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STATUTORY INSTRUMENTS

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**2020 No. 3**

**The Police (Performance) Regulations 2020**

**PART 4**

**Second stage**

**Circumstances in which a second stage meeting may be required**

**22.**—(1) Where a police officer has received a written improvement notice, as soon as reasonably practicable after the date with which the period specified in accordance with regulation 17(6)(c) ends—

- (a) the line manager must assess the performance or attendance of the officer concerned during that period, in consultation with the second line manager or a human resources professional (or both), and
- (b) the line manager must give the officer a written notice as to whether the line manager considers that there has been a sufficient improvement in performance or attendance during that period.

(2) If the line manager considers that there has not been a sufficient improvement, the line manager must, at the same time as giving a notice under paragraph (1)(b), also give the officer concerned a written notice that the officer is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider performance or attendance.

(3) The officer concerned may be required to attend a second stage meeting under paragraph (4) where—

- (a) the officer has not been required to attend a second stage meeting under paragraph (2), or
- (b) the officer has been required to attend a second stage meeting under paragraph (2) but the second line manager did not make a finding of unsatisfactory performance or attendance at that meeting.

(4) If the line manager considers that the officer concerned has failed to maintain a sufficient improvement in performance or attendance during any part of the validity period of the written improvement notice remaining after the expiry of the period specified in accordance with regulation 17(6)(c), the line manager must give the officer a written notice of the matters set out in paragraph (5).

(5) Those matters are—

- (a) that the line manager is of the view mentioned in paragraph (4), and
- (b) that the officer concerned is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider performance or attendance.

(6) Any second stage meeting which a police officer is required to attend other than such a meeting under regulation 24 must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice.

**Commencement Information**

**II** Reg. 22 in force at 1.2.2020, see [reg. 1](#)

**Arrangement of second stage meeting**

**23.**—(1) Where the line manager requires the officer concerned to attend a second stage meeting, the second line manager must as soon as reasonably practicable give the officer a written notice—

- (a) referring to the requirement that the officer attend a second stage meeting with the second line manager;
- (b) informing the officer of the procedures for determining the date and time of the meeting under paragraphs (3) to (6);
- (c) summarising the reasons why the officer’s performance or attendance is considered unsatisfactory;
- (d) informing the officer of the possible outcomes of a second stage meeting and a third stage meeting;
- (e) informing the officer that the line manager may attend the meeting;
- (f) informing the officer that a human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings;
- (g) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting;
- (h) <sup>F1</sup>... informing the officer that the officer may seek advice from a representative of a staff association;
- (i) informing the officer that the officer may be accompanied and represented at the meeting by a police friend, and
- (j) informing the officer that the officer must provide to the second line manager in advance of the meeting a copy of any document the officer intends to rely on at the meeting.

(2) The notice must be accompanied by a copy of any document relied on by the line manager when the line manager formed the view referred to in regulation 22(2) or (4), as the case may be.

(3) The second line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.

(4) Where no date and time is agreed, the second line manager must specify a date and time for the meeting.

(5) Where a date and time is specified and—

- (a) the officer concerned or a police friend will not be available at that time, and
- (b) the officer proposes an alternative time which satisfies paragraph (6),

the meeting must be postponed to the time proposed by the officer.

(6) An alternative time must—

- (a) be reasonable, and
- (b) fall before the end of 5 working days beginning with the first working day after the day specified by the second line manager under paragraph (4).

(7) The second line manager must give the officer concerned a written notice of the date and time of the second stage meeting determined in accordance with paragraphs (3) to (6) and of the place of the meeting.

(8) In advance of the second stage meeting, the officer concerned must provide the second line manager with a copy of any document the officer intends to rely on at the meeting.

**F1** Words in [reg. 23\(1\)\(h\)](#) omitted (28.6.2022) by [The Special Constables \(Membership of the Police Federation etc.\) \(England and Wales\) Regulations 2022 \(S.I. 2022/505\)](#), regs. 1(2), **6(4)(b)**

**Commencement Information**

**I2** Reg. 23 in force at 1.2.2020, see [reg. 1](#)

**Circumstances in which a second stage meeting may be required without a first stage meeting**

24.—(1) This regulation applies where—

- (a) regulation 32 does not apply, and
- (b) conditions A and B are satisfied.

