
STATUTORY INSTRUMENTS

1996 No. 1642

The Police (Conduct) (Scotland) Regulations 1996

Determination of appeal

21.—(1) Subject to the following provisions of this regulation, the chief constable shall consider the appeal on the basis of—

- (a) the notice of appeal, the misconduct form and any other documents submitted with the notice;
- (b) the written note summarising the proceedings at the misconduct hearing which the chairman prepared in accordance with regulation 13(16);
- (c) to such extent as he considers necessary, the audio recording made of the proceedings at the misconduct hearing in accordance with regulation 13(16); and
- (d) any transcript of all or part of such an audio recording where such a transcript is obtained in terms of regulation 20(9) or is submitted in terms of regulation 20(12).

(2) Where the chief constable considers that it is necessary for the purpose of determining the appeal, he may afford the opportunity to the appellant and the chairman of the misconduct hearing of making oral representations in relation to the subject matter of the appeal.

(3) Where the chief constable decides to afford the opportunity to make oral representation, he shall give reasonable notice of the time and place at which those representations may be made.

(4) At any hearing fixed for the purposes of paragraph (2)—

- (a) each of the appellant and the chairman of the misconduct hearing may be represented by another constable of a police force selected by him or by an advocate or a solicitor; and
- (b) the chief constable may put questions to the appellant and the chairman of the misconduct hearing or any representative of them.

(5) The chief constable shall determine the appeal as soon as reasonably practicable after considering the documents and recording referred to in paragraph (1) and, where applicable, any representations made in accordance with paragraph (4).

(6) The decision of the chief constable shall be recorded in a document which shall contain—

- (a) the terms of the decision which shall specify any variation of the disposal made by the chairman of the misconduct hearing; and
- (b) a statement of the reasons for the decision,

and shall be signed and dated by the chief constable.

(7) The chief constable shall forthwith send a copy of the document to the appellant and, if any, his representative and to the chairman of the misconduct hearing.

(8) The chief constable shall have power in determining an appeal to vary the disposal made by the chairman of the misconduct hearing in terms of regulation 18 but shall not have power to make a disposal which is more severe than that made by the chairman.

(9) A decision of the chief constable to allow an appeal or to vary a disposal shall have effect from the date of the finding of the chairman of the misconduct hearing except that—

- (a) where the disposal as varied is such as in sub-paragraph (b) of regulation 18(1) and where the constable has not resigned from the force in accordance with the requirement specified in the decision of the chief constable in terms of paragraph (6), the effect of the decision shall be to dismiss the constable from the force either forthwith or on the date specified in the decision; and
 - (b) where the disposal as varied is such as is specified in sub-paragraph (c) of regulation 18(1), that disposal shall have effect from a date not earlier than, or from the date of, the decision of the chief constable in terms of paragraph (6).
- (10) Where in an appeal under sub-paragraph (a) or (b) of regulation 20(1)–
- (a) the appellant submitted pursuant to regulation 20(12) a transcript of all or part of the audio recording made of the proceedings at the misconduct hearing; and
 - (b) the chief constable allowed the appeal either in whole or in part,
- the police authority shall reimburse the appellant the reasonable costs incurred by the appellant in obtaining the transcript.