

SCHEDULE 1

Regulation 3(1)

The Conduct Regulations

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Changes to legislation: The Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020, SCHEDULE 1 is up to date with all changes known to be in force on or before 26 May 2024.

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PART 1

Preliminary matters

Regulation

1. Any reference in this Schedule—
 - (a) to a numbered regulation is, unless otherwise stated, to the regulation set out in the paragraph so numbered in this Schedule;
 - (b) to “these Regulations” is to the Regulations set out in this Schedule.

Commencement Information

- II** Sch. 1 para. 1 in force at 2.11.2020, see [reg. 1](#)

Interpretation and delegation

- 2.—(1) In these Regulations—
 - “accelerated misconduct hearing” means a hearing to which the officer concerned is referred under regulation 49 after the case has been certified as one where the special conditions are satisfied;
 - “allegation” means an allegation relating to a complaint, conduct matter or practice requiring improvement;
 - “appeal meeting” means a meeting held in accordance with regulation 45;
 - “chief constable” means the chief constable of the MDP;
 - “conduct” includes acts, omissions, statements and decisions (whether actual, alleged or inferred);
 - “Convention rights” has the meaning given to it in section 1 of the Human Rights Act 1998(1);
 - “criminal proceedings” means—
 - (a) any prospective criminal proceedings, or
 - (b) all criminal proceedings brought which have not been brought to a conclusion (apart from the bringing and determination of any appeal other than an appeal against conviction);
 - “disciplinary action” means, in order of seriousness starting with the least serious action—
 - (a) a written warning,
 - (b) a final written warning,
 - (c) reduction in rank, or
 - (d) dismissal without notice;

(1) 1998 c. 42.

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“disciplinary proceedings” means—

- (a) misconduct proceedings under Part 4 of these Regulations,
- (b) an accelerated misconduct hearing under Part 5 of these Regulations, or
- (c) an appeal from a misconduct hearing or from an accelerated misconduct hearing under the Appeals Tribunals Regulations;

“extended special unpaid leave” means unpaid leave for a period of more than three months which the Secretary of State has agreed may be taken by the officer concerned;

“gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;

“harm test” has the meaning given to it in regulation 5;

“informant” means a person who provides information to an investigation on the basis that the person’s identity is not disclosed during the course of the disciplinary proceedings;

“the Inspector of Constabulary” means—

- (a) in relation to England and Wales and Northern Ireland, Her Majesty’s Chief Inspector of Constabulary appointed under section 54(1) of the Police Act 1996⁽²⁾ or an inspector of constabulary nominated by the Chief Inspector of Constabulary, and
- (b) in relation to Scotland, one of Her Majesty’s Inspectors of Constabulary appointed under section 71 of the Police and Fire Reform (Scotland) Act 2012⁽³⁾;

“interested party” means a person whose appointment could reasonably give rise to a concern as to whether the person could act impartially under these Regulations;

“investigator” means a person—

- (a) appointed under regulation 14, or
- (b) appointed or, as the case may be, designated as an investigator under external procedures established for England and Wales or Northern Ireland;

“misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify disciplinary action;

“misconduct hearing” means a hearing to which the officer concerned has been referred under regulation 23 to determine whether the conduct of the officer amounts to misconduct or gross misconduct or neither and whether disciplinary action should be imposed;

“misconduct meeting” means a meeting to which the officer concerned has been referred under regulation 23 to determine whether the conduct of the officer amounts to misconduct or not and whether disciplinary action should be imposed;

“misconduct proceedings” means a misconduct meeting or misconduct hearing;

“officer concerned” means the MDP officer, or former MDP officer, in relation to whose conduct as an MDP officer there has been an allegation;

“police friend” means a person chosen by the officer concerned in accordance with regulation 6;

“practice requiring improvement” means underperformance or conduct not amounting to misconduct or gross misconduct, which falls short of the expectations of the public and the police service as set out in the “Code of Ethics” issued by the College of Policing under section 39A of the Police Act 1996 (codes of practice for chief officers)⁽⁴⁾;

(2) 1996 (c. 16); to which there are amendments not relevant to these Regulations.

