

SCHEDULE 1

Regulation 11

Modifications to the Conduct Regulations

“SCHEDULE 3

Regulation 5(2)

Modifications to these Regulations in their application to former officers

Modification to regulation 3 (interpretation and delegation)

1. Regulation 3 is to be read as if—

(a) in paragraph (1)—

(i) the following definitions were inserted in the appropriate places—

““Condition C person” means a person in relation to whom regulation 5(2)(a) and (5)(a) and (b) is satisfied;”;

““Condition C special determination” has the meaning given in regulation 4A(2);”;

““relevant time” means the time immediately before the officer concerned ceased to be a member of a police force or a special constable;”;

(ii) the definitions of “appeal meeting”, “human resources professional”, “management action”, “management advice”, “misconduct meeting” and “misconduct proceedings” were omitted;

(iii) for the definition of “appropriate authority” there were substituted—

““appropriate authority” means where the officer concerned was—

(a) the chief officer or acting chief officer of any police force at the relevant time, the local policing body for the force’s area;

(b) any other police officer at the relevant time, the chief officer of police of the police force concerned;”;

(iv) for the definition of “disciplinary action” there were substituted—

““disciplinary action” means a finding that the officer concerned would have been dismissed if he had not ceased to be a member of a police force or a special constable;”;

(v) in the definition of “disciplinary proceedings”, for “misconduct proceedings” there were substituted “a misconduct hearing”;

(vi) in the definition of “misconduct hearing”, “up to and including dismissal” were omitted;

(vii) for the definition of “police force concerned” there were substituted—

““police force concerned” means—

(a) where the officer concerned was a member of a police force at the relevant time, the police force of which he was a member at that time;

(b) where the officer concerned was a special constable at the relevant time, the police force maintained for the police area for which he was appointed at that time;”;

(viii) for the definition of “police officer”, except in its application to regulation 5, there were substituted—

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- ““police officer” and “officer” mean a person who has ceased to be a member of a police force or a special constable;”;
- (ix) in the definition of “proposed witness”, for “proceedings”, in the first place where it appears, there were substituted “hearing” and for the words from “conducting” to the end there were substituted “chairing that hearing;”;
- (x) for the definition of “senior officer” there were substituted—
- ““senior officer” means a member of a police force who held a rank above that of chief superintendent at the relevant time;”;
- and
- (xi) for the definition of “staff association” there were substituted—
- ““staff association” means—
- (a) in relation to an officer who was a member of a police force of the rank of chief inspector or below at the relevant time, the Police Federation of England and Wales;
- (b) in relation to an officer who was a member of a police force of the rank of superintendent or chief superintendent at the relevant time, the Police Superintendents’ Association of England and Wales; and
- (c) in relation to an officer who was a senior officer at the relevant time, the Chief Police Officers’ Staff Association;”;
- (b) in paragraph (2)—
- (i) in sub-paragraph (a) after “special constable” there were inserted “at the relevant time”;
- (ii) for sub-paragraph (c)(ii) there were substituted—
- “(ii) it is in the public interest for the officer concerned to be included in the police barred list without delay.”;
- (c) paragraphs (3) and (4) were omitted.

Modification: insertion of Part 1A

2. These Regulations apply as if after regulation 4 there were inserted—

“PART 1A

Condition C special determination

Condition C special determination: matters to be taken into account

4A.—(1) This Part applies where the Commission is required under paragraph 20AA(2) or 23(6B) of Schedule 3 to the 2002 Act (as applied with modifications by regulation 27 of, and the Schedule to, the Police (Complaints and Misconduct) Regulations 2012) to make a Condition C special determination.

(2) A Condition C special determination is a determination by the Commission as to whether the taking of disciplinary proceedings against a Condition C person in respect of alleged gross misconduct would be reasonable and proportionate having regard to—

- (a) the seriousness of the alleged gross misconduct;
- (b) the impact of the allegation on public confidence in the police; and
- (c) the public interest.

(3) When assessing the seriousness of the alleged gross misconduct for the purposes of paragraph (2)(a), the matters which the Commission must take into account are—

- (a) whether it appears that the alleged gross misconduct amounts to a criminal offence;
- (b) whether it appears that a complainant or other person has been harmed (whether physically or psychologically) by the alleged gross misconduct and, if so, the extent and seriousness of the harm;
- (c) where it appears that a complainant or other person has been so harmed, whether that person was a vulnerable person;
- (d) whether it appears that the alleged gross misconduct was intentional;
- (e) whether it appears that the purpose or one of the purposes of the alleged gross misconduct was personal gain or benefit for the officer concerned;
- (f) whether it appears that the alleged gross misconduct is aggravated by discriminatory behaviour on the grounds of a person's race, gender, disability, age, religion or belief, sexual orientation or gender identity;
- (g) whether it appears that the officer concerned acted with one or more other persons serving with the police within the meaning of section 12(7)(a) or (c) of the 2002 Act (member of a police force or special constable under the direction and control of a chief officer);
- (h) the extent to which the alleged gross misconduct involved abuse of a position of trust or authority held by the officer concerned;
- (i) whether it appears that the officer concerned has taken steps to prevent the alleged gross misconduct being identified or to obstruct investigations into it, other than lawful steps to defend himself;
- (j) whether it appears that the alleged gross misconduct has had an adverse effect on community relations;
- (k) whether it appears that there are mitigating circumstances arising out of the health (whether physical or mental) of the officer concerned at the time of the alleged gross misconduct; and
- (l) any other matters that the Commission considers relevant.

