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STATUTORY INSTRUMENTS

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**2020 No. 3**

**The Police (Performance) Regulations 2020**

**PART 5**

Third stage

**Assessment following second stage meeting**

**30.**—(1) Where a police officer has received a final written improvement notice, as soon as reasonably practicable after the date with which the period specified in accordance with regulation 25(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 the line manager gives 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 third stage meeting) to consider performance or attendance.

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

- (a) the officer has not been required to attend a third stage meeting under paragraph (2), or
- (b) the officer has been required to attend a third stage meeting under paragraph (2) but the panel 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 final written improvement notice remaining after the expiry of the period specified in accordance with regulation 25(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 third stage meeting) to consider performance or attendance.

(6) Unless regulation 32 applies, any third stage meeting which a police officer is required to attend must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.

**Arrangement of a third stage meeting**

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

- (a) referring to the requirement that the officer attend a third stage meeting with a panel appointed by the appropriate authority;
- (b) informing the officer of the procedures for determining the date and time of the meeting under regulation 38;
- (c) summarising the reasons why performance or attendance is considered unsatisfactory;
- (d) informing the officer of the possible outcomes of the meeting;
- (e) informing the officer that if the outcome is dismissal (whether with notice or with immediate effect), the officer’s full name and a description of the conduct which led to dismissal will be added to the police barred list;
- (f) informing the officer that a human resources professional and a police officer may attend the meeting to advise the panel on the proceedings;
- (g) informing the officer that 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;
- (h) where the officer concerned is a special constable, informing the officer that a special constable will attend the meeting to advise the panel;
- (i) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting;
- (j) where the officer is a member of a police force, informing the officer that the officer may seek advice from a representative of a staff association; and
- (k) informing the officer that the officer may be accompanied and represented at the meeting by a police friend.

(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 30(2) or (4), as the case may be.

(3) A third stage meeting under this regulation must not take place unless the officer concerned has been notified of the right to representation under paragraph (1)(k).

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

**32.**—(1) This regulation applies where the appropriate authority—

- (a) decides that the performance of a police officer constitutes gross incompetence;
- (b) has a duty under paragraph 23(5B) of Schedule 3 to the 2002 Act (duties of appropriate authority in relation to direction by Director General to bring disciplinary proceedings) to comply with a direction, following a determination under paragraph 23(5A)(b) of that Schedule (duties of Director General on receipt or completion of report on investigation)(1) that a person’s performance is unsatisfactory and amounts to gross incompetence;
- (c) decides to accept a recommendation made under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation)(2) that misconduct proceedings of the form specified in the recommendation are brought;

(1) Paragraph 23(5A) and (5B) was inserted by paragraphs 9 and 26 of Schedule 5 to the Policing and Crime Act 2017 (“the 2017 Act”) and paragraph 23(5A) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(2) Paragraph 25(4A) to (4J) was inserted by paragraphs 29 and 34(1) and (5) of Schedule 5 to the 2017 Act and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

- (d) decides to accept a recommendation made under paragraph 25(4E)(c) of that Schedule that misconduct proceedings of the form specified in the recommendation are brought;
- (e) decides to accept a recommendation made under paragraph 27(3A) of that Schedule (recommendation of Director General to appropriate authority)(3) that a police officer's performance is unsatisfactory and amounts to gross incompetence, or
- (f) has a duty under paragraph 27(4)(b) of that Schedule (duties with respect to disciplinary proceedings etc)(4) to comply with a direction to give effect to a recommendation referred to in sub-paragraph (c) or (e).

(2) The appropriate authority must inform the officer concerned in writing that the officer is required to attend a meeting to consider performance where this regulation applies.

(3) Such meeting is referred to in these Regulations as a third stage meeting, notwithstanding that the officer concerned has not attended a first stage meeting or a second stage meeting in respect of such performance.

