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STATUTORY RULES OF NORTHERN IRELAND

2010 No. 47

POLICE

**Police (Unsatisfactory Performance and Attendance)
Regulations (Northern Ireland) 2010**

Made - - - - - *21st February 2010*

Coming into operation - *24th March 2010*

To be laid before Parliament

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The Secretary of State, in exercise of the powers conferred by sections 25, 26 and 72(2) of the Police (Northern Ireland) Act 1998(a), makes the following Regulations:

In accordance with sections 25(8) and 26(6) of that Act, he has consulted the Northern Ireland Policing Board and the Police Association for Northern Ireland.

PART 1
GENERAL

Citation and commencement

1. These regulations may be cited as the Police (Unsatisfactory Performance and Attendance) Regulations (Northern Ireland) 2010 and shall come into operation on 24th March 2010.

Revocation and transitional arrangements

2.—(1) Subject to paragraph (2), the Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007(b) are revoked.

(2) Any action commenced under the Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007 shall continue to be actioned under these regulations.

Interpretation

3.—(1) In these regulations—

“assistant chief constable” means a member of that rank who is required by the Chief Constable to exercise any function of the assistant chief constable specified in these

(a) 1998 c.32. Sections 25 and 26 are amended by section 78(1) of and paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000.

(b) S.R. 2007 No.130.

regulations in relation to the member concerned and shall include a member acting in place of the assistant chief constable;

“countersigning officer” means—

- (a) a member of a rank not lower than that of inspector who has supervisory responsibility for, and is at least one rank above that of, the member concerned, or
- (b) a person employed under section 4 of the Police (Northern Ireland) Act 2000^(a) (“the 2000 Act”) who has supervisory responsibility for the reporting officer;

“deputy chief constable” means a member of that rank who is required by the Chief Constable to exercise any function of the deputy chief constable specified in these regulations in relation to the member concerned and shall include a member acting in place of the deputy chief constable;

“first interview” means an interview arranged under regulation 6;

“human resources manager” means a person employed under section 4 of the 2000 Act or a member who, in either case, has responsibility for personnel matters relating to members;

“interviewing officer” means the member who conducts an interview arranged under regulation 6;

“member” means a member of the Police Service of Northern Ireland; or a member of the Police Service of Northern Ireland Reserve appointed on a full-time basis;

“member concerned” means a member to whom these regulations apply and in respect of whom proceedings under these regulations are, or are proposed to be, taken;

“police appeals tribunal” means the person or persons appointed under regulation 8(1) or (3) of the Royal Ulster Constabulary (Appeals) Regulations 2000^(b);

“police force” means the Police Service of Northern Ireland, the Police Service of Northern Ireland Reserve, a police force within the meaning of the Police Act 1996^(c) or a police force within the meaning of the Police (Scotland) Act 1967^(d);

“police officer” means a member of a police force;

“police service” means the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

“reporting officer” means the member of a rank not lower than that of a sergeant or a person employed under section 4 of the 2000 Act who in either case has the immediate supervisory responsibility for the member concerned;

“second interview” means an interview arranged under regulation 10;

“senior officer” means an officer of the rank of chief constable, deputy chief constable or assistant chief constable;

“staff association” means a police officer representative body;

“unsatisfactory attendance” means a level of absence which the Chief Constable has determined is unacceptable or unsustainable;

“unsatisfactory performance” means failure to carry out the role of a police officer to the agreed standard;

“unsatisfactory performance or attendance hearing” means a hearing arranged under regulation 14.

(2) In these regulations—

- (a) “unsatisfactory performance or attendance” may be construed as a reference to either unsatisfactory performance or unsatisfactory attendance or both;

(a) 2000 c.32. Section 4 is amended by Article 9(2) of the Policing (Miscellaneous Provisions)(Northern Ireland) Order 2007 (S.I. 2007/912 (N.I. 6))

(b) S.R. 2000 No. 317. Regulation 8(1) was amended by S.R. 2003 No. 399.

