

2013 No. 281

POLICE

The Police (Complaints and Conduct) Regulations 2013

Made - - - - *12th February 2013*

Laid before Parliament *14th February 2013*

Coming into force - - *7th March 2013*

The Secretary of State makes the following Regulations in exercise of the powers conferred by paragraph 19F(2), (3) and (7) of Schedule 3 to the Police Reform Act 2002(a).

In accordance with section 24 of that Act(b), the Secretary of State has consulted with the Independent Police Complaints Commission, such persons as appear to the Secretary of State to represent the views of police and crime commissioners, the Mayor's Office for Policing and Crime, the Common Council of the City of London, the Association of Chief Police Officers and such other persons as she thinks fit.

In accordance with section 63(3)(b) of the Police Act 1996(c), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board of England and Wales and has taken into consideration their representations before making these Regulations.

Citation, commencement, interpretation and extent

1.—(1) These Regulations may be cited as the Police (Complaints and Conduct) Regulations 2013 and come into force on 7th March 2013.

(2) In these Regulations—

“the 2002 Act” means the Police Reform Act 2002;

“accompanying person” means any person nominated by the serving officer and who is not otherwise involved in the matter;

“disciplinary proceedings” means—

(a) in relation to a serving officer who is a member of a police force or a special constable, disciplinary proceedings within the meaning of the Police (Conduct) Regulations 2012(d),

(b) in relation to any other serving officer, any proceedings or management process during which the conduct (as opposed to the performance) of such an officer is considered in

(a) 2002 c. 30. Paragraph 19F was inserted by section 1(2) of the Police (Complaints and Conduct) Act 2012 (c. 22).
(b) Section 24 was amended by section 6(1) of, and paragraph 12 of Schedule 4 to, the Police and Justice Act 2006 (c. 48), and section 99 of, and paragraphs 277 and 289 of Schedule 16 to, the Police Reform and Social Responsibility Act 2011 (c. 13).
(c) 1996 c. 16.
(d) S.I. 2012/2632.

order to determine whether a sanction or punitive measure is to be imposed against him in relation to that conduct;

“relevant indication” means an indication that a person to whose conduct the investigation relates may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings;

“relevant investigator” means a person appointed or designated to investigate under paragraph 18 or 19 of Schedule 3 to the 2002 Act; and

“working day” means any day other than a Saturday or Sunday or a day which is a bank holiday or public holiday in England and Wales.

- (3) These Regulations extend to England and Wales and Scotland.

Interviews of witnesses during investigation

2.—(1) For the purposes of paragraph 19F(2) of Schedule 3 to the 2002 Act (interview of persons serving with the police etc during certain investigations) where a relevant investigator wishes to interview a serving officer as part of an investigation, the relevant investigator shall—

- (a) give written notice to the serving officer that the interview will take place in accordance with this regulation, and
- (b) if reasonably practicable, agree a date and time for the interview with the serving officer.

(2) Where no date and time is agreed under paragraph (1), the relevant investigator shall specify a date and time for the interview.

- (3) Where a date and time is specified under paragraph (2) and—

- (a) the serving officer or the serving officer’s accompanying person will not be available at that time; and
- (b) the serving officer proposes an alternative time which satisfies paragraph (4),
the interview shall be postponed to the time proposed by the serving officer.

- (4) An alternative time must—

- (a) be reasonable; and
- (b) fall before the end of the period of 5 working days beginning with the first working day after the day specified by the relevant investigator.

(5) The serving officer shall be given written notice of the date, time and place of the interview.

(6) The relevant investigator shall, in advance of the interview, provide the serving officer with such information as the relevant investigator considers appropriate in the circumstances of the case to enable the serving officer to prepare for the interview.

(7) The serving officer shall attend the interview.

(8) An accompanying person may not answer any questions asked of the serving officer during the interview.

(9) Where an accompanying person is a police officer or a police staff member, the chief officer of the force of which the accompanying person is a member shall permit him to use a reasonable amount of duty time for the purposes of this regulation.

(10) The reference in paragraph (9) to the force of which the accompanying person is a member shall include a reference to the force maintained for the police area for which a special constable is appointed and the force in which a police staff member is serving.

- (11) Nothing in this regulation shall apply to an interview of any person—

- (a) in relation to an investigation of a complaint, in respect of whom it appears to the investigator that there is a relevant indication, or
- (b) in relation to an investigation of a recordable conduct matter, in respect of whose conduct the investigation relates.

Additional police bodies

3.—(1) For the purposes of paragraph 19F(7)(a) of Schedule 3 to the 2002 Act, an additional police body means—

- (a) the Ministry of Defence Police,
- (b) the British Transport Police Force,
- (c) the Civil Nuclear Constabulary,
- (d) the Port of Bristol Police.
- (e) the Port of Liverpool Police,
- (f) the Port of Tilbury Police,
- (g) the Tees and Hartlepool Harbour Police,
- (h) until the day before the relevant date, a police force maintained under section 1 of the Police (Scotland) Act 1967^(a); or
- (i) with effect from the relevant date, the Police Service of Scotland.

(2) In this regulation, the “relevant date” means the date on which section 6 of the Police and Fire Reform (Scotland) Act 2012^(b) comes into force.

Home Office
12th February 2013

Damian Green
Minister of State

(a) 1967 c. 77.
(b) 2012 asp 8.

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations prescribe various matters in relation to the power in paragraph 19F of Schedule 3 to the Police Reform Act 2002 (“the 2002 Act”) which enables the Independent Police Complaints Commission (“the Commission”), in relation to any investigation carried out or managed by it, to require a serving officer (defined in paragraph 19F(4) of Schedule 3 to the 2002 Act) to attend for interview.

Regulation 2 makes provision to:

- require a serving officer to attend an interview,
- determine how the time at which an interview is to be held is agreed or decided,
- enable the Commission to provide information to the serving officer who is being interviewed, and
- enable a serving officer to be accompanied at the interview by an “accompanying person”.

Regulation 2 does not apply to an interview of a person in connection with an investigation into that person’s alleged misconduct.

Regulation 3 prescribes the bodies of constables, including Scottish forces, whose officers and members of staff can also be required to attend an interview in accordance with the power in paragraph 19F(7) of Schedule 3 to the 2002 Act.

An impact assessment has not been prepared for this instrument as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.

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