

**2019 No.**

**POLICE, ENGLAND AND WALES**

**The Police (Conduct) Regulations 2019**

*Made* - - - - - \*\*\*

*Laid before Parliament* \*\*\*

*Coming into force* - - - \*\*\*

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SCHEDULE 1 — Standards of professional behaviour

SCHEDULE 2 — Modifications to these Regulations in their application to former officers

The Secretary of State makes the following Regulations, in exercise of the powers conferred by sections 50(1) to (4) and (7), 51(1) to (2H), (3A) and (4), 84 and 87(5) of the Police Act 1996(a), section 29(1) of the Police Reform Act 2002(b) and section 29(7) of the Policing and Crime Act 2017(c).

In accordance with section 63(3)(a) of the Police Act 1996(d), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration the representations of the Board before making these Regulations.

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- (a) 1996 c. 16. Subsection (3) of section 50 was substituted by paragraphs 1 and 3 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4) (“the 2008 Act”); subsections (3A) to (3G) of section 50 and subsections (2B) to (2H) of section 51 were inserted by section 29(1) to (3) of the Policing and Crime Act 2017 (c. 3) (“the 2017 Act”) and amended by paragraph 65(2) of Schedule 9 to the 2017 Act; subsection (2)(ba) of section 51 was inserted by section 35 of the Police Reform Act 2002 (c. 30) and amended by paragraphs 1 and 2 of Schedule 22 to the 2008 Act; subsection (2A) of section 51 was inserted by paragraphs 1 and 4 of Schedule 22 to the 2008 Act; section 84 was substituted by paragraphs 1 and 7 of Schedule 22 to the 2008 Act and amended by paragraphs 1 and 40 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and section 29(1) and (4) of and paragraph 65(3) of Schedule 9 to the 2017 Act. Section 87(1A) to (5) was substituted by paragraph 18 of Schedule 7 to the Police Reform Act 2002 and amended by section 32 of the 2017 Act. Section 87(5) was substituted by section 32 of the 2017 Act. There are other amendments to sections 50 and 51, but none are relevant.
- (b) 2002 c. 30; there are amendments to section 29(1), but none are relevant.
- (c) 2017 c. 3.
- (d) Section 63(3)(a) was substituted by paragraph 6(2) of Schedule 22 to the Criminal Justice and Immigration Act 2008. There are further amendments to section 63, but none are relevant.

# PART 1

## Preliminary

### Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police (Conduct) Regulations 2019 and come into force on [ ] 2019.

(2) These Regulations extend to England and Wales.

### Revocation and saving and transitional provisions

2.—(1) Subject to paragraph (2), the following Regulations are revoked—

- (a) the Police (Conduct) Regulations 2012(a)(“the 2012 Regulations”);
- (b) the Police (Conduct)(Amendment) Regulations 2014(b);
- (c) the Police (Conduct) Amendment Regulations 2015(c).

(2) Where an allegation in respect of conduct by a police officer came to the attention of an appropriate authority before 1st April 2019—

- (a) nothing in these Regulations applies, and
- (b) the Regulations mentioned in paragraph (1) continue to have effect.

### Interpretation and delegation

3.—(1) In these Regulations—

“the 1996 Act” means the Police Act 1996;

“the 2002 Act” means the Police Reform Act 2002;

“the Complaints and Misconduct Regulations” means the Police (Complaints and Misconduct Regulations) 2019(d);

“the Performance Regulations” means the Police (Performance) Regulations 2019(e);

“the Police Regulations” means the Police Regulations 2003(f);

“accelerated misconduct hearing” means a hearing to which the officer concerned is referred under regulation 46 after the case has been certified as one where the special conditions are satisfied;

“acting chief officer” means—

- (a) a person exercising or performing functions of a chief constable in accordance with section 41 of the Police Reform and Social Responsibility Act 2011 (power of deputy to exercise functions of chief constable);
- (b) a person exercising powers or duties of the Commissioner of Police of the Metropolis in accordance with section 44 (functions of Deputy Commissioner of Police of the Metropolis) or 45(4) (Assistant Commissioners of Police of the Metropolis) of that Act, or
- (c) a person exercising duties of the Commissioner of Police for the City of London in accordance with section 25 of the City of London Police Act 1839(g);

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(a) S.I. 2012/2632, as amended by S.I. 2014/3347, 2015/626 and 2017/1134.

(b) S.I. 2014/3347.

(c) S.I. 2015/626.

(d) S.I. 2019/[ ].

(e) S.I. 2019/[ ].

(f) S.I. 2003/527, as amended by S.I. 2006/3449.

(g) 2&3 Vict. c. xciv.

“allegation” means an allegation relating to a complaint or conduct matter, or a practice requiring improvement;

“appropriate authority” means, subject to regulation 24(3)—

(a) where the officer concerned is the chief officer or acting chief officer of any police force, the local policing body for the force’s area;

(b) in any other case, the chief officer of police of the police force concerned;

“appeal hearing” means an appeal to a police appeals tribunal in accordance with the Police Appeals Tribunals Rules 2019(a);

“appeal meeting” means a meeting held in accordance with regulation 44;

“bank holiday” means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(b) in England and Wales;

“complainant” has the meaning given to it by section 29(2) of the 2002 Act (interpretation of Part 2)(c);

“complaint” has the meaning given to it by section 12(1) of the 2002 Act (complaints, matters and persons to which Part 2 applies)(d);

“conduct” includes acts, omissions, statements and decisions (whether actual, alleged or inferred);

“conduct matter” has the meaning given to it by section 12(2) of the 2002 Act (complaints, matters and persons to which Part 2 applies)(e);

“criminal proceedings” means—

(a) any prospective criminal proceedings, or

(b) all criminal proceedings brought which have not been brought to a conclusion (apart from the bringing and determination of any appeal other than an appeal against conviction to the Crown Court);

“Director General” means the Director General of the Independent Office for Police Conduct, established under section 9 of the 2002 Act (Independent Office for Police Conduct)(f);

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

(a) a written warning;

(b) a final written warning;

(c) reduction in rank, or

(d) dismissal without notice;

“disciplinary proceedings” means, except in paragraph (5) or (6) of this regulation, any proceedings under these Regulations, other than under Part 6, and any appeal from misconduct proceedings or an accelerated misconduct hearing dealt with under the Police Appeals Tribunals Rules 2019;

“document” means anything in which information of any description is recorded and includes any recording of a visual image;

“gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;

“harm test” has the meaning given to it in regulation 4;

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(a) S.I. 2019 [ ].

(b) 1971 c. 80.

(c) Section 29(2) was amended by paragraph 6 of Schedule 4 to the Policing and Crime Act 2017.

(d) Section 12(1) to (1B) was substituted for section 12(1) by section 14(2) of the Policing and Crime Act 2017.

(e) Section 12(2) was amended by paragraph 8(6)(a) of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and sections 2(3)(a) and 3(3) of the Police (Complaints and Conduct) Act 2012 (c.22).

(f) Section 9 was amended by section 33 of the Policing and Crime Act 2017. There are further amendments to section 9, but none are relevant.

“HMCIC” means Her Majesty’s Chief Inspector of Constabulary appointed under section 54(1) of the 1996 Act (appointment and functions of inspectors of constabulary);

“informant” means a person who provides information to an 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 could reasonably give rise to a concern as to whether the person could act impartially under these Regulations;

“interested person” has the meaning given to it by section 21 of the 2002 Act (duty to provide information for other persons)(a);

“investigator” means a person—

(a) appointed under regulation 14, or

(b) appointed or designated under paragraph 16, 18 or 19 of Schedule 3 to the 2002 Act (investigations)(b), as the case may be;

“line manager” means the police officer or the police staff member who, in either case, has immediate supervisory responsibility for the officer concerned;

“misconduct”, other than in regulation 21(2)(a) and the first reference to “misconduct” in regulation 21(2)(b), means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action;

“misconduct hearing” means a hearing to which the officer concerned has been referred under regulation 21 to determine whether the conduct of the officer concerned amounts to misconduct or gross misconduct or neither and whether disciplinary action should be imposed;

“misconduct meeting” means a meeting to which the officer concerned has been referred under regulation 21 to determine whether the conduct of the officer concerned amounts to misconduct or not and whether disciplinary action should be imposed;

“misconduct proceedings” means a misconduct meeting or misconduct hearing;

“the officer concerned” means the police officer in relation to whose conduct there has been an allegation;

“originating authority”, where functions are delegated under regulation 24, has the meaning given in that regulation;

“personal record” means a personal record kept under regulation 15 of the Police Regulations;

“police barred list” means the list referred to in section 88B(2) of the 1996 Act (duty to maintain police barred list)(c);

“police force concerned” means—

(a) the police force of which the officer concerned is a member, or

(b) where the officer concerned is a special constable, the police force maintained for the police area for which the officer is appointed;

“police friend” means a person chosen by the officer concerned in accordance with regulation 6;

“police officer” means a member of a police force or special constable;

“police staff member” means—

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- (a) Section 21 was amended by paragraph 7 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c. 15). There are other amendments to section 21, but none are relevant.
- (b) Paragraph 16 was amended by paragraphs 11 and 14 of Schedule 12 to the Serious Organised Crime and Police Act 2005, paragraphs 1, 11 and 12 of Schedule 14 to the Police Reform and Social Responsibility Act 2011, paragraphs 8 and 17 of Schedule 6 to the Crime and Courts Act 2013 (c. 22) and paragraphs 9 and 16 of Schedule 5 to the Policing and Crime Act 2017; paragraph 18 was amended by paragraphs 1, 11 and 16 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and by paragraphs 9, 15, 18 and 19 of Schedule 5 to the Policing and Crime Act 2017; paragraph 19 was amended by paragraphs 1, 11 and 17 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 9, 15, 20 and 56 of Schedule 9 to the Policing and Crime Act 2017. There are further amendments to paragraphs 16, 18 and 19, but none are relevant.
- (c) Section 88B was inserted by Schedule 8 to the Policing and Crime Act 2017.

- (a) a member of the civilian staff of a police force, within the meaning of section 102(4) and (6) of the Police Reform and Social Responsibility Act 2011 (interpretation of Part 1), or
- (b) an employee of the Common Council of the City of London who is under the direction and control of the Commissioner of the City of London Police;

“policing code of ethics” means the code of practice with that title, issued by the College of Policing under section 39A of the Police Act 1996(a), as amended by section 124 of the Anti-social Behaviour, Crime and Policing Act 2014 (code of practice issued by the college);

“practice requiring improvement” means underperformance or conduct not amounting to misconduct or gross misconduct, which falls short of the expectations of the public and the police service as set out in the policing code of ethics;

“proposed witness” means a witness whose attendance at the misconduct proceedings the officer concerned or the appropriate authority (as the case may be) wishes to request of the person conducting or chairing those proceedings;

“protected disclosure” has the meaning given it by section 43A of the Employment Rights Act 1996 (meaning of protected disclosure)(b);

“reflective practice review process” means the process set out in Part 6;

“relevant lawyer” has the same meaning as in section 84(4) of the 1996 Act (representation at disciplinary and other proceedings)(c);

“senior officer” means a member of a police force holding a rank above that of chief superintendent;

“staff association” means—

(a) in relation to a member of a police force of the rank of chief inspector or below, the Police Federation of England and Wales;

(b) in relation to a member of a police force of the rank of superintendent or chief superintendent, the Police Superintendents’ Association, and

(c) in relation to a member of a police force who is a senior officer, the Chief Police Officers’ Staff Association;

“Standards of Professional Behaviour” means, subject to paragraph (7) of this regulation, the standards of professional behaviour contained in Schedule 1;

“working day” means any day other than a Saturday or Sunday or a day which is a bank holiday or a public holiday in England and Wales.

(2) In these Regulations—

(a) a reference to an officer other than a senior officer includes a reference to a special constable, regardless of his level of seniority;

(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;

(c) the “special conditions” are that—

(i) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that the conduct of the officer concerned constitutes gross misconduct; and

(ii) it is in the public interest for the officer concerned to cease to be a member of a police force or a special constable without delay.

(3) Where the appropriate authority is a chief officer of police, the chief officer may, subject to paragraph (4), delegate any functions under these Regulations to a—

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(a) Section 39A was inserted by section 2 of the Police Reform Act 2002. There are other amendments to that section but none are relevant.

(b) 1996 c. 18. Section 43A was inserted by section 1 of the Public Interest Disclosure Act 1998 (c. 23).

(c) Section 84 was substituted by paragraphs 1 and 7 of Schedule 22 to the Criminal Justice and Immigration Act 2008 and amended by paragraphs 1 and 40 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 and section 29(1) and (4) of the Policing and Crime Act 2017.

- (a) member of a police force of at least the rank of inspector, or
- (b) police staff member who, in the opinion of the chief officer is of at least a similar level of seniority to an inspector.

(4) Where the appropriate authority delegates its functions under regulation 10, 13, 21 or 46, the decisions must be authorised by a senior officer.

