SCOTTISH STATUTORY INSTRUMENTS

2014 No. 68

The Police Service of Scotland (Conduct) Regulations 2014

PART 3

Misconduct proceedings

Arrangement of misconduct proceedings

15.—(1) This regulation applies if the deputy chief constable has referred a case to misconduct proceedings.

(2) The deputy chief constable must send a misconduct form to the constable.

(3) A misconduct form sent in accordance with paragraph (2) must give notice of—

(a) the conduct forming the subject matter of the misconduct allegation;

(b) the date, time and location of the misconduct proceedings;

(c) in summary, the facts established by the investigator;

(d) why, in the deputy chief constable's opinion, it can be inferred from the established facts that the conduct which is the subject matter of the misconduct allegation amounts to—

(i) misconduct; or

(ii) gross misconduct;

(e) the constable's right to seek advice from a staff association;

(f) the effect of regulations 6 and 7;

(g) the requirement to provide a notice in response to the misconduct form in accordance with paragraphs (5) to (7);

(h) the name of the person appointed to conduct the misconduct proceedings.

(4) The deputy chief constable must send with the misconduct form—

(a) copies of any statements made by the constable during the investigation;

(b) the name and address of any witness on whom the deputy chief constable proposes to rely at the misconduct proceedings and a summary of the evidence each witness will give (or notice that the deputy chief constable does not intend to rely on any witnesses); and

(c) unless paragraph (13) applies, a copy of—

(i) the report submitted by the investigator in accordance with regulation 13(1)(b); and

(ii) any other relevant documents obtained during the course of the misconduct investigation.

(5) Not more than 10 working days from the date of receipt of the misconduct form, the constable must provide to the deputy chief constable written notice of whether the constable accepts that—

(a) the conduct which is the subject matter of the misconduct allegation is conduct of the constable; and

(b) that conduct amounts to misconduct or (as the case may be) gross misconduct.

(6) A notice provided under paragraph (5) must give the constable's account of the circumstances giving rise to the misconduct allegation and must include—

(a) in a case where the constable accepts that any conduct of the constable amounts to misconduct or (as the case may be) gross misconduct, any written submissions in mitigation;

(b) in a case where the constable does not accept that any conduct of the constable amounts to misconduct or (as the case may be) gross misconduct, details of any allegation which the constable denies;

(c) the details of any legal arguments (if any) the constable wishes the person conducting the misconduct proceedings to consider; and

(d) the names and addresses of any witnesses on whom the constable proposes to rely at the misconduct proceedings and a summary of the evidence each witness will give (or notice that the constable does not intend to rely on any witnesses).

(7) The constable must send with the notice sent under paragraph (5) a copy of any document or other information on which the constable intends to rely at the misconduct proceedings.

(8) Following receipt of a notice under paragraph (5), the deputy chief constable must, by notice in writing, require the constable to attend misconduct proceedings.

(9) A notice under paragraph (8) must—

(a) specify the time, date and place of the misconduct proceedings;

(b) be sent not less than 15 working days before the date of those proceedings.

(10) But a constable may waive in writing the entitlement to 15 working days' notice of the date of the misconduct proceedings.

(11) If, having sent a notice in accordance with paragraph (8), the deputy chief constable considers it necessary or expedient to do so, the misconduct proceedings may be postponed to such later date as the deputy chief constable determines.

(12) If the misconduct proceedings are postponed, the deputy chief constable must send a further written notice requiring the constable to attend those proceedings at a specified time, date and place (and paragraph (9)(b) does not apply to such a notice).

(13) This paragraph applies if the deputy chief constable considers that preventing the disclosure of any document mentioned in paragraph (4)(c) is—

(a) necessary to avoid prejudicing current or future 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 purpose of the prevention or detection of misconduct by other constables or police staff;

(e) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or

(f) otherwise in the public interest.

(14) If any document is withheld by virtue of the application of paragraph (13), the deputy chief constable must, so far as is reasonably possible without prejudicing any of the matters mentioned in that paragraph, provide the constable with a summary of the content of that document.