

POLICY NOTE

THE POLICE SERVICE OF SCOTLAND (CONDUCT) REGULATIONS 2013

SSI 2013/60

1. The above instrument was made in exercise of the powers conferred by sections 48 and 125(1) of the Police and Fire Reform (Scotland) Act 2012 (“the 2012 Act”). The instrument is subject to the negative procedure.

Policy Objectives

2. The 2012 Act, which received Royal Assent on 7 August 2012, changes the policing landscape in Scotland. It brings together the current eight forces, the Scottish Police Services Authority and the Scottish Crime and Drug Enforcement Agency into a single Police Service of Scotland from 1 April 2013.

3. The main policy objective of these Regulations is to maintain in the new Police Service existing procedures for the handling of conduct matters for officers below the rank of assistant chief constable (ACC).

4. This instrument is a technical update of the current regulations (the Police (Conduct) (Scotland) Regulations 1996) in order to reflect the establishment and role of the new Police Service. It is envisaged that new conduct procedures for all officers, which are currently being developed following input from a stakeholder working group, will be implemented in the Police Service. However, following a request from ACPOS and with support from other key stakeholders it was decided that it was not feasible for the necessary development work and training to be undertaken within the police service by 1 April 2013. New regulations will be introduced in due course following agreement with stakeholders; in the meantime the procedures implemented by these Regulations continue to be fit for purpose.

5. These regulations set out the process and procedure to be followed when an allegation of misconduct is made against a constable on or after 1 April 2013. Responsibility for oversight of the conduct regime will lie with a designated Deputy Chief Constable (DCC) in the Police Service. Misconduct of constables below the rank of ACC is dealt with internally.

6. Part 1 deals with the initial assessment of the allegation of misconduct including the suspension conditions which must be met before a constable can be suspended. Part 2 covers preliminary investigations into the misconduct allegation. Misconduct of a minor or trivial nature may be dealt with by giving the constable a warning. Other kinds of misconduct will be investigated and Part 3 deals with those cases where following the investigation a misconduct hearing is held.

7. The regulations provide that constables may be represented at misconduct hearings either by another constable, in practice this is likely to be someone from the appropriate staff association, or by a legal representative. Where a finding of misconduct is made at the hearing or in cases where the constable admits the misconduct the regulations set out the available disposals including admonition, reduction in rank, and a fine.

8. Part 4 sets out how appeals to the chief constable will be handled. Constables may appeal against the findings, the disposal or both. The chief constable must determine the appeal and may confirm or reverse the finding of misconduct and vary the disposal or substitute it,

9. Schedule 1 sets out the types of conduct which constitute misconduct

Transitionals and Savings

10. Schedule 2 makes provisions to allow any misconduct cases which are pending on 1 April 2013 to continue to be dealt with under the current regulations by the Police Service.

Consultation

11. To comply with the requirements of section 54(2) of the 2012 Act, the Scottish Ministers have consulted and shared a draft of the Regulations with the persons mentioned in section 54(2)(a)(i) to (vi) of that Act and have considered any representations made.

12. A public consultation took place from 14 December 2012 to 11 January 2013 and key stakeholders have been involved in a 'reference group' to discuss any significant policy changes to the regulations.

13. A full list of those consulted and who agreed to the release of this information is attached to the consultation report published on the Scottish Government website, it includes:

- Association of Chief Police Officers in Scotland (ACPOS)
- Association of Scottish Police Superintendents (ASPS)
- British Transport Police
- Her Majesty's Inspector of Constabulary for Scotland (HMICS)
- Police Complaints Commissioner for Scotland (PCCS)
- Police Negotiating Board
- Police Service of Scotland
- Scottish Chief Police Officers' Staff Association (SCPOSA)
- Scottish Police Authorities Conveners Forum (SPACF)
- Scottish Police Authority (SPA)
- Scottish Police Federation
- Scottish Women's Development Forum

Impact Assessment

A Business Regulatory Impact Assessment (BRIA) was carried out for the Police and Fire Reform (Scotland) Bill, which became the Act. No BRIA is therefore required for these regulations. An Equality Impact Assessment was carried out for the suite of workforce regulations.

Scottish Government
Safer Communities Directorate
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