
STATUTORY INSTRUMENTS

1999 No. 732

POLICE

The Police (Efficiency) Regulations 1999

Made - - - - *10th March 1999*
Laid before Parliament *11th March 1999*
Coming into force - - *1st April 1999*

The Secretary of State, in exercise of the powers conferred on him by sections 50 and 84 of the Police Act 1996(1), and after complying with the requirements of section 63(3) of that Act, hereby makes the following Regulations:

Citation and commencement

1. These Regulations may be cited as the Police (Efficiency) Regulations 1999 and shall come into force on 1st April 1999.

Application

2. These Regulations shall not apply in relation to—
- (a) a chief constable or other officer above the rank of superintendent;
 - (b) an officer of the rank of constable who has not completed his period of probation.

Interpretation

- 3.—(1) In these Regulations, unless the context otherwise requires—
- “the Assistant Commissioner”, in relation to the metropolitan police force, means the assistant commissioner for the time being authorised under section 8 of the Metropolitan Police Act 1856(2);
 - “countersigning officer” means a member of the police force concerned having supervisory responsibility and who is senior in rank to the reporting officer;
 - “first interview” has the meaning assigned to it by regulation 4;
 - “inefficiency hearing” has the meaning assigned to it by regulation 12(2);
 - “interviewing officer” means the officer who conducts a first interview;

(1) 1996 c. 16.
(2) 1856 c. 2.

“member concerned” means the member of a police force in respect of whom proceedings under these Regulations are, or are proposed to be, taken;

“personnel officer” means a person employed under section 15 of the 1996 Act or a member of a police force who, in either case, has responsibility for personnel matters relating to members of the police force concerned;

“police force concerned” means the police force of which the member concerned is a member;

“reporting officer” means the member of the police force concerned who has the immediate supervisory responsibility for the member concerned;

“second interview” has the meaning assigned to it by regulation 8(2);

“senior manager” means—

- (a) the officer who is for the time being the supervisory officer of the person who is, in relation to the member concerned, the countersigning officer; or
- (b) where the member concerned is of the rank of superintendent, his supervising officer;

“the 1996 Act” means the Police Act 1996.

(2) In these Regulations, unless the context otherwise requires, any reference to a regulation shall be construed as a reference to a regulation contained in these Regulations.

Circumstances in which a first interview may be required

4. Where the reporting officer for a member of a police force is of the opinion that the performance of that member is unsatisfactory, he may require the member concerned to attend an interview (in these Regulations referred to as a first interview) to discuss the performance of the member concerned.

Arrangement of first interview

5.—(1) If the reporting officer decides to require a member of a police force to attend a first interview, he shall—

- (a) send a notice in writing to the member concerned—
 - (i) requiring him to attend, at a specified time and place, an interview with the reporting officer or, if the member concerned so requests, the countersigning officer;
 - (ii) stating the reasons why his performance is considered unsatisfactory;
 - (iii) informing him that he may seek advice from a representative of his staff association and be accompanied at the interview by a member of a police force selected by him; and
- (b) send a copy of the notice to the countersigning officer.

(2) A member of a police force who receives a notice pursuant to paragraph (1) may, not later than 7 days (or such longer period as the reporting officer may permit when sending the notice under paragraph (1)(a)) after the date on which the notice was received by him, request by notice in writing that the interview be conducted by the countersigning officer; and if the member concerned so requests the interview shall be conducted by the countersigning officer.

Procedure at first interview

6.—(1) The following provisions of this regulation apply to the procedure to be followed at the first interview.

- (2) The interviewing officer shall—

- (a) explain to the member concerned the reasons why the reporting officer is of the opinion that the performance of that member is unsatisfactory; and
 - (b) provide the member concerned, or the member of a police force who has accompanied him to the interview, or both of them, with an opportunity to make representations in response.
- (3) If, after considering any representations made in accordance with paragraph (2)(b), the interviewing officer is satisfied that the performance of the member concerned has been unsatisfactory, he shall—
- (a) inform the member concerned in what respect his performance is considered unsatisfactory;
 - (b) warn the member concerned of any specific action which he is required to take to achieve an improvement in his performance; and
 - (c) warn the member concerned that, if a sufficient improvement is not made within such reasonable period as the interviewing officer shall specify, he may be required to attend a second interview in accordance with regulation 9.
- (4) The interviewing officer may, if he considers it appropriate, recommend that the member concerned seek assistance in relation to any matter affecting his health or welfare.
- (5) The interviewing officer may adjourn the interview to a specified later time or date if it appears to him necessary or expedient to do so.

