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**POLICE AND PRISON OFFICERS (DISCIPLINE)  
REGULATIONS 2022**

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With the approval of the Administrator, the Chief Constable and Superintendent of Prisons makes the following Regulations in exercise of the powers conferred by section 11 of the Prisons Ordinance 1971(a) and section 9 of the Police Ordinance 2007(b):

**PART 1**

**Preliminary**

**Citation and commencement**

1.—(1) These Regulations may be cited as the Police and Prison Officers (Discipline) Regulations 2022.

(2) These Regulations come into force on 3 June 2022.

**Interpretation**

2.—(1) In these Regulations—

“appeal meeting” means a meeting held under these Regulations in relation to an appeal against a finding or sanction from a disciplinary meeting or disciplinary hearing;

“appropriate authority” means—

- (a) where the officer concerned is a senior officer, the Chief Officer, or
- (b) in all other cases, the Chief Constable or another person as provided for under regulation 18(2)(a);

“complainant” means a person who has made a complaint or purported complaint;

“complaint” means an allegation of conduct of a police officer that if proven would be breach of the Standards of Professional Behaviour made or referred to the appropriate authority by—

- (a) a police officer or member of the public who claims to be a person who experienced the alleged conduct,
- (b) a police officer or member of the public who claims to have been adversely affected by the alleged conduct,
- (c) a police officer or member of the public who claims to have witnessed the alleged conduct, or

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(a) Ordinance 11/1971, as amended by Ordinances 2/1985, 14/2005, 16/2011 and 14/2014.

(b) Ordinance 6/2007, as amended by Ordinances 1/2011, 15/2011, 35/2013, 9/2016 and 22/2020.

(d) any person acting on behalf of a person falling within (a) to (c);

“criminal proceedings” means—

(a) any prospective criminal proceedings, or

(b) any criminal proceedings brought which have not been brought to a conclusion (apart from the bringing and determination of any appeal against sentence only) instituted before a competent court;

“Crown” means Her Majesty in right of Her Government in the United Kingdom and in Right of Her Administration in the Sovereign Base Areas;

“disciplinary hearing” means a hearing to which the officer concerned has been referred under regulation 28 to determine whether alleged conduct amounts to serious misconduct and whether a disciplinary penalty should be imposed;

“disciplinary investigation” means an investigation conducted in accordance with Part 4;

“disciplinary meeting” means a meeting to which the officer concerned has been referred under regulation 28 to determine whether the alleged conduct amounts to misconduct and whether a disciplinary penalty should be imposed;

“disciplinary penalty” means, in order of seriousness starting with the least serious—

(a) a written warning,

(b) a final written warning,

(c) a fine of one, five or 10 days’ pay,

(d) reduction in rank,

(e) requirement to resign, or

(f) dismissal;

“disciplinary proceedings” means a disciplinary meeting, a disciplinary hearing or an appeal meeting;

“division” has the same meaning as in the Police Ordinance 2007;

“informal resolution” means any arrangement made by the appropriate authority under regulation 7(1);

“informant” means a person who provides information to a disciplinary investigation on the basis that the person’s identity is not disclosed during the course of the disciplinary proceedings;

“interested party” means a person whose appointment under these Regulations could reasonably give rise to a concern as to whether the person could act impartially;

“investigating officer” means the person appointed by the appropriate authority under regulation 20 to conduct a disciplinary investigation;

“investigation report” means the reports of the investigating and supervising officers referred to in regulation 25;

“line manager” means the police officer who has immediate supervisory responsibility for the officer concerned;

“live link” means a live television link or other arrangement by which a person, when not in the room where proceedings are being held, is able to participate in the proceedings and is able to see and hear the proceedings, and to be seen and heard by other persons participating;

“management action” means action (not including a disciplinary penalty) intended to improve the performance or professional practice of the officer concerned by way of advice, direction or development plan within the officer’s Professional Development Review process;

“misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify a disciplinary penalty no greater than a final written warning;

“officer concerned” means the officer in relation to whose conduct there has been a complaint;

“originating authority” has the meaning given in regulation 18(2)(b);

“parties” means the officer concerned or any person entitled to represent them, and any person representing the appropriate authority at disciplinary proceedings;

“police friend” means a person chosen by the officer concerned in accordance with regulation 11;

“preliminary enquiry” means initial enquiries undertaken to establish the circumstances of a case in order to enable the appropriate authority to undertake an initial severity assessment;

“proposed witness” means a witness whose attendance at disciplinary proceedings is requested by the officer concerned, the appropriate authority or the persons hearing those proceedings;

“relevant lawyer” means an advocate as defined in the Advocates Ordinance 2011( );

“senior officer” means a police officer with a substantive rank higher than superintendent;

“the Service” means the Police Service and includes the Prison Service;

“serious misconduct” means a breach of the Standards of Professional Behaviour that is so serious to justify a disciplinary penalty greater than a final written warning;

“severity assessment” means the assessment process described in regulation 15;

“Standards of Professional Behaviour” has the meaning given in regulation 8;

“suspension conditions” means those conditions considered under regulation 16(3) suspending an officer concerned for alleged serious misconduct;

“supervising officer” means the person appointed by the appropriate authority under regulation 20 to supervise a disciplinary investigation;

“working day” means any day other than—

(g) a Saturday or Sunday;

(h) a day which is a public holiday for the officer concerned.

(2) In these Regulations—

(a) a reference to a police officer includes a police officer serving as a prison officer, and

(b) a reference to a copy of a statement, where it was not made in writing, is to be construed as a reference to a copy of an account of that statement.

## **Application**

3. These Regulations apply to all police officers.

## **PART 2**

### **Handling a complaint**

#### **Initial handling and recording of complaints**

4.—(1) Subject to paragraph (2) where a complaint is made, the appropriate authority shall record the complaint.

(2) The appropriate authority need not record any complaint if—

(a) they are satisfied that the subject-matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct is being complained of,

(b) the complaint has been withdrawn, or

(c) the complaint relates to direction and control only.

(3) In this regulation “direction and control” means an operational management decision or operational policing policy.

### **Duties to preserve evidence relating to complaints**

5.—(1) Where a complaint is made, it shall be the duty of the appropriate authority to ensure all appropriate steps are taken for obtaining and preserving evidence relating to the conduct complained of.

(2) The appropriate authority must perform that duty as soon as practicable after the complaint is made or, as the case may be, they become aware of it.

(3) The appropriate authority shall be under a duty, until they are satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to them to be appropriate for the purposes of obtaining and preserving evidence relating to the conduct complained of.

### **Failures to notify or record a complaint**

6.—(1) Where the appropriate authority receives a complaint under regulation 4, they must decide whether to arrange for the complaint to be investigated in whole or in part.

(2) Where the appropriate authority decides that the complaint should not be investigated in whole or in part, they must notify the complainant of—

- (a) the decision not to investigate, and if that decision relates to only part of the complaint, the part in question; and
- (b) the reasons for the decision.

### **Informal resolution of complaints**

7.—(1) Subject to regulation 15(2) the appropriate authority may make arrangements for a complaint to be subject to informal resolution.

(2) A statement made by any person for the purposes of the informal resolution of any complaint shall not be admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to informal resolution.