(5) Any proceedings under these Regulations, other than under Part 6, are disciplinary proceedings for the purposes of section 87(5) of the 1996 Act (guidance concerning disciplinary proceedings etc.).

(6) Any proceedings under these Regulations, other than under Part 6, are disciplinary proceedings for the purposes of section 29(1) of the 2002 Act (interpretation).

(7) For the purposes of these Regulations, the making of a protected disclosure by a police officer is not a breach of the Standards of Professional Behaviour.

### **The harm test**

4. 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 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.

## **PART 2**

### **General**

#### **Application**

5.—(1) These Regulations apply where an allegation comes to the attention of an appropriate authority which indicates that the conduct of a police officer may amount to misconduct, gross misconduct or practice requiring improvement.

(2) Except as set out in paragraph (6), these Regulations also apply, with the modifications set out in Schedule 2, where—

- (a) an allegation comes to the attention of a relevant body which indicates that the conduct of a person who at the time of the alleged conduct was a police officer (“P”) may amount to gross misconduct, and
- (b) condition A, B or C is satisfied.

(3) Condition A is that P ceased to be a police officer after the allegation first came to the attention of a relevant body.

(4) Condition B is that—

- (a) P ceased to be a police officer before the allegation first came to the attention of a relevant body, and
- (b) the period between the date P ceased to be a police officer and the date the allegation first came to the attention of the relevant body did not exceed 12 months.

(5) Condition C is that—

- (a) P ceased to be a police officer before the allegation first came to the attention of a relevant body;
- (b) the period between the date P ceased to be a police officer and the date the allegation first came to the attention of the relevant body exceeded 12 months, and
- (c) the Director General has made a Condition C special determination under [Part 1A of these Regulations (as modified by paragraph (2) and Schedule 2)] that taking disciplinary proceedings against P in respect of the alleged gross misconduct would be reasonable and proportionate.

(6) Paragraph (2) does not apply—

- (a) in relation to a person who ceased to be a police officer before 15th December 2017;
- (b) where the disciplinary proceedings would not be the first disciplinary proceedings to be taken against P in respect of the alleged gross misconduct unless they result from a re-investigation of the allegation (whether carried out under these Regulations or under the 2002 Act) that begins not later than 12 months after the date on which P ceased to be a police officer.

(7) Where an appropriate authority is considering more than one allegation in relation to the same police officer or person in relation to whom these Regulations apply by virtue of paragraph (2), the allegations may be taken together and treated as a single allegation for the purposes of any provision of these Regulations which requires a person to make an assessment, finding, determination or decision in connection with conduct which is the subject matter of an allegation.

(8) In this regulation, “relevant body” means—

- (a) a chief officer of police;
- (b) a local policing body, or
- (c) the Director General.

### **Police friend**

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

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

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

(2) Subject to regulation 63(1), a police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations;
- (b) unless the officer concerned has the right to be legally represented and chooses to be so represented, represent the officer concerned at the misconduct proceedings or accelerated misconduct hearing or appeal meeting;
- (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) Where a police friend is a police officer or a police staff member, the chief officer of police of the force of which the police friend is a member 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**

7.—(1) The officer concerned has the right to be legally represented, by a relevant lawyer of the officer's choice, at a misconduct hearing or an accelerated misconduct hearing.

(2) The unavailability of one or more relevant lawyers is not a valid ground for unreasonable delay in any stage of disciplinary proceedings where alternative legal representation 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 40 or 59 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 24, 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 or persons conducting the misconduct proceedings or accelerated procedure 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.

### **Provision of notices or documents**

8. 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 some 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
- (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**

9.—(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**

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

(2) An officer concerned 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
  - (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 from the date on which these Regulations first apply to the officer concerned in accordance with regulation 5 until—

- (a) it is decided that the conduct of the officer concerned 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) on being notified 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 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 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 (investigations) applies, 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) before a suspension under this regulation is brought to an end by virtue of paragraph (10)(a).

### **Record of disciplinary proceedings**

**11.** The appropriate authority of the police force concerned 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 concerned.

## **PART 3**

### **Investigations**

#### **Application of this Part**

**12.** This Part does not apply to a case to which paragraph 16, 18 or 19 of Schedule 3 to the 2002 Act (investigations) applies.

#### **Severity assessment**

**13.—(1)** The appropriate authority must assess whether the conduct which is the subject matter of the allegation, if proved, would amount to misconduct or gross misconduct or neither.

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

- (a) the conduct, if proved, would amount to practice requiring improvement;
- (b) the matter should be referred to be dealt with under the Performance Regulations, or
- (c) it should take no further action.

(3) The appropriate authority must consult the line manager of the officer concerned before making an assessment in terms of paragraph (2)(a) or (b).

(4) Where the appropriate authority assesses that the conduct, if proved, would amount to practice requiring improvement, it must refer the matter to be dealt with under the reflective practice review process.

(5) Where the appropriate authority assesses that the conduct, if proved, would amount to misconduct—

- (a) the matter must be investigated, and

- (b) the appropriate authority must assess whether, if the matter were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing.

(6) Where the appropriate authority assesses that the conduct, if proved, would amount to gross misconduct, the matter must be investigated.

(7) At any time before the start of misconduct proceedings, the appropriate authority may revise its severity assessment under this regulation if it considers it appropriate to do so.

(8) Where the appropriate authority decides under this regulation to take no further action or to refer the matter to be dealt with under the reflective practice review process or the Performance Regulations, it must so notify the officer concerned in writing as soon as practicable.

### **Appointment of investigator**

**14.**—(1) This regulation applies where the matter is to be investigated in accordance with regulation 13.

(2) The appropriate authority must appoint a person to investigate the matter.

(3) No person (“P”) may be appointed to investigate a matter under this regulation—

- (a) unless P has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
- (b) if P is an interested party;
- (c) if P works, directly or indirectly, under the management of the officer concerned, or
- (d) in a case where the officer concerned is a senior officer, if P is—
  - (i) the chief officer of police of the police force concerned, or
  - (ii) a member of the same police force as the officer concerned, or where the officer concerned is a member of the metropolitan police force, serving in the same division as the officer concerned.

(4) The reference in paragraph (3)(d)(ii) to a member of the police force includes a reference to a special constable appointed for the area of that force and a police staff member serving in that force.

### **Investigation**

**15.** The purpose of the investigation is to—

- (a) gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct, and
- (b) assist the appropriate authority to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

### **Written notices**

**16.**—(1) Subject to the harm test and where paragraph (5)(a) does not apply, the investigator must, as soon as is reasonably practicable after being appointed, give the officer concerned written notice—

- (a) describing the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour;
- (b) of the result of the severity assessment conducted under regulation 13;
- (c) that there is to be an investigation into the matter and the identity of the investigator;
- (d) that if the officer is dismissed at misconduct proceedings, information including the officer’s full name and a description of the conduct which led to dismissal will be added to the police barred list and may be subject to publication for a period of up to five years;

- (e) informing the officer of the right to seek advice from the officer's staff association or any other body and of the effect of regulation 6(1) and (2);
- (f) of the effect of regulations 7(1) to (3) and 17, and
- (g) informing the officer 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 any information under regulations 17(1) or 29(2) or (3) something later relied on in any disciplinary proceedings.

(2) Where a notice is given under paragraph (1), the investigator must—

- (a) subject to the harm test and where paragraph (5)(b) does not apply, 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,

where practicable, at the same time as notice is given under paragraph (1), or otherwise within a period of 5 working days, beginning with the first working day after the day on which such notice is given.

(3) Subject to the harm test and except where paragraph (5)(c) applies, where notice is given under paragraph (1) and the appropriate authority revises its severity assessment in accordance with regulation 13(7), the appropriate authority must as soon as practicable give the officer concerned written notice of the result of the revised severity assessment.

(4) Subject to the harm test and except where paragraph (5)(d) applies, where the written terms of reference are given under paragraph (2) and those terms are revised, the appropriate authority must as soon as practicable give the officer concerned the revised terms of reference.

(5) This paragraph applies for so long as the investigator considers that giving—

- (a) a written notice under paragraph (1);
- (b) terms of reference under paragraph (2);
- (c) a written notice under paragraph (3), or
- (d) revised terms of reference under paragraph (4),

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

(6) Once a written notice has been given in accordance with paragraph (1), the investigator 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 paragraph (1), before the end of 4 weeks beginning with the first working day after the start of the investigation, and
- (b) in any other case, before the end of 4 weeks beginning with the first working day after the previous notification.

### **Representations to the investigator**

**17.—**(1) Before the end of 10 working days starting with the first working day after the terms of reference, or, as the case may be, written notice has been given under regulation 16(2)—

- (a) the officer concerned may provide a written or oral statement relating to any matter under investigation to the investigator, 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 investigator.

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

(3) The period of 10 working days referred to in paragraph (1) may be extended by the investigator.

(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 investigation**

**18.**—(1) Where an investigation is not completed within a relevant period, the appropriate authority must, subject to paragraph (3), provide as soon as practicable the following information in writing to the local policing body—

- (a) the date on which the allegation came to the attention of the appropriate authority;
- (b) the date on which notice was given under regulation 16(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 20;
- (e) any 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.

(2) For the purposes of this regulation, each of the following is a “relevant period”—

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

(3) The requirement to provide information under paragraph (1) 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).

(4) Subject to the harm test, a copy of the information given under paragraph (1) or (2) must be sent to the officer concerned.

### **Interviews during investigation**

**19.**—(1) Where an investigator wishes to interview the officer concerned as part of the investigation, the investigator must, if reasonably practicable, agree a date and time for the interview with the officer concerned.

(2) No interview may take place until the officer concerned has been given terms of reference or, as the case may be, written notice under regulation 16(2).

(3) Where no date and time is agreed under paragraph (1), the investigator must specify a date and time for the interview.

(4) Where a date and time is specified under paragraph (3) and—

- (a) the officer concerned or the officer’s police friend will not be available at that time, and
- (b) the officer concerned proposes an alternative time which satisfies paragraph (5),

the interview must be postponed to the time proposed by the officer concerned.

(5) An alternative time must—

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

(6) The officer concerned must be given written notice of the date, time and place of the interview.

(7) The investigator must, in advance of the interview, provide the officer concerned with such information as the investigator considers appropriate in the circumstances of the case to enable the officer concerned to prepare for the interview.

(8) The officer concerned must attend the interview.

(9) A police friend may not answer any questions asked of the officer concerned during the interview.

### **Report of investigation**

**20.**—(1) On completion of the investigation the investigator must as soon as practicable submit a written report on the investigation to the appropriate authority.

(2) The written report must—

- (a) provide an accurate summary of the evidence;
- (b) attach or refer to any relevant documents;
- (c) indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer, and
- (d) where the investigator's opinion under sub-paragraph (c) is that there is no case to answer, indicate the investigator's opinion as to whether the matter should be referred to be dealt with under the Performance Regulations or the reflective practice review process.

(3) If at any time during the investigation the investigator believes that the appropriate authority would, on consideration of the matter, be likely to determine that the special conditions are satisfied, the investigator must, whether or not the investigation is complete, submit to the appropriate authority—

- (a) a statement of the investigator's belief and the grounds for it, and
- (b) a written report on the investigation to that point.

(4) If at any time during the investigation the investigator believes that, in light of evidence made available to the investigator that was not available to the appropriate authority when it made its severity assessment under regulation 13, the appropriate authority would, on further consideration of the matter, be likely to determine that the conduct which is the subject matter of the allegation, if proved, would amount to neither misconduct nor gross misconduct, the investigator must, whether or not the investigation is complete, submit to the appropriate authority—

- (a) a statement of the investigator's belief and the grounds for it;
- (b) a written report on the investigation to that point, and
- (c) a statement of the investigator's opinion as to whether the matter should be referred to be dealt with under the Performance Regulations or the reflective practice review process.

(5) Where a report is submitted to the appropriate authority under paragraph (4), the appropriate authority must make a further severity assessment under regulation 13.

(6) If the appropriate authority assesses that the conduct if proved would amount to misconduct or gross misconduct, the investigator must continue to proceed with the investigation that has been commenced.

(7) If the appropriate authority makes an assessment other than that the conduct if proved would amount to misconduct or gross misconduct—

- (a) the case must be dealt with in accordance with regulation 13;
- (b) the investigation must be promptly concluded;
- (c) the appropriate authority must as soon as practicable and in addition to any notice required under regulation 13(8), give the officer concerned notice in writing that—

- (i) the notice given to the officer under regulation 16(1) has been withdrawn and no further action will be taken pursuant to that notice, and
- (ii) the investigation has been concluded.

## PART 4

### Misconduct proceedings

#### **Referral of case to misconduct proceedings**

**21.**—(1) — Subject to regulation 46, on receipt of the investigator’s report under regulation 20(1), the appropriate authority must, as soon as practicable, determine—

- (a) whether the officer concerned has a case to answer in respect of misconduct or gross misconduct or whether the officer has no case to answer, and
- (b) whether or not misconduct proceedings should be brought against the officer concerned and, if so, what form the misconduct proceedings should take.