Procedure following first interview

- 7.—(1) The interviewing officer shall, not later than 7 days after the date of the conclusion of the first interview—
- (a) cause to be prepared a written record of the substance of the matters discussed at the interview; and
 - (b) send one copy or, where the member concerned was accompanied at the interview by a member of a police force selected by him, two copies of that record to the member concerned together with a notice in writing informing him that he may submit written comments, or indicate that he has no comment to make, not later than 7 days after the date on which the copy is received by him.
- (2) Subject to paragraph (3), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the interviewing officer not later than 7 days after the date on which the copy is received by him.
- (3) The interviewing officer may, on the application of the member concerned, extend the period specified in paragraph (2) if he is satisfied that it is appropriate to do so.
- (4) The interviewing officer shall send a copy of the record of the interview, and of any written comments of the member concerned, to—
- (a) the senior manager;
 - (b) the personnel officer; and
 - (c) (i) if the interview was conducted by the reporting officer, the countersigning officer; or
(ii) if the interview was conducted by the countersigning officer, the reporting officer.
- (5) If the interviewing officer receives any written comments under paragraph (2), he shall ensure that they are retained with the record of the interview.

Circumstances in which a second interview may be required

8.—(1) Where the reporting officer is of the opinion that a member of a police force who was warned under regulation 6(3)(b) that he was required to improve his performance has, at the end of the period specified by the interviewing officer under regulation 6(3)(c), failed to make a sufficient improvement in his performance, he may refer the case to the countersigning officer.

(2) Where a case is referred under paragraph (1), the countersigning officer may, after consulting with the personnel officer, require the member concerned to attend a further interview (in these Regulations referred to as a second interview) to discuss the performance of the member concerned.

Arrangement of second interview

9. If the countersigning officer decides to require a member of a police force to attend a second interview, he shall—

- (a) send a notice in writing to the member concerned—
 - (i) requiring him to attend, at a specified time and place, an interview with the countersigning officer and the personnel officer;
 - (ii) stating the reasons why his performance is considered unsatisfactory and that further action will be considered in the light of the interview; and
 - (iii) informing him that he may seek advice from a representative of his staff association and be accompanied at the interview by a member of a police force selected by him; and
- (b) send a copy of the notice to the reporting officer, the senior manager and the personnel officer.

Procedure at second interview

10.—(1) The following provisions of this Regulation shall apply to the procedure to be followed at a second interview.

- (2) The interview shall be conducted by the countersigning officer and the personnel officer.
- (3) The countersigning officer shall—
 - (a) explain to the member concerned the reasons why the reporting officer is of the opinion that the member concerned has failed to make a sufficient improvement in his performance or, as the case may be, that his performance is unsatisfactory and the conditions specified in regulation 8(2) are satisfied; and
 - (b) provide the member concerned, or the member of a police force who has accompanied him to the interview, or both of them, with an opportunity to make representations in response.
- (4) If, after considering any representations made under paragraph (3), the countersigning officer is satisfied that the performance of the member concerned has been unsatisfactory during the period specified by the interviewing officer under regulation 6(3)(c) or, as the case may be, the period specified in regulation 8(2), he shall—
 - (a) inform the member concerned in what respect his performance is considered unsatisfactory;
 - (b) warn the member concerned that he is required to improve his performance in any such respect;
 - (c) inform the member concerned of any specific action which he is required to take to achieve such an improvement; and
 - (d) warn the member concerned that, if a sufficient improvement is not made within such reasonable period as the countersigning officer shall specify, he may be required to attend

an inefficiency hearing at which the officers conducting the hearing will have the power, if appropriate, to require the member concerned to resign from the force or to order reduction in rank.

