53 (non-attendance) in paragraph (3) for “presiding officer” substitute “officer conducting the hearing”.
12. In regulation 54 (attendance of complainant at hearing)—
  - (a) in paragraph (2)—
    - (i) for the words “paragraphs (3) and (4)” substitute “paragraph (4)”, and
    - (ii) omit the words “while witnesses are being examined, or cross-examined,”;
  - (b) omit paragraphs (3) and (6),
  - (c) in paragraph (5), omit the words “Except where giving evidence as a witness, or putting questions under paragraph (6),”; and
  - (d) for “presiding officer” (wherever occurring) substitute “officer conducting the hearing”.
13. In regulation 55 (attendance of others at hearing)—
  - (a) in paragraph (2) for “presiding officer” substitute “officer conducting the hearing”; and
  - (b) omit paragraph (5).
14. Omit regulation 56 (exclusion of public from hearing).
15. In regulation 57 (evidence at hearing)—
  - (a) in paragraph (1), omit the words, “or whether any question should or should not be put to a witness”;
  - (b) in paragraph (2), for “44(1)(b)” substitute “44(1)(b) or (4)”;
  - (c) for “presiding officer” (wherever occurring) substitute “officer conducting the hearing”; and
  - (d) at the end add the following paragraph—

“(3) No witnesses shall be called by either party to the case.”.

16. In regulation 58 (remission of cases)—

- (a) for “presiding officer” (wherever occurring) substitute “officer conducting the hearing”; and
- (b) at the end add the following paragraph—

“(3) The officer conducting the hearing may return the case to the supervising member or appropriate officer if either before or during the hearing, the officer conducting the hearing considers it appropriate to do so.”.

17. In regulation 59 (record of hearing) for “presiding officer” substitute “officer conducting the hearing”.

18. In regulation 60 (finding, recommendation and sanction)—

- (a) in paragraph (1)(b) (written notification of finding) for “three working days” substitute “24 hours”;
- (b) in paragraph (2) (report of finding)—
  - (i) for “the presiding officer” substitute “officer conducting the hearing”, and
  - (ii) for “the panel’s” substitute “his”; and
- (c) in paragraph (3) (recommendation)—
  - (i) for “panel conducting the hearing decide” substitute “officer conducting the hearing decides”, and
  - (ii) for “after consultation with the other members of the panel, the presiding officer” substitute “he”.

19. In regulation 61 (personal record to be considered before recommendation made)—

- (a) in paragraph (a) for “members of the panel” substitute “officer”;
- (b) for paragraph (b) substitute—
  - “(b) the officer conducting the hearing may admit such documentary evidence as would in his opinion or in the opinion of the designated person concerned, assist in determining the question, and”; and
- (c) in paragraph (c) after the word “adduce” insert “documentary”.

20. In regulation 62 (request for a review)—

- (a) for paragraph (1) substitute—
  - “(1) Where the officer conducting the hearing decides that the conduct of the designated person concerned did not meet the appropriate standard, the designated person concerned shall be entitled to ask the Chief Constable to refer the case to the chief officer of a police force in Great Britain who has agreed to act in that capacity (“the reviewing officer”) to review the finding.”; and
- (b) in paragraph (2), omit the words “or within such longer period as the Chief Constable may, in his discretion, allow, having regard to the circumstances of the case”.

21. In regulation 63 (conduct of the review), in paragraph (1) for “Chief Constable” substitute “reviewing officer”.

22. In regulation 64 (finding of the review)—

- (a) in paragraph (1), for “three days” substitute “24 hours”;
- (b) for “Chief Constable” (wherever occurring) substitute “reviewing officer”;

**Status:** This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

(c) at the end add the following paragraph—

“(4) Where the reviewing officer considers that the officer conducting the hearing should have returned the case to the supervising member or appropriate officer under regulation 58, he shall so return the case and the case shall thereafter be deemed to have been returned under that regulation.”

23. Omit regulation 65 (hearing of review in absence of the Chief Constable).