(c) 1996 c. 16.

(d) 1967 c. 77.

- (b) “performance or attendance” may be construed as a reference to performance or attendance or both.

Application

- 4. These regulations shall not apply to—
 - (a) senior officers; or
 - (b) members of the rank of constable who have not yet completed their period of probation.

PART 2

FIRST INTERVIEW

Circumstances in which a first interview may be required

5.—(1) Where the reporting officer for a member is a member himself and the member’s attendance is unsatisfactory or the reporting officer is of the opinion that the member’s performance is unsatisfactory, he may require the member concerned to attend an interview (in these regulations referred to as the first interview) to discuss the performance or attendance of the member concerned.

(2) Where the reporting officer for a member is a person employed under section 4 of the 2000 Act and the attendance of the member is unsatisfactory, he may require the member concerned to attend an interview (in these regulations referred to as the first interview) to discuss the attendance of the member concerned.

(3) Where the reporting officer for a member is a person employed under section 4 of the 2000 Act, any other member who has supervisory responsibility for the member first mentioned in paragraph (1) may, if he is of the opinion that the performance of the member is unsatisfactory, require him to attend an interview (in these regulations referred to as the first interview) to discuss his performance, and in such a case references in these regulations to a reporting officer shall be taken to include references to the member with that supervisory responsibility.

Arrangement of the first interview

- 6.—(1) Where a member is required to attend a first interview the reporting officer shall—
 - (a) send a notice in writing to the member concerned—
 - (i) requiring him to attend, at a specified time and place, an interview with the reporting officer conducted under this Part or, if the member concerned so requests, but subject to paragraph (4), with the countersigning officer;
 - (ii) stating the reasons why his performance or attendance is considered unsatisfactory; and
 - (iii) informing him that he may be accompanied and represented at the interview by a member selected by him; and
 - (b) send a copy of the notice to the countersigning officer.

(2) A member who receives a notice pursuant to paragraph (1) may, not later than 7 days (or such longer period as the reporting officer may permit when sending the notice under paragraph (1)(a)) after the date on which the notice was sent to him, request by notice in writing to the reporting officer that the interview be conducted by the countersigning officer.

(3) If the reporting officer receives a notification under paragraph (2), he shall, subject to paragraph (4), arrange for the interview to be conducted by the countersigning officer.

(4) In any case where it is not reasonably practicable for the reporting officer or the countersigning officer to conduct the first interview, another member of the same or higher rank may conduct the interview in his place.

Procedure at first interview

7.—(1) The following provisions of this regulation shall apply to the procedure to be followed at first interview.

(2) The interviewing officer shall—

- (a) explain to the member concerned the reasons why the member's attendance is unsatisfactory or why the reporting officer is of the opinion that the member's performance is unsatisfactory; and
- (b) provide the member concerned with a full opportunity to make representations in response.

(3) If, after considering any representations made by the member concerned, the interviewing officer is satisfied that the member's performance or attendance has been unsatisfactory, he shall—

- (a) inform the member in what respect his performance or attendance is considered unsatisfactory;
- (b) warn him that he is required to improve his performance or attendance in any such respect;
- (c) inform him of any specific action which he is required to take to achieve such improvement; and
- (d) warn him that if sufficient improvement is not made within such period as the interviewing officer shall specify, he may be required to attend a second interview in accordance with regulation 10.

(4) The interviewing officer may, if he considers it appropriate, recommend that the member concerned seek assistance in relation to any matter affecting his health or welfare.

(5) The interviewing officer may adjourn the interview to a specified later time or date if it appears necessary or expedient to do so.

Procedure following first interview

8.—(1) The interviewing officer shall, not later than 7 days after the date of the conclusion of the first interview—

- (a) cause to be prepared a written record of the substance of the matters discussed during the interview; and
- (b) send a copy of that record to the member concerned together with a notice in writing informing him that he may submit written comments not later than 7 days after the date on which the copy is received.

