
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 41

The Police (Conduct) Regulations (Northern Ireland) 2016

PART 3

Investigations

Application of this Part

11. Save for regulations 14, 17 and 18 this Part shall not apply where section 56(1) or (1A) or section 54(3)(b) of the 1998 Act applies.

Assessment of conduct

12.—(1) Subject to paragraph (6) the appropriate authority shall assess whether the conduct which is the subject matter of the allegation, if proved, would amount to misconduct or gross misconduct or neither.

(2) Where the appropriate authority assesses that the conduct, if proved, would amount to neither misconduct nor gross misconduct, it may—

- (a) take no action;
- (b) take management action against the member concerned; or
- (c) refer the matter to be dealt with under the Performance Regulations.

(3) Where the appropriate authority assesses that the conduct, if proved, would amount to misconduct, it shall determine whether or not it is necessary for the matter to be investigated and—

- (a) if so, the matter shall be investigated and the appropriate authority shall further determine whether, if the matter were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing;
- (b) if not, the appropriate authority may—
 - (i) take no action; or
 - (ii) take management action against the member concerned.

(4) Where the appropriate authority determines that the conduct, if proved, would amount to gross misconduct, the matter shall be investigated.

(5) At any time before the start of misconduct proceedings, the appropriate authority may revise its assessment of the conduct under paragraph (1) if it considers it appropriate to do so.

(6) Where the appropriate authority decides under this regulation to take no action, take management action or to refer the matter to be dealt with under the Performance Regulations, it shall so notify the member concerned in writing as soon as practicable.

Appointment of investigator

13.—(1) This regulation applies where the matter is to be investigated in accordance with regulation 15.

(2) The appropriate authority shall appoint a person to investigate the matter.

(3) No person shall be appointed to investigate the matter under this regulation—

- (a) unless he has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
- (b) if he is an interested party;
- (c) if he works, directly or indirectly, under the management of the member concerned; or
- (d) in a case where the member concerned is a senior officer, if he is—
 - (i) the Chief Constable; or
 - (ii) a member of the police service.

Appointment of investigator - Ombudsman

14.—(1) Where section 56(1) or (1A) of the 1998 Act applies the Ombudsman shall appoint an officer of the Ombudsman to investigate the matter.

(2) Where the matter has been referred to the Chief Constable under section 54(3)(b) of the 1998 Act the Chief Constable shall appoint a police officer to investigate it formally on behalf of the Ombudsman in accordance with section 57 of the 1998 Act.

(3) No person shall be appointed to investigate the matter under this regulation—

- (a) unless he has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
- (b) if he is an interested party;
- (c) if he works, directly or indirectly, under the management of the member concerned; or
- (d) in a case where the member concerned is a senior officer, if he is—
 - (i) the Chief Constable; or
 - (ii) a member of the police service.

Investigation

15. The purpose of the investigation is to—

- (a) gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct; and
- (b) assist the appropriate authority to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

Written notices

16.—(1) The investigator shall as soon as is reasonably practicable after being appointed, and subject to paragraph (3), cause the member concerned to be given written notice—

- (a) describing the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the appropriate standard;
- (b) of the appropriate authority's assessment of whether that conduct, if proved, would amount to misconduct or gross misconduct;
- (c) that there is to be an investigation into the matter and the identity of the investigator;

- (d) of whether, if the matter were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing and the reason for this;
- (e) that if the likely form of any misconduct proceedings to be held changes, further notice (with reasons) will be given;
- (f) informing him that he has the right to seek advice from his staff association and of the effect of regulation 6(1);
- (g) of the effect of regulations 7(1) to (3) and 18; and
- (h) informing him that whilst he does not have to say anything it may harm his case if he does not mention when interviewed or when providing any information under regulations 18(1) or 24(2) or (3) something which he later relies on in any misconduct proceedings or special case hearing or at an appeal meeting or appeal hearing.

