
SCOTTISH STATUTORY INSTRUMENTS

2013 No. 61

The Police Service of Scotland (Performance) Regulations 2013

PART 5

Appeal to the chief constable

Determination of appeal

- 22.**—(1) The chief constable must determine the appeal on the basis of—
- (a) the written record of the chairing constable's determination made in pursuance of regulation 17(3) and any papers referred to in that determination;
 - (b) in the case of an appeal under regulation 20(2)—
 - (i) the report prepared under regulation 19(2)(b);
 - (ii) any comments on that report submitted by the constable (or any person representing the constable); and
 - (iii) the written record of the chairing constable's determination made in pursuance of regulation 19(4);
 - (c) the notice of appeal;
 - (d) any representations made by the constable at the appeal hearing; and
 - (e) any further information obtained following an adjournment of that hearing under regulation 21(5).
- (2) The chief constable must—
- (a) where it is reasonably practicable to do so, determine the appeal not later than—
 - (i) where no appeal hearing has been arranged, 7 days after the date on which the chief constable receives the notice of appeal; or
 - (ii) where an appeal hearing has been held, 7 days after the date of that hearing; or
 - (b) where it is not reasonably practicable to determine the appeal in accordance with sub-paragraph (a), determine the appeal not later than—
 - (i) 28 days after the date on which the notice of appeal was sent; or
 - (ii) where the chairing constable has held a further hearing in pursuance of regulation 21(5), 7 days after the completion of that hearing.
- (3) In determining an appeal under regulation 20(1), the chief constable may—
- (a) if the appeal was made under sub-paragraph (a)—
 - (i) reverse the chairing constable's determination that the constable's performance has been unsatisfactory; or
 - (ii) vary the disposal;
 - (b) if the appeal was made under sub-paragraph (b), vary the disposal; or
 - (c) in either case, dismiss the appeal.

- (4) Any variation by the chief constable of a disposal ordered by the chairing constable must not have the effect of ordering a disposal which is more severe than that ordered by the chairing constable.
- (5) In determining an appeal under regulation 20(2), the chief constable must—
- (a) confirm or quash the requirement to resign; and
 - (b) where the requirement to resign is quashed, substitute a disposal mentioned in regulation 18(1)(b) or (c).
- (6) The chief constable's determination is to be recorded in a notice—
- (a) specifying the terms of the chief constable's determination, including any variation of a disposal ordered by the chairing constable;
 - (b) giving reasons for that determination; and
 - (c) signed and dated by the chief constable.
- (7) The chief constable must send a copy of the notice mentioned in paragraph (6) to—
- (a) the appellant;
 - (b) the appellant's representative (if any); and
 - (c) the chairing constable.