(2) In a case where a member has been required to attend a first interview to discuss his performance or attendance and he has failed to attend the interview, the interviewing officer shall, if he is satisfied that the performance or attendance of the member concerned is unsatisfactory, not later than 7 days after the date on which the first interview was due to take place—

- (a) cause to be prepared a written notice informing and warning the member concerned of the matters mentioned in sub-paragraphs (a) to (c) of regulation 7(3); and
- (b) send one copy or, where a member selected by the member concerned attended the interview, two copies, of the notice to the member concerned together with a notice in writing informing him that he may submit written comments, or indicate that he has no comments to make, not later than 7 days after the date on which the copy is received.

(3) Where the interviewing officer is satisfied that the member has good reason for not attending the first interview he may withdraw the notice prepared under paragraph (2) and arrange another first interview.

(4) Subject to paragraph (5), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the interviewing officer not later than 7 days after the date on which it is received.

(5) The interviewing officer may, on application of the member concerned, extend the period specified in paragraph (4) if he is satisfied that it is appropriate to do so.

(6) The interviewing officer shall send a copy of the record of the interview, and of any written comments of the member concerned, to—

- (a) the human resources manager; and
- (b) if the interview was conducted by—
 - (i) the reporting officer, the countersigning officer;
 - (ii) the countersigning officer, the reporting officer; or
 - (iii) any other officer, the reporting officer and the countersigning officer.

(7) If the interviewing officer receives any written comments under paragraph (4), he shall ensure that they are retained with the record of the interview.

(8) Where a member has been required to attend a first interview in relation to his performance or attendance any second interview shall relate only to the category or categories of behaviour that was or were the subject of the first interview.

PART 3

SECOND INTERVIEW

Circumstances in which a second interview may be required

9.—(1) Where a member who was warned under regulation 7(3)(b) has not made sufficient improvement by the end of the period specified by the interviewing officer under regulation 7(3)(d), the reporting officer may refer the case to the countersigning officer.

(2) Where a case is referred under paragraph (1) the countersigning officer may, after consultation with the human resources manager, require the member concerned to attend a further interview (in these regulations referred to as the second interview) to discuss the performance or attendance of the member concerned.

Arrangement of second interview

10.—(1) Where a member is required to attend a second interview the countersigning officer shall—

- (a) send a notice in writing to the member concerned—
 - (i) requiring him to attend, at a specified time and place, an interview with the countersigning officer and the human resources manager;
 - (ii) stating the reasons why his performance or attendance is considered unsatisfactory; and
 - (iii) informing him that he may be accompanied and represented at interview by a member selected by him; and
- (b) send a copy of the notice to the reporting officer and to the human resources manager.

(2) In any case where it is not reasonably practicable for the countersigning officer to participate in the second interview, another member of the same or higher rank may participate in his place.

(3) In any case where it is not reasonably practicable for the human resources manager to participate in the second interview, another human resources manager of the same or higher grade may participate in his place.

Procedure at second interview

11.—(1) The following provisions of this regulation shall apply to the procedure to be followed at the second interview.

(2) Subject to regulation 10(2) and (3), the interview shall be conducted by the countersigning officer and the human resources manager.

(3) The countersigning officer shall—

(a) explain to the member concerned the reasons why the countersigning officer and the reporting officer are of the opinion that the member has failed to make sufficient improvement in his performance or attendance; and

(b) provide him with a full opportunity of making representations in response.

(4) If, after considering any representations made by the member concerned, the countersigning officer is satisfied that the member's performance or attendance has been unsatisfactory during the period specified by the interviewing officer under regulation 7(3)(d), he shall—

(a) inform the member concerned in what respect his performance or attendance as a member is considered unsatisfactory;

(b) warn him that he is required to improve his performance or attendance in any such respect;

(c) inform him of any specific action which he is required to take to achieve such an improvement; and

(d) warn him that if sufficient improvement is not made within such a period as the countersigning officer shall specify, he may be required to attend an unsatisfactory performance or attendance hearing in accordance with Part 4 at which the chairman will have the power, if appropriate, to require him to resign from the police service or to order a reduction in rank.