(5) The countersigning officer may adjourn the interview to a specified later time or date if it appears to him necessary or expedient to do so.

Procedure following second interview

11.—(1) The countersigning officer shall, not later than 7 days after the conclusion of the second interview—

- (a) in consultation with the personnel officer, prepare a written record of the substance of the matters discussed during the interview; and
- (b) send one copy or, where the member concerned was accompanied at the interview by a member of a police force selected by him, two copies of that record to the member concerned together with a notice in writing—
 - (i) if a warning was given under regulation 10(4), confirming the terms of that warning; and
 - (ii) informing him that he may submit written comments, or indicate that he has no such comments, not later than 7 days after the date on which the copy is received by him.

(2) Subject to paragraph (3), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the countersigning officer not later than 7 days after the date on which it was received by him.

(3) The countersigning officer may, on the application of the member concerned, extend the period specified in paragraph (2) if he is satisfied that it is appropriate to do so.

(4) If the countersigning officer receives any written comments under paragraph (2), he shall ensure that they are retained with the record of the interview.

(5) The countersigning officer shall send a copy of the record of the interview, and of any written comments by the member concerned, to the reporting officer, the personnel officer and the senior manager.

Assessment of performance following second interview

12.—(1) Not later than 14 days after the date on which the period specified under regulation 10(4) (d) ends—

- (a) the countersigning officer shall, in consultation with the reporting officer, assess the performance of the member concerned during that period; and
- (b) the countersigning officer shall inform the member concerned in writing whether the reporting officer and the countersigning officer are of the opinion that there has been a sufficient improvement in performance during that period.

(2) If the countersigning officer is of the opinion that there has been an insufficient improvement, the member concerned shall also, within the period of 14 days mentioned in paragraph (1), be informed in writing that he may be required to attend, at a time (being not sooner than 21 days, but not later than 56 days, after the date on which the notification under this paragraph is received by him) to be notified separately, a hearing (in these Regulations referred to as an inefficiency hearing) to consider his performance.

(3) The countersigning officer shall refer any case in which the member concerned has been informed in accordance with paragraph (2) to the senior manager, who shall, if he thinks it appropriate to do so, direct that an inefficiency hearing be arranged under regulation 13.

Arrangement of an inefficiency hearing

13.—(1) The personnel officer shall, not less than 21 days before the date fixed for the hearing, send a notice in writing to the member concerned—

- (a) requiring him to attend an inefficiency hearing at a specified time and place;
- (b) stating the reasons why his performance is considered unsatisfactory;
- (c) informing him that he may be represented at the hearing—
 - (i) either by counsel or a solicitor; or
 - (ii) by a member of a police force selected by him; and
- (d) warning him of the powers under regulation 17 which are available to the officers conducting the inefficiency hearing in the event that they find that the performance of the member concerned has been unsatisfactory.

(2) If the member concerned wishes to call any witnesses other than the person representing him at the inefficiency hearing, he shall, not later than seven days before the hearing, give notice in writing to the personnel officer of the names and addresses of those witnesses.

(3) In paragraph (2), the reference to the hearing includes a reference to any hearing under regulation 15; and in relation to such a hearing the period within which notice is to be given under that paragraph shall be such period as the chairman of the hearing may direct when he postpones or, as the case may be, adjourns the hearing.

Procedure at an inefficiency hearing

14.—(1) The inefficiency hearing shall be conducted by three officers appointed by the chief officer of police one of whom shall—

- (a) where the member concerned is a member of a police force maintained under section 2 of the 1996 Act, be a member of such a police force holding the rank of assistant chief constable;
- (b) where the member concerned is a member of the metropolitan police force, be a member of that police force holding the rank of commander; and
- (c) where the member concerned is a member of the City of London police force, be an assistant commissioner or a member of that police force holding the rank of commander,

(referred to in these Regulations as the chairman of the inefficiency hearing).

(2) The chairman and any assessor assisting him under paragraph (3) shall be a person who has neither attended nor otherwise been involved with the first interview or the second interview held in relation to the member concerned.

