
EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations revoke and re-enact the Police (Conduct) Regulations 2008 (S.I. 2008/2864 – “the 2008 Regulations”), with modifications to reflect changes to policing governance made by the Police Reform and Social Responsibility Act 2011 (“the 2011 Act”).

Relevant provisions of the 2011 Act affecting the metropolitan police district came into force on 16th January 2012, and the Police (Performance and Conduct) (Amendment: Metropolitan Police) Regulations 2011 (S.I. 2011/3027 – “the 2011 Regulations”) amended the 2008 Regulations to reflect this. These Regulations replicate the changes that made to the 2008 Regulations by the 2011 Regulations, and make further changes to achieve the same results in relation to all police areas in England and Wales. The 2011 Regulations are revoked by the Police (Performance) Regulations 2012, which come into force on the same date as these Regulations.

Section 1 of the 2011 Act abolishes police authorities outside London and replaces them with police and crime commissioners. These commissioners, together with the Mayor’s Office for Policing and Crime (which has replaced the Metropolitan Police Authority as the body responsible for maintaining the Metropolitan Police) and the Common Council (which retains its functions as the police authority for the City of London police area), are known collectively as local policing bodies (see section 97(2) of the 2011 Act, which amends Schedule 1 to the Interpretation Act 1978). Paragraph 4 of Schedule 2 to the 2011 Act allows chief constables to employ staff, referred to in the 2011 Act as the police force’s civilian staff.

These Regulations, and in particular regulation 3, reflect these changes.

Regulation 5(2) of these Regulations allows multiple allegations of misconduct to be considered together when deciding how the case should be handled and what disciplinary action should be imposed.

Regulations 26 and 47 of these Regulations have the effect that misconduct proceedings or special case hearings concerning senior officers of all police forces are conducted by a panel consisting of a legally-qualified chair, Her Majesty’s Chief Inspector of Constabulary or one of his Inspectors, and a person selected from a list maintained for these purposes. A special case hearing is a disciplinary hearing held in a case where the appropriate authority determines that there is sufficient written evidence to establish on the balance of probabilities, without the need for further written or oral evidence, that the conduct of the officer concerned constitutes gross misconduct, and that it is in the public interest for the officer to cease to be a police officer without delay. A special case hearing may also be held on the recommendation or at the direction of the Independent Police Complaints Commission.

Regulations 33(16) and 53(16) of these Regulations provide for the panel conducting the misconduct proceedings or special case hearing, in a case where the officer concerned is a senior officer of any police force, to make the finding of fact as to whether or not the officer is guilty of misconduct or gross misconduct, but then to remit the matter to the appropriate authority for a decision as to the action to be taken against the officer.

Regulations 30 and 51 of these Regulations have the effect that a complainant or interested person may remain in attendance during the part of the misconduct proceedings or special case hearing when consideration is being given as to what disciplinary action should be imposed, but they may be excluded when a plea in mitigation is being made on behalf of the officer concerned.