(3) After attempts have been made to resolve a complaint using informal resolution, the appropriate authority shall make arrangements for the complaint to be subject to disciplinary investigation, it appears to them that—

- (a) that the resolution of the complaint in that manner is impossible, or
- (b) that the complaint is, for any other reason, not suitable for such resolution,

(4) The informal resolution of any complaint shall be discontinued if any arrangements are made under paragraph (3).

(5) A person who has participated in any attempt to resolve a complaint using informal resolution shall be disqualified from being the investigating officer for that complaint or assisting with the investigation of that complaint.

## **PART 3**

### **General**

### **Standards of professional behaviour**

8. The Standards of Behaviour are the standards of professional behaviour described in the Schedule.

### **Provision of notices and documents**

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

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

### **Rules of evidence**

10. Any rule of law relating to the admissibility of evidence in criminal or civil proceedings before a court does not apply to any proceedings under these Regulations.

### **Police friend**

11.—(1) The officer concerned may choose a police officer who is not otherwise involved in the matter, to act as a police friend.

(2) A police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations,
- (b) represent the officer concerned at the disciplinary proceedings, unless the police 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 concerned to any interview, meeting or hearing which forms part of any proceedings under these Regulations.

(3) The Chief Constable must permit the police friend to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

### **Criminal and disciplinary investigations**

12.—(1) Subject to the provisions of this regulation, a disciplinary investigation must commence as soon as is practicable.

(2) Before authorising a disciplinary investigation, the appropriate authority must decide whether a disciplinary investigation would prejudice criminal proceedings.

(3) If criminal proceedings have been or may be instigated in a competent court the appropriate authority must consult the Attorney General and Legal Advisor before commencing a disciplinary investigation or disciplinary proceedings.

(4) No disciplinary investigations or disciplinary proceedings under these Regulations are to take place until the appropriate authority is satisfied that they will not prejudice criminal proceedings.

(5) Where disciplinary investigations or proceedings are postponed due to the application of paragraph (4) the appropriate authority—

- (a) may suspend the police officer concerned in accordance with regulation 16, or
- (b) may redeploy the police officer concerned to a different post, unit or division.

(6) Where disciplinary investigations or proceedings are postponed due to the application of paragraph (4), the appropriate authority must ensure that a notice is sent to the officer concerned stating that proceedings may be commenced under these Regulations at a time when this may be done without prejudicing criminal proceedings.

### **Grounds for preventing disclosure of information (the Harm Test)**

13.—(1) Where any provision of these Regulations provides for information or documents to be provided, information must not be supplied to the officer concerned in so far as the appropriate authority considers that preventing disclosure 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 a disciplinary offence by other police officers, misconduct of employees of the Crown, persons in the service of the Crown, 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 complaints against the officer concerned,
- (f) necessary and proportionate for the protection of the welfare and safety of any informant or witness, or
- (g) otherwise in the public interest.

(2) Where information is not supplied to the officer concerned as a result of paragraph (1), no person may rely on that information in disciplinary proceedings.

(3) If a person authorised to commence disciplinary proceedings under these Regulations considers that reliance on information which have not been supplied to the officer concerned is necessary for the fair and equitable conduct of disciplinary penalty, no disciplinary proceedings are to take place during the period that the information is withheld from the officer concerned.

### **Legal and other representation**

14.—(1) Subject to paragraph (2) the officer concerned has the right to be legally represented, by a relevant lawyer of their choice (“preferred lawyer”), at a disciplinary hearing or an appeal meeting that relates to a finding or sanction of serious misconduct (“serious misconduct appeal”). .

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

(3) If the officer concerned chooses not to be legally represented this does not prevent them from being dismissed or receiving any other disciplinary penalty.

(4) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, the officer concerned may be represented at disciplinary proceedings only by a police friend.

(5) The appropriate authority may be represented at disciplinary proceedings, by—

- (a) a police officer, or
- (b) at a disciplinary hearing or serious misconduct appeal, by a relevant lawyer.

(6) Subject to paragraph (7), the appropriate authority may appoint a person to advise the person conducting or chairing the disciplinary proceedings.

(7) Only at a disciplinary hearing or a serious misconduct appeal may the person appointed under paragraph (6) be a relevant lawyer.

### **Severity Assessment**

15.—(1) Prior to commencing a disciplinary investigation the appropriate authority must assess whether the conduct which is the subject matter of the complaint, if proved, would amount to misconduct, serious misconduct, or neither (“the severity assessment”).



(2) Where the appropriate authority assesses that the conduct, if proved, would amount to neither misconduct nor serious misconduct, it must assess whether—

- (a) the conduct, if proved, would amount to performance or professional practice requiring improvement,
- (b) informal resolution would be appropriate, or
- (c) no further action should be taken.

(3) The appropriate authority must consult the line manager of the officer concerned before making an assessment as set out in paragraph (2).

(4) Where the appropriate authority assesses that the conduct, if proved, would amount to performance or professional practice requiring improvement, they must refer the matter to the line manager of the officer concerned to be dealt with through management action.

(5) Where the appropriate authority assesses that the conduct, if proved, would amount to misconduct or serious misconduct, or a criminal offence, they must arrange for the matter to be investigated accordingly.

(6) At any time before the start of disciplinary proceedings, the appropriate authority may revise their severity assessment under this regulation if they consider it appropriate to do so.

(7) Where the appropriate authority decides to assess the conduct under paragraph (2)(a), (b) or (c) they must notify the officer concerned in writing as soon as practicable.

(8) In making a severity assessment under paragraph (1), the appropriate authority may authorise a preliminary enquiry such as is appropriate to the circumstances of the case.

## **Suspension**

**16.—**(1) The appropriate authority may, subject to the provisions of these Regulations, suspend the officer concerned from the Service.

(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 will be with pay.

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

- (a) a severity assessment has been completed in accordance with regulation 15 and the appropriate authority has assessed the complaint, if proved, as serious misconduct,
- (b) the appropriate authority has considered redeployment as an alternative to suspension and has determined that such redeployment is not appropriate in all the circumstances of the case, and
- (c) the appropriate authority is satisfied that either—
  - (i) the effective investigation of the case may be prejudiced unless the officer concerned is suspended, or
  - (ii) having regard to the nature of the complaint and any other relevant considerations, the public interest requires that the officer should be 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 an investigation into alleged misconduct commences and ending with the date on which—

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

(6) Any suspension under this regulation will have 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 three working days beginning with the first working day after the suspension.
- (7) The officer concerned (or the officer's police friend, or relevant lawyer) may make representations against suspension to the appropriate authority—
- (a) before the end of seven working days beginning with the first working day after being suspended, or
  - (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 made under paragraph (7);
  - (b) if there has been no previous review, before the end of 20 working days beginning with the first working day after the suspension;
  - (c) in any other case—
    - (i) when they become aware that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (7) or otherwise), or
    - (ii) before the end of 20 working days 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, they must, before the end of three 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, or
  - (b) either of the events mentioned in paragraphs (5)(a) and (b).

### **Record of disciplinary proceedings**

17. The appropriate authority must keep a digital or written record of disciplinary proceedings brought against every officer concerned, together with the findings and decision on disciplinary penalty and the decision in any appeal.

