
STATUTORY INSTRUMENTS

2012 No. 808

The Ministry of Defence Police (Performance) Regulations 2012

PART 2

General

Police friend

5.—(1) The officer concerned may choose—

- (a) a police officer;
- (b) an officer from an alternative police force;
- (c) a staff member; or
- (d) a person nominated by the staff association,

who is not otherwise involved in the matter, to act as a police friend.

(2) A police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations;
- (b) unless the officer concerned has the right to be legally represented under regulation 6 and chooses to be so represented, represent the officer concerned at a meeting under these Regulations;
- (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations; and
- (d) accompany the officer concerned to any meeting which that officer is required to attend under these Regulations.

(3) Where a police friend is a police officer, the chief constable must permit that person to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

(4) Where a police friend is a staff member, the Secretary of State for Defence must permit that person to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

Legal representation

6.—(1) Where a police officer is required to attend a third stage meeting under regulation 28, they have the right to be legally represented at such meeting by a relevant lawyer of their choice.

(2) If such an officer chooses not to be legally represented —

- (a) such meeting may take place and any outcome may be ordered under regulation 38(2) or (5) without the officer concerned being legally represented; and
- (b) the panel conducting such meeting may nevertheless be advised by a relevant lawyer at the meeting in accordance with regulation 36(4).

(3) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, the officer may be represented at a meeting under these Regulations only by a police friend.

(4) A third stage meeting under regulation 28 is not to take place unless the officer concerned has been notified in writing of the effect of this regulation.

Provision of notices or documents

7. Where any written notice or document is to be given or supplied to the officer concerned under these Regulations, it is to be—

- (a) given to the officer in person; or
- (b) left with some person at, or sent by recorded delivery to, the officer's last known address.

Procedure at meetings under these Regulations

8.—(1) Where the officer concerned does not attend a meeting under these Regulations or where the officer concerned participates in a third stage meeting by video link or other means under regulation 34(9), the officer may nonetheless be represented at that meeting by the officer's—

- (a) police friend; or
- (b) where the officer is required to attend the third stage meeting under regulation 28, relevant lawyer.

(2) Where the officer concerned does not attend a meeting under these Regulations or participate in a third stage meeting by video link or other means under regulation 34(9), the meeting may be proceeded with and concluded in the absence of the officer concerned whether or not the officer is so represented.

(3) During any meeting under these Regulations, the person representing the officer concerned may—

- (a) address the meeting in order to do any or all of the following—
 - (i) put the case of the officer concerned;
 - (ii) sum up that case;
 - (iii) respond on behalf of the officer concerned to any view expressed at the meeting;
 - (iv) make representations concerning any aspect of proceedings under these Regulations; and
 - (v) in the case of a third stage meeting only, subject to paragraph (7), ask questions of any witnesses;
- (b) confer with the officer concerned.

(4) Where the person representing the officer concerned is a relevant lawyer, the police friend of the officer concerned may also confer with the officer concerned.

(5) Where the officer concerned is participating in a third stage meeting by video link or other means in accordance with regulation 34(9), the person representing the officer or (if different) a police friend (or both) may also participate in the third stage meeting by such means together with the officer concerned.

(6) The police friend or relevant lawyer of the officer concerned must not answer any questions asked of the officer concerned during a meeting.

(7) Whether any question should or should not be put to a witness at a third stage meeting is to be determined by the panel chair.

(8) At any meeting under these Regulations, the person or the panel conducting the meeting must not make a finding of unsatisfactory performance or attendance or gross incompetence unless—

- (a) they are satisfied on the balance of probabilities that there has been unsatisfactory performance or attendance or gross incompetence; or
- (b) the officer concerned consents to such a finding.

(9) The person conducting or chairing a meeting under these Regulations may allow any document to be considered at that meeting notwithstanding that a copy of it has not been—

- (a) supplied by the officer concerned in accordance with regulation 13(8), 16(6)(b), 20(8), 23(6)(b) or 32(3);
- (b) supplied to the officer concerned in accordance with regulation 13(2), 20(2), 27(2) or 29(2); or
- (c) made available to each panel member or given to the officer concerned under regulation 30(7).

Nominated Persons

9.—(1) A senior manager may appoint another person (a “nominated person”) to carry out any of the functions of the line manager or the second line manager in these Regulations.

(2) Where a person is appointed to carry out any of the functions of the line manager under paragraph (1) that person must not also be appointed to carry out any of the functions of the second line manager under that paragraph.

(3) Where a person is appointed to carry out any of the functions of the second line manager under paragraph (1) that person must not also be appointed to carry out any of the functions of the line manager under that paragraph.

(4) A nominated person must be a member of the force or a staff member and must be, in the opinion of the appropriate authority, of at least the same or equivalent rank or grade as the person whose functions they are carrying out.

(5) Where a nominated person is appointed by the senior manager, references in these Regulations to a line manager or a second line manager, as the case may be, are to be construed as references to the nominated person, in relation to the functions which they have been appointed to carry out.

References to certain periods

10.—(1) The appropriate authority may, on the application of the officer concerned or otherwise, extend the period specified in accordance with any of the regulations mentioned in paragraph (2) if it is satisfied that it is appropriate to do so.

(2) The regulations mentioned in this paragraph are—

- (a) regulation 14(6)(c);
- (b) regulation 21(6)(c); and
- (c) regulation 38(6)(c) and (7)(a).

(3) Unless the appropriate authority is satisfied that there are exceptional circumstances making it appropriate, any such period must not be extended if the extension would result in the total length of that period exceeding 12 months.

(4) Where an extension is granted under paragraph (1) to a period specified under a regulation mentioned in paragraph (2), any reference in these Regulations to such period is to be construed as a reference to that period as so extended.

Suspension of certain periods

11.—(1) Any reference in these Regulations to a period mentioned in paragraph (2) does not include any time the officer concerned is taking leave under the Ministry of Defence Statement of Civilian Personnel Policy Extended Special Unpaid Leave⁽¹⁾.

(2) The periods mentioned in this paragraph are—

- (a) a period specified in accordance with regulation 14(6)(c);
- (b) the validity period of a written improvement notice;
- (c) a period specified in accordance with regulation 21(6)(c);
- (d) the validity period of a final written improvement notice;
- (e) a period specified under regulation 38(6)(c) or (7)(a);
- (f) the validity period of a final written improvement notice extended under regulation 38.

(1) The current Statement was issued on 31 October 2011.