#### **Arrangement of a third stage meeting without a prior first or second stage meeting**

**33.**—(1) Where the appropriate authority has informed the officer concerned under regulation 32(2) that the officer is required to attend a third stage meeting, the appropriate authority must as soon as reasonably practicable give the officer a written notice—

- (a) referring to the requirement that the officer attend a third stage meeting with a panel appointed by the appropriate authority;
- (b) informing the officer of the procedures for determining the date and time of the meeting under regulation 38;
- (c) summarising the reasons why the officer's performance is considered to constitute gross incompetence;
- (d) informing the officer of the possible outcomes of the meeting;
- (e) informing the officer that if the outcome is dismissal (whether with notice or with immediate effect), the officer's full name and a description of the conduct which led to dismissal will be added to the police barred list;
- (f) informing the officer that a human resources professional and a police officer may attend the meeting to advise the panel on the proceedings;
- (g) informing the officer that 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;
- (h) where the officer is a special constable, informing the officer that a special constable must attend the meeting to act as an advisor to the panel;
- (i) in a case to which regulation 40 applies, informing the officer that the Director General may attend the meeting to make representations;
- (j) in a case to which regulation 41 applies, informing the officer that the complainant or any interested person may attend the meeting as an observer;
- (k) in a case to which regulation 42(5) applies, informing the officer that a person nominated by the Director General may attend the meeting as an observer;
- (l) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting;

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(3) Paragraph 27(3A) was inserted by section 138(2) and (4) of the Anti-social Behaviour, Crime and Policing Act 2014 ("the 2014 Act") and amended by paragraph 56(2) of Schedule 9 to the 2017 Act.

(4) Paragraph 27(4) was amended by paragraphs 15 and 56 of Schedule 9 to the 2017 Act.

- (m) in a case to which regulation 42(10) applies, informing the officer that the Director General may direct that the whole or part of the meeting be in public;
  - (n) where the officer is a member of a police force, informing the officer that the officer may seek advice from a representative of a staff association;
  - (o) informing the officer of the effect of regulation 6; and
  - (p) informing the officer that the officer may be accompanied at the meeting by a police friend.
- (2) The notice must be accompanied by a copy of—
- (a) any document relied on by the appropriate authority when it formed the view referred to in sub-paragraph (a) of regulation 32(1), in a case where regulation 32 applies by virtue of that sub-paragraph, or
  - (b) subject to the harm test under these Regulations (see regulation 4(3))—
    - (i) the investigator's report under paragraph 22 or 24A of Schedule 3 to the 2002 Act (reports of final investigations) and the determination of the Director General under paragraph 23(5A)(b) (duties of Director General on receipt or completion of report on investigation), or
    - (ii) in a case where regulation 32 applies by virtue of paragraph (1)(b), (c) or (d), the recommendation of the Director General made under paragraph 25(4C)(c) (reviews with respect to an investigation) or paragraph 27(3A) (recommendation of Director General to appropriate authority), or the recommendation of a local policing body made under paragraph 25(4E)(c), of that Schedule.

### **Appointment of panel members**

**34.**—(1) The third stage meeting must be conducted by a panel comprising a panel chair and two other members.

(2) The panel must be appointed by the appropriate authority and consist of at least one police officer and one human resources professional.

(3) The panel chair must be a member of a police force holding a rank above that of chief superintendent or a senior human resources professional.

(4) The second panel member must be either a police officer or a human resources professional of at least the rank of superintendent or (in the opinion of the appropriate authority) equivalent rank.

(5) The third panel member must be either a police officer or a police staff member of at least the rank of superintendent or (in the opinion of the appropriate authority) equivalent rank.

(6) Each panel member must be of at least the same rank as the officer concerned or (in the opinion of the appropriate authority) equivalent rank.

(7) No panel member may be an interested party.

(8) As soon as reasonably practicable after the panel members have been appointed, the appropriate authority must give the officer concerned a written notice of their names.

(9) As soon as the appropriate authority has appointed the panel members, the appropriate authority must arrange for a copy of any document—

- (a) which was available to the line manager in relation to any first stage meeting;
- (b) which was available to the second line manager in relation to any second stage meeting, or
- (c) which was prepared or submitted under regulation 18, 21, 26, 29, 30, 31, 32 or 33 as the case may be,

to be made available to each panel member, and a copy of any such document must be given to the officer concerned.

(10) In this regulation—

“interested party” means a person whose appointment could reasonably give rise to a concern as to whether the person could act impartially under these Regulations;

“senior human resources professional” means a human resources professional who, in the opinion of the appropriate authority, has sufficient seniority, skills and experience to be a panel chair.

### **Right of officer concerned to object to panel members**

**35.**—(1) The officer concerned may object to the appointment of any of the panel members.

(2) Any such objection must be made in writing to the appropriate authority before the end of 3 working days beginning with the first working day after receipt of the notice referred to in regulation 34(8) and must set out the grounds of objection of the officer concerned.