(3) 2012 (asp. 8).

(4) The Code of Ethics (A Code of Practice or the Principles and Standards of Professional Behaviour for the Policing Profession of England and Wales), July 2014. This publication is available for download at: <http://www.college.police.uk/en/20989.htm>. A copy of this publication can be obtained from the College of Policing. Section 39A was inserted by section 2 of the Police

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“proposed witness” means a witness whose attendance at the misconduct proceedings the officer concerned or the relevant authority, as the case may be, wishes to request of the person conducting or chairing those proceedings;

“reflective practice review process” means the process set out in Part 6;

“relevant authority” has the meaning given in section 4(4) of the 1987 Act⁽⁵⁾;

“severity assessment” has the meaning given to it in regulation 13;

“special conditions” has the meaning given to it in regulation 49;

“staff association” means—

(a) in relation to an MDP officer other than a senior officer, the Defence Police Federation, and

(b) in relation to a senior officer, the Chief Police Officers’ staff association;

“Standards of Professional Behaviour” has the meaning given in regulation 4 and references in these Regulations to the Standards of Professional Behaviour are to be construed accordingly.

(2) In these Regulations—

(a) references to external procedures are to external procedures established for England and Wales or Northern Ireland unless otherwise stated,

(b) references to paragraphs of Schedule 3 to the 2002 Act are to those paragraphs as applied under an agreement under section 26(1) of that Act, and

(c) references to sections of the 1998 Act are to those sections as applied under an agreement under section 60(1) of that Act.

(3) Where the relevant authority is the chief constable, the chief constable may, subject to paragraph (4), delegate any functions under these Regulations to a member of the MDP of at least the rank of inspector.

(4) Where the chief constable delegates their functions under regulation 10 (suspension of officer) or 49 (referral to accelerated misconduct hearing), the following decisions must be authorised by a senior officer—

(a) a decision under regulation 10 to suspend an officer or to continue or end such a suspension,

(b) a decision under regulation 49 as to whether to certify a case as one where the special conditions are satisfied.

(5) For the purposes of these Regulations, the making of a protected disclosure by an MDP officer is not a breach of the Standards of Professional Behaviour.

(6) In paragraph (5), “protected disclosure” has the meaning given by section 43A of the Employment Rights Act 1996 (meaning of protected disclosure)⁽⁶⁾, or, in Northern Ireland, in Article 76B of the Employment Rights (Northern Ireland) Order 1996⁽⁷⁾.

Commencement Information

12 Sch. 1 para. 2 in force at 2.11.2020, see [reg. 1](#)

Reform Act 2002 (c. 30) and was amended by paragraph 30 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and section 124 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).

(5) The definition of “relevant authority” was amended by paragraph 3 of Schedule 7 to the Policing and Crime Act 2017.

(6) 1996 c. 18. Section 43A was inserted by section 1 of the Public Interest Disclosure Act 1998 (c. 23).

(7) 1996 N.I. 16. Article 76B was inserted by the Public Interest Disclosure (Northern Ireland) Order 1998 (N.I. 17), Article 3.

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Application

3.—(1) Subject to paragraph (6), these Regulations apply where an allegation comes to the attention of a relevant authority which indicates that the conduct of an MDP officer may amount to misconduct, gross misconduct or practice requiring improvement.

(2) Subject to paragraph (6), and except as set out in paragraph (8), these Regulations also apply⁽⁸⁾, with the modifications set out in Schedule 2, where—

- (a) an allegation comes to the attention of a relevant body which indicates that the conduct of a person who at the time of the alleged conduct was an MDP officer (“P”) may amount to gross misconduct, and
- (b) condition A, B or C is satisfied.

(3) Condition A is that P ceased to be an MDP officer after the allegation first came to the attention of a relevant body.

(4) Condition B is that—

- (a) P ceased to be an MDP officer before the allegation first came to the attention of a relevant body, and
- (b) the period between the date P ceased to be an MDP officer and the date the allegation first came to the attention of the relevant body does not exceed 12 months.

