
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 320

**Royal Ulster Constabulary (Conduct)
(Senior Officer) Regulations 2000**

Part II

Conduct: Senior Officers

Suspension — ordinary procedure

5.—(1) Where it appears to the Police Authority, on receiving a report, allegation or complaint which indicates that the conduct of a senior officer does not meet the appropriate standard, that the senior officer concerned ought to be suspended from membership of the RUC and from his office of constable, the Police Authority may, subject to the following provisions of this regulation, so suspend him.

(2) The Police Authority shall not so suspend a senior officer unless it appears to them that either of the following conditions (“the suspension conditions”) is satisfied, namely—

- (a) that the effective investigation of the report allegation or complaint may be prejudiced unless the senior officer concerned is so suspended; or
- (b) that the public interest, having regard to the nature of the report, allegation or complaint, and any other relevant considerations, requires that he should be so suspended.

(3) If the Police Authority determine that a senior officer ought to be suspended under this regulation, they shall forthwith notify the Ombudsman of their decision and of the suspension condition appearing to them to justify their decision.

(4) If, upon being so notified of the decision of the Police Authority, the Ombudsman is satisfied that the suspension condition in question is fulfilled, he shall as soon as practicable notify his approval of the suspension of the senior officer concerned to the Police Authority; and the suspension of the officer shall not have effect unless the approval of the Ombudsman is so given.

(5) Where the Ombudsman gives his approval to the suspension of a senior officer, this suspension shall take effect from the time he receives notice of that approval from the Police Authority and he shall be suspended until—

- (a) the Ombudsman decides otherwise; or
- (b) the Police Authority decide otherwise; or
- (c) it is decided that the conduct of the senior officer concerned shall not be the subject of proceedings under regulation 11; or
- (d) the notification by the Police Authority of a finding that the conduct of the senior officer concerned did not fail to meet the appropriate standard or notification that, in spite of a finding that his conduct did fail to meet the appropriate standard, no sanction should be imposed; or
- (e) a sanction has been imposed,

whichever first occurs.

Suspension—urgent cases

6.—(1) In cases of urgency, the like power of suspension as under regulation 5 may be exercised with immediate effect—

- (a) in relation to the Chief Constable or a person for the time being discharging his functions, by the Police Authority, and
- (b) in any other case, by the Chief Constable.

Investigating officers

7.—(1) Where a report, allegation or complaint is received which indicates that the conduct of a senior officer did not meet the appropriate standard, the following provisions of this regulation shall have effect for the purpose of investigating the matter.

(2) The provisions of paragraphs (3) and (4) shall have effect—

- (a) in relation to cases arising otherwise than from a complaint to which Part VII of the Act of 1998 applies; and
- (b) to cases arising from such a complaint where the requirements of the said Act of 1998 are dispensed with by or under regulations made thereunder.

(3) Unless the Police Authority decide that, in the light of such preliminary enquires as they may make, that no proceedings under regulation 11 need be taken, the matter shall be referred to an investigating officer who shall cause it to be investigated.

(4) The investigating officer shall be—

- (a) a member, or
- (b) if the chief officer of a police force in the United Kingdom is requested and agrees to provide an investigating officer, a member of that force, and of at least the rank of the senior officer concerned; or
- (c) an officer of the Ombudsman.

(5) Neither—

- (a) the Chief Constable, nor
- (b) any member serving in the same sub-division or branch as the senior officer concerned, shall be appointed as the investigating officer for the purposes of paragraph (3) or Section 57 of the Act of 1998.

(6) The provisions of this regulation are without prejudice to the powers of the Ombudsman with regard to the approval of the investigating officer under Section 57(3) of the Act of 1998 or the appointment of an investigating officer of the Ombudsman under Section 56(1) of the Act of 1998.