(2) Subject to regulation 46 and paragraph (9), on receipt of a report submitted under paragraph 22 of Schedule 3 to the 2002 Act (final reports on investigations)(**a**), in making a determination under paragraph 24(6) of Schedule 3 to the 2002 Act (action in response to an investigation report)(**b**) as to what action to take in respect of matters dealt with in that report, the appropriate authority must, as soon as practicable, determine—

- (a) whether the officer concerned has a case to answer in respect of misconduct (within the meaning of paragraph 29 of Schedule 3 to the 2002 Act) or gross misconduct or whether the officer has no case to answer;
- (b) where under paragraph (a) the appropriate authority determines that there is a case to answer in respect of misconduct (within the meaning of paragraph 29 of Schedule 3 to the 2002 Act), whether the case amounts to misconduct(**c**), and
- (c) whether or not misconduct proceedings should be brought against the officer concerned and, if so, what form the misconduct proceedings should take.

(3) Subject to paragraph (9), in a case where the misconduct proceedings have been delayed by virtue of regulation 9(3), as soon as practicable after—

- (a) the appropriate authority considers that such proceedings would no longer prejudice any criminal proceedings, or
- (b) any criminal proceedings have concluded (whatever the outcome of those proceedings),

the appropriate authority must, subject to regulation 46(3), make a further determination as to the matters set out in paragraph (1)(a) and (b) or, as the case may be, paragraph (2)(a) to (c).

(4) Where the appropriate authority determines under paragraph (2)(b), or under paragraph (3) insofar as the determination relates to the matter set out in paragraph (2)(b), that the case does not amount to misconduct, the case is to be dealt with under these Regulations as if the appropriate authority had determined that there was no case to answer.

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

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(a) Paragraph 22 was substituted by paragraphs 1, 11 and 21 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and was amended by section 19(1) and (3)(b)(i) of and paragraph 47(h)(vi) of Schedule 5 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017; there are other amendments to paragraph 22, but none are relevant.

(b) Paragraph 24(6) was substituted by paragraphs 1, 3 and 14(1) and (6) of Schedule 23 to the Criminal Justice and Immigration Act 2008 and amended by paragraphs 1 and 14(1) and (3) of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and paragraph 47(h)(xiii) of Schedule 5 to the Policing and Crime Act 2017 .

(c) See regulation 3(1) for the definition of “misconduct” in these Regulations.

- (a) the case amounts to practice requiring improvement;
- (b) the matter should be referred to be dealt with under the Performance Regulations, or
- (c) it should take no further action.

(6) The appropriate authority must consult the line manager of the officer concerned before making an assessment in terms of paragraph (5)(a) or (b).

(7) As soon as practicable after it has completed the assessment under paragraph (5), the appropriate authority must—

- (a) inform the officer concerned of the outcome of its assessment, and
- (b) subject to the harm test, give the officer concerned a copy of the investigator's report or such parts of that report as relate to the officer, together with any document attached to or referred to in that report which relates to the officer.

(8) Where the appropriate authority assesses that the case amounts to practice requiring improvement, it must direct that the matter is dealt with under the reflective practice review process.

(9) Where the appropriate authority —

- (a) has a duty under paragraph 23(5B) of Schedule 3 to the 2002 Act (duties with respect to disciplinary proceedings)(a) to comply with a direction to bring misconduct proceedings of a form specified in a determination of the Director General;
- (b) accepts a recommendation under paragraph 25(4D) of that Schedule (reviews with respect to an investigation)(b) that misconduct proceedings of the form specified in the recommendation are brought, or
- (c) has a duty under paragraph 27(4)(b) of that Schedule (duties with respect to disciplinary proceedings) to comply with a direction to bring misconduct proceedings of a form specified in a recommendation under paragraph 25(4C) of that Schedule,

it must, subject to regulation 9(3), refer the case to misconduct proceedings of the form specified.

(10) Where the appropriate authority determines under paragraph (1) or (2) to refer the case to misconduct proceedings—

- (a) where the officer concerned had a final written warning in force at the date of the severity assessment under regulation 13(1) of these Regulations or, as the case may be, regulation 16 of the Complaints and Misconduct Regulations (special procedure: severity assessment)(c), those proceedings must be a misconduct hearing, and
- (b) where the officer concerned has been reduced in rank under the Police (Conduct) Regulations 2004(d) or these Regulations less than 18 months prior to the severity assessment under regulation 13(1) of these Regulations or, as the case may be, regulation 16 of the Complaints and Misconduct Regulations, those proceedings must be a misconduct hearing.

(11) Where the appropriate authority fails to make the determination referred to in paragraph (1) or (2) before the end of 15 working days beginning with the first working day after receipt of the report, it must notify the officer concerned of the reason for this.

(12) In determining whether any criminal proceedings are to be treated as concluded for the purposes of this regulation, any right of appeal is to be disregarded.

(13) Any period of time specified in this Part in relation to misconduct proceedings may be reduced by agreement between all relevant parties.

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(a) Paragraph 23(5A) to (5F) was inserted by paragraphs 9 and 26(1) and (2) of Schedule 5 to the Policing and Crime Act 2017.  
 (b) Paragraph 25(4A) to (4J) was inserted by paragraphs 29 and 34(1) and (5) of Schedule 5 to the Policing and Crime Act 2017.  
 (c) S.I. 2019/[ ].  
 (d) S.I. 2004/645.

## **Presenting of case by the Director General**

22.—(1) Where a case to which paragraph (2) applies is referred to a misconduct hearing or an accelerated misconduct hearing, the Director General may decide to present the case on behalf of the appropriate authority.

(2) This paragraph applies to a case where—

- (a) it is a case in respect of which the duty referred to in regulation 21(9)(a) or (c) arises, and
- (b) one of the conditions set out in paragraph (3) is satisfied.

(3) The conditions are—

- (a) the appropriate authority, when its views were sought in respect of the case under paragraph 23(5A)(a)(i) of Schedule 3 to the 2002 Act (action by the Director General in response to an investigation report under paragraph 22), or subsequently, expressed a view on the matter referred to in that paragraph that differed from the determination of the Director General under paragraph 23(5A)(b)(i) of that Schedule;
- (b) the appropriate authority notified the Director General under paragraph 25(4D)(a) of Schedule 3 to the 2002 Act (reviews with respect to an investigation) that it did not accept a recommendation of the Director General under paragraph 25(4C)(c)(i) of Schedule 3 to the 2002 Act (reviews with respect to an investigation);
- (c) the police force concerned and the Director General agree that the Director General should present the case; or
- (d) the Director General is of the view that in the particular circumstances of the case there is a compelling public interest for the Director General to present the case.

(4) Where the Director General makes a decision under paragraph (1) to present a case, the Director General must immediately inform the appropriate authority of the decision.

(5) The appropriate authority must give the Director General any assistance the Director General reasonably requires for the purpose of presenting a case.

## **Joint misconduct proceedings**

23.—(1) Subject to paragraphs (6) and (7), where under regulation 21 the appropriate authority refers two or more cases arising from the same matter or incident, but which relate to more than one police officer, to a misconduct hearing, the cases may be referred to a joint misconduct hearing.

(2) Subject to paragraph (6), where under regulation 21 the appropriate authority refers two or more cases arising from the same matter or incident, but which relate to more than one police officer, to a misconduct meeting, the cases may be referred to a joint misconduct meeting.

(3) Where cases are referred to joint misconduct proceedings, a reference to “the officer concerned” in regulations 24 to 42, if and as 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 misconduct proceedings, the officer concerned in any of the cases may object and request separate proceedings.

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

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

(7) A case in respect of which the Director General has made a decision under regulation 22(1) may only be referred to a joint misconduct hearing on the direction of the Director General, following consultation with the appropriate authority.

(8) The appropriate authority must comply with a direction given under paragraph (7).

## **Delegation of functions**

**24.**—(1) Where under regulation 21 a case is referred to a misconduct hearing, the appropriate authority may, if it considers it appropriate in a particular case, delegate functions in relation to the administration of the hearing (but not in relation to representing the police force at the hearing) to—

- (a) where the officer concerned is the chief officer or acting chief officer of any police force, the local policing body for another force's area; or
- (b) in any other case, the chief officer of police of another police force.

(2) Subject to regulation 23(4) to (8), where functions are delegated to the same local policing body or, as the case may be, the same chief officer of police, in respect of more than one case which relates to the same matter or incident, the cases may be dealt with at a joint misconduct hearing.

(3) Where functions are delegated, in these Regulations—

“appropriate authority” in relation to the exercise of such functions means the local policing body or, as the case may be, chief officer of police to whom the functions have been delegated; and

“originating authority” means the local policing body for, or the chief officer of police of, the force of which the officer concerned is a member.

(4) Where functions are delegated, any requirement on a person other than the originating authority to supply a document to another person must be read as including a requirement to supply such document also to the originating authority.

## **Withdrawal of misconduct proceedings**

**25.**—(1) Subject to paragraph (4), at any time before the beginning of the misconduct proceedings, the appropriate authority—

- (a) if it is no longer satisfied that there is a case to answer in respect of misconduct or gross misconduct must direct that the case be withdrawn, and
- (b) where sub-paragraph (a) does not apply, may direct that the case be withdrawn.

(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 the reflective practice review process, or
  - (iii) refer the matter to be dealt with under the Performance Regulations; 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 the harm test, a copy of the investigator's report or such parts of that report as relate to the officer concerned.

(3) Before referring a matter to the reflective practice review process or to be dealt with under the Performance Regulations, the appropriate authority must consult the line manager of the officer concerned.

(4) A case to which paragraph 16, 18 or 19 of Schedule 3 to the 2002 Act (investigations) applies may only be withdrawn—

- (a) on the direction of the Director General, following consultation with the appropriate authority, in a case where the Director General gave a direction under paragraph 23(5A)(e) or paragraph 27(4)(a) of that Schedule to bring disciplinary proceedings, or
- (b) following consultation with the Director General, in all other cases.

## Persons conducting misconduct proceedings

26.—(1) Where the officer concerned is an officer other than a senior officer, the misconduct meeting must be conducted by a person appointed by the appropriate authority who is not an interested party and who satisfies paragraph (2).

(2) The person—

(a) where—

- (i) the officer concerned is a member of a police force, must be another member of a police force of at least one rank higher than the officer concerned;
- (ii) the officer concerned is a special constable, must be a member of a police force of the rank of sergeant or above or a senior human resources professional, or

(b) unless the case substantially involves operational policing matters, must be a police staff member who, in the opinion of the appropriate authority, is more senior than the officer concerned.

(3) Where the officer concerned is a senior officer, the misconduct meeting must be conducted by a panel of three persons appointed in accordance with paragraph (4), as modified by paragraph (5).

(4) Subject to paragraph (5), where the case is referred to a misconduct hearing, that hearing must be conducted by a panel of three persons appointed by the local policing body, comprising—

- (a) a chair selected on a fair and transparent basis from the list of legally qualified persons maintained by the local policing body for the purpose of these Regulations;
- (b) a member of a police force of the rank of superintendent or above (provided the member is of a more senior rank than the officer concerned), and
- (c) a person selected on a fair and transparent basis from a list of candidates maintained by the local policing body for the purpose of these Regulations.

(5) Where the officer concerned is a senior officer, paragraph (4)(b) is modified so as to refer instead to “HMCIC or an inspector of constabulary nominated by HMCIC”.

(6) In this regulation—

- (a) “legally qualified person” means a person who satisfies the judicial-appointment eligibility condition on a 5-year basis<sup>(a)</sup>;
- (b) “local policing body”, where functions are delegated under regulation 24(1), means the local policing body for the area of the authority to whom functions have been delegated;
- (c) “human resources professional” means a police officer or police staff member who has specific responsibility for personnel matters relating to members of a police force.

## Role of chair of misconduct hearing

27.—(1) The chair of the panel appointed under regulation 26(4) must take appropriate action to ensure the efficient and effective bringing of the proceedings and that they are conducted in a timely, fair and transparent manner.

(2) In particular, the chair must ensure that the first day of the misconduct hearing is not more than 100 working days after notice is given under regulation 28(1).

(3) The chair must decide whether to conduct a misconduct pre-hearing, in order to agree directions for the hearing and to fix a date for the hearing in accordance with regulation 31.

(4) Where the chair decides not to conduct a misconduct pre-hearing, the chair must determine the date, time and duration of the misconduct hearing, following consultation with the parties 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.

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(a) See section 50 of the Tribunals, Courts and Enforcement Act 2007 (c. 15).

(5) Subject to paragraph (6), where paragraph (4) applies, the misconduct hearing must take place before the end of the period of 30 working days beginning with the day the chair receives lists of proposed witnesses or notice under regulation 30(1).

(6) Any of the parties may apply to the chair for the misconduct hearing to take place later than is provided for in paragraph (5).

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

(8) The chair must determine whether the application should be granted, provided that the date fixed for the commencement of the hearing must be within the period specified in paragraph (2).