(5) Condition C is that—

- (a) P ceased to be an MDP officer before the allegation first came to the attention of a relevant body,
- (b) the period between the date P ceased be an MDP officer and the date the allegation first came to the attention of the relevant body exceeded 12 months, and
- (c) the case to which the allegation relates has been investigated under external procedures established for England and Wales, Northern Ireland or Scotland.

(6) Subject to paragraph (7), these Regulations do not apply in relation to—

- (a) a pre-commencement allegation, or
- (b) an allegation against an MDP officer which comes to the attention of a relevant body on or after the date on which these Regulations come into force and which relates to a matter in respect of which a pre-commencement allegation against that person was made, if at the time the allegation is made the pre-commencement allegation is being handled in accordance with—
 - (i) the provisions referred to in regulation 6(2) of the Ministry of Defence (Conduct, Performance and Appeals) Regulations 2020;
 - (ii) external procedures established for England and Wales, Northern Ireland or Scotland.

(7) Where the Director General—

- (a) determines, under external procedures established for England and Wales, that a complaint or matter is to be re-investigated, or
- (b) has directed, in relation to conduct which took place, or circumstances which occurred, before 1 April 2004, that external procedures established for England and Wales apply,

⁽⁸⁾ Section 3A(1B)-(1H) of the 1987 Act which were inserted by section 29(8) of, and Schedule 7, paragraphs 1, 2(1) and (2) to the Policing and Crime Act 2017, provides that regulations made under section 3A may, in respect of former MDP officers, only be applied to such persons where there is an indication that the person’s conduct at the time they were an MDP officer amounts to gross misconduct, and had the person still been employed as an MDP Officer, they would have been at risk of dismissal.

these Regulations apply regardless of when the complaint or matter came to the attention of the relevant authority.

(8) Paragraph (2) does not apply if the disciplinary proceedings would not be the first disciplinary proceedings to be taken against P in respect of the alleged gross misconduct unless they result from a re-investigation of the allegation, whether carried out under these Regulations or under external procedures that begins not later than 12 months after the date on which P ceased to be an MDP officer.

(9) Where a relevant authority is considering more than one allegation in relation to the same MDP officer, or a person in relation to whom these Regulations apply by virtue of paragraph (2), the allegations may be taken together and treated as a single allegation for the purposes of any provision of these Regulations which requires a person to make an assessment, finding, determination or decision in connection with conduct which is the subject matter of an allegation.

(10) In this regulation, “relevant body” means—

- (a) a relevant authority;
- (b) the Director General;
- (c) the Ombudsman;
- (d) the Commissioner.

Commencement Information

I3 Sch. 1 para. 3 in force at 2.11.2020, see [reg. 1](#)

Standards of Professional Behaviour

4. The Standards of Professional Behaviour established are the standards of professional behaviour described in Schedule 3.

Commencement Information

I4 Sch. 1 para. 4 in force at 2.11.2020, see [reg. 1](#)

The harm test

5. Information in documents which are stated to be subject to the harm test under these Regulations must not be supplied to the officer concerned in so far as the relevant authority considers that preventing disclosure to the officer is—

- (a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings,
- (b) necessary in the interests of national security,
- (c) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders,
- (d) necessary for the purpose of the prevention or detection of misconduct by—
 - (i) other MDP officers;
 - (ii) persons under the direction and control of a chief officer of a relevant force; or their apprehension for such matters,
- (e) justified on the grounds that providing the information would involve disproportionate effort in comparison to the seriousness of the allegations against the officer,

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- (f) necessary and proportionate for the protection of the welfare and safety of any informant or witness, or
- (g) otherwise in the public interest.

Commencement Information

I5 Sch. 1 para. 5 in force at 2.11.2020, see [reg. 1](#)

PART 2

General

Police friend

6.—(1) The officer concerned may choose any of the following persons, provided the person is not otherwise involved in the matter, to act as a police friend—

- (a) an MDP officer,
- (b) an officer from a relevant force,
- (c) a staff member, or
- (d) a person nominated by a staff association.

