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STATUTORY INSTRUMENTS

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**2008 No. 2862**

**The Police (Performance) Regulations 2008**

**PART 4**

**Second stage**

**Circumstances in which a second stage meeting may be required**

**19.**—(1) Where a police officer has received a written improvement notice, as soon as reasonably practicable after the date on which the period specified in accordance with regulation 14(6)(c) ends—

- (a) the line manager shall assess the performance or attendance of the officer concerned during that period, in consultation with the second line manager or a human resources professional (or both); and
- (b) the line manager shall notify the officer concerned in writing whether the line manager considers that there has been a sufficient improvement in performance or attendance during that period.

(2) If the line manager considers that there has not been a sufficient improvement, he shall, at the same time as he gives notification under paragraph (1)(b), also notify the officer concerned in writing that he is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider his performance or attendance.

(3) Where—

- (a) the officer concerned has not been required to attend a second stage meeting under paragraph (2), or
- (b) the officer concerned has been required to attend a second stage meeting under paragraph (2) but the second line manager did not make a finding of unsatisfactory performance or attendance at that meeting,

the officer concerned may be required to attend a second stage meeting under paragraph (4).

(4) If the line manager considers that the officer concerned has failed to maintain a sufficient improvement in his performance or attendance during any part of the validity period of the written improvement notice remaining after the expiry of the period specified in accordance with regulation 14(6)(c), he shall notify the officer concerned in writing of the matters set out in paragraph (5).

(5) Those matters are—

- (a) that he is of the view mentioned in paragraph (4); and
- (b) that the officer concerned is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider his performance or attendance.

(6) Any second stage meeting which a police officer is required to attend must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice.

### **Arrangement of second stage meeting**

**20.**—(1) Where the line manager requires the officer concerned to attend a second stage meeting, the second line manager shall as soon as reasonably practicable give a notice in writing to the officer concerned—

- (a) referring to the requirement on the officer concerned to attend a second stage meeting of the unsatisfactory performance procedures with the second line manager;
- (b) informing him of the procedures for determining the date and time of the meeting under paragraphs (3) to (6);
- (c) summarising the reasons why his performance or attendance is considered unsatisfactory;
- (d) informing him of the possible outcomes of a second stage meeting and a third stage meeting;
- (e) informing him that the line manager may attend the meeting;
- (f) informing him that a human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings;
- (g) informing him that, if he consents, any other person specified in the notice may attend the meeting;
- (h) where the officer concerned is a member of a police force, informing him that he may seek advice from a representative of his staff association;
- (i) informing him that he may be accompanied and represented at the meeting by a police friend; and
- (j) informing him that he must provide to the second line manager in advance of the meeting a copy of any document he intends to rely on at the meeting.

(2) Such notice shall be accompanied by a copy of any document relied upon by the line manager when he formed the view referred to in regulation 19(2) or (4), as the case may be.

(3) The second line manager shall, if reasonably practicable, agree a date and time for the meeting with the officer concerned.

(4) Where no date and time is agreed under paragraph (3), the second line manager shall specify a date and time for the meeting.

(5) Where a date and time is specified under paragraph (4) and—

- (a) the officer concerned or his police friend will not be available at that time; and
- (b) the officer concerned proposes an alternative time which satisfies paragraph (6),

the meeting must be postponed to the time proposed by the officer concerned.

(6) An alternative time must—

- (a) be reasonable; and
- (b) fall before the end of five working days beginning with the first working day after the day specified by the second line manager under paragraph (4).

(7) The second line manager shall give to the officer concerned a notice in writing of the date and time of the second stage meeting determined in accordance with paragraphs (3) to (6) and of the place of the meeting.

(8) In advance of the second stage meeting, the officer concerned shall provide the second line manager with a copy of any document he intends to rely on at the meeting.

### **Procedure at second stage meeting**

**21.**—(1) The following provisions of this regulation shall apply to the procedure to be followed at the second stage meeting.

(2) The meeting shall be conducted by the second line manager and may be attended by the line manager.

(3) A human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings.

(4) Any other person specified in the notice referred to in regulation 20(1) may attend the meeting if the officer concerned consents to such attendance.

(5) The second line manager shall—

- (a) explain to the officer concerned the reasons why he has been required to attend the meeting;
- (b) provide the officer concerned with an opportunity to make representations in response;
- (c) provide his police friend (if he has one) with an opportunity to address the meeting in accordance with regulation 8(3)(a).