### **Delegation of disciplinary functions**

- 18.—(1) The appropriate authority may delegate functions under these Regulations to—
- (a) any appropriately qualified person acting under their direction or control, or
  - (b) a chief constable of a United Kingdom police force.
- (2) In these Regulations—
- (a) where functions have been delegated under paragraph (1)(b), 'appropriate authority', in relation to the exercise of such functions, means the chief constable to whom the functions have been delegated;
  - (b) 'originating authority' means the appropriate authority which has delegated the functions under paragraph (1).
- (3) Where functions have been delegated, any requirement on a person to supply a document to the appropriate authority must be read as including a requirement to supply such document also to the originating authority.

## PART 4

### Disciplinary Investigations

#### **Purpose of a disciplinary investigation**

19. The purpose of a disciplinary investigation is to—
- (a) secure evidence to establish the facts and circumstances of the alleged misconduct or serious misconduct, and
  - (b) assist the appropriate authority to establish whether there is a case to answer in respect of alleged misconduct or serious misconduct or whether there is no case to answer.

#### **Authorisation of a disciplinary investigation and appointment of investigating and supervising officers**

20.—(1) The appropriate authority must authorise and record in writing the grounds on which a disciplinary investigation is commenced.

(2) As soon as reasonably practicable after authorising a disciplinary investigation, the appropriate authority must appoint a person—

- (a) to investigate the complaint ('the investigating officer'), and
- (b) to supervise the investigation ('the supervising officer').

(3) The investigating officer and the supervising officer must have the appropriate level of skills, knowledge and experience to plan and manage the investigation.

(4) The supervising officer must be of at least equal rank to the officer concerned.

(5) The investigating officer and supervising officer must not—

- (a) be an interested party;
- (b) in a case where the officer concerned is a senior officer, be from the Service.

(6) The appropriate authority may—

- (a) change the people appointed as investigating officer and supervising officer during the conduct of a disciplinary investigation;
- (b) authorise the appointment of an investigating or supervising officer from outside the Police Service.

(7) The supervising officer must as soon as practicable after being appointed draw up the terms of reference for the investigation.

#### **Written notices of investigation**

21.—(1) Subject to regulation 13 and except where paragraph (6) applies, the investigating officer must, as soon as reasonably practicable after being appointed, give the officer concerned a written notice stating—

- (a) the conduct that is the subject of the complaint and how that conduct, if proved, is alleged to contravene the Standards of Professional Behaviour,
- (b) that there is to be an investigation into the matter and the identity of the investigating officer and the supervising officer,
- (c) the result of the severity assessment conducted under regulation 15,
- (d) that the officer has the right to seek advice from the officer's staff association,
- (e) the effect of regulation 11 and the role of a police friend,
- (f) the effect of regulation 14 relating to legal representation in cases of alleged serious misconduct,

- (g) that whilst the officer does not have to say anything it may harm the officer's case if the officer does not mention when interviewed or when providing information to the investigation something later relied on in any disciplinary proceedings,
  - (h) that the officer concerned must attend an interview with the investigating officer if required, and
  - (i) that following the disciplinary investigation subsequent proceedings may take place which may lead to disciplinary penalty being imposed.
- (2) Where a notice is given under paragraph (1), the investigating officer must—
- (a) subject to regulation 13 and except where paragraph (6)(b) applies of that paragraph, give the officer concerned the written terms of reference of the investigation, or
  - (b) where written terms of reference are not provided under sub-paragraph (a), give the officer concerned written notice stating that the terms of reference are not being provided and explaining why.

(3) Where practicable, the investigating officer must give the officer concerned the written terms of reference or, as the case may be, the written notice under paragraph (2), at the same time as notice is given under paragraph (1), or otherwise within a period of five working days, beginning with the first working day after the day on which such notice is given.

(4) Subject to regulation 13 and except where paragraph (6) applies, if the appropriate authority revises its severity assessment in accordance with regulation 15(7), the appropriate authority must as soon as reasonably practicable give the officer concerned a written notice of the result of the revised severity assessment.

(5) Subject to regulation 13 and except where paragraph (6)(d) of that paragraph, where the written terms of reference are given under paragraph (2) and those terms are revised and agreed by the appropriate authority, the investigating officer must as soon as practicable give the officer concerned the revised terms of reference.

(6) This paragraph applies when the investigating officer considers that giving—

- (a) a written notice under -paragraph (1),
- (b) terms of reference under paragraph (2),
- (c) a written notice under paragraph (4), or
- (d) revised terms of reference under paragraph (5),

might prejudice the investigation or any other investigation (including, in particular, a criminal investigation).

### **Representations to the investigating officer**

**22.**—(1) Before the end of seven working days beginning with the first working day after the terms of reference, or, as the case may be, written notice has been given under regulation 21(1) or (2)—

- (a) the officer concerned may provide a written or oral statement relating to any matter under investigation to the investigating officer, including any mitigating circumstances relevant to any such matter, and
- (b) the officer concerned or the officer's police friend may provide any relevant documents to the investigating officer.

(2) The investigating officer must, as part of the investigation, consider any such statement or document and must make a record of having received it.

(3) The period of seven working days referred to in paragraph (1) may be extended by the supervising officer.

(4) In this regulation 'relevant document'—

- (a) means a document relating to any matter under investigation, and

- (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed.

### **Timeliness of investigations**

**23.**—(1) Once a written notice of investigation has been given in accordance with regulation 21(1) or (2), the investigating officer must notify the officer concerned of the progress of the investigation—

- (a) if there has been no previous notification following the supply of the written notice under regulation 21(1) or (2), before the end of 20 working days beginning with the first working day after that written notice was given, and
- (b) in any other case, before the end of 20 working days beginning with the first working day after the previous notification.

(2) Where an investigation is not completed within a relevant period, the appropriate authority must, subject to paragraph (4), provide as soon as practicable the following information in writing to the Administrator—

- (a) date on which the complaint came to the attention of the appropriate authority,
- (b) the date on which notice was given under regulation 21(1);
- (c) the progress of the investigation,
- (d) an estimate of when—
  - (i) the investigation will be concluded, and
  - (ii) a report will be submitted under regulation 25,
- (e) the reason for the length of time taken by the investigation, and
- (f) a summary of planned steps to progress the investigation and bring it to a conclusion.

(3) For the purposes of this regulation, each of the following is a ‘relevant period’—

- (a) the first relevant period is the period of 12 months beginning with the day on which the complaint first came to the attention of the appropriate authority;
- (b) each subsequent relevant period is the period of six months beginning with the day after the end of the previous relevant period.

(4) The requirement to provide information under paragraph (1) or (2) does not apply in a case where it appears to the appropriate authority that to do so might prejudice the investigation or any other investigation (including a criminal investigation).

(5) Subject to regulation 13, a copy of the information provided under paragraph (1) or (2) must be sent to the officer concerned.

### **Conduct of disciplinary investigation**

**24.**—(1) The investigating officer must carry out such interviews and investigations as are necessary for the conduct of the disciplinary investigation and, in particular, may—

- (a) interview and take a statement from any person the investigating officer considers may provide information or evidence relevant to the complaint,
- (b) interview and take a statement from the officer concerned, and
- (c) consider any document or other evidence relevant to the complaint.