(2) Subject to regulation [66\(1\)](#), the police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations,
- (b) represent the officer at the misconduct proceedings or accelerated misconduct hearing or appeal meeting, unless the officer has the right to be legally represented and chooses to be so represented,
- (c) make representations to the relevant authority concerning any aspect of the proceedings under these Regulations, and
- (d) accompany the officer to any interview, meeting or hearing which forms part of any proceedings under these Regulations.

(3) Where the police friend is an MDP officer, the chief constable must permit the police friend to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

(4) Where the police friend is a staff member, the Secretary of State for Defence must permit that person to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

Commencement Information

I6 Sch. 1 para. 6 in force at 2.11.2020, see [reg. 1](#)

Legal and other representation

7.—(1) Subject to paragraph (2), the officer concerned has the right to be legally represented, by a relevant lawyer of the officer's choice (the "preferred lawyer"), at a misconduct hearing or an accelerated misconduct hearing.

(2) The unavailability of one or more preferred lawyers is not a valid ground for delaying a misconduct hearing or an accelerated misconduct hearing where an alternative relevant lawyer can be found.

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(3) If the officer concerned chooses not to be legally represented at a misconduct hearing or an accelerated misconduct hearing the officer may be dismissed or receive any other outcome under regulation 41 or 62 without being so represented.

(4) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, the officer may only be represented at misconduct proceedings, an accelerated misconduct hearing or an appeal meeting by a police friend.

(5) The relevant authority may be represented at misconduct proceedings or an accelerated misconduct hearing or an appeal meeting by—

- (a) an MDP officer or a staff member, or
- (b) at a misconduct hearing or an accelerated misconduct hearing only, a relevant lawyer (whether or not the officer concerned chooses to be legally represented).

(6) Subject to paragraph (7), the relevant authority may appoint a person to advise the person conducting or chairing the misconduct proceedings or accelerated misconduct hearing or appeal meeting.

(7) At a misconduct meeting or an appeal meeting, the person appointed under paragraph (6) must not be a relevant lawyer.

(8) The circumstances in which the Independent Office for Police Conduct or the Ombudsman, as the case may be, is a relevant authority for the purpose of section 4(5) of the 1987 Act (representation etc. at disciplinary proceedings)(9) are prescribed as being where—

- (a) the Director General has made a decision under regulation 24(1) to present the case, and
- (b) the Ombudsman is required to present the case under regulation 24(6).

(9) Where the circumstances prescribed in paragraph (8) apply, the Director General or the Ombudsman, as the case may be, may be represented by a relevant lawyer.

Commencement Information

17 Sch. 1 para. 7 in force at 2.11.2020, see [reg. 1](#)

Provision of notices or documents

8.—(1) Where any written notice or document is to be given or supplied to the officer concerned under these Regulations, it must be—

- (a) given to the officer in person,
- (b) left with a person at, or sent by recorded delivery to, the officer's last known address,
- (c) given to the officer in person by the officer's police friend where the police friend has agreed with the relevant authority to deliver the notice or document, or
- (d) given to the officer in any other manner agreed between the person who is required to give the notice or document and the officer.

(2) Where any written notice or document is given or supplied under paragraph (1), delivery is effective on the date on which—

- (a) it is given to the officer under paragraph (1)(a), (c) or (d);
- (b) it is left with any person at the officer's last known address, under paragraph (1)(b);

(9) Section 4 was substituted by paragraph 15 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4), and amended by paragraph 63 of Schedule 9 to the Policing and Crime Act 2017 (c. 3).

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- (c) receipt was recorded, if sent by recorded delivery to the officer's last known address under paragraph (1)(b).

Commencement Information

18 Sch. 1 para. 8 in force at 2.11.2020, see [reg. 1](#)

Outstanding or possible criminal proceedings

9.—(1) Subject to the provisions of this regulation, proceedings under these Regulations must proceed without delay.

(2) Before referring a case to misconduct proceedings or an accelerated misconduct hearing, the relevant authority must decide whether misconduct proceedings or an accelerated misconduct hearing would prejudice any criminal proceedings.

(3) For any period during which the relevant authority considers any misconduct proceedings or accelerated misconduct hearing would prejudice any criminal proceedings—

- (a) no such misconduct proceedings or accelerated misconduct hearing may take place, and
- (b) the relevant authority must preserve any relevant evidence in its possession.

