
STATUTORY RULES OF NORTHERN IRELAND

2008 No. 242

Police Powers for Designated Staff (Complaints and Misconduct) Regulations (Northern Ireland) 2008

PART VI

INVESTIGATION OF POLICE SUPPORT STAFF

Police support staff: misconduct proceedings

33.—(1) Section 59 of the 1998 Act (steps to be taken after investigation — disciplinary proceedings) shall apply in relation to the relevant conduct of a designated person who is a member of the police support staff as it applies in relation to the conduct of a police officer who is not a senior officer, but for every reference in that section to disciplinary proceedings substitute a reference to misconduct proceedings.

(2) Where under section 59 of the 1998 Act the Ombudsman considers misconduct proceedings against a designated person, he shall—

- (a) deal with the case without undue delay, and
- (b) as soon as practicable, send to the Chief Constable—
 - (i) all relevant material, and
 - (ii) a memorandum with such particulars as may be specified in subsection (2) of that section concerning such misconduct proceedings as appear to him appropriate.

(3) Where the Chief Constable agrees to bring misconduct proceedings against a designated person, he shall notify the Ombudsman and the designated person concerned.

(4) Where the Chief Constable agrees to bring misconduct proceedings against a designated person, the Ombudsman shall notify the complainant.

(5) Where a memorandum sent to the Chief Constable under section 59(2) of the 1998 Act recommends misconduct proceedings against a designated person, but the Chief Constable is unwilling to bring such proceedings, he shall inform the Ombudsman in writing of the reason for his decision.

(6) Where the Chief Constable has not brought misconduct proceedings against a designated person or does not propose to do so and the Ombudsman accepts his decision he shall—

- (a) so inform the Chief Constable forthwith, and
- (b) notify the complainant of the decision and of his acceptance thereof,

and may furnish the complainant with such relevant information in explanation thereof, if any, as appears to the Ombudsman to be appropriate.

(7) Where the Chief Constable discontinues misconduct proceedings against a designated person with the leave of the Ombudsman given in pursuance of section 59 of the 1998 Act, the Ombudsman shall—

- (a) notify the complainant that the charge has been withdrawn with his leave, and

(b) furnish the complainant with such relevant information in explanation of the withdrawal as appears to the Ombudsman appropriate and copy it to the designated person concerned.

(8) The Ombudsman shall be relieved of the duty of notifying the complainant as mentioned in paragraph (4), (6)(b) or (7) if compliance therewith appears to him to be not reasonably practicable.

Police support staff: supervising member

34. A case which arises from a complaint, report or allegation which indicates that the relevant conduct of a designated person who is a member of the police support staff did not meet the appropriate standard may be referred for examination to a police officer of at least the rank of superintendent, who must not be an interested party (“the supervising member”).

Officer appointed to investigate case

35.—(1) Where a case concerning the relevant conduct of a designated person who is a member of the police support staff is referred to a supervising member under regulation 34, the supervising member may appoint a police officer (“the appointed officer”) of at least the rank of inspector, who must not be serving in the same district or branch as the designated person concerned and must not be an interested party, to investigate the case.

(2) Where an officer is appointed under paragraph (1) to investigate a case concerning the relevant conduct of a designated person who is a member of the police support staff, he shall, at the end of his investigation, submit a written report on the case to the supervising member.

Notice to designated person in the police support staff

36.—(1) An appointed officer shall, as soon as is practicable (without prejudicing his or any other investigation of the matter or the preparation of any report under regulation 29(1)) cause the designated person concerned to be given written notice—

- (a) that he is investigating the case,
- (b) that where he is investigating a case arising as a result of a complaint, the investigation will be carried out under section 56 or 57 of the 1998 Act, as applicable,
- (c) of the nature of the report, complaint or allegation,
- (d) informing him that he has the right to seek advice from his trade union, and
- (e) informing him that he has the right to be accompanied as set out in paragraph (2).

(2) A designated person may be accompanied to any meeting, interview or hearing by a person selected by him, who is not an interested party, and who is—

- (a) a police officer,
- (b) a member of a police force in Great Britain,
- (c) a member of the police support staff, or
- (d) a representative of a trade union.

