
STATUTORY RULES OF NORTHERN IRELAND

2016 No. 41

The Police (Conduct) Regulations (Northern Ireland) 2016

PART 4

Misconduct Proceedings

Outcome of misconduct proceedings

36.—(1) Subject to the provisions of this regulation, the person or persons conducting the misconduct proceedings may—

- (a) impose any of the disciplinary action in paragraph (2)(a) or (b) or (6)(b) as appropriate; or
- (b) where the finding is that the conduct amounts to misconduct but not gross misconduct following a misconduct meeting or hearing, record a finding of misconduct but take no further action.

(2) The disciplinary action is—

- (a) at a misconduct meeting—
 - (i) management advice;
 - (ii) written warning; or
 - (iii) final written warning;
- (b) at a misconduct hearing—
 - (i) management advice;
 - (ii) written warning;
 - (iii) final written warning;
 - (iv) reduction in rank;
 - (v) dismissal with notice; or
 - (vi) dismissal without notice.

(3) The disciplinary action referred to in paragraph (2) shall, subject to paragraph (6)(b), have effect from the date on which it is notified to the member concerned and in the case of dismissal with notice, the person or persons imposing the disciplinary action shall decide the period of notice to be given, subject to a minimum period of 28 days.

(4) Where there is a finding that the conduct of the member concerned amounts to misconduct but not gross misconduct, the member may not be dismissed (whether with or without notice) unless a final written warning was in force on the date of the assessment of conduct under regulation 12(1), or on the date of the recommendation under section 59(2) of the 1998 Act that disciplinary proceedings should be brought, or on the date of the direction under section 59(5) of that Act, as the case may be.

(5) Where the member concerned had a written warning in force on the date of the assessment of the conduct under regulation 12(1), or on the date of the recommendation under section 59(2) of

the 1998 Act that disciplinary proceedings should be brought, or on the date of the direction under section 59(5) of that Act, as the case may be, a written warning shall not be given.

(6) Where the member concerned had a final written warning in force on the date of the assessment of the conduct under regulation 12(1), or on the date of the recommendation under section 59(2) of the 1998 Act that disciplinary proceedings should be brought, or on the date of the direction under section 59(5) of that Act, as the case may be—

- (a) neither a written warning nor a final written warning shall be given; but
- (b) subject to paragraph (7), in exceptional circumstances, the final written warning may be extended.

(7) Where a final written warning is extended under paragraph (6)(b), that warning shall remain in force for a period of 18 months from the date on which it would otherwise expire.

(8) A final written warning may be extended on one occasion only.

(9) Where the member concerned is a senior officer, the persons conducting the misconduct proceedings shall, as soon as practicable after the meeting or hearing, submit a report to the Board, or, in any case where the Ombudsman was entitled to attend as an observer under regulation 31, to the Board with a copy sent to the Ombudsman, together with a copy to the senior officer concerned, setting out—

- (a) the finding of the persons conducting the misconduct proceedings;
- (b) the reasons for that finding;
- (c) if that finding was that the conduct of the member concerned amounted to misconduct or gross misconduct, a recommendation as to any disciplinary action which in their opinion should be imposed; and
- (d) any other matter arising out of the proceedings which they desire to bring to the notice of the Board.

(10) Where the member concerned is a senior officer, on receipt of the report submitted under paragraph (9), the Board shall either—

- (a) dismiss the case; or
- (b) record a finding that the conduct of the senior officer concerned amounted to misconduct or gross misconduct, but take no further action; or
- (c) record a finding that the conduct of the senior officer concerned amounted to misconduct or gross misconduct and impose disciplinary action under paragraph (2)(a) or (b) or (6)(b) as appropriate.

(11) Where the member concerned is a senior officer and the Ombudsman was entitled to attend as an observer under regulation 31 the Board shall not take the action referred to in paragraph (10) without the agreement of the Ombudsman.

(12) Where the question of disciplinary action is being considered, the person or persons considering it—

- (a) shall have regard to the record of police service of the member concerned as shown on his personal record;
- (b) may receive evidence from any witness whose evidence would, in his or their opinion, assist him or them in determining the question; and
- (c) shall give—
 - (i) the member concerned, his police friend or, at a misconduct hearing, his counsel or solicitor; and
 - (ii) the appropriate authority or person appointed to represent the appropriate authority in accordance with regulation 7(4),

an opportunity to make oral or written representations before any such question is determined.