Notice of investigation and giving of caution

8. The investigating officer shall, as soon as practicable (without prejudicing his or any other investigation of the matter), cause the senior officer concerned to be given written notice—

- (a) that there is to be an investigation into the case;
- (b) the nature of the report, complaint or allegation;
- (c) in all cases give that senior officer in writing the caution set out in paragraph 1 of Schedule 1;

- (d) where he reasonably believes that the presence of any object, substance or mark found on the person of the senior officer or in or on his clothing, footwear or otherwise in his possession or in any place in which the senior officer was present at a time material to the subject matter of the report, allegation or complaint may be attributable to the senior officer having breached the Code of Conduct, inform the senior officer that he so believes and give him in writing the caution set out in paragraph 2 of Schedule 1,
- (e) where he reasonably believes that the presence of the senior officer at a place at or about the time the breach of the Code of Conduct was alleged to have been committed may be attributable to his involvement in that breach, inform the senior officer that he so believes and give him in writing the caution set out in paragraph 3 of Schedule 1.

Personal explanation following investigation

9.—(1) Where, following or, where paragraph (2) applies, during the investigation of a report, complaint or allegation, it appears that the conduct of a senior officer may not have met the appropriate standard, the Police Authority shall consider what proceedings under regulation 11 need be taken.

(2) This paragraph applies where, before the end of the investigation, it appears to the investigating officer that the case is one in respect of which the conditions specified in Part I of Schedule 2 to these regulations are likely to be satisfied and so informs the Police Authority or the Ombudsman as appropriate.

(3) Unless the Police Authority decide that no such proceedings need be taken, the Police Authority shall inform the senior officer in writing of the report, allegation or complaint and give him a written notice asking him whether or not he accepts that his conduct did not meet the appropriate standard, and at the same time the senior officer shall also be given in writing—

- (a) in all cases, the caution set out in paragraph 1 Schedule 1,
- (b) where the Police Authority reasonably believes that the presence of any object, substance or mark found on the person of the senior officer or in or on his clothing, footwear or otherwise in his possession or in any place in which the senior officer was present at a time material to the subject matter of the report, allegation or complaint may be attributable to the senior officer having breached the Code of Conduct, the caution set out in paragraph 2 of Schedule 1,
- (c) where the Police Authority reasonably believes that the presence of the senior officer at a place at or about the time the breach of the Code of Conduct was alleged to have been committed may be attributable to his involvement in that breach, the caution set out in paragraph 3 of Schedule 1.

(4) If the Police Authority decide that no proceedings under regulation 11 need be taken, they shall so inform the senior officer in writing forthwith.

(5) In a case where paragraph (2) applies and where appropriate in consultation with the Ombudsman, the Police Authority shall—

- (a) determine whether the case is one in respect of which the conditions specified in Part I of Schedule 2 to these regulations are satisfied; and
- (b) if they determine that the case is one in respect of which these conditions are satisfied and unless they are of the opinion that the circumstances are such that it would be inappropriate to do so, certify the case as a special case;

and where the Police Authority certify the case under sub-paragraph (b), the notice to be given under paragraph (3) shall inform the senior officer concerned that it has been so certified.

Sanction without hearing

10.—(1) If the senior officer concerned accepts that his conduct did not meet the appropriate standard, the Police Authority may impose a sanction under regulation 22 without the case being dealt with in accordance with regulations 11 to 21.

(2) Notwithstanding that the senior officer concerned accepts that his conduct did not meet the appropriate standard, the Police Authority may, after considering the report of the investigation, deal with the matter according to the Police Authority's discretion if they are satisfied that it does not justify the imposition of any sanction under these regulations.

Notice of proceedings

11.—(1) This regulation shall apply where the senior officer concerned-

- (a) accepts that his conduct did not meet the appropriate standard but the Police Authority do not proceed as mentioned in regulation 10(1) or (2); or
- (b) does not accept that his conduct failed to meet the appropriate standard but the Police Authority, after taking into account any statement he may have made under regulations 8 or 9, are not satisfied that his conduct did meet the appropriate standard.