### **Notice of referral to misconduct proceedings**

**28.**—(1) Where a case is referred to misconduct proceedings, 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 matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be;
  - (iii) where functions in relation to the administration of the hearing have been delegated under regulation 24(1), details of the authority to whom they have been delegated;
  - (iv) the name of the person appointed to (in the case of a misconduct meeting for an officer other than a senior officer) conduct or (in any other case) chair the misconduct proceedings and, in the case of a chair, confirmation that the person has been selected on a fair and transparent basis;
  - (v) the effect of paragraphs (3) to (6) of this regulation;
  - (vi) the effect of regulation 7(1) to (3) in relation to the form of misconduct proceedings to which the case is being referred;
  - (vii) where relevant, the fact that the Director General has made a decision under regulation 22(1) to present the case, and
  - (viii) where relevant, that the case has been referred to joint misconduct proceedings under regulation 23;
- (b) a copy of any statement the officer may have made to the investigator during the course of the investigation, and
- (c) subject to the harm test, a copy of—
  - (i) the investigator's report or such parts of that report 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 relevant document gathered during the course of the investigation.

(2) As soon as practicable after any person has been appointed under regulation 7(6) to advise the person or persons conducting the misconduct proceedings, the appropriate authority must give the officer concerned written notice of the name of such person and of the effect of paragraphs (3) to (6) of this regulation.

(3) The officer concerned may object to any person whom the officer is notified under the preceding provisions of this regulation is to—

- (a) conduct (or, as the case may be, chair) the misconduct proceedings, or
- (b) advise the person or persons conducting the misconduct proceedings.

(4) Any such objection must be—

- (a) made in writing to—
  - (i) the local policing body, where the person in relation to whom the objection is made was appointed by that body, or

(ii) the appropriate authority in all other cases, and

(b) in the case of joint misconduct proceedings, copied to each other officer concerned, before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer concerned.

(5) The appropriate authority or, as the case may be, the local policing body must notify the officer concerned in writing whether it upholds or rejects an objection to a person appointed to conduct or, as the case may be, chair the misconduct proceedings or to any person appointed under regulation 7(6) to advise the person or persons conducting the misconduct proceedings.

(6) If the appropriate authority or, as the case may be, the local policing body upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with regulations 7(6) and (7) or 26 as appropriate).

(7) As soon as reasonably practicable after any such appointment, the appropriate authority must notify in writing the officer concerned of the name of the new person appointed to conduct or chair the misconduct proceedings or of the new adviser to the person or persons conducting the misconduct proceedings, as the case may be.

(8) The officer concerned may object to the appointment of a person appointed under paragraph (6).

(9) Any such objection under paragraph (8) must be made in accordance with paragraph (4), provided that it must be made before the end of 3 working days beginning with the first working day after receipt of the notification referred to in paragraph (7); and the appropriate authority or, as the case may be the local policing body must comply with paragraphs (5) to (7) in relation to that objection, but paragraph (8) does not apply.

(10) Where the Director General has made a decision under regulation 22(1) to present a case, the appropriate authority must—

- (a) consult the Director General about the contents of the written notice to be given under paragraph (1)(a)(ii) and the application of the harm test under paragraph (1)(c);
- (b) comply with any direction given by the Director General in relation to the matters specified in sub-paragraph (a), and
- (c) provide the Director General with a copy of the written notices given under paragraphs (1) and (2).

(11) In this regulation “relevant document” means a document which, in the opinion of the appropriate authority, is relevant to the case the officer concerned has to answer.

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

**29.**—(1) Before the end of —

- (a) 14 working days beginning with the first working day after the documents have been supplied to the officer concerned (“P”) under regulation 28(1), or
- (b) where that period is extended by the person conducting or chairing the misconduct proceedings for exceptional circumstances, such extended period,

P must comply with paragraphs (2) and (3).

(2) P must provide to the appropriate authority—

- (a) written notice of whether or not P accepts that P's conduct amounts to misconduct or gross misconduct as the case may be;
- (b) where P accepts that P's conduct amounts to misconduct or gross misconduct as the case may be, any written submission P wishes to make in mitigation, and
- (c) where P does not accept that P's conduct amounts to misconduct or gross misconduct as the case may be, or P disputes part of the case against P, written notice of—
  - (i) the allegations P disputes and P's account of the relevant events, and

- (ii) any arguments on points of law P wishes to be considered by the person or persons conducting the misconduct proceedings.

(3) P must provide the appropriate authority with a copy of any document P intends to rely on at the misconduct proceedings.

(4) Before the end of 3 working days beginning with the first working day after the date on which P has complied with paragraph (2), the appropriate authority or, as the case may be, the originating authority, and P must each supply to the other a list of proposed witnesses or give notice that they do not have any proposed witnesses; and any list of proposed witnesses must include brief details of the evidence that each witness is able to adduce.

(5) Where the Director General has made a decision under regulation 22(1) to present a case—

- (a) P must provide the Director General with a copy of the documents specified in paragraphs (2) and (3), and
- (b) the duty specified in paragraph (4) to supply a list of proposed witnesses or give notice that there are no proposed witnesses lies with the Director General, and not with the appropriate authority, or the originating authority.

### **Witnesses and documents to be supplied**

**30.**—(1) The appropriate authority or, as the case may be, the originating authority must supply to the person conducting or chairing the misconduct proceedings any lists of proposed witnesses supplied or notice given under regulation 29(4).

(2) Any such lists or notice must be supplied—

- (a) in the case of a misconduct hearing, to the person chairing the hearing before the end of 10 working days beginning with the first working day after the parties supplied the lists or notice under regulation 29(4), or
- (b) in the case of a misconduct meeting, to the person conducting or chairing the meeting as soon as practicable.

(3) The person conducting or chairing a misconduct meeting must—

- (a) consider any lists of proposed witnesses, and
- (b) subject to paragraph (4), determine which, if any, witnesses should attend the misconduct proceedings.

(4) No witness may give evidence at misconduct 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 misconduct proceedings, and
- (b) in any other case, cause the witness to be given notice that his attendance is necessary and of the date, time and place of the proceedings.

(5) Before the end of 10 working days beginning with the first working day after the date on which the officer concerned has complied with regulation 29(2), the appropriate authority or, as the case may be, the originating authority must supply to the person conducting or chairing the misconduct proceedings a copy of—

- (a) the documents given to the officer concerned under regulation 28(1);
- (b) the documents provided by the officer concerned under—
  - (i) regulation 29(2) and (3), and
  - (ii) where paragraph (6) applies, regulation 51, and
- (c) where the officer concerned does not accept that his conduct amounts to misconduct or gross misconduct as the case may be or where he disputes any part of the case against him, 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 misconduct proceedings.

(6) This paragraph applies where the appropriate authority or, as the case may be, the originating authority has directed, in accordance with regulation 47(1), that the case be dealt with under this Part.

(7) Prior to the misconduct proceedings the officer concerned must be supplied with a list of the documents supplied under paragraph (5) and a copy of any such document of which he has not already been supplied with a copy.

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

- (a) the period of 10 days referred to in paragraph (2)(a), and
- (b) the period of 10 days referred to in paragraph (5).

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

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

(11) Where a period is extended, paragraph (2)(a), or as the case may be, paragraph (5), has effect as if for that period there were substituted the extended period.

(12) Where the Director General has made a decision under regulation 22(1) to present a case—

- (a) the duty specified in paragraph (1) to supply any lists of witnesses or notice lies with the Director General and not with the appropriate authority or the originating authority;
- (b) the duty specified in paragraph (5) to supply the specified documents to the person conducting or chairing the misconduct proceedings lies with the Director General and not with the appropriate authority or the originating authority;
- (c) paragraph (5)(c) must be read as if “or the Director General” were inserted after “the originating authority”, and
- (d) the power specified in paragraph (8) to apply for an extension of the periods of time specified in paragraph 8(a) and (b) lies with the Director General and not with the appropriate authority or the originating authority.

### **Misconduct pre-hearing**

**31.**—(1) Where the person chairing a misconduct hearing (the chair) has decided under regulation 27(3) to hold a misconduct pre-hearing, he 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 beginning with the first working day after the day on which the documents were supplied to the chair under regulation 30(5), 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 are delegated under regulation 24(1);
  - (iv) the Director General, where the Director General is presenting the case.

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

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

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

(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 person chairing the misconduct hearing.

(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 time and date 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 concerned's police friend, and
- (c) the officer concerned's relevant lawyer.

(6) Subject to paragraph (5), a misconduct pre-hearing is to 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 appropriate authority, the originating authority where relevant, the officer concerned and the officer's representatives;
- (b) consider any lists of proposed witnesses supplied under regulation 30(1) and, subject to regulation 30(4), determine which, if any, witnesses should attend the misconduct hearing;
- (c) consider any procedural or preliminary legal arguments or points of law raised;
- (d) consider any issues related to disclosure of documents for the purposes of the misconduct hearing, and
- (e) seek representations from the parties as to whether to—
  - (i) exclude any person under regulation 37(3)(a);
  - (ii) impose conditions under regulation 37(3)(b), or
  - (iii) prohibit the publication of any matter under regulation 37(3)(c).

(9) Subject to paragraph (10), the misconduct hearing must take place before the end of 30 working days beginning with the date of the misconduct pre-hearing.

(10) Any of the parties may apply to the chair for the misconduct hearing to take place later than is provided for in paragraph (9).

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

(12) The chair must determine whether the application should be granted, provided that the date fixed for the commencement of the hearing must be within the period specified in regulation 27(2).

(13) At the misconduct pre-hearing the chair may issue directions including, but not limited to, in relation to the matters set out in this regulation, other than paragraph (8)(e).

(14) 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.

(15) The parties must comply with any directions issued under paragraph (14).

### **Timing of misconduct meeting**

**32.**—(1) Subject to paragraphs (2), (6) and (8), the misconduct meeting must take place before the end of 20 working days beginning with the first working day after—

- (a) the officer complies with regulation 29(2) and (3), or

- (b) the expiry of the 14 day period referred to in regulation 29(1)(a), if the officer has not complied with regulation 29(2) and (3) within that 14 day period, or
- (c) where the 14 day period referred to in regulation 29(1)(a) is extended in accordance with regulation 29(1)(b), the expiry of such extended period.

(2) The person conducting or chairing the misconduct meeting (“C”) may extend the period specified in paragraph (1) where C considers that it would be in the interests of justice to do so.

(3) Where C decides to extend the period under paragraph (2), or decides not to do so following representations from the officer concerned or the appropriate authority, or, as the case may be, the originating authority, C must provide written notification of the reasons for that decision to the authority and the officer concerned.

(4) C must, if reasonably practicable, agree a date and time for the misconduct meeting with the officer concerned.

(5) Where no date and time is agreed under paragraph (4), C 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 at that time, and
- (b) the officer concerned proposes an alternative time which satisfies paragraph (7),

the misconduct meeting must be postponed to the time proposed by the officer concerned.

(7) 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 person conducting or chairing the misconduct meeting.

(8) In the case of a joint misconduct 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, C must—

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

### **Notice of misconduct proceedings and panel**

**33.**—(1) The appropriate authority must give the officer concerned written notice of the date, time and place of the misconduct proceedings.

(2) Where the misconduct proceedings are to be conducted by a panel, as soon as practicable after the persons comprising that panel (other than the chair) have been determined, the appropriate authority must give the officer concerned written notice of the names of such persons and of the effect of paragraphs (3) to (6) of this regulation.

(3) The officer concerned may object to any person whom the officer is notified under the preceding provisions of this regulation is to conduct (other than as chair) the misconduct proceedings.

(4) Any such objection must be made in writing to the chair before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person’s name and must set out the grounds of objection of the officer concerned.

(5) The chair must notify the officer concerned in writing whether it upholds or rejects an objection to any panel member.

(6) If the chair upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with regulation 26).

(7) As soon as reasonably practicable after any such appointment, the chair must notify in writing the officer concerned of the name of the new panel member.

(8) The officer concerned may object to the appointment of a person appointed under paragraph (6).

(9) Any such objection must be made in accordance with paragraph (4), save that it must be made before the end of 3 working days beginning with the first working day after receipt of the notification referred to in paragraph (7); and the chair must comply with paragraphs (5) to (7) in relation to that objection, but paragraph (8) does not apply.

(10) Where the Director General is entitled to attend the misconduct proceedings to make representations under regulation 36(1), or to nominate a person to attend the proceedings as an observer under regulation 38(6), the appropriate authority must give the Director General written notice of the date, time and place of the proceedings.

(11) Where the Director General has made a decision under regulation 22(1) to present a case, each of paragraphs (1), (2) and (7) must be read as if “and the Director General” were inserted after “the officer concerned”.

### **Public notification of misconduct hearings**

**34.**—(1) The person chairing a misconduct hearing may require notice of the hearing to be given which contains information relating to one or more of—

- (a) the name of the officer concerned;
- (b) the date of the hearing;
- (c) the time of the hearing;
- (d) the place at which the hearing will take place, and
- (e) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be, as set out in the notice given in accordance with regulation 28(1)(a)(ii).