(2) Subject to paragraph (3), where the officer concerned is interviewed, that officer must be given reasonable notice of the interview and informed that a police friend may accompany them.

(3) The officer concerned may only be accompanied in an interview by a relevant lawyer where criminal proceedings may be taken against the officer concerned in respect of facts arising from the complaint under investigation.

(4) Only the officer concerned can answer any questions put to them during an interview.

### **Investigation report**

25.—(1) The supervising officer may require the investigating officer to make a preliminary report at any time during an investigation.

(2) On completion of the disciplinary investigation, the investigating officer must, as soon as reasonably practicable, send a written report to the supervising officer (“the investigation report”).

(3) The investigation report must—

- (a) provide an accurate summary of the evidence,
- (b) attach or refer to any relevant document which is in the investigating officer’s possession and—
  - (i) came into their possession in connection with the disciplinary investigation, and
  - (ii) which in the opinion of the investigating officer may be relevant to any disciplinary proceedings, including any information which may undermine the case of the appropriate authority or assist the case of the officer concerned, and
- (iii) indicate whether in the opinion of the investigating officer there is a case to answer in respect of misconduct or serious misconduct, whether there is evidence that may require amendment of the severity assessment, or there is no case to answer.

### **Decision following investigation report**

26.—(1) On receipt of the investigation report the supervising officer must decide—

- (a) to recommend to the appropriate authority to commence disciplinary proceedings for misconduct or serious misconduct as the supervising officer considers appropriate to the case,
- (b) to recommend to the appropriate authority that management action is taken, or
- (c) to recommend that there is no case to answer.

(2) For the purpose of paragraph (1), the supervising officer must take account of the investigation report.

(3) If the supervising officer considers that there is evidence that a criminal offence has been committed, the investigation report must be submitted to the Attorney General and Legal Adviser, and the commencement of disciplinary proceedings is subject to regulation 12(4).

## **PART 5**

### **Disciplinary proceedings**

#### **General**

27. Any period of time specified in this Part in relation to disciplinary proceedings may be reduced by agreement between the appropriate authority, the person conducting or chairing the disciplinary proceedings and the officer concerned.

#### **Referral of case to disciplinary proceedings**

28.—(1) On receipt of the investigating officer’s report and the supervising officer’s recommendation, the appropriate authority must, as soon as practicable, determine —

- (a) if the officer concerned has a case to answer in respect of misconduct or serious misconduct or whether the officer has no case to answer;
- (b) if there is a case to answer, whether or not disciplinary proceedings should be brought against the officer, and
- (c) if so, and subject to paragraph (5), what form the disciplinary proceedings should take.

(2) For the purpose of paragraph (1), the appropriate authority must take account of the investigation report and the supervising officer's recommendations.

(3) Where the appropriate authority determines there is no case to answer or that no disciplinary proceedings will be brought, they must assess whether—

- (a) the matter should be referred to be dealt with through management action, or
- (b) no further action should be taken.

(4) As soon as practicable after it has completed the assessment under paragraph (1) the appropriate authority must—

- (a) inform the officer concerned of the outcome of the assessment, and
- (b) subject to regulation 13, give the officer a copy of the investigating officer's report and supervising officer's recommendation or such parts as relate to the officer.

(5) Where the appropriate authority determines under paragraph (1) to refer the case to disciplinary proceedings—

- (a) those proceedings must be a disciplinary hearing where either—
  - (i) it has been determined that the officer concerned has a case to answer in respect of serious misconduct,
  - (ii) the officer had a final written warning in force at the date of the severity assessment under regulation 15(1), or
  - (iii) the officer was reduced in rank under these Regulations less than 2 years prior to the severity assessment under regulation 15(1).
- (b) having determined that the officer has a case to answer in respect of misconduct and that the case does not fall under sub-paragraphs (a)(i), (ii) or (iii) those proceedings must be a disciplinary meeting.

(6) Where the appropriate authority fails to make the determination referred to in paragraph (1) before the end of 15 working days beginning with the first working day after receipt of the report, they must notify the officer concerned of the reason for this.

### **Joint disciplinary proceedings**

**29.—**(1) Subject to paragraph (6), where under regulation 27 the appropriate authority refers two or more cases arising from the same matter or incident, which relate to more than one police officer, to a disciplinary hearing, the cases may be referred to a joint disciplinary hearing.

(2) Subject to paragraph (6), where under regulation 27 the appropriate authority refers two or more cases arising from the same matter or incident, which relate to more than one police officer, to a disciplinary meeting, the cases may be referred to a joint disciplinary meeting.

(3) Where cases are referred to joint disciplinary proceedings, a reference to 'the officer concerned', if the context so requires, means—

- (a) any of the officers concerned, or
- (b) each of the officers concerned.

(4) Where cases are referred to joint disciplinary proceedings, the officer concerned in any of the cases may object and request separate proceedings.

(5) The person conducting or chairing the disciplinary proceedings must consider any objection made under paragraph (4) and determine whether the request for separate proceedings should be allowed.

(6) Cases may only be referred to joint disciplinary proceedings where all or none of the officers concerned are senior officers.

### **Withdrawal of disciplinary proceedings**

**30.**—(1) At any time before the beginning of the disciplinary proceedings, the appropriate authority must direct that the case be withdrawn if they are no longer satisfied that there is a case to answer in respect of misconduct or serious misconduct.

(2) Where a direction is given under paragraph (1)—

- (a) the appropriate authority may—
  - (i) take no further action against the officer concerned;
  - (ii) refer the matter to be dealt with through management action, and
- (b) the appropriate authority must as soon as practicable give the officer concerned—
  - (i) written notice of the direction, indicating whether any action will be taken under paragraph (2)(a), and
  - (ii) where the investigation has been completed, on request and subject to regulation 13, a copy of the investigator's report or such parts of that report as relate to the officer.

### **Persons conducting disciplinary proceedings**

**31.**—(1) Disciplinary proceedings must be conducted by a person appointed by the appropriate authority in accordance with paragraph (3) who is not an interested party.

(2) Subject to paragraphs (3) and (4) a disciplinary hearing must be conducted by a panel of three persons appointed by the appropriate authority who have had no previous involvement in the case and who are not interested parties. These being—

- (a) the chair,
- (b) a police officer of the rank of chief inspector or above who must also be of at least equal rank to the officer concerned), and
- (c) an independent person.

(3) Where the officer concerned is not a senior officer, the person conducting a disciplinary meeting or the chair of the disciplinary hearing panel must be a police officer of at least chief superintendent rank.

(4) Where the officer concerned is a senior officer the person conducting a disciplinary meeting or the chair of the disciplinary hearing panel must be a serving UK police officer of at least equivalent rank to the officer concerned.

### **Serious Misconduct: Role of chair of disciplinary hearing**

**32.**—(1) The chair of the panel appointed under regulation 31 must take appropriate action to ensure the proceedings are brought in an efficient and effective manner, and that they are conducted in a timely, fair and transparent manner.

(2) In particular, and subject to paragraph (6), the chair must ensure that the first day of the disciplinary hearing is as soon as practicable after the date on which notice is given under regulation 33(1).

(3) The chair must decide, before the end of five working days beginning with the first working day after the day on which the documents were supplied to the chair under regulation 35(6), whether to conduct a misconduct pre-hearing, in order to agree directions and to fix a date for the hearing in accordance with regulation 38.