(4) When assessing the impact of the allegation on public confidence in the police for the purposes of paragraph (2)(b), the matters which the Commission must take into account are—

- (a) whether it appears that the alleged gross misconduct has had an effect on relations between the public and the police, including relations between the members of the community where the alleged gross misconduct occurred and the police force concerned;
- (b) the extent of any apparent harm to public confidence in the police and, in particular, in the police force concerned;
- (c) the effect that a decision not to take disciplinary proceedings might have on public confidence in the police; and
- (d) any other matters that the Commission considers relevant.

(5) When assessing the public interest for the purposes of paragraph (2)(c), the matters which the Commission must take into account are—

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- (a) whether it appears that the officer concerned should be prevented from future employment or appointment by a person mentioned in section 88C(5) of the 1996 Act⁽¹⁾;
 - (b) where it appears that the officer concerned should be so prevented, whether disciplinary proceedings are necessary for this purpose;
 - (c) the length of time since the alleged gross misconduct occurred;
 - (d) whether it appears that the officer concerned will be held to account in respect of the alleged gross misconduct through other means, such as criminal or other proceedings;
 - (e) where it appears that a complainant or other person has been harmed (whether physically or psychologically) by the alleged gross misconduct, whether it appears that a decision not to take disciplinary proceedings would adversely affect that person;
 - (f) whether it appears that the officer concerned is unfit to be subject to or to participate in disciplinary proceedings by reason of disability or ill-health; and
 - (g) any other matters that the Commission considers relevant.
- (6) In paragraph (3)(c), “vulnerable person” means a person who, by reason of age, disability or ill-health, is, or may be, unable to—
- (a) take care of himself; or
 - (b) protect himself against harm or exploitation.

Condition C special determination: procedure

4B.—(1) Before making a Condition C special determination the Commission must give a notification in writing to—

- (a) any complainant;
 - (b) any interested person; and
 - (c) the officer concerned.
- (2) A notification under paragraph (1) must—
- (a) state that the Commission is to make a Condition C special determination and the consequences under Schedule 3 to the 2002 Act of such a determination;
 - (b) explain the effect of regulation 4A;
 - (c) explain that—
 - (i) if disciplinary proceedings are taken and the allegation of gross misconduct is proved, the officer concerned may be subject to a finding that he would have been dismissed if he had not ceased to be a member of a police force or a special constable; and
 - (ii) if he is subject to such a finding, he will be included in the police barred list;
 - (d) subject to the harm test, set out any findings relating to the conduct to which the investigation relates in any special report or investigation report submitted to the Commission under Schedule 3 to the 2002 Act;
 - (e) set out the person’s rights under paragraph (3);
 - (f) in the case of the officer concerned, state that he has the right to seek advice from his staff association or any other body and the effect of regulation 6(1) and (2).

⁽¹⁾ 1996 c.16. Section 88C was inserted by section 30 of, and Schedule 8 to, the Policing and Crime Act 2017.

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(3) A person given a notification under paragraph (1) may, within the period of 21 days beginning with the day on which the notice is given or such longer period as the Commission may agree, provide a written statement and any document which the person wishes the Commission to take into account for the purposes of the Condition C special determination.

(4) Before making a Condition C special determination the Commission may consult any other person it thinks fit.

(5) When making a Condition C special determination the Commission must take into account in addition to the matters specified in regulation 4A—

- (a) any written statement or document provided under paragraph (3);
- (b) any response to a consultation carried out under paragraph (4);
- (c) any findings relating to the conduct to which the investigation relates in any special report or investigation report submitted to the Commission under Schedule 3 to the 2002 Act; and
- (d) any other relevant evidence.

(6) The Commission must give notification in writing of a Condition C special determination and the consequences under Schedule 3 to the 2002 Act of the determination to the persons mentioned in paragraph (1).”.

Modification to regulation 6 (police friend)

3. Regulation 6 is to be read as if—

- (a) in paragraph (1)—
 - (i) at the end of sub-paragraph (b), “or” were omitted;
 - (ii) for sub-paragraph (c), there were substituted—
 - “(c) where the officer concerned is a member of his staff association, a person nominated by his staff association; or
 - (d) where the officer concerned is not a member of his staff association, any other person nominated by the officer concerned and approved by the chief officer of the police force concerned;”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (b), for “proceedings” there were substituted “hearing” and “or appeal meeting” were omitted;
 - (ii) in sub-paragraph (d), “, meeting” were omitted.