(2) Condition A is that the appropriate authority assesses under regulation 23(5)(b) or 27(2)(a)(iii) of the Conduct Regulations that a matter should be referred to be dealt with under these Regulations.

(3) Condition B is that the appropriate authority—

- (a) considers that there are reasonable grounds, based on evidence from an investigation under Schedule 3 to the 2002 Act or an investigation or misconduct proceedings under the Conduct Regulations, to conclude that the officer concerned has demonstrated a serious inability or serious failure to perform the duties of the officer's rank or the role the officer is currently undertaking to a satisfactory standard or level, such that a referral to a second stage meeting is appropriate, and
- (b) having consulted the officer and the line manager, or second line manager, of the officer, is satisfied that the officer has been given a reasonable opportunity to address that inability or failure to perform, but has failed to make a sufficient improvement.

(4) The appropriate authority must as soon as reasonably practicable give the officer concerned and the line manager of the officer a written notice of the matters set out in paragraph (5) where this regulation applies.

(5) Those matters are—

- (a) that the appropriate authority is of the view mentioned in paragraph (3);
- (b) the reasons why the performance of the officer concerned is assessed as unsatisfactory;
- (c) the reasons why it is considered appropriate for the matter to be referred to a second stage meeting;
- (d) summary evidence in support of the conclusion that the performance is unsatisfactory, and
- (e) that the officer is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider the officer's performance.

(6) Where notice has been given in accordance with paragraph (4), the line manager must require the officer concerned to attend a second stage meeting.

(7) Where a police officer is required to attend a second stage meeting under this regulation, regulations 23 and 25 to 29 apply with the following modifications—

- (a) omit regulation 23(2);
- (b) in regulation 25(6), omit the words from “during the period” to “specified period”;
- (c) in regulation 27(2)(c), for “line manager” substitute “appropriate authority”;

- (d) in regulation 27(4)(a), for the words from “as the meeting” to the end substitute “as the conclusions of the appropriate authority under regulation 24(3) were unreasonable”.

**Commencement Information**

**I3** Reg. 24 in force at 1.2.2020, see [reg. 1](#)

**Procedure at second stage meeting**

- 25.**—(1) This regulation applies to the procedure to be followed at the second stage meeting.
- (2) The meeting must be conducted by the second line manager and may be attended by the line manager.
- (3) A human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 23(1) may attend the meeting if the officer concerned consents.
- (5) The second line manager must—
- (a) explain to the officer concerned the reasons why the officer has been required to attend the meeting;
  - (b) provide the officer with an opportunity to make representations in response, and
  - (c) provide the police friend (if the officer has one) with an opportunity to address the meeting in accordance with regulation 8(3)(a).
- (6) If, after considering such representations (if any) and address (if any), the second line manager finds that the performance or attendance of the officer concerned has been unsatisfactory during the period specified in accordance with regulation 17(6)(c) or during any part of the validity period of the written improvement notice remaining after the expiry of that specified period, the second line manager must—
- (a) inform the officer in what respect the performance or attendance is considered unsatisfactory;
  - (b) inform the officer of the improvement that is required in performance or attendance;
  - (c) inform the officer that, if a sufficient improvement is not made within such reasonable period as the second line manager specifies (being a period not exceeding 12 months), the officer may be required to attend a third stage meeting in accordance with regulation 30 and the second line manager must specify the date with which this period ends;
  - (d) inform the officer that the officer will receive a final written improvement notice, and
  - (e) inform the officer that if the sufficient improvement referred to in sub-paragraph (c) is not maintained during any part of the validity period of the notice remaining after the expiry of the period specified in accordance with sub-paragraph (c), the officer may be required to attend a third stage meeting in accordance with regulation 30.
- (7) The second line manager may, if the second line manager considers it appropriate, recommend that the officer concerned seek assistance in relation to any matter affecting the officer’s health or welfare.
- (8) The second line manager may postpone or adjourn the meeting to a specified time, or date and time, if it appears to the second line manager necessary or expedient to do so.

