

## **POLICY NOTE**

### **THE POLICE SERVICE OF SCOTLAND (CONDUCT) REGULATIONS 2014**

#### **SSI 2014/68**

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 (Conduct) Regulations 2014 (“the 2014 Regulations”) modernise the process for managing misconduct by constables in the Police Service of Scotland and replace the procedures currently in place under the Police Service of Scotland (Conduct) Regulations 2013 (“the 2013 Regulations”).

3. The 2014 Regulations introduce procedures which are more akin to modern employment practices and take into account ACAS principles; they are also part of a wider change to the handling of complaints and conduct within the Police Service of Scotland. These procedures will deal with complaints and conduct matters quickly, normally by first line managers, with the aim of resolving low level issues before they are escalated into the formal misconduct procedures.

4. The 2014 Regulations set out the “Standards of Professional Behaviour” that constables should maintain during their service and it is breaches of these standards that constitute misconduct. Serious breaches of the standards will amount to “gross misconduct” and may lead to demotion in rank or dismissal from the Service. The 2013 Regulations focused on a list of conduct issues that would constitute misconduct rather than looking at the overall standards expected of a constable.

5. The 2013 Regulations also looked at minor and trivial misconduct and allowed the Deputy Chief Constable to give an officer a warning, without the right of a full hearing or an appeal. The 2014 Regulations do not allow any sanctions without the right of appeal and where there has been any low level misconduct, and the Deputy Chief Constable deems that an investigation is not required, this will only result in improvement action which does not constitute a sanction to be kept on an officer’s record.

6. The introduction of “misconduct proceedings” allows the Deputy Chief Constable to deal with different levels of misconduct either through a “misconduct meeting” for allegations of misconduct or through a “misconduct hearing” for allegations of gross misconduct. These procedures make it clear to the subject officer the severity of the allegation and that a “misconduct hearing” may lead to their dismissal from the service.

7. While the hearings under the 2013 Regulations were conducted in an adversarial fashion and had become akin to criminal trials, the meetings and hearings under the 2014

Regulations will aim to establish the truth and give the subject officer a fair opportunity to make his/her case having considered the “Investigation Report”, any supporting documents, and all other relevant factors.

8. The disciplinary action that is now available to the person conducting the misconduct proceedings allows them to consider the evidence put before them and take a balanced view that can take into account mitigating factors. The full range of disciplinary action can be used for all proceedings whereas the 2013 Regulations did not allow warnings to be given under the disposals available following a hearing.

9. A more flexible process has been created for an appeal against the findings of the misconduct proceedings which takes account of the management structures set out within the Police Service of Scotland. An appeal can now be heard by a constable of a higher rank than the subject officer (an appeal under the 2013 Regulations was always heard by the Chief Constable).

10. 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**

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

12. 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**

13. 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  
February 2014