
STATUTORY INSTRUMENTS

2015 No. 25

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

PART 4

Misconduct Proceedings

Outcome of misconduct proceedings

39.—(1) The person or persons conducting misconduct proceedings in the case of an officer other than a senior officer may—

- (a) impose any of the disciplinary actions in paragraph (3)(a) or (b) as appropriate; or
- (b) where they find the conduct amounts to misconduct but not gross misconduct following a misconduct meeting or hearing, record a finding of misconduct but take no further action.

(2) At a meeting held under regulation 38(3) the MOD Police Committee may—

- (a) impose any of the disciplinary actions in paragraph (3)(a) or (b) as appropriate; or
- (b) where the finding set out in the report is that the conduct amounted to misconduct but not gross misconduct, record a finding of misconduct but take no further action.

(3) The disciplinary action is—

- (a) where the report referred to in regulation 38(1) was made after a misconduct meeting—
 - (i) management advice;
 - (ii) written warning; or
 - (iii) final written warning;
- (b) where the report referred to in regulation 38(1) was made after a misconduct hearing—
 - (i) management advice;
 - (ii) written warning;
 - (iii) final written warning;
 - (iv) dismissal with notice; or
 - (v) dismissal without notice.

(4) The disciplinary action referred to in paragraph (3) has effect from the date on which it is notified to the officer concerned and, in the case of dismissal with notice, the person or persons imposing the disciplinary action must decide the period of notice to be given, subject to a minimum period of 28 days.

(5) Where there is a finding that the conduct of the officer concerned amounts to misconduct but not gross misconduct, the officer may not be dismissed (whether with or without notice) unless a final written warning was in force on the assessment date.

(6) Where the officer concerned had a written warning in force on the assessment date, a written warning may not be given.

(7) Where, on the assessment date, the officer concerned had a final written warning in force—

- (a) neither a written warning nor a final written warning may be given; but
 - (b) subject to paragraph (9), in exceptional circumstances, the final written warning may be extended.
- (8) Where a final written warning is extended under paragraph (7)(b), that warning remains in force for a period of 18 months from the date on which it would otherwise expire.
- (9) A final written warning may be extended on one occasion only.
- (10) Where there is a finding of gross misconduct and the person or persons considering the question of disciplinary action decides that the officer concerned shall be dismissed, the dismissal shall be without notice.
- (11) Where the question of disciplinary action is being considered, the person or persons considering it—
- (a) must have regard to the record of police service of the officer concerned as shown on the officer’s personal record;
 - (b) may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question; and
 - (c) must give—
 - (i) the officer concerned, the police friend or, at a misconduct hearing, the relevant lawyer, and
 - (ii) in the case of an officer other than a senior officer, the relevant authority or any person appointed to advise the relevant authority (regulation 11(2)),an opportunity to make oral or written representations before any such question is determined.