(5) The countersigning officer may adjourn the interview to a specified later time or date if it appears to him necessary or expedient to do so.

Procedure following second interview

12.—(1) The countersigning officer shall, not later than 7 days after the date of the conclusion of the second interview—

(a) in consultation with the human resources manager, prepare a written record of the substance of the matters discussed during the interview; and

(b) send a copy or, where the member concerned was accompanied at the interview by a member selected by him, two copies of that record to the member concerned together with a notice in writing—

(i) if a warning has been given under regulation 11(4), confirming the terms of that warning; and

(ii) informing him that he may submit written comments not later than 7 days after the date on which the copy is received.

(2) In a case where a member has been required to attend a second interview to discuss his performance or attendance and he has failed to attend the interview, the countersigning officer shall, if he is satisfied that the performance or attendance of the member has been unsatisfactory during the period specified by the interviewing officer under regulation 7(3)(d), not later than 7 days after the date on which the second interview was due to take place—

(i) cause to be prepared a written notice informing and warning the member concerned of the matters mentioned in sub-paragraphs (a) to (d) of regulation 11(4); and

(ii) send one copy or, where a member selected by the member concerned attended the interview, two copies of the notice to the member concerned together with a notice in writing informing him that he may submit written comments, or indicate that he has no comments to make, not later than 7 days after the date on which the copy is received.

(3) Where the countersigning officer is satisfied that the member had good reason for not attending the second interview he may withdraw the notice prepared under paragraph (2) and arrange another second interview.

(4) Subject to paragraph (5), the member concerned shall be entitled to submit written comments in relation to the second interview to the countersigning officer not later than 7 days after the date on which it was received.

(5) The countersigning officer may, on application of the member concerned, extend the period specified in paragraph (4) if he is satisfied that it is appropriate to do so.

(6) If the countersigning officer receives any written comments under paragraph (4), he shall ensure that they are retained with the record of the interview.

(7) The countersigning officer shall send a copy of the record of the interview, and any written comments of the member concerned, to the human resources manager and the reporting officer.

(8) Where the member has been required to attend a second interview in relation to his performance or attendance any unsatisfactory performance or attendance hearing shall relate only to the category or categories of behaviour that was or were the subject of the second interview.

Assessment of performance or attendance following second interview

13.—(1) Not later than 14 days after the date on which the period specified in regulation 11(4)(d) ends—

- (a) the reporting officer and the countersigning officer shall assess the performance or attendance of the member concerned during that period; and
- (b) either a member authorised for the purpose or the human resources manager shall inform the member concerned in writing whether he has made sufficient improvement during the specified period.

(2) Where a member who was warned under regulation 11(4)(b) has not made sufficient improvement by the end of the period specified by the countersigning officer under regulation 11(4)(d), the member may be required to attend an unsatisfactory performance or attendance hearing.

(3) The human resources manager must inform the member concerned in writing of the requirement to attend a hearing within 14 days from the end of the specified period.

(4) The notification of the date and time of the hearing (which must not be sooner than 21 days but not longer than 56 days from the date on which the notification is sent) may be issued separately from the notice advising of the failure to make sufficient improvement and the need to attend a hearing.

PART 4

UNSATISFACTORY PERFORMANCE OR ATTENDANCE HEARING

Arrangement of hearing

14. A member authorised for the purpose or the human resources manager shall, not less than 21 days before the date fixed for the hearing, send a notice in writing to the member concerned—

- (a) requiring him to attend the hearing at a specified time and place;
- (b) stating the reasons why his performance or attendance is considered unsatisfactory;
- (c) informing him that the hearing will be held under this Part and that he may be represented—
 - (i) either by counsel or a solicitor; or
 - (ii) by a member of a police force selected by him who may be a representative of a staff association; and
- (d) warning him of the powers available to the chairman of the hearing to make a disposal in the event that he finds that the member's performance or attendance has been unsatisfactory.