(4) Where the chair decides not to conduct a misconduct pre-hearing, the chair must determine the date, time and duration of the disciplinary hearing—

- (a) following consultation with the parties (by such means as may be set by the chair), or
- (b) where the parties fail to agree, as decided by the chair.



(5) Subject to paragraphs (6) and (7), where paragraph (4) applies, the disciplinary hearing must take place as soon as practicable after the day on which the documents were supplied to the chair under regulation 35 (6).

(6) Any of the parties may apply in writing to the chair for the disciplinary hearing to take place later than initially determined by the chair.

(7) Any such application must set out the reasons for the application.

(8) The chair must determine whether it would be in the interests of justice for the application in paragraph (6) to be granted.

(9) For the purposes of these Regulations ‘parties’ means the appropriate authority or, as the case may be, the originating authority, and the officer concerned or, as the case may be, the officer’s representatives.

### **Notice of referral to disciplinary proceedings**

**33.**—(1) Having made the determination under regulation 28(1) and 28(5) the appropriate authority must as soon as practicable give the officer concerned—

- (a) written notice of—
  - (i) the referral;
  - (ii) the conduct that is the subject of the case and how that conduct is alleged to amount to misconduct or serious misconduct as the case may be;
  - (iii) where functions in relation to the administration of the proceedings have been delegated under regulation 18(1), the details of the authority to whom they have been delegated;
  - (iv) the name of the person appointed to conduct a disciplinary meeting or chair a disciplinary hearing;
  - (v) the effect of regulation 31(1) to (4) in relation to the form of disciplinary proceedings to which the case is being referred;
  - (vi) where relevant, the fact that the case has been referred to joint disciplinary proceedings under regulation 29;
- (b) a copy of any statement the officer concerned has made to the investigator during the course of the investigation, and
- (c) subject to regulation 13, a copy of—
  - (i) the investigating officer’s report and the supervising officer’s recommendations or such parts of those documents as relate to the officer (together with any document attached to or referred to in that report which relates to the officer), and
  - (ii) any other document which might reasonably be considered capable of undermining or assisting the case.
- (d) inform the officer concerned of the obligation to comply with regulation 34(2) and 34(3).

(2) As soon as practicable after any person has been appointed under regulation 14(6) to advise the person conducting or chairing the disciplinary proceedings, the appropriate authority must give the officer concerned written notice of the name of that person.

### **Procedure on receipt of notice**

**34.**—(1) The officer concerned must comply with paragraphs (2) and (3) before the end of—

- (a) 15 working days beginning with the first working day after the documents have been supplied to the officer concerned under regulation 33, or
  - (b) where that period is extended by the person conducting or chairing the disciplinary proceedings for exceptional circumstances, such extended period.
- (2) The officer concerned must give the appropriate authority—

- (a) written notice of whether or not they accept that their conduct amounts to misconduct or serious misconduct, as the case may be,
- (b) where they accept that their conduct amounts to misconduct or serious misconduct, as the case may be, any written submission they wish to make in mitigation, or where they do not accept that their conduct amounts to misconduct or serious misconduct, as the case may be, or they dispute part of the case against them, written notice of—
  - (i) the elements of the complaint they dispute,
  - (ii) their account of the relevant events, and
  - (iii) any arguments on points of law they wish to be considered by the person or persons conducting the disciplinary proceedings.

(3) The officer concerned must provide the appropriate authority with a copy of any document they intend to rely on at the disciplinary proceedings.

(4) Before the end of five working days beginning with the first working day after the date on which the officer concerned has complied with paragraphs (2) and (3), the appropriate authority or, as the case may be, the originating authority, and the officer concerned must each—

- (a) supply to the other a list of proposed witnesses including brief details of the evidence that each witness is able to give, or
- (b) give notice to the other that they do not propose any witnesses.

### **Witness and documents to be supplied**

**35.—**(1) The appropriate authority or, as the case may be, the originating authority must supply to the person conducting or chairing the disciplinary proceedings any lists of proposed witnesses supplied or notice given under regulation 34(4).

(2) Any such lists or notice must be supplied before the end of ten working days beginning with the first working day after the parties supplied the lists or notice under regulation 34(4).

(3) The person conducting or chairing the disciplinary proceedings must—

- (a) consider any lists of proposed witnesses supplied under paragraph (1) and any documents supplied under paragraph (6), and
- (b) subject to paragraph (5), determine as soon as practicable, which, if any, witnesses should attend the disciplinary proceedings.

(4) Paragraph (3) does not apply where a misconduct pre-hearing will take place (see regulation 36).

(5) No witness may give evidence at disciplinary proceedings unless the person conducting or chairing the proceedings reasonably believes that it is necessary for the witness to do so in the interests of justice, in which case the person conducting or chairing the proceedings must—

- (a) where the witness is a police officer, cause that person to be ordered to attend the disciplinary proceedings, and
- (b) in any other case, cause the witness to be given notice that their attendance is necessary and of the date, time and place of the proceedings.

(6) Before the end of ten working days beginning with the first working day after the date on which the officer concerned has complied with regulation 34(2), the appropriate authority or, as the case may be, the originating authority must supply to the person conducting or chairing the disciplinary proceedings a copy of—

- (a) the documents given to the officer concerned under regulation 33(1),
- (b) the documents provided by the officer concerned under regulation 34(2) and (3).
- (c) where the officer concerned—
  - (i) does not accept that the conduct amounts to misconduct or serious misconduct, as the case may be, or
  - (ii) disputes any part of the case,

any other documents that, in the opinion of the appropriate authority or, as the case may be, the originating authority should be considered at the disciplinary proceedings.

(7) Prior to the disciplinary proceedings, the appropriate authority or, as the case may be, the originating authority, must supply the officer concerned with—

- (a) a list of the documents supplied under paragraph (6), and
- (b) a copy of any such document, where it has not already been supplied.

(8) The appropriate authority or, as the case may be, the originating authority may apply to the person conducting or chairing the disciplinary proceedings for an extension of—

- (a) the period of ten working days referred to in paragraph (2);
- (b) the period of ten working days referred to in paragraph (6).

(9) Any such application must set out the period of the requested extension and the reasons for the application.

(10) On receipt of such an application the person conducting or chairing the disciplinary proceedings must determine whether the period should be extended and, if so, by how long.

### **Serious Misconduct: Pre-hearing**

**36.**—(1) Where the person chairing a disciplinary hearing ('the chair') has decided under regulation 32(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 (8), beginning with the first working day after the day on which the documents were supplied to the chair under regulation 35(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, and
  - (iii) the originating authority, where functions have been delegated under regulation 18(1).

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

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

the chair must postpone the misconduct pre-hearing to the date or time proposed by the officer.