(3) The appropriate authority must give the officer concerned a written notice as to whether it upholds or rejects an objection to any panel member.

(4) If the appropriate authority upholds an objection, the appropriate authority must remove that member from the panel and must appoint a new member to the panel.

(5) If the appropriate authority appoints a new panel member under paragraph (4), it must ensure that the requirements for the composition of the panel in regulation 34 continue to be met.

(6) As soon as reasonably practicable after any such appointment, the appropriate authority must give the officer concerned a written notice of the name of the new panel member.

(7) The officer concerned may object to the appointment of a panel member appointed under paragraph (4).

(8) Any such objection must be made in writing before the end of 3 working days beginning with the first working day after receipt of the notice referred to in paragraph (6) and must set out the grounds of objection of the officer concerned.

(9) The appropriate authority must comply with paragraphs (3) to (6) in relation to the objection referred to in paragraph (7).

### **Procedure on receipt of notice of third stage meeting**

**36.**—(1) Before the end of—

(a) 14 working days beginning with the first working day after the date on which a notice has been given to the officer concerned under regulation 31 or 33, or

(b) where that period is extended by the panel chair for exceptional circumstances, such extended period,

the officer concerned must comply with paragraphs (2) and (3).

(2) The officer concerned must give the appropriate authority—

(a) a written notice of whether or not the officer accepts that the officer’s performance or attendance has been unsatisfactory or that the officer has been grossly incompetent, as the case may be;

(b) where the officer accepts that the officer’s performance or attendance has been unsatisfactory or that the officer has been grossly incompetent, any written submission the officer wishes to make in mitigation;

(c) where the officer does not accept that the officer’s performance or attendance has been unsatisfactory or that the officer has been grossly incompetent, or where the officer

disputes all or part of the matters referred to in the notice given under regulation 31 or 33, a written notice of—

- (i) the matters the officer disputes and the officer’s account of the relevant events, and
- (ii) any arguments on points of law the officer wishes to be considered by the panel.

(3) The officer concerned must provide the appropriate authority and the panel with a copy of any document the officer intends to rely on at the third stage meeting.

(4) Before the end of 3 working days beginning with the first working day after the date on which the officer concerned has complied with paragraph (2), the senior manager and the officer must each give to the other a list of proposed witnesses or give notice to the other that they do not have any proposed witnesses, and any list of proposed witnesses must include brief details of the evidence that each witness is able to adduce.

(5) Where there are proposed witnesses, the officer concerned must, if reasonably practicable, agree a list of proposed witnesses with the senior manager.

(6) Where no list of proposed witnesses is agreed under paragraph (5), the officer concerned must give the appropriate authority the officer’s list of proposed witnesses.

### **Witnesses**

**37.**—(1) As soon as reasonably practicable after any list of proposed witnesses has been—

- (a) agreed under regulation 36(5), or
- (b) given under regulation 36(6),

the appropriate authority must give that list to the panel chair, together with, in the latter case, a list of its proposed witnesses.

(2) The panel chair must—

- (a) consider the list or lists of proposed witnesses, and
- (b) subject to paragraph (3), determine which, if any, witnesses should attend the third stage meeting.

(3) The panel chair may determine that witnesses not named in any list of proposed witnesses should attend the third stage meeting.

(4) No witness may give evidence at a third stage meeting unless the panel chair reasonably believes that it is necessary in the interests of fairness for the witness to do so, in which case the chair must—

- (a) where the witness is a police officer, cause that person to be ordered to attend the third stage meeting, and
- (b) in any other case, cause the witness to be given notice that the witness’s attendance is necessary and of the date, time and place of the meeting.

### **Timing and notice of third stage meeting**

**38.**—(1) Subject to paragraphs (2) and (6) and regulation 39, the third stage meeting must take place before the end of 30 working days beginning with the first working day after the day on which a notice has been given to the officer concerned under regulation 31 or 33.

(2) The panel chair may extend the time period specified in paragraph (1) where the panel chair considers that it would be in the interests of fairness to do so.

(3) Where the panel chair extends the time period under paragraph (2), the panel chair must give a written notice of the reasons for so doing to the appropriate authority and the officer concerned.

(4) The panel chair must, if reasonably practicable, agree a date and time for the third stage meeting with the officer concerned.

(5) Where no date and time is agreed, the panel chair must specify a date and time for the third stage meeting.