Procedure at hearing

15.—(1) Subject to paragraph (2)(a) the hearing shall be conducted by a member appointed for the purpose by the deputy chief constable and who is referred to in these regulations as the chairman of the hearing.

(2) The chairman shall be—

- (a) a member or, if, at the request of the deputy chief constable, the chief officer of a police force in Great Britain (within the meaning of the Police Act 1996^(a)) or the Police (Scotland) Act 1967^(b), as the case may be) agrees to provide a chairman, a member of that other force;
- (b) of the rank of assistant chief constable; and
- (c) a person who has neither attended nor otherwise been involved with the first interview or the second interview held in relation to the member concerned.

(3) The chairman may be assisted by up to two members who are of at least the rank of superintendent who shall act as assessors.

(4) As soon as the deputy chief constable has appointed the chairman, he shall arrange for a copy of any document—

- (a) which was available to the interviewing officer in relation to the first interview;
- (b) which was available to the countersigning officer in relation to the second interview; and
- (c) which was prepared or submitted under regulation 12, 13 or 14, to be made available to the chairman and assessors at the hearing.

(5) Subject to the provisions of this regulation, the procedure at the hearing shall be such as the chairman may determine.

(6) The hearing shall be held in private.

(7) The chairman shall afford the member concerned a full opportunity of making representations in relation to the matters referred to in the notice sent under regulation 14.

(8) A verbatim record of the proceedings at the hearing shall be taken.

(9) The chairman shall prepare a written note summarising the proceedings at the hearing.

(10) Subject to regulation 16(1), if the member concerned does not attend the hearing or any adjournment thereof, the hearing may be proceeded with and concluded in his absence if it appears to the chairman just and proper to do so.

(11) Where, owing to the absence of the member concerned, it is not possible to comply with the whole or any part of the procedure described in this regulation or regulation 16, the case may be proceeded with as if that procedure had been complied with.

Postponement or adjournment of hearing

16.—(1) If the member concerned intimates to the chairman that he will be unable to attend the hearing, or in the absence of such intimation does not attend the hearing, and the chairman is satisfied that a good reason for non-attendance is given by, or on behalf of, the member concerned, he shall postpone or, as the case may be, adjourn the hearing.

(2) The chairman may also adjourn the hearing if, having given the member concerned the opportunity of making representations under regulation 15(7), he considers it appropriate to allow a further period for assessment of the member's performance or attendance.

(3) Where the chairman adjourns the hearing for the purposes of paragraph (2), he shall—

- (a) specify a period (not exceeding 3 months) during which the reporting officer and the countersigning officer shall assess the performance or attendance of the member concerned;

(a) 1996 c.16.

(b) 1967 c.77.

- (b) fix a date on which the hearing shall resume; and
 - (c) require the member concerned to attend on a date at a specified time and place.
- (4) Not later than 14 days after the date on which the period for further assessment specified by the chairman under paragraph (3)(a) ends—
- (a) the reporting officer and the countersigning officer shall prepare a report containing their assessment of the performance or attendance of the member concerned during that period; and
 - (b) the countersigning officer shall send the report to the chairman and a copy of the report to the member concerned.
- (5) At the continuation of the hearing the chairman shall afford the member concerned a full opportunity of making representations in relation to the matters referred to in the report mentioned in paragraph (4).
- (6) Where, at the time the report mentioned in paragraph (4) is sent under paragraph (4)(b)—
- (a) the chairman is absent, incapacitated or suspended from duty; and
 - (b) it is likely that his absence, incapacity or suspension will continue for a period of more than 28 days,
- the deputy chief constable shall arrange for another member, being a member who would have been eligible for appointment as chairman under regulation 15(1) and (2) in relation to the hearing in question, to carry out in relation to the member concerned the functions of the chairman specified in paragraph (5) and regulations 17 and 18.
- (7) References to the chairman in regulations 17 to 20 shall be construed as including any member appointed in accordance with paragraph (6) to carry out the functions of the chairman.