Modification to regulation 7 (legal and other representation)

4. Regulation 7 is to be read as if—

- (a) in paragraph (2), for “he may be dismissed or” there were substituted “disciplinary action may be imposed in relation to him or he may”;
- (b) in paragraph (3)—
 - (i) for “misconduct proceedings” there were substituted “a misconduct hearing”;
 - (ii) “or an appeal meeting” were omitted;
- (c) in paragraph (4)—
 - (i) for “misconduct proceedings” there were substituted “a misconduct hearing”;
 - (ii) “or an appeal meeting” and in sub-paragraph (b) “only,” and the words before it were omitted;

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- (d) in paragraph (5)—
 - (i) “Subject to paragraph (6),”, “person or” and “or appeal meeting” were omitted;
 - (ii) for “proceedings” there were substituted “hearing”;
- (e) paragraph (6) were omitted.

Modification to regulation 8 (provision of notices or documents)

- 5. Regulation 8 is to be read as if—
 - (a) the existing text were paragraph (1);
 - (b) after paragraph (1), there were inserted—
 - “(2) The appropriate authority shall make reasonable enquiries in order to determine the last known address of the officer concerned for the purposes of paragraph (1)(b).”.

Modification to regulation 9 (outstanding or possible criminal proceedings)

- 6. Regulation 9 is to be read as if—
 - (a) in paragraph (2)—
 - (i) for “misconduct proceedings”, in the first place where it appears, there were substituted “a misconduct hearing”;
 - (ii) for “misconduct proceedings”, in the second place where it appears, there were substituted “the misconduct hearing”;
 - (b) in paragraph (3)—
 - (i) for “any misconduct proceedings” there were substituted “a misconduct hearing”;
 - (ii) for “misconduct or special case” there were substituted “hearing or”;
 - (c) in paragraph (4), for “misconduct proceedings” there were substituted “a misconduct hearing”.

Modification: omission of regulation 10 (suspension)

- 7. These Regulations are to be read as if regulation 10 were omitted.

Modification to regulation 12 (assessment of conduct)

- 8. Regulation 12 is to be read as if—
 - (a) in paragraph (1), for the words from “misconduct” to the end there were substituted “gross misconduct.”;
 - (b) in paragraph (2), for the words from “amount” to the end there were substituted “not amount to gross misconduct, it must take no further action.”;
 - (c) paragraph (3) were omitted;
 - (d) in paragraph (4), after “misconduct,” there were inserted “subject to paragraph (5A),”;
 - (e) in paragraph (5), for “misconduct proceedings” there were substituted “a misconduct hearing”;
 - (f) after paragraph (5), there were inserted—
 - “(5A) The appropriate authority shall take no action or no further action under paragraph (1), (4) or (5) if—

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- (a) it is satisfied that the officer concerned is unfit for disciplinary proceedings to be brought against him by reason of disability or ill-health; or
- (b) the appropriate authority has made all reasonable efforts to establish his whereabouts but it has been unsuccessful.”;
- (g) for paragraph (6), there were substituted—
 - “(6) Where the appropriate authority is required by paragraph (2) to take no action or by paragraph (5A)(a) to take no action or no further action, it shall notify the officer concerned in writing as soon as practicable.”.

Modification to regulation 13 (appointment of investigator)

9. Regulation 13 is to be read as if—
- (a) in paragraph (3)—
 - (i) for “is” there were substituted “was”;
 - (ii) after “Metropolis”, in the second place that word appears, there were inserted “at the relevant time”;
 - (b) in paragraph (4)—
 - (i) for sub-paragraph (c), there were substituted—
 - “(c) if he worked, directly or indirectly, under the management of the officer concerned at the relevant time; or”;
 - (ii) in sub-paragraph (d)—
 - (aa) for “is a senior officer, if he is” there were substituted “was a senior officer at the relevant time, if he was at that time”;
 - (bb) for “is a member of the metropolitan police force” there were substituted “was a member of the metropolitan police force at the relevant time”.