(2) Subject to paragraph (4), where this regulation applies the Police Authority shall refer the case to a hearing and instruct an independent solicitor to give written notice to the senior officer concerned-

- (a) that the case is being referred to a hearing, and
- (b) specifying the conduct of that senior officer 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) The reference in paragraph (2) to an independent solicitor is a reference to a solicitor who is not a member, officer or servant of the Police Authority.

(4) Notwithstanding that a case is one to which this regulation applies by virtue of paragraph (1) (b), if, after considering the report of the investigation, the Police Authority are satisfied that the conduct in question, even if found to have failed to meet the appropriate standard, would not justify the imposition of any sanction under these regulations, the steps mentioned in paragraph (2) need not to be taken and the matter may be dealt with according to the Police Authority's discretion.

(5) Proceedings at or in connection with a hearing to which a case is referred under this regulation shall, for the purposes of Section 50 of the Act of 1998, Part VII, be disciplinary proceedings.

Withdrawal of case

12.—(1) At any time before the beginning of the hearing referred to in a notice under regulation 11, the Police Authority may direct that the case be withdrawn.

(2) Where direction is given under paragraph (1), the Police Authority shall, as soon as possible, cause the senior officer concerned to be served with a written notice of the direction and the case shall be treated as if it had not been referred to a hearing.

Documents to be supplied to the senior officer concerned

13.—(1) Where a senior officer is given notice under regulation 11, he shall, at least 21 days before the date of the hearing referred to in that notice, be notified of the date, time and place of the hearing and be supplied with copies of—

- (a) any statement he may have made under regulation 8 or 9;

(b) any relevant statement, document or other material obtained during the course of the investigation.

(2) 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.

Hearing by tribunal

14.—(1) Where a case is referred to a hearing it shall be heard by a tribunal consisting of a single person selected and appointed by the Police Authority from a list of persons nominated by the Secretary of State.

(2) To assist the tribunal on matters pertaining to the police there shall also be appointed by the Police Authority one or more assessors with the approval of the tribunal one of whom is or has been a chief officer of police, so, however, that there shall not be so appointed—

- (a) a person who is one of Her Majesty’s inspectors of constabulary;
- (b) the Chief Constable; or
- (c) a member, officer or servant of the Police Authority.

Procedure at hearing

15.—(1) The hearing shall be in private.

(2) The case shall be presented—

- (a) by the independent solicitor mentioned in regulation 11(2); or
- (b) by some other independent solicitor.

(3) In paragraph (2)(b) “independent solicitor” has the same meaning as in regulation 11.

(4) The senior officer concerned may conduct his case either in person or by a representative.

(5) 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 tribunal.

(6) A verbatim record of the proceedings before the tribunal shall be taken and the transcript of the record shall be made and sent to the Police Authority, and, if a sanction is imposed by the Police Authority and the senior officer 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 Royal Ulster Constabulary (Appeals) Regulations 2000, a copy of the transcript shall be supplied to him.

(7) Where evidence is given that the accused, while subject to investigation—

- (a) after having been given in writing the caution set out in paragraph 1, of Schedule 1 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 1 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 1 failed or refused to account for his presence at a particular place;

the tribunal may draw such inferences from the failure or refusal as appear proper.

Statements in lieu of oral evidence

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

Adjournment of hearing

17. The tribunal may from time to time adjourn the hearing if it appears to it to be necessary or expedient to do so for the due hearing of the case.

Hearing in absence of senior officer concerned

18.—(1) It shall be within the discretion of the tribunal to proceed with the hearing of the case in the absence of the senior officer concerned if it appears just and proper so to do.

(2) Where, owing to the absence of the senior officer 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

19.—(1) This regulation shall apply where there has been a complaint against the senior officer concerned.