Finding

- 17.—(1) Subject to paragraph (2), at the conclusion of the hearing, the chairman shall reach a decision whether the performance or attendance of the member concerned—
- (a) in the period specified in regulation 11(4)(d); or
 - (b) where the hearing was adjourned under regulation 16(2), over the whole of the period comprising the period specified in regulation 11(4)(d) and the further period specified by the chairman under regulation 16(3)(a), has been satisfactory or not.
- (2) The chairman may, at the conclusion of the hearing, defer reaching his decision until a later time or date if it appears necessary to do so.
- (3) The decision of the chairman shall state the finding and, where he has found that the performance or attendance of the member concerned has not been satisfactory, his reasons as well as any disposal which he makes under regulation 18.
- (4) After recording his decision in writing, the chairman shall forthwith send a copy of it to—
- (a) the member concerned;
 - (b) the human resources manager; and
 - (c) the deputy chief constable.

Disposal

- 18.—(1) If the chairman makes a finding that the performance of the member concerned during the relevant period has been unsatisfactory, he may—
- (a) require the member concerned to resign from the police service either forthwith or on such later date as may be specified;
 - (b) order a reduction in rank with immediate effect and issue a written warning to him that unless a sufficient improvement in his performance is made within such a period as the chairman shall specify, he may, following consideration of his performance during that

period in accordance with regulation 19, be required to resign from the police service forthwith or on such later date as may be specified; or

(c) issue such a warning as is mentioned in sub-paragraph (b).

(2) Where a disposal under paragraph (1)(a) or (3)(a) is made and where the member concerned has not resigned from the police service in accordance with that requirement, the effect of the disposal shall be to dismiss the member concerned from the police service either forthwith or on the date which was specified by the chairman.

(3) If the chairman makes a finding that the attendance of the member concerned during the relevant period has been unsatisfactory, he may—

(a) make the disposal mentioned in paragraph (1)(a);

(b) in a case where it is established that insufficient support has been given to the member concerned during the relevant period in order to assist him to return to work, specify such measures as must be taken in order to give him sufficient support in order to assist him to return to work;

(c) issue a written warning to the member concerned that, unless sufficient improvement in his attendance is made within such a period as is specified, he may, following consideration of his attendance during that period in accordance with regulation 20, be required to attend a second unsatisfactory performance or attendance hearing at which he may be required to resign from the police service;

(d) in a case where it is established that the member's duties within the police service contributed directly to his unsatisfactory attendance record, order the member to be redeployed to alternative duties (which may involve a reduction in rank) within the police service with immediate effect.

(4) Where a disposal is made under paragraph (3)(b) or (d), the member concerned shall be issued with a written warning that unless a sufficient improvement in his attendance is made within such a period as is specified, he may, following consideration of his attendance during that period in accordance with regulation 20, be required to attend a first interview, a second interview or an unsatisfactory performance or attendance hearing, as specified by the chairman.

Assessment of performance following hearing

19.—(1) This regulation applies where the member concerned has been given a written warning under paragraph (1)(b) or (c) of regulation 18.

(2) Not later than 14 days after the end of the period specified in the warning, the reporting officer and the countersigning officer shall—

(a) assess the performance of the member concerned during that period;

(b) cause to be prepared a report on the performance which shall be submitted to the chairman; and

(c) send a copy of the report to the member concerned and inform him that he may submit written comments to the chairman not later than 7 days after the date on which the member received the report.

(3) The chairman—

(a) shall consider the report and any recommendation contained in it;

(b) shall consider any written comments made by or on behalf of the member concerned under paragraph (2)(c); and

(c) if he is satisfied that there has been an insufficient improvement in the performance of the member concerned, shall require the member to resign from the police service with effect from the end of the period of one month after the date on which the notification of the decision is made; or

(d) if he is satisfied that there has been sufficient improvement in performance, shall record that decision and direct that no further proceedings shall be taken under these regulations in relation to the period specified in the warning.