(4) Where a witness who is or may be a witness in any criminal proceedings is to be or may be asked to attend misconduct proceedings, the relevant authority must consult the relevant prosecutor (and when doing so must inform the prosecutor of the names and addresses of all such witnesses) before making its decision under paragraph (2).

(5) For the purposes of this regulation “relevant prosecutor” means—

- (a) in relation to England and Wales, the Director of Public Prosecutions or any other person who has or is likely to have responsibility for the criminal proceedings,
- (b) in relation to Scotland, the Lord Advocate or any other person who has or is likely to have responsibility for the criminal proceedings, or
- (c) in relation to Northern Ireland, the Director of Public Prosecutions for Northern Ireland or any other person who has or is likely to have responsibility for the criminal proceedings.

Commencement Information

19 Sch. 1 para. 9 in force at 2.11.2020, see [reg. 1](#)

Suspension

10.—(1) The relevant authority may, subject to the provisions of this regulation, suspend the officer concerned from membership of the MDP.

(2) An officer who is suspended under this regulation remains an MDP officer for the purposes of these Regulations.

(3) The relevant authority may not suspend an MDP officer under this regulation unless the following conditions (“the suspension conditions”) are satisfied—

- (a) having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension, the relevant authority has determined that such redeployment is not appropriate in all the circumstances of the case, and
- (b) it appears to the relevant authority that either—

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- (i) the effective investigation of the case may be prejudiced unless the officer concerned is so suspended, or
 - (ii) having regard to the nature of the allegation and any other relevant considerations, the public interest requires that the officer should be so suspended.
- (4) The relevant authority may exercise the power to suspend the officer concerned under this regulation at any time beginning with the day on which these Regulations first apply in respect of the officer in accordance with regulation 3 and ending with the date on which—
 - (a) it is decided that the conduct of the officer should not be referred to misconduct proceedings or an accelerated misconduct hearing, or
 - (b) such proceedings have concluded.
- (5) The relevant authority may suspend the officer concerned with effect from the date and time of notification which must be given either—
 - (a) in writing with a summary of the reasons, or
 - (b) orally, in which case the relevant authority must confirm the suspension in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.
- (6) The officer concerned (or the officer's police friend) may make representations against suspension to the relevant authority—
 - (a) before the end of 7 working days beginning with the first working day after being suspended;
 - (b) at any time during the suspension if the officer reasonably believes that circumstances relevant to the suspension conditions have changed.
- (7) The relevant authority must review the suspension conditions—
 - (a) on receipt of any representations under paragraph (6);
 - (b) if there has been no previous review, before the end of 4 weeks beginning with the first working day after the suspension;
 - (c) in any other case—
 - (i) when it becomes aware that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (6)(b) or otherwise), or
 - (ii) before the end of 4 weeks beginning with the first working day after the previous review.
- (8) Where, following a review under paragraph (7), the suspension conditions remain satisfied and the relevant authority decides the suspension should continue, it must, before the end of 3 working days beginning with the day after the review, so notify the officer concerned in writing with a summary of the reasons.
- (9) Where the officer concerned is suspended under this regulation, the officer must remain so suspended until whichever of the following occurs first—
 - (a) the relevant authority decides, following a review, that the suspension conditions are no longer satisfied, or
 - (b) either of the events mentioned in paragraph (4)(a) and (b).

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(10) In a case investigated under paragraph 18 or 19 of Schedule 3 to the 2002 Act⁽¹⁰⁾ or section 54(2), (3)(a) or section 55(3), (5) or (6) of the 1998 Act⁽¹¹⁾, the relevant authority must consult with the Director General or, as the case may be, the Ombudsman—

- (a) in deciding whether or not to suspend the officer concerned under this regulation, and
- (b) in deciding, following a review, whether or not to end a suspension under this regulation.

Commencement Information

I10 Sch. 1 para. 10 in force at 2.11.2020, see [reg. 1](#)

Record of disciplinary proceedings

11. The relevant authority must cause a record to be kept of disciplinary proceedings brought against every officer concerned, together with the finding and decision on disciplinary action and the decision in any appeal by the officer.