(6) If, after considering any representations made under paragraph (5)(b) or (c), the second line manager finds that the performance or attendance of the officer concerned has been unsatisfactory during the period specified in accordance with regulation 14(6)(c) or during any part of the validity period of the written improvement notice remaining after the expiry of such period, he shall—

- (a) inform the officer concerned in what respect his performance or attendance is considered unsatisfactory;
- (b) inform the officer concerned of the improvement that is required in his performance or attendance;
- (c) inform the officer concerned that, if a sufficient improvement is not made within such reasonable period as the second line manager shall specify (being a period not greater than 12 months), he may be required to attend a third stage meeting in accordance with regulation 26 and the second line manager shall specify the date on which this period ends;
- (d) inform the officer concerned that he will receive a final written improvement notice; and
- (e) inform the officer concerned that if the sufficient improvement referred to in sub-paragraph (c) is not maintained during any part of the validity period of such notice remaining after the expiry of the period specified in accordance with sub-paragraph (c), he may be required to attend a third stage meeting in accordance with regulation 26.

(7) The second line manager may, if he considers it appropriate, recommend that the officer concerned seeks assistance in relation to any matter affecting his health or welfare.

(8) The second line manager may postpone or adjourn the meeting to a specified later time or date if it appears to him necessary or expedient to do so.

### **Procedure following second stage meeting**

**22.**—(1) The second line manager shall, as soon as reasonably practicable after the date of the conclusion of the second stage meeting—

- (a) cause to be prepared a written record of the meeting; and
- (b) where he made a finding at the meeting as set out in regulation 21(6), cause to be prepared a final written improvement notice.

(2) Where the officer concerned has failed to attend a second stage meeting, if the second line manager makes a finding as set out in regulation 21(6), he shall as soon as reasonably practicable—

- (a) cause to be prepared a final written improvement notice; and

- (b) if the police friend of the officer concerned attended the meeting, cause to be prepared a written record of the meeting.
- (3) A final written improvement notice shall—
  - (a) record the matters of which the officer concerned was informed (or would have been informed had he attended the meeting) under sub-paragraphs (a) to (c) and (e) of regulation 21(6);
  - (b) state the period for which it is valid; and
  - (c) be signed and dated by the second line manager.
- (4) A final written improvement notice shall be valid for a period of twelve months from the date of the notice (the “validity period”).
- (5) The second line manager shall give a copy of any written record and any final written improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.
- (6) Where the second line manager made a finding as set out in regulation 21(6) and has caused to be prepared a final written improvement notice, he shall, at the same time as supplying the documents mentioned in paragraph (5), notify the officer concerned in writing of the matters set out in regulation 23, of the name of the person to whom a written notice of appeal must be given under that regulation, of his entitlements under paragraphs (7) and (8) and of the effect of paragraph (9).
- (7) Subject to paragraphs (8) and (9), the officer concerned shall be entitled to submit written comments on the written record to the second line manager before the end of 7 working days beginning with the first working day after the day on which the copy is received by the officer concerned.
- (8) The second line manager may, on the application of the officer concerned, extend the period specified in paragraph (7) if he is satisfied that it is appropriate to do so.
- (9) The officer concerned shall not be entitled to submit written comments on the written record if he has exercised his right to appeal under regulation 23.
- (10) The second line manager shall ensure that any written record, any final written improvement notice and any written comments of the officer concerned on the written record are retained together and filed.

### **Appeal against the finding and outcome of a second stage meeting**

- 23.**—(1) This regulation applies where, at the second stage meeting, the second line manager found that the performance or attendance of the officer concerned has been unsatisfactory as set out in regulation 21(6).
- (2) Where this regulation applies, the officer concerned may appeal against one or more of the following—
- (a) such finding;
  - (b) any of the matters specified in paragraph (3) and recorded in the final written improvement notice (in these Regulations referred to as the relevant terms of the final written improvement notice);
  - (c) the decision of the line manager to require the officer concerned to attend the second stage meeting.
- (3) The matters specified in this paragraph are—
- (a) the respect in which the performance or attendance of the officer concerned is considered unsatisfactory;
  - (b) the improvement that is required in his performance or attendance;