(3) An alternative date or time must—

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

(4) In the case of joint disciplinary proceedings, where a date and time is specified under paragraph (1) and one or more of the officers concerned, their police friend or their lawyer 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.
- (6) The chair may decide to conduct a misconduct pre-hearing by live link.
- (7) At the misconduct pre-hearing the chair must—
  - (a) determine the date, time and duration of the disciplinary hearing, following consultation with the parties;
  - (b) consider any lists of proposed witnesses supplied under regulation 35(1) and, in accordance with regulation 35(5) determine which, if any, witnesses should attend the disciplinary hearing;
  - (c) consider any documents supplied under regulation 35(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 disciplinary hearing;
  - (e) consider any issues related to disclosure of documents for the purposes of the disciplinary hearing.
- (8) Where the chair considers that it would be in the interests of justice to do so, the chair may extend the period of 15 working days specified in paragraph (1)(a);
- (9) Any of the parties may apply to the chair for the disciplinary hearing to take place later than is determined under paragraph (7).
- (10) Any such application must set out the reasons for the application.
- (11) The chair must determine whether it would be in the interests of justice for the application to be granted.
- (12) At the misconduct pre-hearing the chair may issue directions including, but not limited to, the matters set out in this regulation.
- (13) 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.
- (14) The parties must comply with any directions issued under paragraph (13).

**Misconduct: Timing of disciplinary meeting**

- 37.—**(1) Subject to paragraphs (2), (6) and (8), a disciplinary meeting must take place before the end of 20 working days beginning with the first working day after—
- (a) the officer complies with regulation 34(2) and (3),
  - (b) the expiry of the 15 working day period referred to in regulation 34(1)(a), if the officer has not complied with regulation 34(2) and (3) within that period, or
  - (c) where the 15 working day period referred to in regulation 34(1)(a) is extended in accordance with regulation 34(1)(b), the expiry of such extended period.
- (2) The person conducting the disciplinary meeting may extend the period specified in paragraph (1) where they consider that it would be in the interests of justice to do so.
- (3) Where the person conducting the disciplinary meeting decides to extend the period under paragraph (2), or decides not to do so following representations from the officer concerned or the appropriate authority, they must provide written notification of the reasons for that decision to the appropriate authority and the officer.
- (4) The person conducting the disciplinary meeting must, if reasonably practicable, agree a date and time for the disciplinary meeting with the officer concerned.
- (5) Where no date and time is agreed under paragraph (4), the person conducting the disciplinary meeting must specify a date and time for that meeting.
- (6) Subject to paragraph (8), where a date and time is specified under paragraph (5) and—
- (a) the officer concerned or the officer’s police friend will not be available, and

(b) the officer proposes an alternative date or time which satisfies paragraph (7), the disciplinary meeting must be postponed to the date or time proposed by the officer.

(7) An alternative date or time must—

- (a) be reasonable, and
- (b) fall before the end of five working days beginning with the first working day after the day specified by the person conducting the disciplinary meeting.

(8) In the case of a joint disciplinary meeting, where a date and time is specified under paragraph (5) and one or more of the officers concerned or their police friend will not be available at that time, the person conducting the disciplinary meeting must—

- (a) consult each of the officers concerned as regards the timing of the disciplinary meeting, and
- (b) determine the date and time of the disciplinary meeting, which must fall within the period specified in paragraph (7)(b).

(9) When a date and time for the disciplinary meeting has been agreed under this regulation, the person conducting the disciplinary meeting must inform the appropriate authority of the date, time and place of the disciplinary meeting.

#### **Notice of disciplinary proceedings and panel**

**38.** The appropriate authority must give the officer concerned written notice of

- (a) the date, time and place of the disciplinary proceedings; and
- (b) the name of the person or names of the persons on the panel conducting the disciplinary proceedings.

#### **Attendance of officer concerned at disciplinary proceedings**

**39.—(1)** Subject to paragraph (2), the officer concerned must attend the disciplinary proceedings.

(2) Where the officer concerned informs the person conducting or chairing the disciplinary proceedings in advance that they are unable to attend on grounds which the person conducting or chairing the proceedings considers reasonable, that person may—

- (a) allow the officer to participate in the proceedings by live link or other means, or
- (b) postpone the date of the hearing or meeting on only one occasion unless they are satisfied that there are exceptional and unavoidable circumstances.

(3) Where under paragraph (2)(a) the officer concerned participates in the disciplinary proceedings by live link or other means, or where the officer otherwise does not attend the disciplinary proceedings with a reasonable excuse—

- (a) the officer may nonetheless be represented at those proceedings by—
  - (i) a police friend, or
  - (ii) in the case of a disciplinary hearing, a relevant lawyer (in which case the police friend may also attend), and
- (b) the proceedings may proceed and be concluded in the absence of the officer whether or not the officer is so represented.

(4) Where the officer concerned is represented in accordance with paragraph (3)(a), the police friend or relevant lawyer of the officer, or both, as the case may be, may participate using a live link or other means where such means are also used by the officer.

## Procedure at disciplinary proceedings

40.—(1) The person conducting or chairing the disciplinary proceedings must determine the procedure at those proceedings and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.

(2) The disciplinary proceedings must not proceed unless the officer concerned has been notified of the effect of regulation 14(1) to (3) in relation to the form of disciplinary proceedings taking place.

(3) Subject to paragraph (4), the person conducting or chairing the disciplinary proceedings may, from time to time, adjourn the proceedings if it appears necessary or expedient to do so.

(4) The disciplinary proceedings must not, except in exceptional circumstances, be adjourned solely to allow the officer concerned or any witness to attend.

(5) At the beginning of the disciplinary proceedings, the person conducting or chairing the disciplinary proceedings must give the officer concerned the opportunity to say whether or not the officer accepts that the officer's conduct amounts to misconduct or serious misconduct, as the case may be.

(6) The person representing the appropriate authority or, as the case may be, the originating authority may—

- (a) address the proceedings in order to do any or all of the following—
  - (i) put the case of the authority;
  - (ii) sum up that case;
  - (iii) respond on behalf of the authority to any view expressed at the proceedings;
  - (iv) subject to paragraph (10), ask questions of any witnesses;
- (b) confer with the authority.

(7) The person representing the officer concerned may—

- (a) address the proceedings in order to do all or any of the following—
  - (i) put the case of the officer;
  - (ii) sum up that case;
  - (iii) respond on behalf of the officer to any view expressed at the proceedings;
  - (iv) subject to paragraph (10), ask questions of any witnesses;
- (b) confer with the officer.

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

(9) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer during the disciplinary proceedings.

(10) The person conducting or chairing the disciplinary proceedings must determine whether any question should be put to a witness.

(11) The person conducting or chairing the disciplinary proceedings may allow any document to be considered at those proceedings notwithstanding that a copy of it has not been supplied—

- (a) by the officer concerned to the appropriate authority or, as the case may be, the originating authority in accordance with regulation 34(3), or
- (b) to the officer concerned in accordance with regulation 33(1).

(12) Where evidence is given or considered at the disciplinary proceedings that the officer concerned—

- (a) on being questioned by an investigator at any time after the officer was given written notice of investigation under Regulations or having been cautioned during the course of a criminal investigation, or
- (b) in submitting any information or by not submitting any information at all under these Regulations,

failed to mention any fact relied on in the officer's case at the disciplinary proceedings, being a fact which in the circumstances existing at the time, the officer could reasonably have been expected to mention when so questioned or when providing such information, paragraph (13) applies.

(13) Where this paragraph applies, the person or persons conducting the disciplinary proceedings may draw such inferences from the failure as appear proper.

(14) The person or persons conducting the disciplinary proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts—

- (a) in the case of a disciplinary meeting, to misconduct or not, or
- (b) in the case of a disciplinary hearing, to misconduct, serious misconduct or neither.

