
STATUTORY INSTRUMENTS

2020 No. 4

The Police (Conduct) Regulations 2020

PART 2

General

Standards of Professional Behaviour

5. The Standards of Professional Behaviour established are the standards of professional behaviour described in Schedule 2.

The harm test

6. Information in documents which are stated to be subject to the harm test under these Regulations must not be supplied to the officer concerned in so far as the appropriate authority considers that preventing disclosure to the officer is—

- (a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any 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 police officers or police staff members or their apprehension for such matters;
- (e) justified on the grounds that providing the information would involve disproportionate effort in comparison to the seriousness of the allegations against the officer;
- (f) necessary and proportionate for the protection of the welfare and safety of any informant or witness, or
- (g) otherwise in the public interest.

Police friend

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

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

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

(2) Subject to regulation 66(1), the police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations;

- (b) represent the officer at the misconduct proceedings or accelerated misconduct hearing or appeal meeting, unless the officer has the right to be legally represented and chooses to be so represented;
- (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations, and
- (d) accompany the officer to any interview, meeting or hearing which forms part of any proceedings under these Regulations.

(3) Where the 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 must permit the police friend 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 includes 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 and other representation

8.—(1) Subject to paragraph (2), the officer concerned has the right to be legally represented, by a relevant lawyer of the officer's choice ("preferred lawyer"), at a misconduct hearing or an accelerated misconduct hearing.

(2) The unavailability of one or more preferred lawyers is not a valid ground for delaying a misconduct hearing or an accelerated misconduct hearing where an alternative relevant lawyer can be found.

(3) If the officer concerned chooses not to be legally represented at such a hearing the officer may be dismissed or receive any other outcome under regulation 42 or 62 without being so represented.

(4) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, the officer may be represented at misconduct proceedings or an accelerated misconduct hearing or an appeal meeting only by a police friend.

(5) The appropriate authority or, where functions have been delegated under regulation 26(1), the originating authority, may be represented at misconduct proceedings or an accelerated misconduct hearing or an appeal meeting by—

- (a) a police officer or police staff member of the police force concerned, or
- (b) at a misconduct hearing or an accelerated misconduct hearing only, a relevant lawyer (whether or not the officer concerned chooses to be legally represented).

(6) Subject to paragraph (7), the appropriate authority may appoint a person to advise the person conducting or chairing the misconduct proceedings or accelerated misconduct hearing or appeal meeting.

(7) At a misconduct meeting or an appeal meeting, the person appointed under paragraph (6) must not be a relevant lawyer.

(8) The circumstances in which the Independent Office for Police Conduct is a relevant authority for the purpose of section 84(5) of the 1996 Act (power to prescribe in regulations, in relation to representation at proceedings, circumstances in which the relevant authority includes the Independent Office for Police Conduct) are prescribed as being where the Director General has made a decision under regulation 24(1) to present the case.

(9) Where the circumstances prescribed in paragraph (8) apply, the Director General may be represented by a relevant lawyer.

Provision of notices or documents

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

- (a) given to the officer in person;
- (b) left with a person at, or sent by recorded delivery to, the officer's last known address;
- (c) given to the officer in person by the officer's police friend where the police friend has agreed with the appropriate authority to deliver the notice or document, or
- (d) given to the officer in any other manner agreed between the person who is required to give the notice or document and the officer.

Outstanding or possible criminal proceedings

10.—(1) Subject to the provisions of this regulation, proceedings under these Regulations must proceed without delay.

(2) Before referring a case to misconduct proceedings or an accelerated misconduct hearing, the appropriate authority must decide whether misconduct proceedings or an accelerated misconduct hearing would prejudice any criminal proceedings.

(3) For any period during which the appropriate authority considers any misconduct proceedings or accelerated misconduct hearing would prejudice any criminal proceedings, no such misconduct proceedings or accelerated misconduct hearing may take place.

(4) Where a witness who is or may be a witness in any criminal proceedings is to be or may be asked to attend misconduct proceedings, the appropriate authority must consult the relevant prosecutor (and when doing so must inform the prosecutor of the names and addresses of all such witnesses) before making its decision under paragraph (2).

(5) For the purposes of this regulation "relevant prosecutor" means the Director of Public Prosecutions or any other person who has or is likely to have responsibility for the criminal proceedings.

Suspension

11.—(1) The appropriate authority may, subject to the provisions of this regulation, suspend the officer concerned from the office of constable and (in the case of a member of a police force) from membership of the force⁽¹⁾.

(2) An officer who is suspended under this regulation remains a police officer for the purposes of these Regulations.

(3) A suspension under this regulation must be with pay.

(4) The appropriate authority may not suspend a police officer under this regulation unless the following conditions ("the suspension conditions") are satisfied—

- (a) having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension, the appropriate authority has determined that such redeployment is not appropriate in all the circumstances of the case, and
- (b) it appears to the appropriate authority that either—
 - (i) the effective investigation of the case may be prejudiced unless the officer concerned is so suspended, or

(1) Sections 38(2) and 48(1) of the Police Reform and Social Responsibility Act 2011 provide respectively the Police and Crime Commissioner for a police area with a power to suspend the chief constable of the police force for that area and the Mayor's Office for Policing and Crime with a power to suspend the Commissioner of Police of the Metropolis. These powers are subject to regulations made under section 50 of the 1996 Act (sections 38(7) and 48(7) of the 2011 Act).

(ii) having regard to the nature of the allegation and any other relevant considerations, the public interest requires that the officer should be so suspended.

(5) The appropriate authority may exercise the power to suspend the officer concerned under this regulation at any time beginning with the day on which these Regulations first apply in respect of the officer in accordance with regulation 4 and ending with the date on which—

- (a) it is decided that the conduct of the officer should not be referred to misconduct proceedings or an accelerated misconduct hearing, or
- (b) such proceedings have concluded.

(6) The appropriate authority may suspend the officer concerned with effect from the date and time of notification which must be given either—

- (a) in writing with a summary of the reasons, or
- (b) orally, in which case the appropriate authority must confirm the suspension in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.

(7) The officer concerned (or the officer's police friend) may make representations against suspension to the appropriate authority—

- (a) before the end of 7 working days beginning with the first working day after being suspended;
- (b) at any time during the suspension if the officer reasonably believes that circumstances relevant to the suspension conditions have changed.

(8) The appropriate authority must review the suspension conditions—

- (a) on receipt of any representations under paragraph (7);
- (b) if there has been no previous review, before the end of 4 weeks beginning with the first working day after the suspension;
- (c) in any other case—
 - (i) when it becomes aware that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (7)(b) or otherwise), or
 - (ii) before the end of 4 weeks beginning with the first working day after the previous review.

(9) Where, following a review under paragraph (8), the suspension conditions remain satisfied and the appropriate authority decides the suspension should continue, it must, before the end of 3 working days beginning with the day after the review, so notify the officer concerned in writing with a summary of the reasons.

(10) Where the officer concerned is suspended under this regulation, the officer must remain so suspended until whichever of the following occurs first—

- (a) the appropriate authority decides, following a review, that the suspension conditions are no longer satisfied;
- (b) either of the events mentioned in paragraph (5)(a) and (b).

(11) In a case to which paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied, the appropriate authority must consult with the Director General—

- (a) in deciding whether or not to suspend the officer concerned under this regulation, and
- (b) in deciding, following a review, whether or not to end a suspension under this regulation.

Record of disciplinary proceedings

12. The appropriate authority must cause a record to be kept of disciplinary proceedings brought against every officer concerned, together with the finding and decision on disciplinary action and the decision in any appeal by the officer.