(2) Where the person chairing a misconduct hearing requires notice to be given in accordance with paragraph (1), the appropriate authority or, as the case may be, the originating authority must publish the notice on its website within a period of 5 working days beginning on the day on which notice of the hearing is given under regulation 33(1).

(3) Any person to whom this paragraph applies may make written representations to the person chairing the misconduct hearing in relation to—

- (a) whether, and (if so) the extent to which, the person chairing the misconduct hearing should exclude any person from the whole or part of the hearing under regulation 37(3)(a);
- (b) whether the person chairing the misconduct hearing should impose any conditions under regulation 37(3)(b);
- (c) whether the person chairing the misconduct hearing should give directions prohibiting the publication of any matter relating to the proceedings under regulation 37(3)(c);
- (d) in the light of the representations made under sub-paragraphs (a) to (c)—
  - (i) whether the person chairing the misconduct hearing should require notice to be given under paragraph (1);
  - (ii) which types of information mentioned in paragraph (1)(a) to (e) should be included in any such notice.

(4) Paragraph (3) applies to—

- (a) the officer concerned;
- (b) the appropriate authority or, as the case may be, the originating authority;
- (c) the complainant;
- (d) any interested person;
- (e) any witness;
- (f) the Director General;

(g) any representative of the media.

(5) Any written representations made in accordance with paragraph (3) must be provided no later than the date specified by the person chairing the misconduct hearing for provision of such representations.

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

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

(2) Where the officer concerned informs the person conducting or chairing the misconduct proceedings in advance that the officer is unable to attend on grounds which the person conducting or chairing those proceedings considers reasonable, that person may allow the officer concerned to participate in the proceedings by video link or other means.

(3) Where the officer concerned is allowed to and does so participate in the misconduct proceedings or where the officer concerned does not attend the misconduct proceedings—

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

(4) Where the officer concerned is represented in accordance with paragraph (3), the person representing the officer concerned or the police friend (if different), or both, may participate using the video link or other means where such means are also used by the officer concerned.

### **Participation of the Director General and investigator at misconduct proceedings**

**36.**—(1) In any case where—

- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied; or
- (b) paragraph 16 of Schedule 3 to the 2002 Act (investigations by the appropriate authority on its own behalf) applied and the Director General—
  - (i) made a recommendation under paragraph 25(4C)(c) of that Schedule (duties with respect to disciplinary proceedings) which the appropriate authority accepted; or
  - (ii) gave a direction under paragraph 27(4)(a) of that Schedule (duties with respect to disciplinary proceedings),

the Director General may attend the misconduct proceedings to make representations.

(2) Where the Director General so attends the misconduct proceedings—

- (a) if it is a misconduct hearing the Director General may be represented by a relevant lawyer;
- (b) the Director General must notify the complainant or any interested person prior to those proceedings; and
- (c) the person conducting or chairing the misconduct proceedings must notify the officer concerned prior to those proceedings.

(3) The investigator or a nominated person must attend the misconduct proceedings on the request of the person conducting or chairing those proceedings to answer questions.

(4) For the purposes of this regulation, a “nominated person” is a person who, in the opinion of—

- (a) the appropriate authority or, as the case may be, the originating authority; or

- (b) in a case to which paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied, the Director General,

has sufficient knowledge of the investigation of the case to be able to assist the person or persons conducting or chairing the misconduct proceedings.

(5) Where more than one allegation is considered in the same misconduct proceedings in accordance with regulation 5(7), this regulation applies to the whole of the proceedings and accordingly the Director General may make representations in respect of any allegation.

(6) Paragraph (1) does not apply in a case where the Director General has made a decision under regulation 22(1) to present a case.

### **Reporting restrictions, participation and exclusions from proceedings**

**37.**—(1) Subject to paragraph (3), a misconduct hearing must be in public.

(2) Subject to regulations 36 and 38, a misconduct meeting must be in private.

(3) Having considered any representations received under regulations 31(8)(e) and 34(3), the person conducting or chairing the misconduct proceedings (“C”) may—

- (a) in relation to the attendance at the proceedings of a person under regulation 38 or this regulation, exclude any person as C sees fit from the whole or a part of those proceedings;
- (b) impose such conditions as C sees fit relating to the attendance under regulation 38 or this regulation of any person at the proceedings in order to facilitate the proper conduct of those proceedings, and
- (c) in the case of a chair appointed under regulation 26(4), give such directions as C thinks appropriate prohibiting the publication of any matter relating to the proceedings.

(4) Where it appears to C that any person may, in giving evidence, disclose information which ought not to be disclosed to any person, other than a party to the proceedings, attending the proceedings because it is information to which paragraph (7) applies, C must require such attendees to withdraw while the evidence is given.

(5) Subject to any contrary decision by the person conducting or chairing a misconduct meeting, a witness other than a complainant, interested person or the officer concerned, may only attend the misconduct meeting for the purpose of giving their evidence.

(6) Where a person is to give evidence as a witness at misconduct proceedings, the witness (and any person accompanying the witness) must not be allowed to attend the proceedings before giving evidence.

(7) This paragraph applies to information in so far as C considers that preventing disclosure of it to the relevant attendee 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) necessary and proportionate for the protection of the welfare and safety of any informant or witness;
- (f) otherwise in the public interest.

### **Attendance of complainant, interested parties and others at misconduct proceedings**

**38.**—(1) This regulation applies in the case of misconduct proceedings arising from the investigation of a—

- (a) conduct matter under Schedule 3 to the 2002 Act (handling of complaints and conduct matters etc.), or
  - (b) complaint to which paragraph 19A(1) of that Schedule (special procedure where investigation relates to police officer or special constable)(a) applies.
- (2) The appropriate authority must notify the complainant or any interested person of the date, time and place of the misconduct proceedings.
- (3) Subject to regulation 37(3) and (5), the complainant or any interested person may attend the misconduct meeting as an observer.
- (4) Subject to regulation 37(3) and (5), a complainant or interested person may be accompanied at a misconduct meeting by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.
- (5) The person conducting or chairing the misconduct proceedings may, at the person's discretion, put any questions to the officer concerned that the complainant or interested person may request be put to the officer.
- (6) A person nominated by the Director General may, as an observer, attend a misconduct meeting which arises from a case to which—
- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied, or
  - (b) paragraph 16 of Schedule 3 to the 2002 Act (investigations by the appropriate authority) applied and in relation to which the Director General—
    - (i) made a recommendation under paragraph 25(4C)(c) of that Schedule (duties with respect to disciplinary proceedings) which the appropriate authority accepted, or
    - (ii) gave a direction under paragraph 27(4)(a) of that Schedule (duties with respect to disciplinary proceedings).

### **Procedure at misconduct proceedings**

**39.—**(1) Subject to these Regulations, the person conducting or chairing the misconduct proceedings is to determine the procedure at those proceedings.

(2) The misconduct proceedings may not proceed unless the officer concerned has been notified of the effect of regulation 7(1) to (3) in relation to the form of misconduct proceedings taking place.

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

(4) The misconduct proceedings may not, except in exceptional circumstances, be adjourned solely to allow the complainant or any witness or interested person to attend.

(5) At the beginning of the misconduct proceedings, the person conducting or chairing the misconduct proceedings must give the officer concerned the opportunity to say whether or not the officer concerned accepts that the officer's conduct amounts to misconduct or gross 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;

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(a) Paragraph 19A was substituted for paragraphs 19A to 19E by paragraphs 9 and 21 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraph 9 of Schedule 9 to that Act..

- (iv) make representations concerning any aspect of proceedings under these Regulations, and
  - (v) subject to paragraph (10), ask questions of any witnesses, and
  - (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 concerned;
    - (ii) sum up that case;
    - (iii) respond on behalf of the officer concerned to any view expressed at the proceedings;
    - (iv) make representations concerning any aspects of proceedings under these Regulations, and
    - (v) subject to paragraph (10), ask questions of any witnesses, and
  - (b) confer with the officer concerned.
- (8) Where (at a misconduct hearing) the person representing the officer concerned is a relevant lawyer, the police friend of the officer concerned may also confer with the officer concerned.
- (9) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer concerned during the misconduct proceedings.
- (10) Whether any question should or should not be put to a witness is to be determined by the person conducting or chairing the misconduct proceedings.
- (11) The person conducting or chairing the misconduct 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 29(3), or
  - (b) to the officer concerned in accordance with regulation 28(1).
- (12) Where evidence is given or considered at the misconduct proceedings that the officer concerned—
- (a) on being questioned by an investigator at any time after being given written notice under regulation 16(1) of these Regulations or regulation 17 of the Complaints and Misconduct Regulations, or
  - (b) in submitting any information or by not submitting any information at all under regulation 17(1) or 29(2) or (3) (or, where paragraph (13) applies, regulation 51) of these Regulations or under regulation 20 of the Complaints and Misconduct Regulations,
- failed to mention any fact relied on in the officer's case at the misconduct proceedings, being a fact which in the circumstances existing at the time, the officer concerned could reasonably have been expected to mention when so questioned or when providing such information, paragraph (14) applies.
- (13) This paragraph applies where the appropriate authority or, as the case may be, the originating authority has directed, in accordance with regulation 47(1), that the case be dealt with under this Part.
- (14) Where this paragraph applies, the person or persons conducting the misconduct proceedings may draw such inferences from the failure as appear proper.
- (15) The person or persons conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts—
- (a) in the case of a misconduct meeting, to misconduct or not, or
  - (b) in the case of a misconduct hearing, to misconduct, gross misconduct or neither.
- (16) The person or persons conducting the misconduct proceedings may not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless—
- (a) they are satisfied on the balance of probabilities that this is the case, or

(b) the officer concerned admits it is the case.

(17) At misconduct 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.

(18) If at any time during the misconduct proceedings the person or persons conducting the misconduct proceedings are satisfied that there is no case to answer in respect of misconduct or gross misconduct, the misconduct proceedings must be promptly brought to a conclusion.

(19) Where appropriate, the Director General should be consulted prior to bringing misconduct proceedings to a conclusion under paragraph (18).

(20) Where misconduct proceedings are concluded in accordance with paragraph (18), the person or persons conducting the misconduct proceedings may direct that the matter is referred to be dealt with under the reflective practice review process.

(21) Where the Director General has made a decision under regulation 22(1) to present a case, paragraph (6) must be read as if for “The person representing the appropriate authority or, as the case may be, the originating authority” there were substituted “The Director General”.

### **Outcome of misconduct proceedings**

**40.**—(1) Subject to the provisions of this regulation, the person or persons conducting misconduct proceedings may—

- (a) impose any of the disciplinary action in paragraph (2) or (3) as appropriate;
- (b) where they find the conduct amounts to neither gross misconduct nor misconduct, direct that the matter is referred to be dealt with under the reflective practice review process.

(2) The disciplinary action available at a misconduct meeting is—

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

(3) The disciplinary action available at a misconduct hearing is—

- (a) where the person or persons conducting the misconduct proceedings decide the conduct of the officer concerned amounts to misconduct, in accordance with regulation 39(15)—
  - (i) written warning;
  - (ii) final written warning;
  - (iii) reduction in rank, where paragraph (5) or (6) applies;
  - (iv) dismissal without notice, where paragraph (5) or (6) applies;
- (b) where the person or persons conducting the misconduct proceedings decide the conduct of the officer concerned amounts to gross misconduct, in accordance with regulation 39(15)—
  - (i) final written warning;
  - (ii) reduction in rank;
  - (iii) dismissal without notice.

(4) The disciplinary action 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 severity assessment under regulation 13(1) or under regulation 16 of the Complaints and Misconduct Regulations.

(6) This paragraph applies where 2 or more findings of misconduct are made at the misconduct proceedings.

(7) Where, on the date of the severity assessment under regulation 13(1) or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had a written warning in force, a written warning must not be given.

(8) Where, on the date of the severity assessment under regulation 13(1) or under regulation 16 of the Complaints and Misconduct 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 two years starting from the day after the day on which it was given, or
- (b) such longer period as the person or persons considering the question of disciplinary action may determine, up to a maximum of 5 years from the day after the day on which it was given.

(10) The reference to a period in paragraph (9)(a) and (b) does not include any time when the officer concerned is taking a career break (under regulation 33(12) of the Police Regulations (leave) and the determination of the Secretary of State made under that regulation).

(11) Reduction in rank may only be imposed under this regulation where the person or persons imposing the disciplinary action consider this is an appropriate sanction taking into account the views of the appropriate authority, or, as the case may be, the originating authority, including in relation to the likely operational impact.

(12) Where, on the date of the severity assessment under regulation 13(1) or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had been reduced in rank under the Police (Conduct) Regulations 2004(a) or under these Regulations, a reduction in rank may not be imposed.