(15) The person or persons conducting the disciplinary proceedings must not find that the conduct of the officer concerned amounts to misconduct or serious misconduct unless—

- (a) they are satisfied on the balance of probabilities that this is the case, or
- (b) the officer admits it is the case.

(16) At disciplinary proceedings conducted by a panel, any decision must be based on a majority but must not indicate whether it was taken unanimously or by a majority.

(17) A disciplinary hearing may be conducted by live link where the chair determines it is necessary to do so.

### **Outcome of disciplinary proceedings**

**41.**—(1) The person or persons conducting disciplinary proceedings may, subject to the provisions of this regulation—

- (a) impose any disciplinary penalty mentioned in paragraphs (2) or (3) as appropriate;
- (b) where they find the conduct amounts to neither serious misconduct nor misconduct, direct that the matter is referred to be dealt with through management action.

(2) The disciplinary penalty available at a disciplinary meeting is—

- (a) a written warning; or
- (b) a final written warning.

(3) The disciplinary penalty available at a disciplinary hearing is—

- (a) a written warning;
- (b) a final written warning;
- (c) 1, 5, or 10 days' loss of pay;
- (d) reduction in rank, where paragraph (5) or (6) applies;
- (e) requirement to resign; or
- (f) dismissal without notice.

(4) The disciplinary penalty referred to in paragraph (3) has effect from the date on which it is notified to the officer concerned.

(5) This paragraph applies where a final written warning was in force on the date of the initial severity assessment under these Regulations.

(6) This paragraph applies where it is decided at disciplinary proceedings that the officer's conduct amounts to misconduct and the decision is based on the officer's conduct arising from more than one incident and those incidents are not closely factually connected.

(7) Where, on the date of the initial severity assessment under these Regulations the officer concerned had a written warning in force, a written warning must not be given.

(8) Where, on the date of the initial severity assessment under these Regulations, the officer concerned had a final written warning in force, neither a written warning nor a final written warning may be given.

(9) Where a written warning or final written warning is given, that warning remains in force for—

- (a) a period of 18 months beginning with the day on which it was notified to the officer concerned, in the case of a written warning, or
- (b) a period of two years beginning with the day on which it was notified to the officer concerned, in the case of a final written warning.

(10) Where a final written warning is given under paragraph (2) or (3), the period in paragraph (9)(b) may be extended, by the persons considering the question of disciplinary penalty, to a maximum period of five years.

(11) Where, on the date of the initial severity assessment under these Regulations, the officer concerned had previously been reduced rank, a reduction in rank may not be imposed.

(12) Where the question of disciplinary penalty is being considered, the person or persons considering it—

- (a) must have regard to the record of police service of the officer concerned as shown on the officer's personal record;
- (b) may receive written evidence from any witness whose evidence would, in their opinion, assist them in determining the question, including evidence of mitigating circumstances disclosed prior to the hearing to—
  - (i) the Police Service or the Administration,
  - (ii) a registered medical practitioner, or
  - (iii) a staff association;
- (c) must give—
  - (i) the officer concerned,
  - (ii) if the officer concerned is legally represented at disciplinary hearing, the officer's relevant lawyer or, if the officer is not legally represented, the officer's police friend, and
  - (iii) the appropriate authority or, as the case may be, the originating authority or the person appointed to represent such authority in accordance with regulation 14, an opportunity to make oral or written representations before any such question is determined, including on the appropriate level of disciplinary penalty, and
- (d) where representations are received in relation to mitigating circumstances—
  - (i) must consider whether those circumstances have been mentioned at an earlier stage in the proceedings and, if they have not been so mentioned, whether the officer could reasonably have been expected to so mention them, and
  - (ii) in the light of their conclusions under sub-paragraph (d)(i), may determine that it is appropriate to place less weight on those circumstances.

### **Notification of outcome**

42.—(1) The person conducting or chairing the disciplinary proceedings must, before the end of a period of five working days beginning with the first working day after the completion of the disciplinary hearing or disciplinary meeting, submit a report to the appropriate authority or, where functions have been delegated under regulation 18(1) to the originating authority setting out—

- (a) the finding of the person or persons conducting the disciplinary proceedings;
- (b) the reasons for that finding;
- (c) any disciplinary penalty imposed;
- (d) any direction that the matter be dealt with management action.

(2) The appropriate authority or, as the case may be, the originating authority, must, as soon as practicable after receiving the report under paragraph (1), notify the officer concerned of the outcome by sending the officer a copy of—



- (a) the report submitted under paragraph (1), and
  - (b) where there was a finding of misconduct or serious misconduct, a notice of the right of appeal in accordance with paragraph (3).
- (3) In all cases the notice of the right of appeal must be in writing and include the name of the person to whom an appeal should be sent.

### **Record of disciplinary proceedings**

43.—(1) A written or digital record of the disciplinary proceedings must be taken and, in the case of a disciplinary hearing, that record must be verbatim.

(2) The officer concerned must, on request, be supplied with a copy of the record of the disciplinary proceedings.

## **PART 6**

### **Appeals**

#### **Appeal against the outcome of disciplinary proceedings**

44.—(1) Where a case was decided at a disciplinary hearing or disciplinary meeting, the officer concerned may, subject to the provisions of this regulation, appeal—

- (a) if the officer concerned admitted that their conduct amounted to misconduct or serious misconduct, against any disciplinary penalty imposed under these Regulations;
- (b) if (after the officer denied misconduct) the person conducting or chairing the disciplinary hearing or disciplinary meeting found that the officer's conduct amounted to misconduct or serious misconduct, against that finding or any disciplinary penalty imposed under these Regulations.

(2) The only grounds of appeal under this regulation are that—

- (a) the finding or disciplinary penalty imposed was unreasonable,
- (b) there is evidence that could not reasonably have been considered at the disciplinary hearing or disciplinary meeting which could have materially affected the finding or decision on disciplinary penalty, or
- (c) there was a serious breach of the procedures set out in these Regulations which could have materially affected the finding or decision on disciplinary penalty.

(3) An appeal under this regulation must be commenced by the officer concerned giving written notice of appeal to the appropriate authority—

- (a) before the end of five working days beginning with the first working day after the outcome of disciplinary proceedings are notified to the officer concerned under these Regulations, and
- (b) state the grounds of appeal and whether a meeting is requested.

(4) An appeal under this regulation must be determined by a police officer of at least equivalent rank to the person who chaired the disciplinary hearing or conducted the disciplinary meeting who is not an interested party and who has had no previous involvement in the case.

(5) The appropriate authority must as soon as practicable give the officer concerned written notice of—

- (a) the name of the person appointed to determine the appeal under paragraph (4),
- (b) the name of any person appointed under regulation 14(6) to advise the person determining the appeal,

(6) The appropriate authority must supply the person determining the appeal with a copy of—

- (a) the documents given to the person who held the disciplinary proceedings;

- (b) the notice of appeal given by the officer concerned under these Regulations;
- (c) the record of the disciplinary proceedings; and
- (d) any evidence that the officer wishes to submit in support of the appeal.

(7) The person determining the appeal must determine whether the notice of appeal sets out arguable grounds of appeal and if they decide that it does not, they must dismiss the appeal.