(6) 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 (7),

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

(7) 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 panel chair.

(8) The panel chair must give the officer concerned a written notice of the date and time of the third stage meeting determined in accordance with this regulation and of the place of the meeting.

(9) Where the officer concerned informs the panel chair in advance that the officer is unable to attend the third stage meeting on grounds which the panel chair considers reasonable, the panel chair may allow the officer to participate in the meeting by video link or other means.

(10) Where the Director General is entitled to attend the third stage meeting to make representations under regulation 40(2), or to nominate a person to attend the proceedings as an observer under regulation 42(5), the Director General must be given a written notice of the date, time and place of the proceedings.

### **Postponement and adjournment of a third stage meeting**

**39.**—(1) If the panel chair considers it necessary or expedient, the panel chair may direct that the third stage meeting take place at a date and time that is later than that specified in the notice given under regulation 38.

(2) Such direction may specify a date and time which falls after the period of 30 working days referred to in regulation 38(1).

(3) Where the panel chair makes a direction under paragraph (1), the panel chair must give a written notice of the reasons and the revised date, time and place for the meeting to—

(i) the officer concerned;

(ii) the other panel members; and

(iii) the appropriate authority.

### **Participation of Director General and investigator at third stage meeting**

**40.**—(1) This regulation applies in a case falling within regulation 32 where—

(a) paragraph 18 or 19 of Schedule 3 to the 2002 Act applied (investigations directed by or by the Director General), or

(b) paragraph 16 of that Schedule (investigations by the appropriate authority on its own behalf) applied and—

(i) the Director General—

(aa) made a recommendation under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation) which the appropriate authority accepted;

- (bb) made a recommendation under paragraph 27(3A) of that Schedule (recommendation of Director General to appropriate authority) which the appropriate authority accepted, or
  - (cc) gave a direction under paragraph 27(4)(a) of that Schedule (direction by Director General where appropriate authority does not take steps to secure that full effect is given to Director General's recommendation), or
  - (ii) a local policing body made a recommendation under paragraph 25(4E)(c) of that Schedule (reviews with respect to an investigation) which the appropriate authority accepted.
- (2) The Director General may attend the third stage meeting to make representations, and where the Director General does so—
- (a) the Director General may instruct a relevant lawyer to represent the Director General;
  - (b) the Director General must notify the complainant or any interested person before the meeting, and
  - (c) the panel chair must notify the officer concerned before the meeting.
- (3) The investigator or a nominated person must attend the third stage meeting on the request of the panel chair to answer questions.
- (4) For the purpose of this regulation, a “nominated person” is a person who, in the opinion of—
- (a) the appropriate authority, or
  - (b) in a case to which paragraph 18 or 19 of Schedule 3 to the 2002 Act (investigations directed by or by the Director General) applied, the Director General,
- has sufficient knowledge of the investigation of the case to be able to assist the panel.

#### **Attendance of complainant or interested person at third stage meeting**

- 41.**—(1) This regulation applies in a case falling within regulation 32 where the third stage meeting arises from—
- (a) a conduct matter or DSI matter under Schedule 3 to the 2002 Act (handling of complaints and conduct matters etc.), or
  - (b) the investigation of a complaint to which paragraph 19A of that Schedule (special procedure where investigation relates to police officer or special constable)(5) applied.
- (2) The appropriate authority must give the complainant or any interested person a written notice of the date, time and place of the third stage meeting.
- (3) Subject to this regulation and any conditions imposed under regulation 42(13)—
- (a) the complainant may attend as an observer any part of the third stage meeting relating to the subject matter of the 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 the person is an interested person.
- (4) Subject to paragraph (5) and any conditions imposed under regulation 42(13), a complainant or interested person may be accompanied by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.

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(5) Paragraph 19A was substituted for paragraphs 19A to 19E by paragraphs 9 and 21 of Schedule 5 to the 2017 Act.



(5) Where a complainant or interested person, or any accompanying person, is to give evidence as a witness at the third stage meeting, the complainant or interested person and any accompanying person may not be allowed to attend the meeting before giving evidence.

(6) Where the officer concerned objects to the complainant or interested person, or any accompanying person, being present while a submission is made in mitigation on the officer's behalf, the panel chair may require the complainant or interested person, or any accompanying person, to withdraw while the submission is made.

(7) The panel chair may, at the panel chair's discretion, put any questions to the officer concerned that the complainant or interested person may request be put to the officer.