Modification to regulation 14 (investigation)

10. Regulation 14 is to be read as if “misconduct or”, in both places where those words appear, were omitted.

Modification to regulation 15 (written notices)

11. Regulation 15 is to be read as if—
- (a) in paragraph (1)—
 - (i) in sub-paragraph (b), “misconduct or” were omitted;
 - (ii) for sub-paragraphs (d) to (ea), there were substituted—
 - “(d) that if the matter were to be referred to proceedings under Part 4—
 - (i) the form of those proceedings would be a misconduct hearing;
 - (ii) if the allegation of gross misconduct is proved, he may be subject to a finding that he would have been dismissed if he had not ceased to be a member of a police force or a special constable; and
 - (iii) if he is subject to such a finding, his full name and a description of the conduct which would have led to his dismissal will be added to the police barred list and may be subject to publication for a period of up to five years;”;

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- (iii) at the end of sub-paragraph (g), “and” were omitted;
 - (iv) after sub-paragraph (g), there were inserted—
 - “(ga) informing him that it may harm his case if he fails to attend an interview of which he has been given notice under regulation 17(5) (interviews during investigation); and”;
 - (v) in sub-paragraph (h), for the words from “regulations” to the end there were substituted “regulation 16(1), 17A(2) or 22(2) or (3) something which he later relies on in any misconduct hearing or special case hearing or at an appeal hearing.”;
- (b) in paragraph (2)—
- (i) “or its determination of the likely form of any misconduct proceedings to be taken” and, after “notice”, “of” were omitted;
 - (ii) in sub-paragraph (a)—
 - (aa) at the beginning, “of” were inserted;
 - (bb) “misconduct or” and “as the case may be” were omitted;
 - (iii) for sub-paragraph (b) there were substituted—
 - “(b) where the assessment is that the conduct, if proved, would not amount to gross misconduct, that if, notwithstanding that assessment, the matter were to be referred to proceedings under Part 4, the form of those proceedings would be a misconduct hearing;
 - (c) where the assessment is that the conduct, if proved, would amount to gross misconduct, that if the matter were to be referred to proceedings under Part 4, the form of those proceedings would be a misconduct hearing.”.

Modification to regulation 17 (interviews during investigations)

12. Regulation 17 is to be read as if—
- (a) in paragraph (1), after “practicable” there were inserted “and subject to regulation 17A”;
 - (b) in paragraph (4), for the words from “must” to the end there were substituted “must be reasonable.”.

Modification: insertion of regulation 17A

13. These Regulations are to be read as if after regulation 17 there were inserted—

“Notice of enquiry of police officer during investigation

17A.—(1) Where the investigator is satisfied that, having regard to the circumstances of the officer concerned, it would be unreasonable to require him to attend an interview, the investigator may cause the officer concerned to be given a written notice of enquiry.

(2) A notice of enquiry given under paragraph (1) shall—

- (a) state any question the investigator wishes to ask the officer concerned; and
- (b) request a response to any such question from the officer concerned within a specified period.

(3) The investigator shall make a record of any notice of enquiry and response received under this regulation.”.

Modification to regulation 18 (report of investigation)

14. Regulation 18 is to be read as if in paragraph (2)(c), for “whether there is a case” to the end there were substituted—

“whether—

- (i) other than in a case to which sub-paragraph (ii) applies—
 - (aa) there is a case to answer in respect of gross misconduct or there is no case to answer;
 - (bb) where the investigator’s opinion is that there is no such case to answer, there may nevertheless have been a breach of the Standards of Professional Behaviour;
- (ii) where the person to whose conduct the investigation related is a person in relation to whom regulation 5(2)(a) and (5)(a) and (b) is satisfied—
 - (aa) there may have been a breach of the Standards of Professional Behaviour;
 - (bb) where the investigator’s opinion is that there may have been such a breach, the breach is so serious that, if the person had not ceased to be a member of a police force or a special constable, it would have justified dismissal.”.

Modification to the heading of Part 4 (Misconduct Proceedings)

15. The heading of Part 4 is to be read as if for “Proceedings” there were substituted “Hearings”.

Modification to regulation 19 (referral of case to misconduct proceedings)

16. Regulation 19 is to be read as if—

- (a) in the heading, for “proceedings” there were substituted “hearing”;
- (b) in paragraphs (1) and (2), “misconduct or”, in each case in the first place where those words appear, were omitted;
- (c) in paragraph (3), for the words from “may” to the end there were substituted “must take no further disciplinary action against the officer concerned.”;
- (d) in paragraph (4), for “paragraph (2)” there were substituted “paragraphs (2) and (4A)”;
- (e) after paragraph (4), there were inserted—
 - “(4A) The appropriate authority shall not refer the case to a misconduct hearing if—
 - (a) it is satisfied that the officer concerned is unfit for disciplinary proceedings to be brought against him by reason of disability or ill-health; or
 - (b) the appropriate authority has made all reasonable efforts to establish his whereabouts but it has been unsuccessful.”;
- (f) paragraph (5) were omitted;
- (g) in paragraph (6)—
 - (i) in sub-paragraph (a), “misconduct meeting or a” were omitted;
 - (ii) for “9(3), refer the case to such a meeting or hearing” there were substituted “9(3) and paragraph (4A), refer the case to such a hearing”;
- (h) in paragraph (7), for the words from “fails to” to the end of sub-paragraph (b) there were substituted “fails to make the determination referred to in paragraph (1)”;
- (i) paragraphs (8) and (9) were omitted.