(3) The chairman shall be assisted by two assessors who shall be—

- (a) in a case falling within paragraph (1)(a) or (c)—
 - (i) where the member concerned is of the rank of superintendent, members of a police force other than the police force concerned who hold the rank of assistant chief constable or commander in the metropolitan police force, and
 - (ii) where the member concerned is below the rank of superintendent, members of a police force who hold the rank of superintendent; and
- (b) in a case falling within paragraph (1)(b)—
 - (i) where the member concerned is of the rank of superintendent, members of the metropolitan police force who hold the rank of commander, and
 - (ii) where the member concerned is below the rank of superintendent, members of the metropolitan police force who hold the rank of superintendent.

(4) As soon as the chief officer of police has appointed the chairman, the personnel officer shall arrange for a copy of any document—

- (a) which was available to the interviewing officer in relation to the first interview;
- (b) which was available to the countersigning officer in relation to the second interview; or
- (c) which was prepared or submitted under regulation 11, 12 or 13,

to be made available to the chairman; and a copy of any such document shall be sent to the member concerned.

(5) Subject to the provisions of this regulation, the procedure at the inefficiency hearing shall be such as the chairman may determine.

(6) The inefficiency hearing shall be held in private unless the chairman, with the consent of the member concerned, decides otherwise.

(7) The chairman shall afford the member concerned an opportunity to make representations in relation to the matters referred to in the notice sent under regulation 13(1) and to call any witness in respect of whom notice has been given under regulation 13(2).

(8) A verbatim record of the proceedings at the inefficiency hearing shall be taken and, if the member concerned so requests within the time limit for any appeal and after he has lodged notice of appeal in accordance with rules made under section 85 of the 1996 Act, a transcript of the record or a copy thereof shall be supplied to him by the chairman.

(9) Subject to regulation 15(1), if the member concerned does not attend the inefficiency hearing or at any adjournment thereof, the hearing may be proceeded with and concluded in his absence if it appears to the chairman just and proper to do so.

(10) Where, owing to the absence of the member concerned, it is not possible to comply with the whole or any part of the procedure described in this regulation or regulation 15, the case may be proceeded with as if that procedure had been complied with.

Postponement or adjournment of an inefficiency hearing

15.—(1) If the member concerned intimates to the chairman that he will be unable to attend the inefficiency hearing, or in the absence of such intimation does not attend the hearing, and the chairman is satisfied that a good reason for such non-attendance is given by, or on behalf of, the member concerned, he shall postpone, or as the case may be adjourn, the hearing.

(2) The chairman may also adjourn the inefficiency hearing if, having given the member concerned the opportunity of making representations under regulation 14(7), he considers it appropriate to allow a further period for assessment of the performance of the member concerned.

(3) Where the chairman adjourns the inefficiency hearing for the purposes of paragraph (2), he shall—

- (a) specify a period (not exceeding 3 months) during which the reporting officer and the countersigning officer shall assess the performance of the member concerned;
- (b) fix a date on which the hearing shall resume; and
- (c) require the member concerned to attend on that date at a specified place.

(4) Not later than 14 days after the date on which the period for further assessment specified by the chairman under paragraph (3)(a) ends—

- (a) the reporting officer and the countersigning officer shall prepare a report containing their assessment of the performance of the member concerned during that period; and
- (b) the countersigning officer shall send the report to the chairman of the inefficiency hearing and a copy of the report to the member concerned.

(5) At the continuation of the inefficiency hearing the chairman shall afford the member concerned an opportunity to make representations in relation to the matters referred to in the report mentioned in paragraph (4) and to call any witnesses in respect of whom notice was given under regulation 13(2).

(6) Where at the time the report mentioned in paragraph (4) is sent under paragraph (4)(b) the chairman of the inefficiency hearing is absent, incapacitated or suspended from duty and it is likely that his absence, incapacity or suspension will continue for a period of more than 28 days, the chief officer of police shall arrange for another member of a police force, being a person who would have been eligible for appointment as chairman of the inefficiency hearing under regulation 14(1) and (2) in relation to the hearing in question, to carry out in relation to the member concerned the functions of the chairman of the inefficiency hearing specified in paragraph (5) and in regulations 16 and 17.