(13) Where the question of disciplinary action 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 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) a police force;
  - (ii) a registered medical practitioner, or
  - (iii) a staff association;
- (c) must give—
  - (i) the officer concerned, the officer concerned's police friend or, at a misconduct hearing, relevant lawyer, and
  - (ii) the appropriate authority or, as the case may be, the originating authority or the person appointed to represent such authority in accordance with regulation 7(4);an opportunity to make oral or written representations before any such question is determined, including on the appropriate level of sanction, 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 concerned could reasonably have been expected to so mention them, and
  - (ii) in the light of their conclusions under paragraph (i), may determine that it is appropriate to place less weight on those circumstances.

(14) Paragraph (15) applies where an officer is dismissed at a misconduct hearing.

(15) The person chairing a misconduct hearing must provide any information to the appropriate authority that the person considers ought to be included by virtue of regulation 3(2)(l) of the Police Barred List and Police Advisory List Regulations 2017(b) in the barred list report relating

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(a) S.I. 2004/645.  
(b) S.I. 2017/1135.

to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).

### Notification of outcome

**41.**—(1) The person or persons conducting the misconduct proceedings must, before the end of a period of 5 working days beginning with the first working day after the completion of the misconduct hearing or misconduct meeting, submit a report to the appropriate authority or, where functions have been delegated under regulation 24(1), to the originating authority, together with a copy to the officer concerned, setting out—

- (a) the finding of the person or persons conducting the misconduct proceedings;
- (b) the reasons for that finding;
- (c) any disciplinary action imposed;
- (d) any direction that the matter be dealt with under the reflective practice review process.

(2) Where there was a finding of misconduct or gross misconduct a report under this regulation must be accompanied by—

- (a) where the officer concerned is an officer other than a senior officer—
  - (i) if the case was decided at a misconduct meeting, notice of the right of appeal under regulation 43, or
  - (ii) if the case was decided at a misconduct hearing, notice of the right of appeal to a police appeals tribunal;
- (b) where the officer concerned is a senior officer, notice of the right of appeal to a police appeals tribunal.

(3) In all cases referred to in paragraph (2) the notice of appeal must be in writing and include the name of the person to whom an appeal should be sent.

(4) The appropriate authority must send a copy of any report under this regulation to—

- (a) the Director General, in any case where the Director General—
  - (i) presented the case, or
  - (ii) was entitled to attend to make representations under regulation 36(1); and
- (b) the complainant and any interested person, in any case to which regulation 38 applies.

(5) Subject to the harm test, the person chairing a misconduct hearing must require the appropriate authority, or, as the case may be, the originating authority, to publish during the notification period the report submitted under paragraph (1).

(6) In this regulation, the notification period is the period of 10 working days beginning on the first working day after the day on which the misconduct hearing is concluded.

(7) Where the appropriate authority or the originating authority publishes a report in accordance with paragraph (5), it must publish the report on its website for a period of not less than 28 days.

(8) Prior to publication of a report under paragraph (5) the appropriate authority or originating authority may redact the document—

- (a) in so far as the authority considers redaction is—
  - (i) 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;
  - (ii) necessary in the interests of national security;
  - (iii) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;
  - (iv) 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;
  - (v) necessary and proportionate for the protection of the welfare and safety of any informant or witness;

- (vi) otherwise in the public interest, and
  - (b) in line with any restrictions imposed on the disclosure of information during the course of the proceedings.
- (9) The person chairing the misconduct hearing may dispense with the requirement to publish the report if in the particular circumstances of the case the person considers it is appropriate to do so on any of the grounds set out in paragraph (8).
- (10) In making a decision under paragraph (9), the person chairing the misconduct hearing may have regard to any representations—
- (a) provided under regulation 34(3), or
  - (b) made at the misconduct hearing.
- (11) Information that has already been published during the course of the proceedings may not be redacted under paragraph (8).

### **Record of misconduct proceedings**

**42.**—(1) A record of the misconduct proceedings must be taken and in the case of a misconduct hearing that record must be verbatim.

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

### **Appeal from misconduct meeting: officers other than senior officers**

**43.**—(1) Where the officer concerned is an officer, other than a senior officer, whose case was decided at a misconduct meeting, the officer may, subject to the provisions of this regulation, appeal—

- (a) if the officer admitted the officer's conduct amounted to misconduct, against any disciplinary action imposed under regulation 40, or
- (b) if (after the officer denied misconduct) the person conducting the misconduct meeting found that the officer's conduct amounted to misconduct, against that finding or any disciplinary action imposed under regulation 40.

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

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

(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 7 working days beginning with the first working day after the report is given to the officer concerned under regulation 41 (unless this period is extended by the appropriate authority for exceptional circumstances), and
- (b) stating the grounds of appeal and whether a meeting is requested.

(4) An appeal under this regulation must be determined—

- (a) where the person who conducted the misconduct meeting was a member of a police force, by—
  - (i) a member of a police force of at least one rank higher than that person, or
  - (ii) unless the case substantially involves operational policing matters, a police staff member who, in the opinion of the appropriate authority, is more senior than that person;

- (b) where the person who conducted the misconduct meeting was a police staff member, by—
  - (i) a member of a police force who, in the opinion of the appropriate authority is more senior than that person, or
  - (ii) a more senior police staff member,

who is not an interested party, appointed by the appropriate authority.

(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 7(5) to advise the person determining the appeal, and
- (c) the effect of paragraphs (6) to (9) of this regulation.

(6) The officer concerned may object to any person whom the officer is notified under this regulation is to—

- (a) determine the appeal, or
- (b) advise the person determining the appeal.

(7) Any such objection must be made in writing to the appropriate authority before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer concerned.

(8) The appropriate authority must notify the officer concerned in writing whether it upholds or rejects an objection to the person appointed to conduct the appeal meeting or to any person appointed under regulation 7(6) to advise the person conducting the appeal meeting.

(9) If the appropriate authority upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with regulation 7(6) or (7) or paragraph (4) as appropriate).

(10) As soon as reasonably practicable after any such appointment, the appropriate authority must notify in writing the officer concerned of the name of the new person appointed to determine the appeal or the advisor to the person determining the appeal as the case may be.

(11) The officer concerned may object to the appointment of a person appointed under paragraph (9).

(12) Any such objection must be made in accordance with paragraph (7), provided that it must be made before the end of 3 working days beginning with the first working day after the officer concerned is given the notice referred to in paragraph (10); and the appropriate authority must comply with paragraphs (8) to (10) in relation to that objection, but paragraph (11) does not apply.

### **Appeal meeting**

**44.**—(1) This regulation applies where the officer concerned requests a meeting in the written notice of appeal under regulation 43(3).

(2) The person determining the appeal (“P”) must determine whether the notice of appeal sets out arguable grounds of appeal and—

- (a) if P determines that it does, P must hold an appeal meeting with the officer concerned, subject to paragraphs (3) and (5), before the end of 5 working days beginning with the first working day after that determination; and
- (b) if P determines that it does not, P must dismiss the appeal.

(3) P may extend the time period specified in paragraph (2)(a) where P considers that it would be in the interests of justice to do so.

(4) P must specify a date and time for the appeal meeting.

(5) Where—

- (a) the officer concerned or the officer's police friend will not be available at that time, and

- (b) the officer concerned proposes an alternative time which satisfies paragraph (6), the appeal meeting must be postponed to the time proposed by the officer concerned.
- (6) 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 P.
- (7) Written notice of the date, time and place of the appeal meeting must be given to—
  - (a) the officer concerned;
  - (b) where the Director General was entitled to attend the misconduct meeting to make representations under regulation 36(1), or to nominate a person to attend the meeting as an observer under regulation 38(6), the Director General;
  - (c) where the misconduct meeting arose from a complaint to which paragraph 19A of Schedule 3 to the 2002 Act (special procedure where investigation relates to a police officer or special constable) applied, the complainant, and
  - (d) where the misconduct meeting arose from a conduct matter to which paragraph 16, 18 or 19 of Schedule 3 to the 2002 Act (investigations) applied, any interested person.
- (8) Prior to the appeal meeting the appropriate authority must supply P with a copy of—
  - (a) the documents given to the person who held the misconduct meeting as specified in regulation 30(5);
  - (b) the notice of appeal given by the officer concerned under regulation 43(3);
  - (c) the record of the misconduct meeting taken under regulation 42(1), and
  - (d) any evidence of a kind referred to in regulation 43(2)(b) that the officer concerned wishes to submit in support of his appeal.

### **Procedure and finding of the appeal**

**45.**—(1) Subject to the provisions of this regulation, the person determining the appeal must determine the procedure at the appeal meeting.

(2) Subject to the provisions of this regulation, any interested person or complainant entitled to be given notice of the appeal meeting under regulation 44(7) may attend the appeal meeting as an observer.

(3) Where the officer concerned objects to the complainant or interested person being present while a submission is made in mitigation on the officer's behalf, the person determining the appeal may require the complainant or interested person to withdraw while the submission is made.

(4) The person determining the appeal may impose such conditions as the person sees fit relating to the attendance of persons under paragraph (2) at the appeal meeting (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the appeal meeting.

(5) 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 the misconduct meeting could have dealt with him under regulation 40.

(6) Before the end of 3 working days beginning with the first working day after the determination of the appeal, the officer concerned must be given written notice of that determination with a summary of the reasons.

(7) The decision of the person determining the appeal takes effect by way of substitution for the decision of the person conducting the misconduct meeting and as from the date of the written notice of the outcome of that meeting.

(8) In a case where—

- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied, or
- (b) paragraph 16 of Schedule 3 to the 2002 Act (investigation by appropriate authority) applied and the Director General—
  - (i) made a recommendation under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation) which the appropriate authority accepted, or
  - (ii) gave a direction to the appropriate authority under paragraph 27(4) of that Schedule (duties with respect to disciplinary proceedings),

the appropriate authority must give the Director General written notice of the determination of the appeal with a summary of the reasons.

## PART 5

### Accelerated Misconduct Hearings

#### **Referral of case to accelerated misconduct hearing**

**46.**—(1) On receipt of a statement submitted by the investigator under regulation 20(3), the appropriate authority must determine whether the special conditions are satisfied.

(2) In a case where misconduct proceedings or an accelerated misconduct hearing have been delayed by virtue of regulation 9(3), as soon as practicable after—

- (a) the appropriate authority considers that such proceedings or hearing would no longer prejudice any criminal proceedings, or
- (b) any criminal proceedings have concluded (whatever the outcome),

the appropriate authority may, or in the case of an accelerated misconduct hearing must, make a further determination as to whether the special conditions are satisfied.

(3) Where the appropriate authority determines that the special conditions are satisfied, unless it considers that the circumstances are such as to make it inappropriate to do so, it must certify the case as one where the special conditions are satisfied and, subject to regulation 9(3), refer it to an accelerated misconduct hearing.

(4) Where the appropriate authority determines—

- (a) that the special conditions are not satisfied, or
- (b) that, although those conditions are satisfied, the circumstances are such as to make such certification inappropriate,

it must, if the investigation was incomplete, return the case to the investigator to complete the investigation or, in any other case, proceed in accordance with Part 4.

(5) Where the appropriate authority is to proceed in accordance with Part 4, regulation 21(1) must be read as if the words “subject to regulation 46, on receipt of the investigator’s report under regulation 20(1)” are omitted.

(6) Where the appropriate authority certifies a case as one where the special conditions are satisfied under regulation 24(3) or 25(3) (including pursuant to regulation 25(9) of the Complaints and Misconduct Regulations), it must, subject to regulation 9(3), refer it to an accelerated misconduct hearing.

(7) Any period of time specified in this Part in relation to an accelerated misconduct hearing may be reduced by agreement between all relevant parties.

### **Remission of case**

**47.**—(1) Subject to paragraph (4), at any time after the case has been referred to an accelerated misconduct hearing but before the beginning of that hearing the appropriate authority may direct that the case be dealt with under Part 4 if it considers that the special conditions are no longer satisfied.

(2) Where a direction is made under paragraph (1) the officer concerned must be notified before the end of 3 working days beginning with the first working day after that direction is made and the appropriate authority must proceed in accordance with Part 4.

(3) Where the appropriate authority is to proceed in accordance with Part 4, regulation 21(1) must be read as if the words “subject to regulation 46, on receipt of the investigator’s report under regulation 20(1)” are omitted.

(4) Paragraph (1) does not apply to a case where the Director General has given a direction under regulation 25(6) of the Complaints and Misconduct Regulations.

### **Notice of referral to accelerated misconduct hearing**

**48.**—(1) Where a case is certified, whether under regulation 46 or under the provisions mentioned in regulation 46(6), as one where the special conditions are satisfied and referred to an accelerated misconduct hearing, the appropriate authority must as soon as practicable give the officer concerned written notice of these matters and must supply the officer with a copy of—

- (a) the certificate issued under regulation 46(3) or under one of the provisions mentioned in regulation 46(6);
- (b) any statement the officer may have made to the investigator during the course of the investigation;
- (c) subject to the harm test—
  - (i) the investigator’s report or such parts of that report as relate to the officer (together with any document attached to or referred to in that report as relates to the officer), and
  - (ii) any other relevant document gathered during the course of the investigation, and
- (d) where relevant, the fact that the Director General has made a decision under regulation 22(1) to present the case.

