
STATUTORY INSTRUMENTS

2012 No. 2631

The Police (Performance) Regulations 2012

PART 2

General

Police friend

5.—(1) The officer concerned may choose—

- (a) a police officer;
- (b) a police staff member; or
- (c) where the officer concerned is a member of a police force, a person nominated by his staff association,

who is not otherwise involved in the matter, to act as his police friend.

(2) A police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations;
- (b) unless the officer concerned has the right to be legally represented under regulation 6 and chooses to be so represented, represent the officer concerned at a meeting under these Regulations;
- (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations; and
- (d) accompany the officer concerned to any meeting which the officer concerned is required to attend under these Regulations.

(3) Where a police friend is a police officer or a police staff member, the chief officer of police of the force of which the police friend is a member shall permit him to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

(4) The reference in paragraph (3) to the force of which the police friend is a member shall include a reference to the force maintained for the police area for which a special constable is appointed and the force in which a police staff member is serving.

Legal representation

6.—(1) Where a police officer is required to attend a third stage meeting under regulation 30, he has the right to be legally represented at such meeting by a relevant lawyer of his choice.

(2) If such an officer chooses not to be legally represented—

- (a) such meeting may take place and he may be dismissed or receive any other outcome under regulation 44(2) or (6) without his being legally represented; and
- (b) the panel conducting such meeting may nevertheless be advised by a relevant lawyer at the meeting in accordance with regulation 40(3).

(3) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, he may be represented at a meeting under these Regulations only by a police friend.

(4) A third stage meeting under regulation 30 shall not take place unless the officer concerned has been notified in writing of the effect of this regulation.

Provision of notices or documents

7. Where any written notice or document is to be given or supplied to the officer concerned under these Regulations, it shall be—

- (a) given to him in person; or
- (b) left with some person at, or sent by recorded delivery to, his last known address.

Procedure at meetings under these Regulations

8.—(1) Where the officer concerned does not attend a meeting under these Regulations or where the officer concerned participates in a third stage meeting by video link or other means under regulation 36(9), he may nonetheless be represented at that meeting by his—

- (a) police friend; or
- (b) where the officer is required to attend the third stage meeting under regulation 30, his relevant lawyer.

(2) Where the officer concerned does not attend a meeting under these Regulations or participate in a third stage meeting by video link or other means under regulation 36(9), the meeting may be proceeded with and concluded in the absence of the officer concerned whether or not he is so represented.

(3) During any meeting under these Regulations, the person representing the officer concerned may—

- (a) address the meeting in order to do any or all of the following—
 - (i) put the case of the officer concerned;
 - (ii) sum up that case;
 - (iii) respond on behalf of the officer concerned to any view expressed at the meeting;
 - (iv) make representations concerning any aspect of proceedings under these Regulations; and
 - (v) in the case of a third stage meeting only, subject to paragraph (7), ask questions of any witnesses;
- (b) confer with the officer concerned.

(4) Where the person representing the officer concerned is a relevant lawyer, the police friend of the officer concerned may also confer with the officer concerned.

(5) Where the officer concerned is participating in a third stage meeting by video link or other means in accordance with regulation 36(9), the person representing the officer or (if different) his police friend (or both) may also participate in the third stage meeting by such means together with the officer concerned.

(6) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer concerned during a meeting.

(7) Whether any question should or should not be put to a witness at a third stage meeting shall be determined by the panel chair.

(8) At any meeting under these Regulations, the person or the panel conducting the meeting shall not make a finding of unsatisfactory performance or attendance or gross incompetence unless—

- (a) he is or they are satisfied on the balance of probabilities that there has been unsatisfactory performance or attendance or gross incompetence; or
- (b) the officer concerned consents to such a finding.

(9) The person conducting or chairing a meeting under these Regulations may allow any document to be considered at that meeting notwithstanding that a copy of it has not been—

- (a) supplied to him by the officer concerned in accordance with regulation 15(8), 18(6)(b), 22(8), 25(6)(b) or 34(3);
- (b) supplied to the officer concerned in accordance with regulation 15(2), 22(2), 29(2) or 31(2); or
- (c) made available to each panel member or given to the officer concerned under regulation 32(11).

Nominated persons

9.—(1) A senior manager may appoint another person (a “nominated person”) to carry out any of the functions of the line manager or the second line manager in these Regulations.

(2) Where a person is appointed to carry out any of the functions of the line manager under paragraph (1) he may not also be appointed to carry out any of the functions of the second line manager under that paragraph.

(3) Where a person is appointed to carry out any of the functions of the second line manager under paragraph (1) he may not also be appointed to carry out any of the functions of the line manager under that paragraph.

(4) A nominated person shall be a member of the police force concerned or a police staff member in the police force concerned and shall be, in the opinion of the appropriate authority, of at least the same or equivalent rank or grade as the person whose functions he is carrying out.

(5) Where a nominated person is appointed by the senior manager, references in these Regulations to a line manager or a second line manager, as the case may be, shall be construed as references to the nominated person, in relation to the functions which the nominated person has been appointed to carry out.

References to certain periods

10.—(1) The appropriate authority may, on the application of the officer concerned or otherwise, extend the period specified in accordance with any of the regulations mentioned in paragraph (2) if it is satisfied that it is appropriate to do so.

(2) The regulations mentioned in this paragraph are—

- (a) regulation 16(6)(c);
- (b) regulation 23(6)(c); and
- (c) regulation 44(7)(c) and (8)(a).

(3) Unless the appropriate authority is satisfied that there are exceptional circumstances making it appropriate, any such period may not be extended if the extension would result in the total length of that period exceeding 12 months.

