

POLICY NOTE

THE POLICE SERVICE OF SCOTLAND (PERFORMANCE) REGULATIONS 2014

SSI 2014/67

1. The above instrument was made in exercise of the powers conferred under sections 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). This instrument is subject to the negative procedure.

Policy Objectives

2. The Police Service of Scotland (Performance) Regulations 2014 (“the 2014 Regulations”) create a process for managing the unsatisfactory performance of constables of the Police Service of Scotland that aims to be flexible, fairer and less bureaucratic than the procedures currently in place under the Police Service of Scotland (Performance) Regulations 2013 (“the 2013 Regulations”).

3. In introducing these procedures, the Police Service of Scotland will encourage managers to take responsibility for supporting the performance of their staff through informal action before turning to formal procedures, and following formal action to help them reach the standards of performance required in the office of constable. A separate guidance document will be published by the Scottish Government that will set out the principles and procedures behind the regulatory processes. This guidance has the full agreement of the main policing stakeholders.

4. The 2014 Regulations introduce a new definition of unsatisfactory performance as: “an inability or failure of the constable to perform the duties of the constable’s role or rank (or both) to a satisfactory standard.”

5. While the basic procedures set out in the 2014 Regulations are similar to those in the 2013 Regulations, several refinements have been made to introduce further flexibility, fairness and clarity to the performance process.

6. For example, an appeals process is introduced at each stage. This allows the subject constable to have any concerns about the process considered by a more senior manager, allowing a fairer outcome and avoiding unnecessary recourse to further performance procedures.

7. A more descriptive name is given to each stage in the process to emphasise the purpose of that stage. We have replaced first interview, second interview and inefficiency hearing with performance meeting, progress meeting and performance hearing. The 2014 Regulations also set out that a date must be set for the officer to improve their performance “the improvement period” and that the officer must maintain that performance during a “validity period”. These changes will set clear time periods for the subject officer to reach an acceptable level of performance and show that this level must be maintained. The guidance

backs up the 2014 Regulations by setting out the manager's role in monitoring performance and working with the subject officer to improve their performance.

8. A more flexible process has been created for the final appeal, an appeal against the finding at performance hearing, which takes account of the management structures set out within the Police Service of Scotland. An appeal can now be heard by a Senior Officer, rather than the Chief Constable under the 2013 regulations, and the subject officer can request an appeal hearing to give them the opportunity to give supporting evidence in front of the officer hearing the appeal.

9. Throughout the 2014 Regulations new timescales have been set that give the subject officer and the Police Service of Scotland the appropriate opportunity to prepare for the different stages set out in the regulations.

Consultation

10. The key policing stakeholders have been involved in a working group to discuss and agree the main policy changes to the regulations.

11. In accordance with section 54(2) of the 2012 Act, a draft of the Regulations was issued for consultation to the range of policing stakeholders listed below, from 26 August 2013 to 30 September 2013, and Scottish Ministers have taken account of the representations made:

- Association of Scottish Police Superintendents
- Chief Constable of the Police Service of Scotland
- Gay Police Association
- National Transgender Policing Association
- Scottish Chief Police Officers' Staff Association (representing senior police officers)
- Scottish Police Authority
- Scottish Police Federation
- Scottish Police Muslim Association
- Scottish Women's Development Forum
- SEMPER Scotland

Impacts

12. No financial or equality issues were raised during the consultation with stakeholders and therefore no impact assessment has been prepared for these regulations.

Scottish Government
Safer Communities Directorate
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