- (c) the length of the period specified by the second line manager in accordance with regulation 21(6)(c).
- (4) The only grounds of appeal under this regulation are—
- (a) that, in relation to an appeal under paragraph (2)(c), the officer concerned should not have been required to attend the second stage meeting as the meeting did not, in accordance with regulation 19(6), concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice;
  - (b) that the finding of unsatisfactory performance or attendance was unreasonable;
  - (c) that any of the relevant terms of the final written improvement notice are unreasonable;
  - (d) that there is evidence that could not reasonably have been considered at the second stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice;
  - (e) that there was a breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice.
- (5) An appeal shall be commenced by the officer concerned giving written notice of appeal to the senior manager before the end of 7 working days beginning with the first working day after receipt of the documents referred to in regulation 22(5).
- (6) Such notice must—
- (a) set out the grounds of appeal of the officer concerned; and
  - (b) be accompanied by any evidence on which the officer concerned relies.
- (7) The senior manager may, on the application of the officer concerned, extend the period specified in paragraph (5) if he is satisfied that it is appropriate to do so.
- (8) Subject to paragraph (9), the meeting at which the appeal will be heard (referred to in these Regulations as a second stage appeal meeting) shall take place before the end of 7 working days beginning with the first working day after the day on which the notification under paragraph (5) is received by the senior manager.
- (9) A second stage appeal meeting may take place after the period of 7 working days referred to in paragraph (8) if the senior manager considers it necessary or expedient, in which case he shall notify the officer concerned of his reasons in writing.

#### **Arrangement of second stage appeal meeting**

**24.—**(1) As soon as reasonably practicable after receipt by the senior manager of the notice of appeal referred to in regulation 23(5), the senior manager shall give a notice in writing to the officer concerned—

- (a) informing him of the procedures for determining the date and time of the meeting under paragraphs (2) to (5);
- (b) informing him that a human resources professional or a police officer may attend the meeting to advise the senior manager on the proceedings;
- (c) informing him that, if he consents, any other person specified in the notice may attend the meeting;
- (d) where the officer concerned is a member of a police force, informing him that he may seek advice from a representative of his staff association; and
- (e) informing him that he may be accompanied and represented at the meeting by a police friend.

(2) The senior manager shall, if reasonably practicable, agree a date and time for the meeting with the officer concerned.

(3) Where no date and time is agreed under paragraph (2), the senior manager shall specify a date and time for the meeting.

(4) Where a date and time is specified under paragraph (3) and—

- (a) the officer concerned or his police friend will not be available at that time; and
- (b) the officer concerned proposes an alternative time which satisfies paragraph (5),

the meeting must be postponed to the time proposed by the officer concerned.

(5) An alternative time must—

- (a) be reasonable; and
- (b) fall before the end of five working days beginning with the first working day after the day specified by the senior manager under paragraph (3).

(6) The senior manager shall give to the officer concerned a notice in writing of the date and time of the second stage appeal meeting determined in accordance with paragraphs (2) to (5) and of the place of the meeting.

#### **Procedure at second stage appeal meeting**

**25.**—(1) The following provisions of this regulation apply to the procedure to be followed at a second stage appeal meeting.

(2) The meeting shall be conducted by the senior manager.

(3) A human resources professional or a police officer may attend the meeting to advise the senior manager on the proceedings.

(4) Any other person specified in the notice referred to in regulation 24(1) may attend the meeting if the officer concerned consents to such attendance.

(5) The senior manager shall—

- (a) provide the officer concerned with an opportunity to make representations; and
- (b) provide his police friend (if he has one) with an opportunity to address the meeting in accordance with regulation 8(3)(a).

(6) After considering any representations made in accordance with paragraph (5), the senior manager may—

- (a) in an appeal under regulation 23(2)(c), make a finding that the officer concerned should not have been required to attend the second stage meeting and reverse the finding made at that meeting;
- (b) confirm or reverse the finding of unsatisfactory performance or attendance made at the second stage meeting;
- (c) confirm or vary the relevant terms of the final written improvement notice appealed against.

(7) Where the senior manager has reversed the finding of unsatisfactory performance or attendance made at the second stage meeting, the senior manager shall also revoke the final written improvement notice.

(8) The senior manager may postpone or adjourn the meeting to a specified later time or date if it appears to him necessary or expedient to do so.

(9) As soon as reasonably practicable after the conclusion of the meeting, the officer concerned shall be given written notice of the senior manager's decision and a written summary of the reasons

for that decision but in any event, the officer concerned shall be given written notice of the decision before the end of three working days beginning with the first working day after the conclusion of the meeting.

(10) Where the senior manager has—

(a) reversed the finding made as set out in regulation 21(6) and revoked the final written improvement notice; or

(b) varied any of the relevant terms of the final written improvement notice,

the decision of the senior manager shall take effect by way of substitution for the finding, the final written improvement notice issued or the relevant terms of the final written improvement notice appealed against from the date of the second stage meeting.