### **Attendance of others at a third stage meeting**

**42.—**(1) Subject to regulations 40 and 41 and paragraph (10) of this regulation, the third stage meeting must 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) Where the officer concerned is a special constable, the appropriate authority must appoint a special constable with sufficient seniority and experience to act as an adviser to the panel, who must attend the meeting.

(5) A person nominated by the Director General may, as an observer, attend a third stage meeting held under regulation 32 and arising from a case to which—

(a) paragraph 18 or 19 of Schedule 3 to the 2002 Act (investigations directed by or by the Director General) applied, or

(b) paragraph 16 of that Schedule (investigations by the appropriate authority on its own behalf) applied and in relation to which—

(i) the Director General—

(aa) made a recommendation under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation) which the appropriate authority accepted;

(bb) made a recommendation under paragraph 27(3A) of that Schedule (recommendation of Director General to appropriate authority) which the appropriate authority accepted, or

(cc) gave a direction under paragraph 27(4)(a) of that Schedule (direction by Director General where appropriate authority does not take steps to secure that full effect is given to Director General's recommendation), or

(ii) a local policing body made a recommendation under paragraph 25(4E)(c) of that Schedule (reviews with respect to an investigation) which the appropriate authority accepted.

(6) In a case where a person nominated by the Director General is entitled to attend the third stage meeting, the appropriate authority must notify the Director General of the date, time and place of the meeting.

(7) Any other person specified in the notice to the officer concerned in accordance with regulation 31(1)(i) or 33(1)(l) may attend the meeting if the officer consents.

(8) Subject to any contrary decision by the panel chair, a witness other than a complainant, interested person or the officer concerned may only attend the third stage meeting for the purposes of giving their evidence.

(9) The panel chair may, at the panel chair's discretion, permit a witness in the third stage meeting to be accompanied at that meeting by one other person.

(10) Where a third stage meeting held under regulation 32 arises from a case to which paragraph 19 of Schedule 3 to the 2002 Act (investigations by the Director General) applied, and the Director General considers that, because of the gravity of the case or other exceptional circumstances, it would be in the public interest to do so, the Director General may, having consulted with—

- (a) the appropriate authority;
- (b) the officer concerned;
- (c) the complainant or interested person;
- (d) any witnesses,

direct that the whole or part of the third stage meeting be in public.

(11) The panel is under a duty to comply with a direction given under paragraph (10).

(12) A direction under paragraph (10), together with the reasons for it, must be notified as soon as practicable, and in any event before the end of 5 working days beginning with the first working day after the decision was taken, to the persons consulted under that paragraph.

(13) The panel chair may impose such conditions as the panel chair sees fit relating to the attendance under regulation 41 or this regulation of persons 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 a third stage meeting**

**43.**—(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 the meeting, other than the officer concerned, because it is information to which paragraph (2) applies, the panel 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 police 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.

#### **Procedure at a third stage meeting**

**44.**—(1) The panel chair must determine the procedure at the third stage meeting and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.

(2) Where the officer concerned is required to attend a third stage meeting under regulation 30, the panel chair must—

- (a) provide the officer with an opportunity to make representations in relation to the matters referred to in the notice given under regulation 31, and

- (b) provide the police friend (if the officer has one) with an opportunity to address the meeting in relation to such matters in accordance with regulation 8(3)(a).
- (3) Where the officer concerned is required to attend a third stage meeting under regulation 32, the panel chair must—
  - (a) provide the officer concerned with an opportunity to make representations in relation to the matters referred to in the notice given under regulation 33;
  - (b) provide the person representing the officer with an opportunity to address the meeting in relation to such matters in accordance with regulation 8(3)(a).
- (4) The panel chair may adjourn the meeting to a specified time, or date and time, if it appears to the panel chair necessary or expedient to do so.
- (5) A verbatim record of the meeting must be taken and the officer concerned must, on request, be given a copy.