### Commencement Information

**I4** Reg. 25 in force at 1.2.2020, see [reg. 1](#)

### Procedure following second stage meeting

**26.**—(1) The second line manager must, as soon as reasonably practicable after the conclusion of the second stage meeting—

- (a) cause to be prepared a written record of the meeting, and
- (b) where the second line manager made a finding at the meeting as set out in regulation 25(6), cause to be prepared a final written improvement notice.

(2) Where the officer concerned has failed to attend a second stage meeting, if the second line manager makes a finding as set out in regulation 25(6), the second line manager must as soon as reasonably practicable—

- (a) cause to be prepared a final written improvement notice, and
- (b) if the police friend attended the meeting, cause to be prepared a written record of the meeting.

(3) A final written improvement notice must—

- (a) record the matters of which the officer concerned was informed (or would have been informed had the officer attended the meeting) under sub-paragraphs (a) to (c) and (e) of regulation 25(6);
- (b) state the period for which it is valid; and
- (c) be signed and dated by the second line manager.

(4) A final written improvement notice is valid for a period of twelve months beginning with the date of the notice.

(5) The second line manager must give a copy of any written record and any final written improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.

(6) Where the second line manager made a finding as set out in regulation 25(6) and has caused to be prepared a final written improvement notice, the second line manager must, at the same time as giving the documents mentioned in paragraph (5), give the officer concerned a written notice of—

- (a) the matters set out in regulation 27(3);
- (b) the name of the senior manager to whom a written notice of appeal must be given under regulation 27(5);
- (c) the officer's rights under paragraph (7), and
- (d) the effect of paragraphs (8) and (9).

(7) Subject to paragraph (9), the officer concerned may submit written comments on the written record to the second line manager before the end of 7 working days beginning with the first working day after the day on which the copy is received by the officer.

(8) The second line manager may, on the application of the officer concerned, extend the period specified in paragraph (7) if satisfied that it is appropriate to do so.

(9) The officer concerned may not submit written comments on the written record if the officer has exercised a right to appeal under regulation 27.

(10) The second line manager must ensure that any written record, any final written improvement notice and any written comments of the officer concerned on the written record are retained together and filed.

**Commencement Information**

**I5** Reg. 26 in force at 1.2.2020, see [reg. 1](#)

**Appeal against the finding and outcome of a second stage meeting**

**27.**—(1) This regulation applies where, at the second stage meeting, the second line manager found that the performance or attendance of the officer concerned has been unsatisfactory as set out in regulation 25(6).

(2) Where this regulation applies, the officer concerned may appeal against one or more of the following—

- (a) that finding;
- (b) any of the matters specified in paragraph (3) and recorded in the final written improvement notice (in these Regulations referred to as the relevant terms of the final written improvement notice);
- (c) the decision of the line manager to require the officer concerned to attend the second stage meeting.

(3) The matters are—

- (a) the respect in which the performance or attendance of the officer concerned is considered unsatisfactory;
- (b) the improvement that is required in performance or attendance;
- (c) the length of the period specified by the second line manager in accordance with regulation 25(6)(c).

(4) The only grounds of appeal under this regulation are—

- (a) that, in relation to an appeal under paragraph (2)(c), the officer concerned should not have been required to attend the second stage meeting as the meeting did not concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice;
- (b) that the finding of unsatisfactory performance or attendance was unreasonable;
- (c) that any of the relevant terms of the final written improvement notice are unreasonable;
- (d) that there is evidence that could not reasonably have been considered at the second stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice;
- (e) that there was a breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice.

(5) An appeal must be commenced by the officer concerned giving a written notice of appeal to the senior manager before the end of 7 working days beginning with the first working day after receipt of the documents referred to in regulation 26(5).

(6) The notice must—

- (a) set out the grounds of appeal of the officer concerned, and
- (b) be accompanied by any evidence on which the officer relies.

(7) The senior manager may, on the application of the officer concerned, extend the period specified in paragraph (5) if satisfied that it is appropriate to do so.

(8) Subject to paragraph (9), the meeting at which the appeal will be heard (referred to in these Regulations as a second stage appeal meeting) must take place before the end of 7 working days beginning with the first working day after the day on which the notice under paragraph (5) is received by the senior manager.