### **Appeal meeting**

**45.**—(1) This regulation applies where the officer concerned requests a meeting in the written notice of appeal.

(2) If the person determining the appeal determines that the notice of appeal sets out arguable grounds of appeal, they must hold an appeal meeting with the officer concerned as soon as is practicable.

(3) The appeal meeting may be conducted in person or by such means agreed between the parties or where the parties fail to agree, as are decided by the person appointed to determine the appeal.

(4) The person determining the appeal must specify a date and time for the appeal meeting.

(5) Where—

(a) in an appeal meeting—

- (i) relating to a finding or sanction of misconduct the officer concerned or the officer's police friend will not be available, or
- (ii) relating to a finding or sanction of serious misconduct the officer concerned, the officer's police friend or the officer's lawyer will not be able to attend, and

(b) the officer proposes an alternative date or time which satisfies paragraph (6),

the appeal meeting must be postponed to the date or time proposed by the officer.

(6) An alternative date or time must—

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

(7) The person determining the appeal must give written notice of the date, time and place of the appeal meeting to the officer concerned.

(8) The appeal meeting must not be held until the person determining the appeal has received a copy of the documents required to be provided to them under these Regulations.

(9) The person determining the appeal must determine the procedure at the appeal meeting and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.

### **Finding of the appeal**

**46.**—(1) The person determining the appeal may—

- (a) confirm or reverse the decision appealed against;
- (b) deal with the officer concerned in any manner in which the person conducting or chairing the disciplinary meeting could have dealt with the officer under these Regulations.

(2) Before the end of five working days beginning with the first working day after the determination of the appeal, the appropriate authority must give the officer concerned written notice of that determination with a summary of the reasons.

(3) The decision of the person determining the appeal takes effect by way of substitution for the decision of the person conducting or chairing the disciplinary proceedings and as from the date of the written notice of that decision.

## PART 7

### Final Provisions

#### Repeals

47. Subject to regulation 48, the following are repealed—

- (a) Police and Prison Officers (Discipline) Regulations 2013(a);
- (b) Police and Prison Officers (Discipline) (Amendment) Regulations 2017(b).

#### Transitional Provisions

48.—(1) Where an authorising officer has authorised a disciplinary investigation under regulation 12 of the Police and Prison Officers (Discipline) Regulations 2013 (“the 2013 Regulations”) before the day these Regulations come into force—

- (a) nothing in these Regulations applies; and
- (b) the instruments referred to in regulation 47 continue to have effect,

(2) Where a disciplinary investigation or disciplinary penalty under these Regulations relates to conduct before the date these Regulations came into force, nothing in these Regulations makes the conduct misconduct or serious misconduct if it would not have been a disciplinary offence under the 2013 Regulations.

## SCHEDULE

Regulation 8

### Standards of professional behaviour

#### Honesty and Integrity

Police officers are honest, act with integrity and do not compromise or abuse their position.

#### Authority, Respect and Courtesy

Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

Police officers do not abuse their powers or authority and respect the rights of all individuals.

#### Equality and Diversity

Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

#### Use of Force

Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.

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(a) P.I. 16/2013.

(b) P.I. 4/2017.

### **Orders and Instructions**

Police officers only give and carry out lawful orders and instructions.

Police officers abide by police regulations, force policies and lawful orders.

### **Duties and Responsibilities**

Police officers are diligent in the exercise of their duties and responsibilities.

Police officers have a responsibility to give appropriate cooperation during investigations, inquiries and formal proceedings, participating openly and professionally in line with the expectations of a police officer when identified as a witness.

### **Confidentiality**

Police officers treat information with respect and access or disclose it only in the proper course of police duties.

### **Fitness for Duty**

Police officers when on duty or presenting themselves for duty are fit to carry out their responsibilities.

### **Discreditable Conduct**

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.

Police officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice.

### **Challenging and Reporting Improper Conduct**

Police officers report, challenge or take action against the conduct of colleagues which has fallen below the Standards of Professional Behaviour.

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Dated this 31<sup>st</sup> day of May 2022.

Christopher Eyre,  
Chief Constable and Superintendent of Prisons,  
Sovereign Base Areas.

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

1. This explanatory note relates to the Police and Prison Officers (Discipline) Regulations 2022 (“the Regulations”). It has been prepared by the office of the Attorney General and Legal Adviser in order to assist the reader of the Regulations. It does not form part of the Regulations.

2. This note should be read in conjunction with the Regulations. It is not, and is not meant to be, a comprehensive description of the Regulations. The Regulations establish a new disciplinary system for the Sovereign Base Areas’ Police Service.

3. Part 1 contains preliminary matters, including interpretation provisions. Regulation 2 defines terms including “misconduct” and “serious misconduct”, which relate to a breach of the Standards of Professional Behaviour (the Schedule) that is so serious as to justify disciplinary penalty.

4. Part 2 contains provisions concerning the initial handling of complaints and regulation 6 allows for informal resolution of complaints.

5. Part 3 contains general provisions. Regulation 11 provides for an officer to appoint a police friend. Regulation 12 deals with the interaction between disciplinary investigations and criminal investigations. Regulation 13 provides the basis on which disclosure can be prevented (the harm test). Regulation 14 provides provision for legal representation for the officer concerned, the appropriate authority and the chair of a disciplinary hearing. Regulation 15 provides for the appropriate authority to make a severity assessment in relation to the conduct which is the subject matter of the complaint. Regulation 16 provides for the suspension of the officer concerned. Regulation 18 provides for the appropriate authority to delegate functions under the Regulations.

6. Part 4 deals with investigations. Regulation 20 provides for the appointment of the investigating officer and the supervising officer. Regulation 21 requires the investigating officer to provide written notice of the investigation to the officer concerned. Regulation 23 makes provision about the timeliness of investigations where an investigation is not completed within a period of 12 months, the appropriate authority must provide specified information to the Administrator. Regulation 24 provides for the conduct of the investigation. Regulation 25 requires the investigating officer to produce an investigation report. Regulation 26 sets out the decisions that must be taken following the investigation.

7. Part 5 makes provision about disciplinary proceedings. Regulation 28 provides for the referral of a case to disciplinary proceedings. Regulation 29 provides for joint disciplinary proceedings to be held in certain circumstances. Regulation 30 allows for the appropriate authority to withdraw a case before disciplinary proceedings have commenced. Regulation 31 provides for the constitution of the disciplinary proceedings and requires that where the officer concerned is a senior officer the chair of the disciplinary hearing must be a UK police officer of at least equivalent rank to the officer concerned. Regulation 31 sets out the role of the chair in a disciplinary hearing. Regulation 36 allows the chair of a disciplinary hearing to conduct a pre-hearing. Regulation 39 sets out the requirement for the officer concerned to be present at the disciplinary proceedings. Regulation 40 provides the procedure for conducting disciplinary proceedings. Regulation 41 sets out the possible outcomes following disciplinary proceedings.

8. Part 6 makes provision for appeals. Regulation 44 sets out the process of appealing an outcome of disciplinary proceedings. Regulation 45 provides the process for carrying out an appeal meeting. Regulation 46 sets out the possible outcomes of an appeal.

9. Part 7 provides for the repeal of old disciplinary system and transitional arrangements.

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