### **Finding**

- 45.**—(1) Following the third stage meeting, the panel must make a finding as to whether—
- (a) in a case falling within regulation 30(2), the performance or attendance of the officer concerned during the period specified in accordance with regulation 25(6)(c) has been satisfactory;
  - (b) in a case falling within regulation 30(4), the performance or attendance of the officer concerned during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 25(6)(c) has been satisfactory; or
  - (c) in a case falling within regulation 32, the performance of the officer concerned constitutes gross incompetence, unsatisfactory performance or neither.
- (2) The panel must prepare (or must cause to be prepared) their decision in writing which must state the finding and their reasons, as well as any outcome which they order under regulation 46.
- (3) As soon as reasonably practicable and in any event before the end of 3 working days beginning with the first working day after the conclusion of the meeting, the panel chair must give a written copy of the decision to—
- (a) the officer concerned, and
  - (b) the line manager.
- (4) Where the panel have made a finding of unsatisfactory performance or attendance or gross incompetence, the copy of the decision given to the officer concerned must be accompanied by a written notice setting out the circumstances in which and the time within which a police officer may appeal to a police appeals tribunal under the Police Appeals Tribunals Rules 2020(6).
- (5) Any finding or decision of the panel under this regulation or regulation 46 must be based on a simple majority but must not indicate whether it was taken unanimously or by a majority.

### **Outcomes**

- 46.**—(1) If the panel make a finding that, in a case falling within regulation 30(2) or (4), the performance or attendance of the officer concerned has been unsatisfactory they may, subject to paragraph (4), order—
- (a) one of the outcomes mentioned in paragraph (3)(a), (c) or (f), or

- (b) where the panel are satisfied that there are exceptional circumstances which justify it, the outcome mentioned in paragraph (3)(d).
- (2) If the panel make a finding that, in a case falling within regulation 32, the performance of the officer concerned constitutes gross incompetence, they may, subject to paragraph (4), order one of the outcomes mentioned in paragraph (3)(b), (c), (e) or (f).
- (3) The outcomes are—
- (a) dismissal of the officer concerned with notice, the period of the notice to be decided by the panel, subject to a minimum period of 28 days;
  - (b) dismissal of the officer concerned with immediate effect;
  - (c) reduction in rank of the officer concerned with immediate effect;
  - (d) an extension of the period of the final written improvement notice issued to the officer concerned;
  - (e) the issue to the officer concerned of a final written improvement notice;
  - (f) redeployment of the officer concerned to alternative duties (which may involve a reduction of rank) within the police force concerned.
- (4) The panel may not order a reduction in rank with immediate effect where—
- (a) the officer is a special constable, or
  - (b) the third stage meeting relates to the attendance of the officer.
- (5) In considering whether to order any of the outcomes mentioned in paragraph (3), the panel—
- (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 their consideration; and
  - (c) must give—
    - (i) the officer, the officer's police friend or, in a case falling within regulation 32, the officer's relevant lawyer, and
    - (ii) the appropriate authority,
- an opportunity to make oral or written representations before making a decision.
- (6) If the panel make a finding, in a case falling within regulation 32, of unsatisfactory performance, they must order the issue to the officer concerned of a written improvement notice.
- (7) A written improvement notice or a final written improvement notice issued under this regulation must—
- (a) state in what respect the performance or attendance of the officer concerned (as the case may be) is considered unsatisfactory or the performance, grossly incompetent;
  - (b) state the improvement that is required in performance or attendance;
  - (c) state that, if a sufficient improvement is not made within such reasonable period as the panel specifies (being a period not exceeding 12 months), the officer may be required to attend a second stage meeting (in the case of a written improvement notice) or another third stage meeting (in the case of a final written improvement notice) and state the date with which this period ends;
  - (d) state that it is valid for a period of 12 months beginning with the date of the notice;
  - (e) state that, if the sufficient improvement referred to in sub-paragraph (c) is not maintained during any part of the validity period remaining after the expiry of the period specified in accordance with sub-paragraph (c), the officer may be required to attend a second stage

meeting (in the case of a written improvement notice) or another third stage meeting (in the case of a final written improvement notice; and

(f) be signed and dated by the panel chair.

(8) Where the panel orders an extension of the period relating to the final written improvement notice—

(a) the notice must be amended—

(i) to state that if the officer concerned does not make a sufficient improvement within such reasonable period as the panel specifies (being a period not exceeding 12 months) the officer may be required to attend another third stage meeting, and

(ii) to state the date with which this period ends;

(b) the panel may vary any of the other matters recorded in the notice;

(c) the notice is valid for a further period of 12 months.

#### **Assessment of performance or attendance following third stage meeting where a written improvement notice has been issued**

47.—(1) Where a written improvement notice has been issued under regulation 46, the performance or attendance of the officer concerned must be assessed under regulation 22 as if the officer had received a written improvement notice under regulation 18.