(7) The chairman of an inefficiency hearing may adjourn the hearing to a specified later time or date if it appears to him necessary or expedient to do so.

Finding

16.—(1) Subject to paragraph (2), at the conclusion of the inefficiency hearing, the officers conducting the hearing shall reach a decision whether the performance of the member concerned—

- (a) in the period referred to in regulation 10(4)(d); or
- (b) where the hearing was adjourned under regulation 15(2), over the whole of the period comprising the period referred to in regulation 10(4)(d) and the further period specified by the chairman under regulation 15(3)(a),

has been satisfactory or not.

(2) The chairman may, at the conclusion of the hearing, defer reaching a decision until a later time or date if it appears necessary or expedient to do so.

(3) The decision of the officers conducting the hearing shall state the finding and, where they have found that the performance of the member concerned has not been satisfactory, their reasons as well as any sanction which they impose under regulation 17.

(4) The chairman shall record the decision in writing, and shall, not later than three days after the finding is stated under paragraph (3), send a copy of it to—

- (a) the member concerned;
- (b) the senior manager; and
- (c) the personnel officer;

and the copy sent to the member concerned shall be accompanied by a notice in writing informing him of his right to request a review under regulation 19.

(5) Any decision of the officers conducting the hearing under this regulation or regulation 17 shall be based on a simple majority, but shall not indicate whether it was taken unanimously or by a majority.

Sanctions

17.—(1) If the officers conducting the inefficiency hearing make a finding that the performance of the member concerned during the relevant period has been unsatisfactory, they may—

- (a) require the member concerned to resign from the force either one month after the date on which a copy of the decision sent under regulation 16(4) is received by him or on such later date as may be specified;
- (b) order reduction in his rank with immediate effect and issue a written warning to the member concerned that unless a sufficient improvement in his performance is made

within such period as the chairman shall specify, he may, following consideration of his performance during that period in accordance with regulation 18, be required to attend a first interview in respect of that performance; or

(c) issue such a written warning as is mentioned in sub-paragraph (b).

(2) Where the sanction under paragraph (1)(a) is imposed and where the member concerned has not resigned from the force in accordance with the requirement, then the effect of the decision shall be to dismiss the member concerned from the force as from the time referred to in that paragraph.

Assessment of performance following inefficiency hearing

18.—(1) This regulation applies where the member concerned has been given a written warning under paragraph (1)(b) or (c) of regulation 17.

(2) Not later than 14 days after the end of the period specified in the warning, the reporting officer shall—

(a) assess the performance of the member concerned during that period ;

(b) cause to be prepared a report on the performance; and

(c) send a copy of the report to the member concerned.

(3) Where the report prepared under paragraph (2)(b) concludes that the performance of the member concerned has been satisfactory during the period specified in the warning, no further action shall be taken in respect of that performance during that period.

(4) Where the report prepared under paragraph (2)(b) concludes that, in the opinion of the reporting officer, the performance of the member concerned has been unsatisfactory during that period, the reporting officer shall request the member concerned to attend a first interview in accordance with regulation 4; and these Regulations shall have effect for the purposes of the performance of the member concerned during that period as if he had been invited to a first interview under regulation 4.

Request for a review

19.—(1) Where the officers conducting the inefficiency hearing have imposed a sanction under regulation 17, the member concerned shall be entitled to request the chief officer of the police force concerned, or where the member concerned is a member of the metropolitan police force the Assistant Commissioner, (“the reviewing officer”) to review the finding or the sanction imposed, or both the finding and the sanction.

(2) A request for a review must be made to the reviewing officer in writing within 14 days of the date on which a copy of the decision sent under regulation 16(4) is received by the member concerned unless this period is extended by the reviewing officer.

(3) The request for a review shall state the grounds on which the review is requested and whether a meeting is requested.

Conduct of the review

20.—(1) The reviewing officer shall hold a meeting with the member concerned if requested to do so.

(2) Where a meeting is held, the member concerned may be accompanied by a member of a police force and by counsel or a solicitor.