Modification to regulation 20 (withdrawal of case)

17. Regulation 20 is to be read as if—

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- (a) in paragraph (1), for “proceedings” there were substituted “hearing”;
- (b) in paragraph (2)—
 - (i) in sub-paragraph (a), for the words from “may” to the end there were substituted “must take no further action against the officer concerned; and”;
 - (ii) in sub-paragraph (b)(i), “ , indicating whether any action will be taken” were omitted.

Modification to regulation 21 (notice of referral to misconduct proceedings and panel membership)

18. Regulation 21 is to be read as if—

- (a) in the heading, for “proceedings” there were substituted “hearing”;
- (b) in paragraph (1)—
 - (i) for “misconduct proceedings”, where those words first appear, there were substituted “a misconduct hearing”;
 - (ii) in sub-paragraph (a)—
 - (aa) in paragraph (ii), “misconduct or” and “as the case may be” were omitted;
 - (bb) in paragraph (iii), the words from “(in the” to “other case)” and “and” at the end of that paragraph were omitted and for “proceedings” there were substituted “hearing”;
 - (cc) in paragraph (iv) for “form of misconduct proceedings” there were substituted “misconduct hearing”;
 - (dd) after paragraph (iv), there were inserted—
 - “and
 - (v) the matters mentioned in paragraph (1A);”;
 - (iii) in sub-paragraph (c)—
 - (aa) at the end of paragraph (i), “and” were omitted;
 - (bb) after paragraph (i), there were inserted—
 - “(ia) in the case of a Condition C person, any written statement or document provided to the Commission under regulation 4B(3) and any consultation response provided under regulation 4B(4); and”;
 - (c) after paragraph (1) there were inserted—
 - “(1A) The matters referred to in paragraph (1)(a)(v) are the fact that the officer—
 - (a) will be subject to disciplinary proceedings under the Regulations; and
 - (b) if the allegation of gross misconduct is proved, may be subject to a finding that he would have been dismissed if he had not ceased to be a member of a police force or a special constable.”;
 - (d) in paragraph (2)—
 - (i) in sub-paragraph (a), “person or” were omitted and for “proceedings” there were substituted “hearing”;
 - (ii) for sub-paragraph (b) there were substituted—
 - “(b) the persons comprising the panel which is to conduct the misconduct hearing (other than the chair) have been determined.”;
 - (e) in paragraph (3)—
 - (i) in sub-paragraph (a), for “proceedings” there were substituted “hearing”;

- (ii) for sub-paragraph (b) there were substituted—
 - “(b) advise the persons conducting that hearing.”;
- (f) in paragraph (5), for the words from “person or” to the end there were substituted “persons conducting the misconduct hearing.”;
- (g) in paragraph (6) “and (6)” were omitted;
- (h) in paragraph (7), for the words from “person” to “proceedings” there were substituted “persons conducting the misconduct hearing”.

Modification to regulation 22 (procedure on receipt of notice)

19. Regulation 22 is to be read as if—

- (a) in paragraph (1)(b), for the words from “conducting” to “proceedings” there were substituted “chairing the misconduct hearing”;
- (b) in paragraph (2)—
 - (i) in sub-paragraphs (a), (b) and (c) for “misconduct or gross misconduct as the case may be” there were substituted “gross misconduct”;
 - (ii) in sub-paragraph (c)(ii), for the words from “the person” to the end there were substituted “the persons conducting the misconduct hearing.”;
- (c) in paragraph (3), for “proceedings” there were substituted “hearing”.

Modification to regulation 23 (witnesses)

20. Regulation 23 is to be read as if—

- (a) in paragraph (1), for the words from “conducting” to the end there were substituted “chairing the misconduct hearing.”;
- (b) in paragraph (2), “conducting or” were omitted and for “proceedings”, in both places where it appears, there were substituted “hearing”;
- (c) in paragraph (3)—
 - (i) for the words from “misconduct proceedings”, in the first place where they appear, to “those proceedings” there were substituted “a misconduct hearing unless the person chairing that hearing”;
 - (ii) in sub-paragraphs (a) and (b), for “proceedings” there were substituted “hearing”.

Modification to regulation 24 (timing and notice of misconduct proceedings)

21. Regulation 24 is to be read as if—

- (a) in the heading, for “proceedings” there were substituted “hearing”;
- (b) in paragraph (1), for the words from “proceedings” to the end of sub-paragraph (b) there were substituted “hearing shall take place before the end of 30 working days”;
- (c) in paragraphs (2), (3), (4), (5) and (7)(b) for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing”;
- (d) in paragraphs (4), in the second place where it appears, (6), (8) and (9), in all three places where it appears, for “proceedings” there were substituted “hearing”;
- (e) in paragraph (5), for “those proceedings” there were substituted “that hearing”.