(9) A second stage appeal meeting may take place after the period of 7 working days referred to in paragraph (8) if the senior manager considers it necessary or expedient, in which case the senior manager must give the officer concerned a written notice of the reasons.

#### Commencement Information

**I6** Reg. 27 in force at 1.2.2020, see [reg. 1](#)

#### Arrangement of second stage appeal meeting

**28.**—(1) As soon as reasonably practicable after receiving the notice of appeal referred to in regulation 27(5), the senior manager must give the officer concerned a written notice—

- (a) informing the officer of the procedures for determining the date and time of the meeting under paragraphs (2) to (5);
- (b) informing the officer that a human resources professional or a police officer may attend the meeting to advise the senior manager on the proceedings;
- (c) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting;
- (d) <sup>F2</sup>... informing the officer that the officer may seek advice from a representative of a staff association; and
- (e) informing the officer that the officer may be accompanied and represented at the meeting by a police friend.

(2) The senior manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.

(3) Where no date and time is agreed, the senior manager must specify a date and time for the meeting.

(4) Where a date and time is specified and—

- (a) the officer concerned or the police friend will not be available at that time, and
- (b) the officer proposes an alternative time which satisfies paragraph (5),

the meeting must be postponed to the time proposed by the officer.

(5) An alternative time must—

- (a) be reasonable, and
- (b) fall before the end of 5 working days beginning with the first working day after the day specified by the senior manager under paragraph (3).

(6) The senior manager must give the officer concerned a written notice of the date, time and place of the second stage appeal meeting.

**F2** Words in [reg. 28\(1\)\(d\)](#) omitted (28.6.2022) by [The Special Constables \(Membership of the Police Federation etc.\) \(England and Wales\) Regulations 2022 \(S.I. 2022/505\)](#), regs. 1(2), [6\(4\)\(c\)](#)

**Commencement Information**

**I7** Reg. 28 in force at 1.2.2020, see [reg. 1](#)

**Procedure at second stage appeal meeting**

- 29.**—(1) This regulation applies to the procedure to be followed at a second stage appeal meeting.
- (2) The meeting must be conducted by the senior manager.
- (3) A human resources professional or a police officer may attend the meeting to advise the senior manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 28(1) may attend the meeting if the officer concerned consents.
- (5) The senior manager must—
- (a) provide the officer concerned with an opportunity to make representations, and
  - (b) provide the police friend (if the officer has one) with an opportunity to address the meeting in accordance with regulation 8(3)(a).
- (6) After considering such representations (if any) and address (if any), the senior manager may—
- (a) in an appeal under regulation 27(2)(c), make a finding that the officer concerned should not have been required to attend the second stage meeting and reverse the finding made at that meeting;
  - (b) confirm or reverse the finding of unsatisfactory performance or attendance made at the second stage meeting;
  - (c) confirm or vary the relevant terms of the final written improvement notice appealed against.
- (7) Where the senior manager reverses the finding of unsatisfactory performance or attendance made at the second stage meeting, the senior manager must also revoke the final written improvement notice.
- (8) The senior manager may postpone or adjourn the meeting to a specified time, or date and time, if it appears to the senior manager necessary or expedient to do so.
- (9) As soon as reasonably practicable after the conclusion of the meeting and in any event before the end of 3 working days beginning with the first working day after the conclusion of the meeting, the officer concerned must be given a written notice of the senior manager's decision and a written summary of the reasons for that decision.
- (10) Where the senior manager has—
- (a) reversed the finding of unsatisfactory performance or attendance made at the second stage meeting (see regulation 25(6)) and revoked the final written improvement notice, or
  - (b) varied any of the relevant terms of the final written improvement notice,
- the decision of the senior manager takes effect by way of substitution for the finding and the final written improvement notice issued or the relevant terms of the final written improvement notice appealed against immediately after the second stage meeting.

**Commencement Information**

**I8** Reg. 29 in force at 1.2.2020, see [reg. 1](#)



**Changes to legislation:**

There are currently no known outstanding effects for the The Police (Performance) Regulations 2020, PART 4.