(2) The notice given under paragraph (1) must describe the conduct that is the subject matter of the case and how that conduct is alleged to amount to gross misconduct.

(3) Where the Director General has made a decision under regulation 22(1) to present a case, the appropriate authority must—

- (a) consult the Director General about the contents of the written notice to be given under paragraph (1) and on the application of the harm test under paragraph (1)(c);
- (b) comply with any direction given by the Director General in relation to the matters specified in paragraph (a), and
- (c) provide the Director General with a copy of the written notice given under paragraph (1).

(4) For the purposes of this regulation “relevant document” means a document which, in the opinion of the appropriate authority, is relevant to the case of the officer concerned.

### **Notice of accelerated misconduct hearing**

**49.**—(1) The appropriate authority must specify a date for the accelerated misconduct hearing which must be not less than 10 and not more than 15 working days after the date on which notice is given under regulation 48(1) and must immediately notify the officer concerned of—

- (a) the date, time and place of that hearing, and
- (b) the effect of regulation 7(1) to (3) in relation to an accelerated misconduct hearing.

(2) Where the Director General is entitled to attend the accelerated misconduct hearing to make representations under regulation 55(1), the appropriate authority must notify the Director General of the date, time and place of the hearing.

### **Public notification of accelerated misconduct hearing**

**50.**—(1) The person conducting or chairing an accelerated misconduct hearing may require notice of the hearing to be given which contains information relating to one or more of—

- (a) the name of the officer concerned;
- (b) the date of the hearing;
- (c) the time of the hearing;
- (d) the place at which the hearing will take place, and
- (e) the conduct that is the subject matter of the case and how that conduct is alleged to amount to gross misconduct, as set out in the notice given in accordance with regulation 48(2).

(2) Where the person conducting or chairing the accelerated misconduct hearing requires notice to be given in accordance with paragraph (1), the appropriate authority must publish the notice on its website within a period of 5 working days beginning on the day on which notice of the hearing is given under regulation 49(1).

(3) Any person to whom this paragraph applies may make written representations to the person conducting or chairing the accelerated misconduct hearing in relation to—

- (a) whether, and (if so) the extent to which, the person conducting or chairing the accelerated misconduct hearing should exclude any person from the whole or part of the hearing under regulation 56(2)(a);
- (b) whether the person conducting or chairing the accelerated misconduct hearing should impose any conditions under regulation 56(2)(b);
- (c) whether the person conducting or chairing the accelerated misconduct hearing should give directions prohibiting the publication of any matter relating to the proceedings under regulation 56(2)(c);
- (d) in the light of the representations made under sub-paragraphs (a) to (c)—
  - (i) whether the person conducting or chairing the accelerated misconduct hearing should require notice to be given under paragraph (1);
  - (ii) which types of information mentioned in paragraph (1)(a) to (e) should be included in any such notice.

(4) Paragraph (3) applies to—

- (a) the officer concerned;
- (b) the appropriate authority;
- (c) the complainant;
- (d) any interested person;
- (e) the Director General;
- (f) any representative of the media.

(5) Any written representations made in accordance with paragraph (3) must be provided no later than the date specified by the person conducting or chairing the accelerated misconduct hearing for provision of such representations.

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

**51.**—(1) Before the end of 7 working days beginning with the first working day after the written notice is given to the officer concerned (“P”) under regulation 48(1), P must provide to the appropriate authority—

- (a) written notice of whether or not P accepts that P's conduct amounts to gross misconduct;
- (b) where P accepts that P's conduct amounts to gross misconduct, any written submission P wishes to make in mitigation;
- (c) where P does not accept that P's conduct amounts to gross misconduct, written notice of—
  - (i) the allegations P disputes and P's account of the relevant events, and
  - (ii) any arguments on points of law P wishes to be considered by the person or persons conducting the accelerated misconduct hearing;
- (d) a copy of any document P intends to rely on at the hearing.

(2) Where the Director General has made a decision under regulation 22(1) to present a case, P must provide the Director General with a copy of the documents provided by the officer concerned in accordance with paragraph (1).

### **Persons conducting accelerated misconduct hearing**

**52.**—(1) Where the officer concerned is an officer other than a senior officer, the accelerated misconduct hearing must be conducted by—

- (a) where the police force concerned is the metropolitan police force, an assistant commissioner; or
- (b) in any other case, subject to paragraph (2), the chief officer of police of the police force concerned.

(2) Where the chief officer of police of the police force concerned is an interested party or is unavailable, the accelerated misconduct hearing must be conducted by the chief officer of police of another police force or an assistant commissioner of the metropolitan police force.

(3) Where the officer concerned is a senior officer, the accelerated misconduct hearing must be conducted by a panel of persons specified in paragraph (4), appointed by the local policing body.

(4) Those persons are—

- (a) a chair selected in accordance with regulation 26(4)(a);
- (b) HMCIC or an inspector of constabulary nominated by HMCIC, and
- (c) a person selected on a fair and transparent basis from a list of candidates maintained by a local policing body for the purposes of these Regulations.

### **Documents to be supplied**

**53.**—(1) Prior to the hearing the appropriate authority must supply the person or persons conducting the accelerated misconduct hearing with a copy of—

- (a) the notice given to the officer concerned under regulation 48(1);
- (b) the other documents given to the officer concerned under regulation 48(1);
- (c) the documents provided by the officer concerned under—
  - (i) regulation 51, and
  - (ii) where paragraph (2) applies, regulation 29(2) and (3);
- (d) where the officer concerned does not accept that the officer's conduct amounts to gross misconduct, any other documents that, in the opinion of the appropriate authority, should be considered at the hearing.

(2) This paragraph applies where the case was certified as one where the special conditions were satisfied following a determination made under regulation 46(2), being a case where misconduct proceedings have been delayed by virtue of regulation 9(3).

(3) Prior to the hearing the officer concerned must be supplied with a list of the documents supplied under paragraph (1) and a copy of any of such document of which the officer has not already been supplied with a copy.

(4) Where the Director General has made a decision under regulation 22(1) to present a case, the duty specified in paragraph (1) to supply the specified documents to the person or persons conducting the accelerated misconduct hearing lies with the Director General and not with the appropriate authority.

#### **Attendance of officer concerned at accelerated misconduct hearing**

**54.**—(1) Subject to paragraph (2), the officer concerned must attend the accelerated misconduct hearing.

(2) Where the officer concerned informs the person conducting or chairing the accelerated misconduct hearing in advance that the officer is unable to attend on grounds which the person conducting or chairing the hearing considers reasonable, that person may allow the officer concerned to participate in the hearing by video link or other means.

(3) Where under paragraph (2) the officer concerned is allowed to and does so participate in the accelerated misconduct hearing, or where the officer concerned does not attend the accelerated misconduct hearing—

- (a) the officer may nonetheless be represented at that hearing by the officer's—
  - (i) police friend, or
  - (ii) relevant lawyer (in which case the police friend may also attend), and
- (b) the hearing may be proceeded with and concluded in the absence of the officer concerned whether or not the officer is so represented.

(4) Where the officer concerned is represented in accordance with paragraph (3), the person representing the officer concerned or the officer's police friend (if different), or both, may participate using the video link or other means where such means are also used by the officer concerned.

#### **Participation of Director General and investigator at accelerated misconduct hearing**

**55.**—(1) In any case where—

- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied, or
- (b) paragraph 16 of Schedule 3 to the 2002 Act (investigations by the appropriate authority and supervised investigations) applied and the Director General—
  - (i) made a recommendation under paragraph 25(4C)(c) of that Schedule (duties with respect to disciplinary proceedings) which the appropriate authority accepted, or
  - (ii) gave a direction under paragraph 27(4)(a) of that Schedule (duties with respect to disciplinary proceedings),

the Director General may attend the accelerated misconduct hearing to make representations.

(2) Where the Director General intends to attend the accelerated misconduct hearing—

- (a) the Director General may be represented by a relevant lawyer;
- (b) the Director General must notify the complainant or any interested person prior to the hearing, and
- (c) the person conducting or chairing the accelerated misconduct hearing must notify the officer concerned prior to the hearing.

(3) The investigator or a nominated person must attend the accelerated misconduct hearing on the request of the person conducting or chairing the hearing to answer questions.

(4) For the purposes of this regulation, a “nominated person” is a person who, in the opinion of—

- (a) the appropriate authority, or
- (b) in a case to which paragraph 18 or 19 of Schedule 3 to the 2002 Act (directed and independent investigations) applied, the Director General,

has sufficient knowledge of the investigation of the case to be able to assist the person or persons conducting the accelerated misconduct hearing.

(5) Paragraph (1) does not apply in a case where the Director General has made a decision under regulation 22(1) to present a case.

### **Reporting restrictions and participation at accelerated misconduct hearing**

**56.**—(1) Subject to paragraph (2), an accelerated misconduct hearing must be in public.

(2) The person conducting or chairing the accelerated misconduct hearing (“C”) may—

- (a) in relation to the attendance at the hearing of a person under this regulation, exclude any person as C sees fit from the whole or a part of it;
- (b) impose such conditions as C sees fit relating to the attendance under this regulation of any person at the hearing in order to facilitate the proper conduct of it;
- (c) give such directions as C thinks appropriate prohibiting the publication of any matter relating to the proceedings.

(3) Where C excludes a person under paragraph (2)(a) which has the effect of excluding a representative of the media, or gives directions under paragraph (2)(c), any representative of the media may make representations about the exclusion or, as the case may be, directions.

### **Attendance of complainant and interested persons at accelerated misconduct hearing**

**57.**—(1) This regulation applies in the case of an accelerated misconduct hearing arising from the investigation of a—

- (a) conduct matter under Schedule 3 to the 2002 Act (handling of complaints and conduct matters etc.) applied, or
- (b) complaint to which paragraph 19A(1) of that Schedule (special procedure where investigation relates to police officer or special constable) applied.

(2) The appropriate authority must notify the complainant or any interested person of the date, time and place of the accelerated misconduct hearing.

### **Procedure at accelerated misconduct hearing**

**58.**—(1) Subject to these Regulations, the person conducting or chairing the accelerated misconduct hearing must determine the procedure.

(2) The accelerated misconduct hearing must not proceed unless the officer concerned has been notified of the effect of regulation 7(1) to (3) in relation to an accelerated misconduct hearing.

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

(4) The accelerated misconduct hearing must not, except in exceptional circumstances, be adjourned solely to allow the complainant or any interested person to attend.

(5) At the beginning of the accelerated misconduct hearing, the person conducting or chairing the accelerated misconduct hearing must give the officer concerned the opportunity to say whether or not the officer concerned accepts that the officer’s conduct amounts to gross misconduct.

(6) No witnesses other than the officer concerned may give evidence at the accelerated misconduct hearing.

(7) The person representing the appropriate authority may—

- (a) address the hearing 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) make representations concerning any aspect of proceedings under these Regulations, and
  - (b) confer with the authority.
- (8) The person representing the officer concerned may—
- (a) address the proceedings in order to do any or all of the following—
    - (i) put the case of the officer concerned;
    - (ii) sum up that case;
    - (iii) respond on behalf of the officer concerned to any view expressed at the proceedings, and
    - (iv) make representations concerning any aspects of proceedings under these Regulations, and
  - (b) if the officer concerned is present at the proceedings or is participating in them by video link or other means in accordance with regulation 54(2), confer with the officer concerned.
- (9) Where the person representing the officer concerned is a relevant lawyer, the police friend of the officer concerned may also confer with the officer concerned in the circumstances mentioned at paragraph (8)(b).
- (10) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer concerned during the accelerated misconduct hearing.
- (11) The person conducting or chairing the accelerated misconduct hearing may allow any document to be considered at the hearing notwithstanding that a copy of it has not been supplied—
- (a) by the officer concerned to the appropriate authority in accordance with regulation 51, or
  - (b) to the officer concerned in accordance with regulation 48(1).
- (12) Where evidence is given or considered at the accelerated misconduct hearing that the officer concerned—
- (a) on being questioned by an investigator, at any time after the officer was given written notice under regulation 16(1) of these Regulations or regulation 17 of the Complaints and Misconduct Regulations, or
  - (b) in submitting any information or by not submitting any information at all under regulation 51 (or, where paragraph 14 applies, regulation 17(1) or 29(2) or (3)) of these Regulations or under regulation 20 of the Complaints and Misconduct Regulations,
- failed to mention any fact relied on in the officer's case at the accelerated misconduct hearing, being a fact which in the circumstances existing at the time, the officer concerned 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 accelerated misconduct hearing may draw such inferences from the failure as appear proper.
- (14) This paragraph applies where the case was certified as one where the special conditions are satisfied following a determination made under regulation 46(2), being a case where misconduct proceedings have been delayed by virtue of regulation 9(3).
- (15) The person or persons conducting the accelerated misconduct hearing must review the facts of the case and decide whether or not the conduct of the officer concerned amounts to gross misconduct.
- (16) The person or persons conducting the accelerated misconduct hearing must not find that the conduct of the officer concerned amounts to gross misconduct unless—
- (a) they are satisfied on the balance of probabilities that this is the case, or
  - (b) the officer concerned admits it is the case.
- (17) At an accelerated misconduct hearing 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.