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Modification to regulation 25 (persons conducting misconduct proceedings: officers other than senior officers)

22. Regulation 25 is to be read as if—
- (a) in the heading, for “proceedings” there were substituted “hearing”;
 - (b) paragraphs (2) and (3) were omitted;
 - (c) in paragraph (4)(b), after “officer concerned” there were inserted “held at the relevant time”.

Modification to regulation 26 (persons conducting misconduct proceedings: senior officers)

23. Regulation 26 is to be read as if in the heading and in paragraph (1) for “proceedings” there were substituted “hearing”.

Modification to regulation 27 (documents to be supplied)

24. Regulation 27 is to be read as if—
- (a) in paragraph (1)—
 - (i) for “proceedings”, in all three places where it appears, there were substituted “hearing”;
 - (ii) “person or” were omitted;
 - (iii) in sub-paragraph (c), for “misconduct or gross misconduct as the case may be” there were substituted “gross misconduct”;
 - (b) in paragraph (3), for “proceedings” there were substituted “hearing”.

Modification to regulation 27A (notification of misconduct hearings)

25. Regulation 27A is to be read as if—
- (a) in paragraph (1)—
 - (i) at the end of sub-paragraph (d), “and” were omitted;
 - (ii) in sub-paragraph (e), for “misconduct or gross misconduct as the case may be” there were substituted “gross misconduct”;
 - (iii) at the end of sub-paragraph (e), there were inserted—
 - “; and
 - (f) where the officer concerned is a Condition C person, the Condition C special determination.”;
 - (b) in paragraph (3)(c)(ii), for “(e)” there were substituted “(f)”.

Modification to regulation 28 (attendance of officer concerned at misconduct proceedings)

26. Regulation 28 is to be read as if—
- (a) in the heading and paragraph (1), for “proceedings” there were substituted “hearing”;
 - (b) for paragraph (2) there were substituted—
 - “(2) Where the officer concerned informs the person chairing the misconduct hearing in advance that he is unable to attend on grounds which the person chairing that hearing

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considers reasonable, that person may allow the officer concerned to participate in the hearing by video link or other means.”;

- (c) in paragraph (3)—
 - (i) for “proceedings”, in all four places where it appears, there were substituted “hearing”;
 - (ii) in sub-paragraph (a), for “those” there were substituted “that” and, in paragraph (ii), “in the case of a misconduct hearing, his” were omitted.

Modification to regulation 29 (participation of Commission and investigator at misconduct proceedings)

27. Regulation 29 is to be read as if—
- (a) in the heading and in the last place where it appears in paragraph (1), for “proceedings” there were substituted “hearing”;
 - (b) for paragraph (2) there were substituted—
 - “(2) Where the Commission so attends the misconduct hearing—
 - (a) it may instruct a relevant lawyer to represent it;
 - (b) it shall notify the complainant or any interested person prior to that hearing; and
 - (c) the person chairing the misconduct hearing shall notify the officer concerned prior to that hearing.”;
 - (c) in paragraph (3), for the words from “proceedings on” to the end there were substituted “hearing on the request of the person chairing that hearing to answer questions.”;
 - (d) in paragraph (4), for the words from “person or” to the end there were substituted “persons conducting the misconduct hearing.”;
 - (e) in paragraph (5), for “proceedings”, in both places where it appears, there were substituted “hearing”.

Modification to regulation 30 (attendance of complainant or interested person at misconduct proceedings)

28. Regulation 30 is to be read as if—
- (a) in the heading, for “proceedings” there were substituted “hearing”;
 - (b) in paragraph (1), for “misconduct proceedings” there were substituted “a misconduct hearing”;
 - (c) in paragraph (2), for “proceedings” there were substituted “hearing”;
 - (d) paragraphs (3) and (4) were omitted;
 - (e) in paragraphs (7) and (8) for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing” and in paragraph (8), for “proceedings”, in the last place where it appears, there were substituted “hearing”.

Modification to regulation 31 (attendance of others at misconduct proceedings)

29. Regulation 31 is to be read as if—
- (a) in the heading, for “proceedings” there were substituted “hearing”;
 - (a) paragraphs (2) to (5) were omitted;
 - (c) in paragraph (6)—

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- (i) for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing”;
- (ii) in sub-paragraphs (a) and (b), for “the proceedings” there were substituted “the hearing” and for “those proceedings” there were substituted “that hearing”;
- (d) in paragraph (7), for “proceedings”, in both places where it appears, there were substituted “hearing”.

Modification to regulation 32 (exclusion from misconduct proceedings)

30. Regulation 32 is to be read as if—

- (a) in the heading, for “proceedings” there were substituted “hearing”;
- (b) for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing” and for “the proceedings” there were substituted “the hearing”.

