

SCHEDULE 2

Regulation 45

SPECIAL CASES

PART 1

Conditions

- 1.—(1) The conditions referred to in regulation 45 are—
- (a) the report, complaint or allegation indicates that the conduct of the officer concerned is of a serious nature and that an imprisonable offence may have been committed by the officer concerned; and
 - (b) the conduct is such that, were the case to be referred to a hearing under regulation 11 and the tribunal or officers conducting that hearing were to find that the conduct failed to meet the appropriate standard, they would in the opinion of the appropriate officer or appropriate authority be likely to impose the sanction specified in regulation 35(2)(a) or (4)(a) (dismissal from the force); and
 - (c) the report, complaint or allegation is supported by written statements, documents or other material which is, in the opinion of the appropriate officer or appropriate authority, sufficient without further evidence to establish on the balance of probabilities that the conduct of the officer concerned did not meet the appropriate standard; and
 - (d) the appropriate officer or appropriate authority is of the opinion that it is in the public interest for the officer concerned to cease to be a member of a police force, or to be a special constable, without delay.
- (2) In this paragraph an “imprisonable offence” means an offence which is punishable with imprisonment in the case of a person aged 21 or over.

PART 2

Modifications

2. For regulation 12 there shall be substituted the following regulation—
- “12. At any time before the beginning of the hearing the appropriate authority (in the case of a senior officer) or appropriate officer (in the case of an officer other than a senior officer) may direct that the case be returned to the investigating officer or supervising officer, as the case may be.”
3. For regulation 14 there shall be substituted the following regulation—
- “14.—(1) The appropriate authority or the appropriate officer, as the case may be, shall ensure that, as soon as practicable, the officer concerned is given written notice of the decision to refer the case to a hearing and supplied with copies of—
- (a) the certificate issued under regulation 11(6)(b)(i);
 - (b) any statement he may have made to the investigating officer; and
 - (c) any relevant statement, document or other material obtained during the course of the investigation.
- (2) The notice given under paragraph (1) shall specify the conduct of the officer concerned which it is alleged failed to meet the appropriate standard and the paragraph of

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the Code of Conduct in respect of which the appropriate standard is alleged not to have been met.

(3) In this regulation any reference to a copy of a statement shall, where it was not made in writing, be construed as a reference to a copy of an account thereof.

(4) In the case of an officer who is not a senior officer, the officer concerned shall be invited to an interview with the appropriate officer at which he shall be given the notice mentioned in paragraph (1), but if the officer concerned fails or is unable to attend that interview, the notice and copy document referred to in that paragraph shall be—

- (a) delivered to the officer concerned personally, or
- (b) left with some person at, or sent by recorded delivery to, the address at which he is residing.

(5) In the case of a senior officer, if the appropriate authority does not proceed as mentioned in regulation 13(1) or (2), the notice mentioned in paragraph (1) shall be given to that officer by an independent solicitor instructed by the appropriate authority to this effect.

(6) The reference in paragraph (5) to an independent solicitor is a reference to a solicitor who is not a member, officer or servant of the appropriate authority or of any local authority which appoints any member of the appropriate authority.”.

4. For regulations 16 and 17 there shall be substituted the following regulations—

“**16.** The appropriate authority or, as the case may be, the appropriate officer shall fix a date for the hearing which shall be not less than 21 and not more than 28 days from the date on which notice is given under regulation 14 and shall ensure that the officer concerned is forthwith notified of the time, date and place of the hearing.

17. The appropriate officer shall cause the officer concerned to be given notice in writing, at the same time as he is given notice of the hearing under regulation 16, of the opportunity to elect to be legally represented at the hearing and of the effect of section 84(1) to (3) of the 1996 Act, or of paragraphs (3) to (5) of this regulation, as appropriate.”.

5. In regulation 18 (procedure on receipt)—

- (a) in paragraph (1), for the words from “on which he is notified” to the end there shall be substituted the words

“on which he receives the documents referred to in regulation 14—

- (a) whether or not he accepts that his conduct did not meet the appropriate standard; and
- (b) whether he wishes to be legally represented at the hearing”; and

- (b) paragraphs (2) and (3) shall be omitted.

6. For regulation 19 there shall be substituted the following regulation—

“**19.—**(1) Subject to paragraph (2), a case which is referred to a hearing under regulation 11(6)(b)(i) shall be heard—

- (a) in the case of the metropolitan police force, by an Assistant Commissioner;
- (b) in any other case, by the chief officer concerned.