Police support staff: giving of caution

37. An appointed officer who is appointed to investigate a case concerning the relevant conduct of a designated person who is a member of the police support staff shall, as soon as is practicable (without prejudicing his or any other investigation of the matter or the preparation of any report under regulation 29(1))—

- (a) in all cases give the designated person concerned in writing the caution set out in paragraph 1 of Schedule 2; and

- (b) where he reasonably believes that the presence of any object, substance or mark found—
 - (i) on the person of the designated person concerned, or
 - (ii) in or on his clothing, footwear or otherwise in his possession, or
 - (iii) in any place in which he was present at a time material to the subject matter of the report, complaint or allegation,may be attributable to the designated person's having breached the code of ethics, inform the designated person concerned that he so believes and give him in writing the caution set out in paragraph 2 of Schedule 2; and
- (c) where he reasonably believes that the presence of the designated person concerned at a place at or about the time a breach of the code of ethics was alleged to have been committed may be attributable to the involvement of the designated person concerned in that breach, inform him that he so believes and give him in writing the caution set out in paragraph 3 of Schedule 2.

Police support staff: question of misconduct proceedings

38.—(1) On receipt of a report under regulation 35(2), the supervising member shall consider whether to refer the case to a hearing under Part VII.

(2) Where a case concerning the relevant conduct of a designated person is referred to a supervising member under regulation 34 and falls to be investigated under section 56 or 57 of the 1998 Act, the case may not be referred to a hearing until the Chief Constable receives a memorandum from the Ombudsman in respect of the relevant conduct under section 59(2) of the 1998 Act.

(3) Where the Chief Constable has a duty to proceed under section 59(6) of the 1998 Act, he shall refer the case to a hearing under Part VII.

(4) Where the designated person concerned has—

- (a) received a written warning about his conduct within the previous twelve months, and
- (b) in a statement made to the appointed officer under a caution given under regulation 37, admitted that his conduct failed to meet the appropriate standard,

the supervising member shall refer the case to a hearing under Part VII.

(5) Where the case is not referred to a hearing no reference to it shall be made on the personal record of the designated person concerned.

Police support staff: special cases

39. If, at any time during an investigation, it appears to the appointed officer that a case concerning a designated person who is a member of the police support staff is one in which the conditions specified in Part 1 of Schedule 3 are likely to be satisfied, he shall, whether or not the investigation is at an end, submit to the supervising member or, in the case of an investigation conducted under section 56 or 57 of the 1998 Act, to the Ombudsman—

- (a) a statement of his belief that the case may be one in which those conditions are satisfied and the grounds for that belief; and
- (b) a written report on the case so far as it has been investigated.

Special cases referred to appropriate officer

40.—(1) This regulation applies to any case in which a report, complaint or allegation is made which indicates that the conduct of a designated person who is a member of the police support staff did not meet the appropriate standard.

(2) Where, on receipt of a report under section 56(6) or 57(8) of the 1998 Act or regulation 39(b), the Ombudsman is of the opinion that the case is one in respect of which the conditions specified in Part 1 of Schedule 3 are likely to be satisfied, he shall refer the case to the appropriate officer.

(3) Where, on receipt of a report under regulation 35(2) or 39(b), the supervising member is of the opinion that the case is one in respect of which the conditions specified in Part 1 of Schedule 3 are likely to be satisfied, he shall refer the case to the appropriate officer.

(4) Where a case is referred to the appropriate officer under paragraph (2) or (3), he shall—

(a) if the conditions specified in Part 1 of Schedule 3 are not satisfied, return the case to the Ombudsman, the supervising member or (as the case may be) the appointed officer;

(b) if the conditions specified in Part 1 of Schedule 3 are satisfied—

(i) certify the case as a special case and refer it to a hearing under Part VII, or

(ii) if the circumstances are such as, in his opinion, make such certification inappropriate, return the case to the Ombudsman, the supervising member or (as the case may be) the appointed officer.

(5) Where a case is referred to a hearing under paragraph (4)(b)(i), Part VII shall, subject to paragraph (6), have effect subject to the modifications specified in Part 2 of Schedule 3.

(6) Where a case has been returned to the Ombudsman, the supervising member or the appointed officer under paragraph (4)(a) or (b)(ii) or in pursuance of any provision of Part VII as modified by Part 2 of Schedule 3, Part VII shall thereafter have effect in relation to the case without modification.

(7) In Part 2 of Schedule 3, any reference to a provision in these regulations shall, unless the contrary intention appears, be construed as a reference to that provision as modified by that Part of that Schedule.

Misconduct proceedings under direction or affected by exceptional circumstances

41.—(1) Where misconduct proceedings are brought by the Chief Constable in response to a direction by the Ombudsman under section 59(5) of the 1998 Act, the hearing in those proceedings shall be conducted in accordance with Part VII, subject to the modifications specified in Schedule 4.

(2) Where a memorandum under section 59(2) of the 1998 Act recommending the bringing of misconduct proceedings contains a statement to the effect that, by reason of exceptional circumstances affecting the case, the Ombudsman considers that special procedures are appropriate, the hearing in those proceedings shall be conducted in accordance with Part VII, subject to the modifications specified in Schedule 4.