Modification to regulation 33 (procedure at misconduct proceedings)

31. Regulation 33 is to be read as if—

- (a) in the heading, for “proceedings” there were substituted “hearing”;
- (b) in paragraph (1), for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing” and for “those proceedings” there were substituted “that hearing”;
- (c) in paragraph (2), for “proceedings”, in the first place where it appears, and “form of misconduct proceedings taking place” there were substituted “hearing”;
- (d) in paragraph (3), for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing” and for “the proceedings” there were substituted “the hearing”;
- (e) in paragraphs (4) and (7), for “proceedings” there were substituted “hearing”;
- (f) in paragraph (5), for “proceedings”, in the first two places where it appears, there were substituted “hearing”;
- (g) in paragraph (6), “(at a misconduct hearing)” were omitted;
- (h) in paragraphs (8) and (9), for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing” and in paragraph (9) for “those proceedings” there were substituted “that hearing”;
- (i) in paragraph (10)—
 - (i) for “proceedings”, in both places where it appears, there were substituted “hearing”;
 - (ii) in sub-paragraph (b)—
 - (aa) after “Act” there were inserted “, regulation 19A(2) (notice of enquiry of person concerned during investigation) of the Police (Complaints and Misconduct) Regulations 2012 (as modified by regulation 27 of, and the Schedule to, those Regulations)”;
 - (bb) after “16(1)” there were inserted “, 17A(2)”;
- (j) after paragraph (10) there were inserted—

“(10A) Where evidence is given or considered at the misconduct hearing that the officer concerned was given written notice of an interview under regulation 17(5) (interviews during investigation) and failed to attend the interview, paragraph (12) applies.”;

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- (k) in paragraphs (12), (13) and (14), for “person or persons conducting the misconduct proceedings” there were substituted “persons conducting the misconduct hearing”;
- (l) in paragraph (13), for the words from “amounts” to the end there were substituted “amounts to misconduct, gross misconduct or neither.”;
- (m) in paragraph (15), for “misconduct proceedings conducted by a panel” there were substituted “a misconduct hearing”;
- (n) in paragraph (16)—
 - (i) for “proceedings”, in all three places where it appears, there were substituted “hearing”;
 - (ii) “meeting or” were omitted;
 - (iii) in sub-paragraph (c), for the words from “misconduct or” to the end there were substituted “gross misconduct, a recommendation as to whether disciplinary action should be imposed; and”;
- (o) in paragraph (17), for “proceedings” there were substituted “hearing”.

Modification to regulation 34 (senior officers: further meeting or hearing)

32. Regulation 34 is to be read as if—

- (a) in the heading, “meeting or” were omitted;
- (b) in paragraph (1), for the words from “shall” to the end there were substituted “shall hold a further hearing for the purpose of considering whether disciplinary action should be imposed.”;
- (c) in paragraph (2), for “to a meeting held under paragraph (1)(a) as if it was a misconduct meeting, and to a hearing under paragraph (1)(b)” there were substituted “to a hearing under paragraph (1)”;
- (d) in paragraph (4), for “conducting or chairing the misconduct proceedings” there were substituted “chairing the misconduct hearing”.

Modification: substitution of regulation 35 (outcome of misconduct proceedings)

33. These Regulations are to be read as if for regulation 35 there were substituted—

“Outcome of misconduct hearing

35.—(1) Subject to the provisions of this regulation, the persons conducting a misconduct hearing in the case of an officer other than a senior officer may—

- (a) where they find the conduct amounts to gross misconduct, impose disciplinary action; or
- (b) where they find the conduct amounts to misconduct but not gross misconduct, record a finding of misconduct but take no further action.

(2) Subject to the provisions of this regulation, at a hearing held under regulation 34 in the case of a senior officer, the appropriate authority may—

- (a) where the finding set out in the report is that the conduct amounted to gross misconduct, impose disciplinary action; or
- (b) where the finding set out in the report is that the conduct amounted to misconduct but not gross misconduct, record a finding of misconduct but take no further action.

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(3) Where the question of disciplinary action is being considered, the person or persons considering it—

- (a) shall have regard to the record of police service of the officer concerned as shown on his personal record;
- (b) may receive evidence from any witness whose evidence would, in his or their opinion, assist them in determining the question; and
- (c) shall give—
 - (i) the officer concerned, his police friend or his relevant lawyer; and
 - (ii) in the case of an officer other than a senior officer, the appropriate authority or person appointed to represent the appropriate authority in accordance with regulation 7(4),

an opportunity to make oral or written representations before any such question is determined.

(4) Paragraph (5) applies in the case of an officer in relation to whom disciplinary action is imposed at a misconduct hearing.

(5) The chair of the panel which conducted the misconduct hearing may provide any information to the appropriate authority that the chair considers ought to be included by virtue of regulation 3(2)(1) of the Police Barred List and Advisory List Regulations 2017(2) in the barred list report relating to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).”.

