
STATUTORY INSTRUMENTS

2015 No. 25

The Ministry of Defence Police (Conduct etc.) Regulations 2015

PART 2

General

Application

9.—(1) These Regulations apply where an allegation comes to the attention of a relevant authority which indicates that the conduct of an MDP officer (“the officer concerned”) may amount to misconduct or gross misconduct.

(2) Where a relevant authority is considering more than one allegation in relation to the same MDP officer, the allegations may be taken together and treated as a single allegation for the purpose of any provision of these Regulations which requires a person to make an assessment, finding, determination or decision in connection with conduct which is the subject matter of an allegation.

Police friend and legal representation

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

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

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

(2) A police friend may—

- (a) advise the officer concerned throughout the proceedings;
- (b) unless the officer concerned has the right to be legally represented and chooses to be so represented, represent the officer concerned at the misconduct proceedings or special case hearing or appeal meeting;
- (c) make representations to the relevant authority concerning any aspect of the proceedings; and
- (d) accompany, and take notes for the officer concerned at any interview, meeting or hearing which forms part of any proceedings.

(3) Where a police friend is an MDP officer or a staff member, that person may use a reasonable amount of duty time for the purposes referred to in paragraph (2).

(4) The officer concerned has the right to be legally represented, by a relevant lawyer of the officer’s choice, at a misconduct hearing or a special case hearing.

(5) If the officer concerned chooses not to be legally represented at such a hearing the officer may be dismissed or receive any other outcome under regulation 39 or 59 without being represented.

Legal and other representation for the relevant authority

11.—(1) The relevant authority may be represented at misconduct proceedings or a special case hearing or an appeal meeting by—

- (a) an MDP officer; or
- (b) at a misconduct hearing or a special case hearing only, a relevant lawyer (whether or not the officer concerned chooses to be legally represented).

(2) Subject to paragraph (3), the relevant authority may appoint a person to advise the person or persons conducting the misconduct proceedings or special case hearing or appeal meeting.

(3) At a misconduct meeting or an appeal meeting, the person appointed under paragraph (2) shall not be a relevant lawyer.

Provision of notices or documents

12.—(1) Where any written notice or document is to be given or supplied to the officer concerned, it shall be—

- (a) given to the officer concerned in person;
- (b) left with any person at, or sent by recorded delivery to, the officer's last known address; or
- (c) in respect of a written notice under regulation 19(1), given to the officer concerned in person by that officer's police friend where the police friend has agreed with the relevant authority to deliver the notice.

(2) Where any written notice or document is given or supplied under paragraph (1), delivery is effective on the date on which—

- (a) it is given to the officer concerned, under paragraph (1)(a) or (c);
- (b) it is left with any person at the officer's last known address, under paragraph (1)(b);
- (c) receipt was recorded, if sent by recorded delivery to the officer's last known address under paragraph (1)(b).

Outstanding or possible criminal proceedings

13.—(1) Subject to this regulation, proceedings under these Regulations must proceed without delay.

(2) Before referring a case to misconduct proceedings or a special case hearing, the relevant authority must decide whether misconduct proceedings or special case proceedings would prejudice any criminal proceedings.

(3) For any period during which the relevant authority considers any misconduct proceedings or special case proceedings would prejudice any such criminal proceedings—

- (a) no such misconduct or special case proceedings may take place; but
- (b) the relevant authority must preserve any relevant evidence in its possession.

(4) Where a witness who is or may be a witness in any criminal proceedings is to be or may be asked to attend misconduct proceedings, the relevant authority must consult the relevant prosecutor (and when doing so must inform the prosecutor of the names and addresses of all such witnesses) before making its decision under paragraph (2).

(5) In this regulation "relevant prosecutor" means—

- (a) in relation to England and Wales, the Director of Public Prosecutions or any other person who has or is likely to have responsibility for the criminal proceedings;

- (b) in relation to Scotland, the Lord Advocate or any other person who has or is likely to have responsibility for the criminal proceedings; or
- (c) in relation to Northern Ireland, the Director of Public Prosecutions or any other person who has or is likely to have responsibility for the criminal proceedings.

Suspension

14.—(1) The relevant authority may suspend the officer concerned from membership of the MDP if the following conditions (“the suspension conditions”) are satisfied—

- (a) having considered temporary redeployment to alternative duties or to an alternative location as an alternative to suspension, the relevant authority has determined that such deployment is not appropriate in all the circumstances of the case; and
- (b) it appears to the relevant authority that either—
 - (i) the effective investigation of the case may be prejudiced unless the officer concerned is suspended; or
 - (ii) having regard to the nature of the allegation and any other relevant considerations, the public interest requires that the officer should be suspended.

(2) An officer who is suspended under this regulation remains an MDP officer for the purposes of these Regulations.

(3) The relevant authority may suspend the officer concerned at any time from the date on which these Regulations first apply to the officer concerned (regulation 9) until—

- (a) the relevant authority decides that the conduct of the officer concerned shall not be referred to misconduct proceedings or a special case hearing; or
- (b) such proceedings have concluded.

(4) A suspension takes effect from the date and time of notification to the officer concerned, which must be given either—

- (a) in writing with a summary of the reasons; or
- (b) orally, in which case the relevant authority must confirm the suspension in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.

(5) The officer concerned (or the officer’s police friend) may make representations against the suspension to the relevant authority—

- (a) before the end of 7 working days beginning with the first working day after the suspension takes effect;
- (b) at any time during the suspension if the officer reasonably believes that circumstances relevant to the suspension conditions have changed.

(6) The relevant authority must review the suspension conditions—

- (a) on receipt of any representations under paragraph (5);
- (b) on being notified that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (5) or otherwise);
- (c) if there has been no previous review, before the end of 4 weeks beginning with the first working day after the suspension; and
- (d) if there has been no review in the intervening period, before the end of 4 weeks beginning with the day after the previous review.

(7) Following any review under paragraph (6), the relevant authority must—

- (a) decide whether the suspension conditions remain satisfied and whether the suspension should continue;
 - (b) before the end of 3 working days beginning with the day after the review, notify the officer concerned in writing of the decision made and a summary of the reasons.
- (8) An officer who is suspended remains so suspended until the earlier of the following—
- (a) the suspension conditions are no longer satisfied;
 - (b) the events mentioned in paragraph (3)(a) or (subject to paragraph (10)) (3)(b).
- (9) Where an officer who is suspended is dismissed with notice under regulation 39(3)(b)(iv) the officer remains suspended until the end of the notice period.
- (10) In a case which will be investigated under external procedures, the relevant authority must consult with the Commission or the Ombudsman (as the case may be)—
- (a) in deciding whether or not to suspend the officer concerned; and
 - (b) before a suspension under this regulation is brought to an end by virtue of paragraph (7)(a).