(4) The chairman shall record his decision in writing and shall forthwith send a copy of it to—

- (a) the member concerned;
- (b) the reporting officer;
- (c) the countersigning officer;
- (d) the human resources manager; and
- (e) the deputy chief constable.

(5) Where the chairman requires the member to resign pursuant to paragraph (3)(c) and the member has not resigned from the police service in accordance with the requirement, then the effect of the decision shall be to dismiss the member from the police service with effect from the end of the period of one month after the date on which notification of the decision was made under paragraph (4).

(6) Where, at the time the report is submitted under paragraph (2)(b)—

- (a) the chairman is absent, incapacitated or suspended from duty; and
- (b) it is likely that his absence, incapacity or suspension will continue for a period of more than 28 days,

the deputy chief constable shall arrange for another member, being a member who would have been eligible for appointment as chairman under regulation 15(1) and (2) in relation to the hearing in question, to carry out in relation to the member concerned the functions of the chairman specified in this regulation.

(7) References to the chairman in regulations 17 and 18 shall, in relation to a request made under regulation 21(2), be construed as including any member appointed in accordance with paragraph (6) to carry out the functions of the chairman.

Assessment of attendance following hearing

20.—(1) This regulation applies where the member concerned has been given a written warning under regulation 18(3)(c) or (4).

(2) Not later than 14 days after the end of the period specified in the warning, the reporting officer shall—

- (a) assess the attendance of the member concerned during that period;
- (b) cause to be prepared a report on the attendance; and
- (c) send a copy of the report to the member concerned.

(3) Where the report prepared under paragraph (2)(b) concludes that the attendance of the member concerned has been satisfactory during the period specified in the warning, no further action shall be taken in respect of that attendance during that period.

(4) Where the report prepared under paragraph (2)(b) concludes that the attendance of the member concerned has been unsatisfactory or has made insufficient improvement during that period, the countersigning officer—

- (a) in a case where the member concerned has been given a written warning under regulation 18(3)(c), may require the member concerned to attend an unsatisfactory performance or attendance hearing in accordance with regulation 14; and these regulations shall have effect for the purposes of attendance of the member concerned during that period as if he had been required to attend an unsatisfactory performance or attendance hearing under regulation 14;
- (b) in a case where the member concerned has been given a written warning under regulation 18(4), may require the member concerned to attend a first interview, second interview or an unsatisfactory performance or attendance hearing as specified by the chairman under regulation 18(4); and these regulations shall have effect for the purposes of attendance of the member concerned during that period as if he had been required to attend a first interview under regulation 5, a second interview under regulation 9, or an unsatisfactory performance or attendance hearing under regulation 14, as the case may be.

PART 5

REVIEW

Request for a review

21.—(1) Where a disposal is made under regulation 18 the member concerned shall be entitled to request the Chief Constable to review the finding or the disposal made or both.

(2) A request for a review must be made to the Chief Constable in writing within 14 days of the receipt of the written summary of reasons given in accordance with regulation 17, or within such longer period as the Chief Constable may, in his discretion, allow, having regard to the circumstances of the case.

(3) The request for a review shall state the grounds on which the review is requested and whether a meeting is requested.

Conduct of the review

22.—(1) The Chief Constable shall hold a meeting with the member concerned if requested to do so.

(2) Where a meeting is held the member concerned may be accompanied by a member selected by him or, if he was legally represented at the hearing, by counsel or a solicitor.

Finding of the review

23.—(1) The member concerned shall be informed of the finding of the Chief Constable in writing within three working days of the completion of the review.

(2) The Chief Constable may confirm the decision of the hearing or he may make a different disposal but he may not make a disposal greater than that imposed at the hearing.

