
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 41

The Police (Conduct) Regulations (Northern Ireland) 2016

PART 2

General

Application

5.—(1) These Regulations apply where an allegation comes to the attention of an appropriate authority which indicates that the conduct of a member may amount to misconduct or gross misconduct.

(2) Where an appropriate authority is considering more than one allegation in relation to the same member concerned, the allegations may be taken together and treated as a single allegation for the purposes of any provision of these Regulations which requires a person to make an assessment, finding or decision in connection with conduct which is the subject matter of an allegation.

Police friend

6.—(1) The member concerned may choose a police officer who is not otherwise involved in the matter, to act as his police friend.

(2) A police friend may—

- (a) advise the member concerned throughout the proceedings under these Regulations;
- (b) unless the member concerned has the right to be legally represented and chooses to be so represented, represent the member concerned at the misconduct proceedings or special case hearing or appeal meeting;
- (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations; and
- (d) accompany the member concerned to any interview, meeting or hearing which forms part of any proceedings under these Regulations.

(3) The Chief Constable shall permit a police friend who is a member of the police service to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

Legal and other representation

7.—(1) The member concerned has the right to be legally represented, by counsel or a solicitor of his choice, at a misconduct hearing or a special case hearing.

(2) If the member concerned chooses not to be legally represented at such a hearing he may be dismissed or receive any other outcome under regulation 36 or 54 without his being so represented.

(3) Except in a case where the member concerned has the right to be legally represented and chooses to be so represented, he may be represented at misconduct proceedings or a special case hearing or an appeal meeting only by a police friend.

(4) The appropriate authority may be represented at misconduct proceedings or a special case hearing or an appeal meeting by—

- (a) a police officer; or
- (b) counsel or a solicitor where the member concerned chooses to be legally represented at a misconduct hearing or a special case hearing.

(5) Subject to paragraph (6), the appropriate authority may appoint a person to advise the person or persons conducting the misconduct proceedings or special case hearing or appeal meeting.

(6) At a misconduct meeting or an appeal meeting, the person appointed under paragraph (5) shall not be counsel or a solicitor.

(7) If a member chooses to be legally represented, the case against him may be presented by counsel or a solicitor whether or not he is actually so represented.

Service of notices or documents

8.—(1) Subject to paragraph (2), any written notice or document to be given or supplied to the member concerned under these Regulations shall be given to him in person.

(2) Where it is reasonably believed that the member concerned is avoiding service the written notice or document shall be left with some person at, or sent by recorded delivery to, his last known address.

Outstanding or possible criminal proceedings

9.—(1) Subject to the provisions of this regulation, proceedings under these Regulations shall proceed without delay.

(2) Before referring a case to misconduct proceedings or a special case hearing, the appropriate authority shall decide whether misconduct proceedings or special case proceedings would prejudice any criminal proceedings.

(3) For any period during which the appropriate authority considers any misconduct proceedings or special case proceedings would prejudice any criminal proceedings, no such misconduct or special case proceedings shall take place.

(4) Where a witness who is or may be a witness in any criminal proceedings is to be asked to attend misconduct proceedings, the appropriate authority shall consult the relevant prosecutor (and when doing so must inform him of the names and addresses of all such witnesses) before making its decision under paragraph (2).

(5) For the purposes of this regulation “relevant prosecutor” means the Director of Public Prosecutions or any other person who has or is likely to have responsibility for the criminal proceedings.

Suspension

10.—(1) The appropriate authority may, subject to the provisions of this regulation, suspend the member concerned from his office as constable.

(2) Where a complaint or matter is being formally investigated by the Ombudsman the appropriate authority may consult the Ombudsman before deciding whether to suspend the member concerned.

(3) A member concerned who is suspended under this regulation remains a member for the purposes of these Regulations.

(4) The appropriate authority shall not suspend a member under this regulation unless the following conditions (“the suspension conditions”) are satisfied—

- (a) having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension, the appropriate authority has determined that such redeployment is not appropriate in all the circumstances of the case; and
 - (b) it appears to the appropriate authority that either—
 - (i) the effective investigation of the case may be prejudiced unless the member concerned is so suspended; or
 - (ii) having regard to the nature of the allegations and any other relevant considerations, the public interest requires that he should be so suspended.
- (5) The appropriate authority may exercise the power to suspend the member concerned under this regulation at any time from the date on which these Regulations first apply to the member concerned in accordance with regulation 5 until—
- (a) it is decided that the conduct of the member concerned shall not be referred to misconduct proceedings or a special case hearing; or
 - (b) such proceedings have concluded.
- (6) The appropriate authority may suspend the member concerned with effect from the date and time of notification which shall be given either—
- (a) in writing with a summary of the reasons; or
 - (b) verbally, in which case the appropriate authority shall confirm the suspension in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.
- (7) The member concerned (or his police friend) may make representations against his suspension to the appropriate authority—
- (a) before the end of 10 working days beginning with the first working day after his being suspended;
 - (b) at any time during the suspension if he reasonably believes that circumstances relevant to the suspension conditions have changed.
- (8) The appropriate authority shall review the suspension conditions—
- (a) on receipt of any representations under paragraph (7)(a);
 - (b) if there has been no previous review, before the end of 20 working days beginning with the first working day after the suspension;
 - (c) in any other case on being notified that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (7)(b) or otherwise).
- (9) Where, following a review under paragraph (8), the suspension conditions remain satisfied and the appropriate authority decides the suspension should continue, it shall, before the end of 3 working days beginning with the day after the review, so notify the member concerned in writing with a summary of the reasons.
- (10) Where the member concerned is suspended under this regulation, he shall remain so suspended until whichever of the following occurs first—
- (a) the suspension conditions are no longer satisfied;
 - (b) either of the events mentioned in paragraph (5)(a) and, subject to paragraph (11), (5)(b).
- (11) Where a member concerned who is suspended is dismissed with notice under regulation 36 he shall remain suspended until the end of the notice period.

(12) If the Board, decides that a senior officer should be suspended under this regulation, it shall notify the Ombudsman of its decision and of the suspension condition which appears to it to be satisfied.

(13) If, upon being so notified of the decision of the Board in accordance with paragraph (12), 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 Board; and the suspension of the officer shall not have effect unless the approval of the Ombudsman is so given.

(14) Where the Ombudsman gives his approval to the suspension of a senior officer, the suspension shall take effect from the time the senior officer receives notice of that approval from the Board and he shall remain suspended until—

- (a) either the Ombudsman or the Board decides otherwise; or
- (b) it is decided that the conduct of the member concerned shall not be referred to misconduct proceedings or a special case hearing; or
- (c) such proceedings have concluded.