
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 60

The Police Service of Scotland (Conduct) Regulations 2013

PART 4

Appeals

Determination of appeal

- 28.**—(1) The chief constable must determine the appeal on the basis of—
- (a) the notice of appeal and any documents submitted with that notice (including the misconduct form);
 - (b) the chairing constable’s written summary of the misconduct hearing (see regulation 19(11)(a));
 - (c) any document sent by the chairing constable in pursuance of regulation 26(9);
 - (d) to such extent as is considered necessary, the audio recording made of the misconduct hearing in accordance with regulation 19(11)(b);
 - (e) any transcript of such a recording obtained or submitted in pursuance of regulation 27; and
 - (f) if applicable, any representations made at an appeal hearing.
- (2) Where the chief constable considers it necessary for the purpose of determining the appeal, the chief constable may fix an appeal hearing for the purpose of affording the opportunity of making oral representations to—
- (a) the appellant; and
 - (b) the chairing constable.
- (3) Where the chief constable fixes an appeal hearing, the chief constable must give reasonable notice of the date, time and place at which that hearing is to take place.
- (4) Subject to paragraphs (5) and (6), the procedure at the appeal hearing is for the chief constable to determine.
- (5) At an appeal hearing—
- (a) each of the appellant and the chairing constable may be represented by—
 - (i) another constable;
 - (ii) an advocate; or
 - (iii) a solicitor;
 - (b) the chief constable may appoint an advocate or solicitor to assist the chief constable as a legal assessor; and
 - (c) the chief constable may put questions to the appellant and the chairing constable (or to any person representing them).
- (6) The chief constable may from time to time adjourn the appeal hearing to a later time or date where it is necessary or expedient to do so.

(7) Where the appeal hearing is adjourned under paragraph (6) the chief constable must, as soon as is reasonably practicable, provide the appellant and the chairing constable with a written notice of the date, time and place of the adjourned hearing.

(8) As soon as is reasonably practicable after considering the documents and recording mentioned in paragraph (1) and, if applicable, any representations made at the appeal hearing, the chief constable must determine the appeal.

(9) A determination under paragraph (8) may—

- (a) confirm or reverse any finding of misconduct; and
- (b) vary any disposal ordered by the chairing constable (and the power to vary a disposal includes the power to substitute one disposal for another).

(10) Any variation by the chief constable of a disposal ordered by the chairing constable must not have the effect of ordering a disposal which is more severe than that ordered by the chairing constable.

(11) The chief constable's determination is to be recorded in a notice—

- (a) specifying the terms of the chief constable's determination, including any variation of a disposal ordered by the chairing constable;
- (b) giving reasons for that determination; and
- (c) signed and dated by the chief constable.

(12) The chief constable must send a copy of the notice mentioned in paragraph (11) to—

- (a) the appellant;
- (b) the appellant's representative (if any); and
- (c) the chairing constable.

(13) The determination of the chief constable under paragraph (8) is to have effect from the date of the chairing constable's determination under regulation 23, but where the disposal, as varied, is—

- (a) a requirement to resign at a specified date as an alternative to dismissal and the constable fails to resign by the date specified, the constable is to be treated as having been dismissed from that date; or
- (b) a reduction in rank, that disposal may have effect only from or after the date of the chief constable's determination.

(14) Where the appellant submits a transcript in pursuance of regulation 27(4) and the chief constable allows the appeal, the Authority must reimburse the appellant the reasonable costs incurred in obtaining that transcript.