
STATUTORY INSTRUMENTS

1999 No. 1074

The Police (Conduct) (Senior Officers) (Scotland) Regulations 1999

Appointment of independent solicitor

7.—(1) This regulation applies in relation to any case in which the police authority has decided in terms of regulation 6(2) that there is sufficient evidence of misconduct on the part of the senior officer which would justify requiring the senior officer to appear before a misconduct hearing.

(2) In any case to which this regulation applies, the police authority shall instruct a solicitor (hereinafter referred to as “the independent solicitor”) to consider whether the senior officer should be required to attend a misconduct hearing.

(3) The independent solicitor shall be a solicitor not being either—

- (a) a member, officer or servant of the police authority or, where an amalgamation scheme is in force, of the joint police board; or
- (b) a former constable of the police force of which the senior officer is a constable.

(4) The police authority shall submit to the independent solicitor a copy of the investigating officer’s report together with copies of such other documents specified in regulation 6(1) as may have been submitted to it.

(5) Where the independent solicitor considers that the senior officer should be required to appear before a misconduct hearing, he shall—

- (a) prepare a form (hereinafter referred to in these Regulations as “the misconduct form”) containing—
 - (i) particulars of the alleged act or omission which he considers amounts to misconduct on the part of the senior officer; and
 - (ii) a statement of the reasons why he considers that the alleged act or omission amounts to misconduct; and
- (b) thereafter submit the misconduct form to the police authority.

(6) Where the independent solicitor considers that there is insufficient evidence that any act or omission, or alleged act or omission, of the senior officer amounted to misconduct on his part, he shall direct that no further proceedings shall be taken against the senior officer under these Regulations in relation to the matter as referred to him, and where he so directs he shall forthwith notify the police authority and the senior officer in writing.

(7) Where the independent solicitor makes a direction under paragraph (6) of this regulation then no further proceedings under these Regulations may be taken against the senior officer subject to investigation in relation to the matter referred to the independent solicitor.