(2) Where the chief officer concerned is an interested party, the case shall be heard by the chief officer of another force who has agreed to act in that capacity.”.

7. Regulation 21 shall be omitted.

8. In regulation 22 (documents to be supplied to officers conducting the hearing), for “persons” there shall be substituted “officer” and for paragraphs (a) and (b) there shall be substituted the

words “a copy of the notice given, and of any documents provided to the officer concerned, under regulation 14”.

9. In regulation 23 (representation), in paragraphs (1) and (2) for “supervising” there shall be substituted “appropriate”.

10. For regulation 26 (conduct of hearing) there shall be substituted the following regulation—

“**26.** The tribunal or the officer conducting the hearing may adjourn if it appears to him to be necessary or expedient to do so; but

- (a) shall not exercise the power to adjourn more than once; and
- (b) shall not adjourn for longer than a period of one week or, on application by the officer concerned, four weeks.”.

11. In regulation 27 (procedure at hearing)—

- (a) for “officers” wherever occurring there shall be substituted “officer”; and
- (b) for “their” in paragraph (1) there shall be substituted “his”.

12. In regulation 29 (attendance of complainant and interested persons at hearing)—

- (a) paragraphs (4) and (5) shall be omitted; and
- (b) for the words “presiding officer” wherever they occur there shall be substituted “officer conducting the hearing”.

13. In regulation 30 (attendance of others at hearing)—

- (a) paragraphs (4) to (6) shall be omitted;
- (b) for “presiding officer” there shall be substituted “officer conducting the hearing”; and
- (c) in paragraph (7) the words “Subject as aforesaid” shall be omitted.

14. Regulation 31 (exclusion of public from hearing) shall be omitted.

15. In regulation 32 (statements in lieu of oral evidence)—

- (a) in paragraph (1), the words “, or whether any question should or should not be put to a witness,” shall be omitted;
- (b) in paragraph (2), for “14(1)” there shall be substituted “14(1) or (4)”;
- (c) for the words “presiding officer” wherever they occur there shall be substituted “officer conducting the hearing”; and
- (d) at the end there shall be added the following paragraph—
“(3) No witnesses shall be called by either party to the case.”.

16. In regulation 33 (remission of cases)—

- (a) paragraphs (2)(b), (3) and (4) shall be omitted;
- (b) for the words “presiding officer” wherever they occur there shall be substituted “officer conducting the hearing”; and
- (c) at the end there shall be added the following paragraph—
“(6) The officer conducting the hearing may return the case to the supervising officer if, either before or during the hearing, the officer conducting the hearing considers it appropriate to do so.”.

17. In regulation 34 (record of hearing) for “presiding officer” there shall be substituted “officer conducting the hearing”.

18. In regulation 35 (sanctions)—

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- (a) in paragraph (1), for “persons” there shall be substituted “officer”;
 - (b) in paragraph (3), after the words “dismiss the case or” insert “direct that it is to be returned to the investigating officer or”.
- 19.** In regulation 36 (personal record to be considered before sanction imposed)—
- (a) for “persons” there shall be substituted “officer”;
 - (b) in paragraph (1)(a) for the words “may receive evidence from any witness whose evidence” there shall be substituted “may admit such documentary evidence as”; and
 - (c) in paragraph (1)(b) after the word “adduce” there shall be inserted “documentary”.
- 20.** In regulation 37(1) (notification of finding) for “three days” there shall be substituted “24 hours”.
- 21.** In regulation 40 (request for a review)—
- (a) in paragraph (1)(b) for “persons” substitute “officer”, and for “decide”, in both places where it appears, substitute “decides”;
 - (b) in paragraph (1) for the words from “chief officer” to the end there shall be substituted “chief officer concerned to refer the case to the chief officer of another force who has agreed to act in that capacity (“the reviewing officer”) to review the finding or the sanction (if any) imposed or both the finding and the sanction”; and
 - (c) in paragraph (2), for the words “reviewing officer” in the first place where they occur there shall be substituted “chief officer concerned” and the words from “unless” to the end shall be omitted.
- 22.** In regulation 42 (finding of the review)—
- (a) in paragraph (1), for “three days” there shall be substituted “24 hours”; and
 - (b) at the end there shall be added the following paragraph—
 - “(6) Where the reviewing officer considers that the officer conducting the hearing should have returned the case to the supervising officer under regulation 33(6), he shall so return the case and the case shall thereafter be deemed to have been returned under that paragraph.”.
- 23.** Regulation 43 shall be omitted.