(4) Where an extension is granted under paragraph (1) to a period specified under a regulation mentioned in paragraph (2), any reference in these Regulations to such period shall be construed as a reference to that period as so extended.

Suspension of certain periods

11.—(1) Any reference in these Regulations to a period mentioned in paragraph (2) shall not include any time the officer concerned is taking a career break under regulation 33(12) of the Police Regulations (leave) and the determination of the Secretary of State made under that regulation.

(2) The periods mentioned in this paragraph are—

- (a) a period specified in accordance with regulation 16(6)(c);
- (b) the validity period of a written improvement notice;
- (c) a period specified in accordance with regulation 23(6)(c);
- (d) the validity period of a final written improvement notice;
- (e) a period specified under regulation 44(7)(c) or (8)(a);
- (f) the validity period of a final written improvement notice extended under regulation 44.

Meeting following investigation under Schedule 3 to the 2002 Act

12.—(1) Subject to regulation 30, where the appropriate authority—

- (a) (i) receives an investigator's written report submitted under paragraph 22 of Schedule 3 to the 2002 Act; and
 - (ii) in making a determination under paragraph 23(7) or 24(6) of that Schedule, considers that the performance of a police officer is unsatisfactory;
- (b) accepts a recommendation under paragraph 27(3) of that Schedule in relation to the unsatisfactory performance of a police officer; or
- (c) has a duty under paragraph 27(4) of that Schedule to comply with a direction to give effect to such a recommendation,

it shall direct the line manager for the officer concerned to take the action specified in paragraph (2), (3) or (4), as the case may be.

(2) In a case where—

- (a) the officer concerned has received a final written improvement notice under regulation 24 or 44 in relation to unsatisfactory performance which is similar to or connected with the unsatisfactory performance to which the determination mentioned in paragraph (1)(a) or the recommendation mentioned in paragraph (1)(b) and (c) relates; and
- (b) the validity period of the final written improvement notice, within the meaning of regulation 24(4) or 44(7)(d) or (8)(c), has not expired,

the specified action is that the line manager shall require the officer to attend a third stage meeting.

(3) In a case where—

- (a) the officer concerned has received a written improvement notice under regulation 17 or 44 in relation to unsatisfactory performance which is similar to or connected with the unsatisfactory performance to which the determination mentioned in paragraph (1)(a) or the recommendation mentioned in paragraph (1)(b) and (c) relates; and
- (b) the validity period of the written improvement notice, within the meaning of regulation 17(4) or 44(7)(d), has not expired,

the specified action is that the line manager shall require the officer to attend a second stage meeting.

(4) In any other case, the specified action is that the line manager shall require the officer concerned to attend a first stage meeting.

(5) The line manager shall comply with a direction given by the appropriate authority under paragraph (1).

- (6) Where a police officer is required to attend a meeting under this regulation—
- (a) regulations 15 to 20 shall apply, if the meeting is a first stage meeting;
 - (b) regulations 22 to 27 shall apply, if the meeting is a second stage meeting; and
 - (c) regulations 29, 32 to 37 and 40 to 47 shall apply, if the meeting is a third stage meeting,
- but this is subject to paragraphs (7) and (8).
- (7) The duty to provide documents in regulation 15(2), 22(2) or 29(2) shall have effect as a duty to provide the officer concerned with (subject to the harm test in regulation 4(3)) a copy of—
- (a) the investigator’s written report submitted under paragraph 22 of Schedule 3 to the 2002 Act; and
 - (b) any recommendation of the Commission under paragraph 27(3) of that Schedule.
- (8) Where a police officer is required to attend a third stage meeting under paragraph (2) by reason of the fact that he is subject to a final written improvement notice issued or extended under regulation 44—
- (a) the meeting shall be conducted by the same panel as conducted the initial third stage meeting;
 - (b) regulation 46(11) to (15) shall apply in relation to that panel; and
 - (c) the officer concerned shall not have the right to object to panel members under regulation 33, except in accordance with regulation 46(15).
- (9) Where the appropriate authority fails to make the determination referred to in paragraph (1) (a)(ii) (in so far as it involves consideration of the performance of a police officer) before the end of 15 working days beginning with the first working day after the receipt of the investigator’s written report, it shall notify the officer concerned of the reason for this.

Provision of information to the Commission

- 13.—**(1) This regulation applies in a case where—
- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act applied; or
 - (b) paragraph 16 or 17 of that Schedule applied and the Commission—
 - (i) made a recommendation under paragraph 27(3) of that Schedule which the appropriate authority accepted; or
 - (ii) gave a direction to the appropriate authority under paragraph 27(4) of that Schedule.
- (2) Where this regulation applies, the appropriate authority shall send the Commission a copy of—
- (a) any written record and written improvement notice given to the officer concerned under regulation 17(5);
 - (b) any written notice and written summary given to the officer concerned under regulation 20(9);
 - (c) any notification as to improvement in performance or attendance under regulation 21(1) (b);
 - (d) any written record and final written improvement notice given to the officer concerned under regulation 24(5);
 - (e) any written notice and written summary given to the officer concerned under regulation 27(9);
 - (f) any notification as to improvement in performance or attendance under regulation 28(1) (b);

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- (g) any written decision given to the officer concerned under regulation 43(3);
 - (h) any final written improvement notice issued or extended under regulation 44(3);
 - (i) any written improvement notice issued under regulation 44(6);
 - (j) any notification as to improvement in performance or attendance under regulation 46(2)(b).
- (3) Where this regulation applies, the appropriate authority shall notify the Commission if it extends, under regulation 10(1), any period specified in accordance with regulation 16(6)(c), 23(6)(c) or 44(7)(c) or (8)(a).