(2) Where, as a result of such assessment, the officer concerned is required to attend a second stage meeting, these Regulations have effect as if the officer had been required to attend that meeting under regulation 22 in which case—

(a) references to the period specified in accordance with regulation 17(6)(c) must be construed as references to the period specified under regulation 46(7)(c), and

(b) references to the validity period of the written improvement notice must be construed as references to the validity period of the written improvement notice issued under regulation 46.

(3) Where a police officer is required to attend such a second stage meeting, that meeting 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.

#### **Assessment of performance or attendance following third stage meeting where a final written improvement notice has been issued or extended**

48.—(1) Where a final written improvement notice has been issued under regulation 46(6), as soon as reasonably practicable after the end of the period specified by the panel under regulation 46(7)(c) or, where the panel orders an extension of the period, regulation 46(8)(a)—

(a) the panel must assess the performance or attendance of the officer concerned (as the case may be) during that period, and

(b) the panel chair must give the officer a written notice as to whether the panel considers that there has been a sufficient improvement in performance or attendance during that period.

(2) If the panel considers that there has not been a sufficient improvement, the panel chair must, at the same time as the panel chair gives a written notice under paragraph (1)(b), also give the officer concerned a written notice that the officer is required to attend another third stage meeting to consider the officer's performance or attendance.

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

(a) the officer has not been required to attend a third stage meeting under paragraph (2), or

- (b) the officer has been required to attend a third stage meeting under paragraph (2) but the panel did not make a finding of unsatisfactory performance or attendance at that meeting.
- (4) If the panel 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 final written improvement notice remaining after the expiry of the period specified in accordance with regulation 46(7)(c) or, where the panel orders and extension of the period, regulation 46(8)(a), the panel chair must give the officer a written notice of the matters set out in paragraph (5).
- (5) Those matters are—
- (a) that the panel is of the view mentioned in paragraph (4), and
  - (b) that the officer concerned is required to attend another third stage meeting to consider the officer's performance or attendance.
- (6) In a case falling within paragraph (2) or (4), the appropriate authority must give the officer concerned the notice referred to in regulation 31.
- (7) Where the officer concerned is required to attend a third stage meeting under this regulation, these Regulations have effect as if the case fell within regulation 30(2) or (4), as the case may be.
- (8) Where these Regulations have effect in the manner described in paragraph (7)—
- (a) references to the period specified in accordance with regulation 25(6)(c) are to be construed as references to the period specified under regulation 46(7)(c) or (8)(a), as the case may be, and
  - (b) references to the validity period of the final written improvement notice are to be construed as references to the validity period mentioned in regulation 46(7)(d) or (8)(c), as the case may be.
- (9) Any third stage meeting which a police officer is required to attend under this regulation must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice issued under regulation 46(6) or, if amended under regulation 46(8)(a), as so amended.
- (10) References in this regulation to the panel are references to the panel that conducted the initial third stage meeting, subject to paragraph (11).
- (11) Where any of the panel members are not able to continue to act as such, the appropriate authority must remove that member from the panel and must appoint a new member to the panel.
- (12) If the appropriate authority appoints a new panel member under paragraph (11), it must ensure that the requirements for the composition of the panel in regulation 34 continue to be met.
- (13) As soon as reasonably practicable after any such appointment, the appropriate authority must give the officer concerned a written notice of the name of the new panel member.
- (14) The officer concerned may object to the appointment of a panel member appointed under paragraph (11).
- (15) Any such objection must be made in accordance with regulation 35(2), provided that it must be made before the end of 3 working days beginning with the first working day after receipt of the notice referred to in paragraph (13); and the appropriate authority must comply with regulation 35(3) to (6) in relation to the objection but paragraph (7) of that regulation does not apply.

### **Third stage meeting under regulation 48**

- 49.—**(1) Where an officer is required to attend another third stage meeting under regulation 48—
- (a) that meeting must be conducted by the same panel as conducted the initial third stage meeting (subject to any change in that panel under regulation 48);

- (b) the officer concerned may not object to panel members under regulation 35, except in accordance with regulation 48;
  - (c) subject to paragraph (2), regulations 36 to 46 apply to, or in relation to, that meeting.
- (2) Following that third stage meeting, the panel may not order an extension of the period of the final written improvement notice issued to the officer concerned.