(2) Notwithstanding anything in regulation 15(1) but subject to paragraph (3), (4) and (6), the tribunal shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, and the complainant may at the discretion of the tribunal 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 it appears to the tribunal that a witness may, in giving evidence, disclose information which, in the public interest, ought not to be disclosed to a member of public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(5) Where the senior officer concerned gives evidence, then after the person presenting the case has had an opportunity of cross-examining him, the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at its discretion may allow the complainant himself to put such questions to the senior officer concerned.

(6) 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 should behave in a disorderly or abusive manner, or otherwise misconduct himself, the tribunal may exclude him from the remainder of the hearing.

(7) 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 by some other body.

Tribunal's report

20.—(1) The tribunal shall review the facts of the case and decide whether or not the conduct of the senior officer concerned met the appropriate standard.

(2) The tribunal shall not find that the conduct of the senior officer concerned failed to meet the appropriate standard unless the conduct is—

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

(3) The tribunal shall, as soon as possible after the hearing, submit a report to the Police Authority or in the case of a complaint, to the Police Authority with a copy sent to the Ombudsman setting out—

- (a) the finding of the tribunal under paragraph (1);
 - (b) if that finding was that the conduct of the senior officer concerned failed to meet the appropriate standard, a recommendation as to any sanction which, subject to regulation 21, in its opinion should be imposed; and
 - (c) any other matter arising out of the hearing which it desires to bring to the notice of the Police Authority and or the Ombudsman as the case may be.
- (4) The tribunal shall send the senior officer concerned a copy of the report.

Decision of the Police Authority

21.—(1) On receipt of the report of the tribunal the Police Authority; and in agreement with the Ombudsman where the tribunal is held as the result of a complaint, shall decide either to dismiss the case or—

- (a) to record a finding that the conduct of the senior officer concerned failed to meet the appropriate standard but to take no further action, or
- (b) to record such a finding and impose a sanction.

(2) As soon as possible after the Police Authority has taken its decision in the case, that decision shall be notified in writing to the senior officer concerned.

Sanctions

22.—(1) For the purposes of regulation 10, 20 or 21, the sanctions which may be recommended or imposed shall be—

- (a) dismissal from the force;
- (b) requirement to resign from the force as an alternative to dismissal taking effect forthwith or on such date as may be specified in the recommendation or decision;
- (c) reprimand.

(2) Where the question of the punishment to be imposed is being considered by the Police Authority under regulation 10 or 21—

- (a) they shall have regard to the record of police service of the senior officer concerned as shown on his personal record and may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question, and
- (b) the senior officer 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.

(3) Regulation 15(5) shall apply to the proceedings at which such evidence as is referred to in paragraph (2)(a) or (b) or such oral representations as are referred to in paragraph (2)(b) is given or are made as it applies to the proceedings before the tribunal.

Copy of report and decision to be sent to the Secretary of State

23. A copy of the report of the tribunal together with the decision of the Police Authority shall be sent by the Police Authority to the Secretary of State and copied to the Ombudsman.

Expenses of hearing

24.—(1) All the expenses of a hearing under these Regulations, including the costs of the senior officer concerned, shall be defrayed by the police fund.

(2) Any costs payable under this regulation shall be subject to taxation in such manner as the Secretary of State may direct.

Special cases

25.—(1) This regulation applies to any case in which a report, complaint or allegation is made which indicates that the conduct of a senior officer did not meet the appropriate standard and in respect of which the conditions specified in Part I of Schedule 2 of these regulations are satisfied and a certificate has been issued under regulation 9(5)(b).

(2) In the application of these regulations to a case to which this regulation applies, regulations 11 and 22 shall, subject to paragraph (3), have effect subject to the modifications specified in Part II of Schedule 2 of these regulations.

(3) Where the Police Authority have determined that the case is one to which this regulation applies but have directed that the case be returned to the investigating officer the provisions referred to in paragraph (2) shall have effect without modification.

(4) In Part II of Schedule 2 of these regulations, any reference to a provision of these regulations shall, unless the contrary intention appears, be construed as a reference to that provision as modified by that Part.