(18) Where the Director General has made a decision under regulation 22(1) to present a case, paragraph (7) must be read as if for “The person representing the appropriate authority” there were substituted “The Director General”.

### **Outcome of accelerated misconduct hearing**

**59.**—(1) Where the person or persons conducting the accelerated misconduct hearing find that the conduct of the officer concerned amounts to gross misconduct, they must impose disciplinary action, which, subject to the provisions of this regulation, may be—

- (a) a final written warning;
- (b) reduction in rank, or
- (c) dismissal without notice.

(2) The disciplinary action has effect from the date on which it is notified to the officer concerned.

(3) Where, on the date of the severity assessment under regulation 13(1) of these Regulations or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had a final written warning in force a final written warning must not be given under paragraph (1)(a).

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

- (a) a period of two years starting from the day after the day on which it was given, or
- (b) such longer period as the person or persons considering the question of disciplinary action may determine, up to a maximum of 5 years from the day after the day on which it was given.

(5) The reference to a period in paragraph (4)(a) and (b) does not include any time when the officer concerned is taking a career break (under regulation 33(12) of the Police Regulations (leave) and the determination of the Secretary of State made under that regulation).

(6) Reduction in rank may only be imposed under this regulation where the person or persons imposing the disciplinary action consider this is an appropriate sanction, taking into account the views of the appropriate authority, including in relation to the likely operational impact.

(7) Where, on the date of the severity assessment under regulation 13(1) or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had been reduced in rank under the Police (Conduct) Regulations 2004 or under these Regulations, a reduction in rank may not be imposed.

(8) Where the person or persons conducting the accelerated misconduct hearing find that the conduct of the officer concerned does not amount to gross misconduct, they may—

- (a) dismiss the case, or
- (b) return the case to the appropriate authority to deal with in accordance with Part 4.

(9) Where the case is returned to the appropriate authority under paragraph (8)(b), the appropriate authority must proceed in accordance with Part 4, subject to regulation 21(1) being read as if the words “subject to regulation 46, on receipt of the investigator’s report under regulation 20(1)” are omitted.

(10) Where the question of disciplinary action 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 consider such documentary evidence as would, in their opinion, assist them in determining the question;
- (c) must give—
  - (i) the officer concerned and the officer concerned’s police friend or relevant lawyer, and

- (ii) the appropriate authority or, as the case may be, the originating authority or the person appointed to represent such authority in accordance with regulation 7(4), an opportunity to make oral or written representations, including on the appropriate level of sanction, 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 concerned could reasonably have been expected to so mention them, and
  - (ii) in the light of their conclusions under paragraph (i), may determine that it is appropriate to place less weight on those circumstances.

(11) Paragraph (12) applies where an officer is dismissed at an accelerated misconduct hearing.

(12) The person chairing the accelerated misconduct hearing must provide any information to the appropriate authority that the person considers ought to be included by virtue of regulation 3(2)(l) of the Police Barred List and Police Advisory List Regulations 2017 in the barred list report relating to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).

### **Notification of outcome**

**60.**—(1) The person or persons conducting the accelerated misconduct hearing must, before the end of a period of 5 working days beginning with the first working day after the completion of the accelerated misconduct hearing, submit a report to the appropriate authority, together with a copy to the officer concerned, setting out—

- (a) the finding of the person or persons conducting the accelerated misconduct hearing;
- (b) the reasons for that finding;
- (c) any disciplinary action imposed.

(2) A written notice under this regulation must include notice of the right of appeal to a police appeals tribunal.

(3) The appropriate authority must send a copy of any report under this regulation to—

- (a) the Director General, in any case where the Director General—
  - (i) presented the case, or
  - (ii) was entitled to attend to make representations under regulation 55(1), and
- (b) the complainant and any interested person, in any case to which regulation 57 applies.

(4) Subject to the harm test, the person conducting or chairing the hearing must require the appropriate authority to publish during the notification period the report submitted under paragraph (1).

(5) In this regulation, the notification period is the period of 10 working days beginning on the first working day after the day on which the accelerated misconduct hearing is concluded.

(6) Where the appropriate authority publishes a report in accordance with paragraph (4), it must publish the notice on its website for a period of not less than 28 days.

(7) Prior to publication of a report under paragraph (4) the appropriate authority may redact the document—

- (a) in so far as the authority considers redaction is—
  - (i) 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;
  - (ii) necessary in the interests of national security;
  - (iii) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;

- (iv) 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;
  - (v) necessary and proportionate for the protection of the welfare and safety of any informant or witness;
  - (vi) otherwise in the public interest, and
- (b) in line with any restrictions imposed on the disclosure of information during the course of the proceedings.
- (8) The person conducting or chairing the hearing may dispense with the requirement to publish the report if in the particular circumstances of the case the person considers it is appropriate to do so on any of the grounds set out in paragraph (7)(a)(i) to (vi) or (b).
- (9) In making a decision under paragraph (8), the person chairing the accelerated misconduct hearing may have regard to any representations—
- (a) provided under regulation 50(3) or,
  - (b) made at the accelerated misconduct hearing.
- (10) Information that has already been published during the course of the proceedings may not be redacted under paragraph (7).

### **Record of accelerated misconduct hearing**

**61.**—(1) A verbatim record of the proceedings at the accelerated misconduct hearing must be taken.

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

## **PART 6**

### **Reflective practice review process**

#### **Interpretation and application**

- 62.**—(1) In this Part—
- “participating officer” means the police officer whose actions or behaviour are subject to the reflective practice review process, and
- “reviewer” means the officer who is conducting the reflective practice review process.
- (2) The reviewer must be—
- (a) the line manager of the participating officer, or
  - (b) another officer who is senior to the participating officer.
- (3) This Part applies where a matter has been referred to be dealt with under the reflective practice review process—
- (a) under these Regulations, or
  - (b) following—
    - (i) a determination under paragraph 6(2A) of Schedule 3 to the 2002 Act (handling of complaints by the appropriate authority);
    - (ii) a determination under paragraph 23(5A)(c) of Schedule 3 to the 2002 Act (action by the Director General following an investigation report under paragraph 22);
    - (iii) a determination under paragraph 24A(5) of Schedule 3 to the 2002 Act (final reports on investigations: other DSI matters);
    - (iv) a direction under paragraph 27(4) of Schedule 3 to the 2002 Act (duties with respect to disciplinary proceedings etc.);

- (v) a recommendation under paragraph 28ZA of Schedule 3 to the 2002 Act (recommendations by the Director General or a local policing body).

## **General**

**63.**—(1) Where a matter is dealt with under this Part, regulation 6(2)(b) to (d) does not apply.

(2) Where more than one officer is involved in a matter that has been referred to be dealt with under the reflective practice review process, a joint reflective practice review discussion may take place, provided that individual reflective review action reports are produced.

(3) A participating officer must not be prevented from applying for or obtaining a promotion by reason of the officer's participation in the reflective practice review process.

(4) Any account given by the participating officer under regulation 64(1)(b) or during the reflective practice review discussion held under regulation 66 is not admissible in any subsequent disciplinary proceedings brought against the participating officer, except to the extent that it consists of an admission relating to a matter that has not been referred to be dealt with under the reflective practice review process.

## **Referral to reflective practice review process**

**64.**—(1) Where a matter is referred to the reflective practice review process, the reviewer must as soon as practicable provide the following to the participating officer—

- (a) details of the matter that has been referred and the circumstances that are being considered, and
- (b) an invitation to provide an account of the matter that has been referred for review.

(2) The participating officer must provide any account under paragraph (1)(b) within 5 working days of receiving the invitation to do so, unless a longer period is agreed with the reviewer.

(3) The reflective practice review process consists of a fact-finding stage and a discussion stage, followed by the production of a reflective review action report.

## **Fact-finding stage**

**65.**—(1) Enquiries made by the reviewer during the fact-finding stage must be reasonable, proportionate and relevant to the purpose, which is to establish the facts of the matter subject to the review process.

(2) If at any time during the fact-finding stage substantial evidence becomes available to the reviewer, which was not available to the appropriate authority when it made its severity assessment under regulation 13, the reviewer must refer the matter to the appropriate authority for a further assessment under regulation 13.

(3) Where a matter is so referred for a further assessment, the reflective practice review process must be concluded unless such further assessment is that the conduct, if proved, would amount to practice requiring improvement.

## **Discussion stage**

**66.**—(1) The reviewer must, following completion of the fact-finding stage, invite the participating officer to attend a reflective practice review discussion.

(2) Such discussion should take place as soon as reasonably practicable.

(3) The discussion must include, in particular—

- (a) a discussion of the practice requiring improvement and related circumstances that have been identified, and
- (b) the identification of key lessons to be learnt by the participating officer, line management or police force concerned, to address the matter and prevent a reoccurrence of the matter.

### **Reflective review action report**

**67.**—(1) The reviewer must, following completion of the discussion stage, produce a reflective review action report.

(2) A reflective review action report must contain—

- (a) a summary of the issue and any relevant background circumstances;
- (b) a summary of the reflective practice review discussion;
- (c) key actions to be undertaken within a specified time period;
- (d) any lessons identified for the participating officer;
- (e) any lessons identified for the line management or police force concerned;
- (f) a specified period of time for reviewing the report and the actions taken.

(3) The reviewer must send a copy of the report to the appropriate authority.

(4) The appropriate authority must take appropriate action to ensure that any lessons identified for the line management or police force concerned are addressed.

(5) A copy of the report, together with a note of the review of the report and of actions taken, must be retained on the participating officer's record.

(6) The report and review notes must be discussed as part of the participating officer's performance and development review during the 12 month period following agreement of the report.

### **Failure to engage with the reflective practice review process**

**68.** If the reviewer—

- (a) considers that the participating officer is failing to engage with the reflective practice review process, or
- (b) there is evidence of further practice requiring improvement on the part of the participating officer related to the matter that was referred to the process,

the reviewer may refer the matter for assessment by the appropriate authority under regulation 13.

Address  
Date

Minister of State  
Department

## **SCHEDULE 1**

### **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.

### **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.

## **SCHEDULE 2**

**Modifications to these Regulations in their application to former officers**

## EXPLANATORY NOTE

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

These Regulations revoke and re-enact the Police (Conduct) Regulations 2012 (S.I. 2012/2632), with a number of changes, in part to reflect changes made to the handling of police complaints and police disciplinary matters made by the Policing and Crime Act 2017 (2017 c. 3).

Part 1 contains preliminary provisions, including interpretation provisions and a statement of the harm test. The definition of “misconduct” (regulation 3(1)) has been amended. The term is defined as a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action.

Part 2 contains general provisions. Regulation 5 deals with the application of the Regulations and provides for the Regulations to apply with the modifications set out in Schedule 2 to former officers.

Part 3 deals with investigations. Regulation 12 provides that this Part does not apply to a case to which paragraphs 16, 18 or 19 of Schedule 3 to the Police Reform Act 2002 (2002 c. 30) applies. Regulation 13 provides for the appropriate authority to make a severity assessment in relation to the conduct which is the subject matter of the allegation. There is new provision in this regulation for a matter to be referred to be dealt with under the reflective practice review process under Part 6 of the Regulations (see description below). Regulation 18 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 local policing body. This duty arises at the end of each 12 month period thereafter.

Part 4 makes provision about misconduct proceedings. New provisions in this Part include, in particular, regulation 22, which provides for the Director General to decide to present a case on behalf of the appropriate authority; regulation 23, which makes provision about joint misconduct proceedings, where 2 or more cases arise from the same matter or incident; regulation 24, which provides for an appropriate authority to delegate functions in relation to the administration of a hearing to another local policing body (where the officer concerned is the chief officer or acting chief officer) or in any other case to the chief officer of another police force; regulation 27, which specifies the role of the chair of the panel, in the case of a misconduct hearing, and regulation 31, which, where a matter is referred to a misconduct hearing, makes provision for a misconduct pre-hearing.

Part 5 makes provision about accelerated misconduct hearings. Such hearings were previously referred to as special case hearings, under the Police (Conduct) Regulations 2012.

Part 6 makes provision for a reflective practice review process. This process does not amount to disciplinary proceedings, as defined in regulation 3(1). There is provision for a matter to be referred to be dealt with under this process by the appropriate authority when making a severity assessment (under regulation 13(4)) or, following an investigation, under regulation 21(8) and by a person or persons conducting misconduct proceedings, under regulation 39(20). The reflective practice review process consists of 2 stages; a fact-finding stage (dealt with in regulation 65) and a discussion stage (dealt with in regulation 66). Following completion of the discussion stage, the reviewer must produce a reflective review action report, in accordance with regulation 67.

An impact assessment has not been produced for these Regulations as no impact on the private, voluntary or public sectors is foreseen.