Finding of the review

21.—(1) The member concerned shall be informed of the finding of the reviewing officer in writing within three days of completion of the review.

(2) The reviewing officer may confirm the decision of the hearing or he may impose a different sanction but he may not impose a sanction greater than that imposed at the hearing.

(3) The decision of the reviewing officer shall take effect by way of substitution for the decision of the hearing and as from the date of that hearing.

(4) Where as a result of the decision of the reviewing officer the member concerned is required to resign or reduced in rank he shall be notified in writing of his right of appeal to a Police Appeals Tribunal.

Hearing of review in absence of chief officer

22.—(1) Subject to paragraphs (2) to (4), where the chief officer is an interested party or the circumstances in section 12(4)(a) or (b) of the 1996 Act apply, the review shall be conducted by the assistant chief constable designated under section 12(4) of the 1996 Act.

(2) Where the designated assistant chief constable is absent or an interested party, the review shall be conducted by the chief officer of another force who has agreed to act in that capacity.

(3) Where the member concerned is a member of the metropolitan police force, the review shall be conducted by the Assistant Commissioner or if he is absent or an interested party by the commander designated under paragraph 4(7) of Schedule 6 to the Police Regulations 1995⁽³⁾ or, if the commander is absent or an interested party, by another assistant commissioner.

(4) Where the member concerned is a member of the City of London police force, the review shall be conducted by the Commissioner or, if he is absent or an interested party, by a chief officer of another force who has agreed to act in that capacity or an assistant commissioner of the metropolitan police force who has agreed to act in that capacity.

Amendment of Police Regulations 1995

23.—(1) In regulation 17(2) of the Police Regulations 1995—

(a) in sub-paragraph (g), for the words “punishments other than cautions,” there shall be substituted the words “sanctions other than cautions imposed under regulation 31 of the Police (Conduct) Regulations 1999⁽⁴⁾ or under regulation 17 of the Police (Efficiency) Regulations 1999”; and

(b) in the proviso—

(i) for the word “punishment” wherever it occurs there shall be substituted the word “sanction”; and

(ii) after paragraph (ii) there shall be inserted the following paragraph:

“(iii) a sanction under regulation 17 of the Police (Efficiency) Regulations 1999 shall be expunged after 2 years free from any such sanction;”.

(2) After regulation 17(2) there shall be inserted the following paragraph:

“(2A) Where following a review of a sanction imposed under regulation 31 of the Police (Conduct) Regulations 1999 or under regulation 17 of the Police (Efficiency) Regulations 1999 the reviewing officer substitutes for the decision of the conduct hearing or, as the case may be, inefficiency hearing a decision that the member concerned had not failed to meet the

(3) S.I.1995/215, as amended by S.I. 1995/2020.

(4) S.I. 1999/730.

appropriate standard or, as the case may be, that the performance of the member concerned was not unsatisfactory, the sanction imposed by that hearing shall be expunged forthwith.”.

Home Office
10th March 1999

Jack Straw
One of Her Majesty’s Principal Secretaries of
State

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

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations, made in pursuance of section 50 of the Police Act 1996 (“the Act”), make provision with respect to the efficiency of members of police forces and establish procedures for cases in which members of a police force may be dealt with by requirement to resign or reduction in rank. The Regulations, by virtue of regulation 2, do not apply to officers above the rank of superintendent or probationers.

Regulations 4 to 7 provide for a first interview to be held in respect of a member of a police force whose performance is considered to be unsatisfactory, and lay down the arrangements concerning and the procedure at and following such an interview. Regulations 8 to 12 make similar provision in respect of second interviews, which may be held where the performance of a member of a police force continues to be, or again becomes, unsatisfactory.

Regulations 13 to 18 provide for an inefficiency hearing to be held in respect of a member of a police force whose performance following a second interview has remained unsatisfactory and for the procedure and findings of such a hearing. Regulations 19 to 22 provide for the review of the decision of an inefficiency hearing by the chief officer or another senior officer and regulation 23 makes consequential amendments to the Police Regulations 1995 (which have effect as if made under section 50 of the Act).