

SCHEDULE 3

Amendments of the Performance Regulations

New provisions in relation to attendance and participation at third stage meetings

10. After regulation 35 of the Performance Regulations, insert—

“Participation of Commission and investigator at a third stage meeting

35A.—(1) This regulation applies to any case falling within regulation 11A or regulation 28.

(2) The Commission may attend the third stage meeting to make representations.

(3) Where the Commission intends to attend the third stage meeting—

(a) it may instruct a relevant lawyer to represent it;

(b) it must notify—

(i) the complainant or any interested person, and

(ii) the panel chair,

prior to that meeting; and

(c) the panel chair must notify the officer concerned prior to the meeting.

(4) The investigator or a nominated person must attend the third stage meeting on the request of the panel chair to answer questions.

(5) In this regulation, “nominated person” means a person who, in the opinion of—

(a) in a case where the Commission has managed the investigation or itself carried out the investigation), the Commission, or

(b) in all other cases, the appropriate authority,
has sufficient knowledge of the case to be able to assist the panel.

Attendance of complainant or interested person at a third stage meeting

35B.—(1) This regulation applies to any case falling within regulation 11A or regulation 28.

(2) The appropriate authority must notify the complainant or any interested person of the date, time and place of the third stage meeting.

(3) Subject to the provisions of this regulation and any conditions imposed under regulation 35C(13)—

(a) the complainant may attend as an observer any part of the third stage meeting relating to the subject matter of their complaint; and

(b) an interested person may attend as an observer any part of the third stage meeting relating to the subject matter of the complaint or conduct matter in respect of which that person is an interested person.

(4) Regulation 34(4) to (8) of the Conduct Regulations apply to any complainant or interested person attending a third stage meeting, as if that meeting were a misconduct meeting and the panel chair were the person chairing the misconduct hearing.

Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.

Attendance of others at a third stage meeting

35C.—(1) Subject to the attendance of—

- (a) the Commission, investigator or nominated person (regulation 35A),
- (b) any person entitled to attend under regulation 35B, and
- (c) any person entitled to attend under this regulation,

the third stage meeting shall be in private.

(2) A human resources professional and a police officer may attend the meeting to advise the panel on the proceedings.

(3) A relevant lawyer may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting.

(4) A person nominated by the Commission may, as an observer, attend a third stage meeting to which regulation 28 applies.

(5) In a case where a person nominated by the Commission is entitled under paragraph (4) to attend the third stage meeting, the appropriate authority must notify the Commission of the date, time and place of the meeting.

(6) Any other person may attend the third stage meeting if—

- (a) that person is specified in the notice given to the officer concerned under regulation 27(1)(g) or 29(1)(g); and
- (b) the officer concerned consents to that person attending.

(7) Unless expressly authorised by the panel chair, a witness other than the complainant, interested person or the officer concerned may only attend the misconduct proceedings for the purpose of giving their evidence.

(8) The panel chair may permit a witness at the third stage hearing to be accompanied by one other person.

(9) This paragraph applies where—

- (a) a third stage meeting is held to which regulation 28 applies;
- (b) the Commission has itself investigated the case under external procedures;
- (c) the Commission considers that because of the gravity of the case or other exceptional circumstances it would be in the public interest for all or part of the third stage meeting to be held in public; and
- (d) the Commission has consulted with—
 - (i) the appropriate authority;
 - (ii) the officer concerned;
 - (iii) the complainant or interested person; and
 - (iv) any witnesses.

(10) Where paragraph (9) applies, the Commission may direct that the whole or part of the third stage meeting be held in public.

(11) Where the Commission makes a direction under paragraph (10), it must as soon as reasonably practicable, and in any event no later than 5 working days beginning with the first working day after the decision was taken, notify the persons consulted under paragraph (9) (d) of the decision and the reasons for it.

(12) Subject to regulation 35D (exclusion from a third stage hearing), the panel must comply with a direction given under paragraph (10).

(13) The panel chair may impose such conditions as the chair thinks fit relating to the attendance under regulation 35B (attendance of complainant or interested person) or this regulation at the third stage meeting (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the meeting.

Exclusion from third stage meeting

35D.—(1) Where it appears to the panel chair that any person may, in giving evidence, disclose information which ought not to be disclosed to any person attending a third stage meeting because it is information to which paragraph (2) applies, the chair must require such attendees to withdraw while the evidence is given.

(2) This paragraph applies to information in so far as the panel chair considers that preventing disclosure of it is—

- (a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings;
- (b) necessary in the interests of national security;
- (c) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;
- (d) necessary for the purposes of the prevention or detection of misconduct by other police officers or staff members or their apprehension for such matters;
- (e) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
- (f) otherwise in the public interest.”.