(2) If following service of the notice under paragraph (1), the appropriate authority revises its assessment of conduct in accordance with regulation 12(5) or its determination of the likely form of any misconduct proceedings to be taken, the appropriate authority shall, as soon as practicable, give the member concerned further written notice of—

- (a) the assessment of whether the conduct, if proved, would amount to misconduct or gross misconduct as the case may be and the reason for that assessment; and
- (b) whether, if the case were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing and the reason for this.

(3) The requirement to give a written notice to the member concerned under paragraph (1) does not apply for so long as the investigator considers that giving such a notice might prejudice the investigation or any other investigation (including, in particular, a criminal investigation).

(4) Once a written notice has been given in accordance with paragraph (1), the investigator shall notify the member concerned of the progress of the investigation—

- (a) if there has been no previous notification following the supply of the written notice under paragraph (1), before the end of 20 working days beginning with the first working day after the start of the investigation; and
- (b) in any other case, if he reasonably believes that circumstances relevant to the investigation have changed.

Written notices - Ombudsman

17.—(1) Where the investigator was appointed under regulation 14 the investigator shall as soon as is reasonably practicable after being appointed, and subject to paragraph (3), cause the member concerned to be given written notice—

- (a) describing the conduct that is the subject matter of the complaint, referred matter or matter being investigated by the Ombudsman of his own motion under section 55(6) of the 1998 Act;
- (b) that there is to be an investigation into the matter and the identity of the investigator;
- (c) informing him that he has the right to seek advice from his staff association and of the effect of regulation 6(1);
- (d) of the effect of regulations 7(1) to (3) and 18; and
- (e) informing him that whilst he does not have to say anything it may harm his case if he does not mention when interviewed or when providing any information under regulations 18(1) or 24(2) or (3) something which he later relies on in any misconduct proceedings or special case hearing or at an appeal meeting or appeal hearing.

(2) The requirement to give a written notice to the member concerned under paragraph (1) does not apply for so long as the investigator considers that giving such a notice might prejudice the investigation or any other investigation (including, in particular, a criminal investigation).

(3) Once a written notice has been given in accordance with paragraph (1), the investigator shall notify the member concerned of the progress of the investigation—

- (a) if there has been no previous notification following the supply of the written notice under paragraph (1), before the end of 20 working days beginning with the first working day after the start of the investigation; and
- (b) in any other case, if he reasonably believes that circumstances relevant to the investigation have changed.

Representations to the investigator

18.—(1) Before the end of 10 working days starting with the first working day after which the notice is given under regulation 16(1) or 17(1) (unless this period is extended by the investigator)—

- (a) the member concerned may provide a written or oral statement relating to any matter under investigation to the investigator; and
- (b) the member concerned or his police friend may provide any relevant documents to the investigator.

(2) The investigator shall, as part of his investigation, consider any such statement or document and shall make a record of having received it.

(3) In this regulation “relevant document”—

- (a) means a document relating to any matter under investigation; and
- (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed.

Interviews during investigation

19.—(1) Where, under these Regulations, an investigator wishes to interview the member concerned as part of his investigation, he shall, if reasonably practicable, agree a date and time for the interview with the member concerned.

(2) Where no date and time is agreed under paragraph (1), the investigator shall specify a date and time for the interview.

(3) The member concerned shall be given written notice of the date, time and place of the interview.

(4) The investigator shall, in advance of the interview, provide the member concerned with such information as the investigator considers appropriate in the circumstances of the case to enable the member concerned to prepare for the interview.

(5) The member concerned shall attend the interview.

(6) A police friend may not answer any questions asked of the member concerned during the interview, however, at any time during the interview the member may consult with his friend. The interview may be stopped to allow consultation to take place.

Report of investigation

20.—(1) On completion of his investigation the investigator shall as soon as practicable submit a written report on his investigation to the appropriate authority.

(2) The written report shall—

- (a) provide an accurate summary of the evidence;
 - (b) attach or refer to any relevant documents; and
 - (c) indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.
- (3) If at any time during his investigation the investigator believes that the appropriate authority would, on consideration of the matter, be likely to determine that the special conditions are satisfied, he shall, whether or not the investigation is complete, submit to the appropriate authority—
- (a) a statement of his belief and the grounds for it; and
 - (b) a written report on his investigation to that point.