Modification to regulation 36 (notification of outcome)

34. Regulation 36 is to be read as if—

- (a) in paragraph (1)—
 - (i) in sub-paragraph (a), for “person or persons conducting the misconduct proceedings” there were substituted “persons conducting the misconduct hearing”;
 - (ii) in sub-paragraph (b), “meeting or” were omitted;
 - (iii) for “proceedings”, in the last place where it appears, there were substituted “hearing”;
- (b) in paragraph (2), “meeting or” were omitted;
- (c) in paragraph (3), for the words from “include” to the end there were substituted “include notice of the right of the officer concerned to appeal to a police appeals tribunal.”;
- (d) in paragraph (4), “In all cases referred to in paragraph (3)” were omitted;
- (e) in paragraph (12), for the words from “In any case” to “without notice)” there were substituted “Where disciplinary action is imposed”.

Modification to regulation 37 (record of misconduct proceedings)

35. Regulation 37 is to be read as if—

- (a) in the heading, for “proceedings” there were substituted “hearing”;
- (b) for paragraph (1) there were substituted—
 - “(1) A verbatim record of the misconduct hearing shall be taken.”;
- (c) in paragraph (2), for “proceedings”, in the second place where it appears, there were substituted “hearing”.

(2) [S.I. 2017/1135](#).

Modifications: omission of regulations 38 (appeal from misconduct meeting: officers other than senior officers), 39 (appeal meeting) and 40 (procedure and finding of the appeal)

36. These Regulations are to be read as if regulations 38 to 40 were omitted.

Modification to regulation 43 (notice of referral to special case hearing)

37. Regulation 43(1)(c) is to be read as if—

(a) at the end of paragraph (i), “and” were omitted;

(b) after paragraph (i), there were inserted—

“(ia) in the case of a Condition C person, any written statement or document provided to the Commission under regulation 4B(3) and any consultation response provided under regulation 4B(4); and”.

Modification to regulation 53 (procedure at special case hearing)

38. Regulation 53 is to be read as if—

(a) in paragraph (10)(b)—

(i) after “Act” there were inserted “, regulation 19A(2) (notice of enquiry of person concerned during investigation) of the Police (Complaints and Misconduct) Regulations 2012 (as modified by regulation 27 of, and the Schedule to, those Regulations)”;

(ii) after “16(1)” there were inserted “, 17A(2)”;

(b) after paragraph (10) insert—

“(10A) Where evidence is given or considered at the special case hearing that the officer concerned was given written notice of an interview under regulation 17(5) (interviews during investigation) and failed to attend the interview, paragraph (11) applies.”;

(c) in paragraph (16)(c), for “any disciplinary action which in their opinion” there were substituted “whether disciplinary action”.

Modification to regulation 54 (senior officers: further hearing)

39. Regulation 54(1) is to be read as if for “what disciplinary action (if any)” there were substituted “whether disciplinary action”.

Modification: substitution of regulation 55 (outcome of special case hearing)

40. These Regulations are to be read as if for regulation 55 there were substituted—

“Outcome of special case hearing

55.—(1) Subject to the provisions of this regulation, the person or persons conducting the special case hearing in the case of an officer other than a senior officer may—

(a) where he or they find the conduct amounts to gross misconduct, impose disciplinary action; or

(b) where he or they find the conduct amounts to misconduct but not gross misconduct, record a finding of misconduct but take no further action.

(2) Subject to the provisions of this regulation, at a hearing held under regulation 54 the appropriate authority may—

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- (a) where the finding set out in the report under regulation 53(16) is that the conduct amounted to gross misconduct, impose disciplinary action; or
 - (b) where the finding set out in the report is that the conduct amounted to misconduct but not gross misconduct, record a finding of misconduct but take no further action.
- (3) Where the question of disciplinary action is being considered, the person or persons considering it—
- (a) shall have regard to the record of police service of the officer concerned as shown on his personal record;
 - (b) may consider such documentary evidence as would, in his or their opinion, assist him or them in determining the question; and
 - (c) shall give—
 - (i) the officer concerned; and
 - (ii) his police friend or his relevant lawyer,an opportunity to make oral or written representations.
- (4) Paragraph (5) applies in the case of an officer other than a senior officer in relation to whom disciplinary action is imposed at a special case hearing.
- (5) The person who conducted or chaired the special case hearing may provide any information to the appropriate authority that the person considers ought to be included by virtue of regulation 3(2)(l) of the Police Barred List and Advisory List Regulations 2017 in the barred list report relating to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).”.

Modification to regulation 56 (notification of outcome)

41. Regulation 56 is to be read as if—

- (a) in paragraph (1)(b), “or any action taken under regulation 55(6) as the case may be” were omitted;
- (b) in paragraph (2), “or any action taken under regulation 55(7), as the case may be,” were omitted;
- (c) in paragraph (11), for the words from “In any case” to “dismissal” there were substituted “Where disciplinary action is imposed”.