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STATUTORY INSTRUMENTS

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**2020 No. 4**

**The Police (Conduct) Regulations 2020**

**PART 4**

**Misconduct proceedings**

**Misconduct pre-hearing**

**33.**—(1) Where the person chairing a misconduct hearing (“the chair”) has decided under regulation 29(3) to conduct a misconduct pre-hearing, the chair must as soon as practicable—

- (a) specify a date and time for a misconduct pre-hearing, which must be within a period of 15 working days, or such extended period as the chair may specify under paragraph (10)(a), beginning with the first working day after the day on which the documents were supplied to the chair under regulation 32(6), and
- (b) give written notice of the date, time and place of the misconduct pre-hearing to—
  - (i) the officer concerned;
  - (ii) the appropriate authority;
  - (iii) the originating authority, where functions have been delegated under regulation 26(1);
  - (iv) the Director General, where the Director General—
    - (aa) is presenting the case, or
    - (bb) would be entitled to attend the misconduct hearing under regulation 38(1).

(2) Subject to paragraph (4), where a date and time is specified under paragraph (1) and—

- (a) the officer concerned or their police friend will not be available, and
- (b) the officer proposes an alternative date or time which satisfies paragraph (3),

the misconduct pre-hearing must be postponed to the date or time proposed by the officer.

(3) An alternative time must—

- (a) be reasonable, and
- (b) fall before the end of 5 working days beginning with the first working day after the day specified by the chair.

(4) In the case of joint misconduct proceedings, where a date and time is specified under paragraph (1) and one or more of the officers concerned or their police friend will not be available at that time, the chair must—

- (a) consult each of the officers concerned as regards the timing of the misconduct pre-hearing, and
- (b) determine the date and time of the misconduct pre-hearing, which must fall within the period specified in paragraph (3)(b).

(5) The following are entitled to attend the misconduct pre-hearing—

- (a) those listed in paragraph (1)(b);
  - (b) the officer's police friend;
  - (c) the officer's relevant lawyer;
  - (d) the relevant lawyer representing the appropriate authority or, as the case may be, the originating authority, and
  - (e) the Director General's relevant lawyer, where the Director General is presenting the case or would be entitled to attend the misconduct hearing under regulation 38(1).
- (6) Subject to paragraph (5), a misconduct pre-hearing must be in private.
- (7) A misconduct pre-hearing may be conducted by telephone or by such other electronic means as may be agreed between the parties, or, where the parties fail to agree, as decided by the chair.
- (8) At the misconduct pre-hearing the chair must—
- (a) determine the date, time and duration of the misconduct hearing, following consultation with the parties;
  - (b) consider any lists of proposed witnesses supplied under regulation 32(1) and, in accordance with regulation 32(5), determine which, if any, witnesses should attend the misconduct hearing;
  - (c) consider any documents supplied under regulation 32(6);
  - (d) consider any procedural or preliminary legal arguments or points of law raised and whether it is appropriate for those matters to be dealt with at the misconduct pre-hearing or the misconduct hearing;
  - (e) consider any issues related to disclosure of documents for the purposes of the misconduct hearing, and
  - (f) seek representations from the parties as to whether to—
    - (i) exclude any person under regulation 39(3)(a);
    - (ii) impose conditions under regulation 39(3)(b), or
    - (iii) prohibit the publication of any matter under regulation 39(3)(c).
- (9) Subject to paragraph (10)(b) and (11), the misconduct hearing must take place before the end of 30 working days beginning with the date of the misconduct pre-hearing.
- (10) Where the chair considers that it would be in the interests of justice to do so, the chair may extend—
- (a) the period of 15 working days specified in paragraph (1)(a);
  - (b) the period of 30 working days specified in paragraph (9).
- (11) Any of the parties may apply to the chair for the misconduct hearing to take place later than is provided for in paragraph (9).
- (12) Any such application must set out the reasons for the application.
- (13) The chair must determine whether it would be in the interests of justice for the application to be granted, provided that the date fixed for the commencement of the hearing must be within the period specified in regulation 29(2), or such extended period as the chair may specify under regulation 29(6)(a).
- (14) At the misconduct pre-hearing the chair may issue directions including, but not limited to, the matters set out in this regulation, other than paragraph (8)(f).
- (15) Within the period of 5 working days beginning with the date of the misconduct pre-hearing, the chair must serve on the parties a summary of the key matters discussed and a record of any directions issued.

(16) The parties must comply with any directions issued under paragraph (15).

(17) For the purposes of this regulation “parties” means the appropriate authority or, as the case may be, the originating authority, the officer concerned, the officer’s representatives and, where the Director General is presenting the case, the Director General.