(3) The decision of the Chief Constable shall take effect by way of substitution for the decision of the hearing and as from the date of that hearing.

(4) Where, as a result of the review decision, the member concerned is dismissed, required to resign or reduced in rank he shall have a right to appeal that decision to a police appeals tribunal.

Hearing of review in the absence of the Chief Constable

24. Where the Chief Constable is an interested party, or the circumstances in section 34(1) of the 2000 Act apply, the review shall be conducted by a senior officer who is not an interested party.

Northern Ireland Office
21st February 2010

Paul Goggins
Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These regulations make provision with respect to the assessment of performance or attendance of members of the Police Service of Northern Ireland and the Police Service of Northern Ireland Reserve and establish procedures for cases in which a member's performance or attendance is unsatisfactory and may be dealt with by way of a requirement to resign, reduction in rank or a warning. Parts 2 and 3 make provision for interviewing members where it is considered that their performance or attendance is unsatisfactory and identifying areas of the performance or attendance which require improvement. Part 4 makes provision for the holding of a hearing (called an unsatisfactory performance or attendance hearing) where it is considered that the member's performance or attendance has not improved. If the chairman of the hearing finds that the member's performance or attendance has been unsatisfactory he may require the member to resign, order a reduction in rank or issue a warning. Part 5 makes provision for a review by the Chief Constable.

Regulation 2 contains transitional provisions. Regulations 5 to 8 make provision with respect to the first stage, in dealing with a member whose performance is considered unsatisfactory. The member concerned may be required to attend a first interview with the reporting or countersigning officer. The purpose is to explain why his performance is considered unsatisfactory and to allow the member concerned to make representations. The interviewing officer may, if he considers it appropriate, warn the member concerned that his performance or attendance must improve within a specified period and require specific action to be taken. A formal record must be made.

Regulations 9 to 13 make provision with respect to a second interview where the performance of the member concerned has not improved sufficiently. The interview is held by the countersigning officer and the human resources manager. Regulation 11 sets out the procedure. If, after considering representations by the member concerned, it is considered that the member's performance has continued to be unsatisfactory, similar steps may be taken to those following the first interview.

Regulations 14 to 20 make provision with respect to unsatisfactory performance or attendance hearings. The member concerned will be required to attend a hearing if the reporting officer and the countersigning officer are of the opinion that there has been insufficient improvement in his performance or attendance since the second interview.

Regulation 14 provides for the arrangement of a hearing and regulation 15 specifies the procedure to be followed. A chairman must be appointed who must be of the rank of assistant chief constable.

The member concerned (who may be represented by counsel or a solicitor or by another member) must be given the opportunity to make representations. Regulation 16 enables the chairman to adjourn the hearing. This may be done where the member concerned fails to attend. The chairman may also adjourn the hearing for up to 3 months to allow a further period of assessment by the reporting officer and the countersigning officer of his performance. In such circumstances, these officers must prepare a report which will be considered by the chairman together with any further representations by the member concerned.

Regulation 17 requires the chairman to decide whether the performance or attendance of the member concerned is satisfactory or not and to notify his decision. Where he finds that the performance or attendance has been unsatisfactory, the chairman must make a disposal under regulation 18. This may take the form of a requirement to resign, reduction in rank or a warning.

Regulation 19 makes provision for a further assessment of the performance of the member concerned if he was given a warning under regulation 18(1)(b) or (c). A report on the member's performance is submitted to the chairman. Following consideration of any written comments by the member concerned, the chairman must consider if there has been sufficient improvement. If there has not, the chairman must require the member to resign.

Regulation 20 makes provision for further assessment of attendance following a hearing.

Regulation 21 makes provision for the member concerned, where a disposal has been made to request a Chief Constable's review and the time limits within which to do it.

Regulation 22 provides for the Chief Constable to hold a meeting with the member concerned including legal representation if applicable, while regulation 23 provides for the disposal to be confirmed or varied.

Regulation 24 provides for the hearing of a review in the absence of the Chief Constable.

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