Commencement Information

I11 Sch. 1 para. 11 in force at 2.11.2020, see [reg. 1](#)

PART 3

Investigations

Application of this Part

12. This Part does not apply to a case which is being or has been investigated under external procedures.

Commencement Information

I12 Sch. 1 para. 12 in force at 2.11.2020, see [reg. 1](#)

Severity assessment

13.—(1) The relevant authority must assess whether the conduct which is the subject matter of the allegation, if proved, would amount to misconduct or gross misconduct or neither (“the severity assessment”).

(2) Where the relevant authority assesses that the conduct, if proved, would amount to neither misconduct nor gross misconduct, it must assess whether—

- (a) the conduct, if proved, would amount to practice requiring improvement,
- (b) the matter should be referred to be dealt with under the Performance Regulations, or
- (c) it should take no further action.

⁽¹⁰⁾ Paragraphs 18 of the 2002 Act was amended by paragraph 18, 19, 56 of Schedule 5 to the Policing and Crime Act 2017 (c. 3). Paragraph 19 of that Act was also amended by paragraph 56 of Schedule 5 to that Act. There are other amendments to those provisions which are not relevant to these Regulations.

⁽¹¹⁾ Section 55 of the 1998 Act was amended by paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000 (c. 32), s. 34(4) of the Justice (Northern Ireland) Act 2002 (c. 46), s. 6(3) of the Justice (Northern Ireland) Act 2004 and S.I. 2010/976.

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(3) The relevant authority must consult the line manager of the officer concerned before making an assessment in terms of paragraph (2)(a) or (b).

(4) Where the relevant authority assesses that the conduct, if proved, would amount to practice requiring improvement, it must refer the matter to be dealt with under the reflective practice review process set out in Part 6.

(5) Where the relevant authority assesses that the conduct, if proved, would amount to misconduct or gross misconduct—

- (a) the matter must be investigated, and
- (b) the relevant authority must assess whether, if the matter were to be referred to misconduct proceedings under regulation 23, those would be likely to be a misconduct meeting or a misconduct hearing.

(6) At any time before the start of misconduct proceedings, the relevant authority may revise its severity assessment under this regulation if it considers it appropriate to do so.

(7) Where the relevant authority decides under this regulation to take no further action or to refer the matter to be dealt with under the reflective practice review process or the Performance Regulations, it must so notify the officer concerned in writing as soon as practicable.

Commencement Information

I13 Sch. 1 para. 13 in force at 2.11.2020, see [reg. 1](#)

Appointment of investigator

14.—(1) This regulation applies where the matter is to be investigated in accordance with regulation 13.

(2) Subject to paragraph (3), the relevant authority must appoint an appropriate person to investigate the matter.

(3) No person may be appointed to investigate a matter under this regulation—

- (a) if they are an interested party,
- (b) if they work, directly or indirectly, under the management of the officer concerned, or
- (c) in a case where the officer concerned is a senior officer, if they are the chief constable, or another MDP officer.

(4) In paragraph (2), “appropriate person” means a person who has an appropriate level of knowledge, skills and experience to plan and manage the investigation.

Commencement Information

I14 Sch. 1 para. 14 in force at 2.11.2020, see [reg. 1](#)

Investigation

15.—(1) The purpose of the investigation is to—

- (a) gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct, and
- (b) assist the relevant authority to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

Changes to legislation: The Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020, SCHEDULE 1 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) The investigator must as soon as practicable after being appointed draw up the terms of reference of the investigation.

Commencement Information

I15 Sch. 1 para. 15 in force at 2.11.2020, see [reg. 1](#)

Written notices

16.—(1) Subject to the harm test and except where paragraph (6) applies by virtue of sub-paragraph (a) of that paragraph, the investigator must, as soon as reasonably practicable after being appointed, give the officer concerned a written notice stating—

- (a) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour,
- (b) that there is to be an investigation into the matter and the identity of the investigator,
- (c) the result of the severity assessment conducted under regulation 13,
- (d) the result of any assessment under regulation 13(5)(b) as to whether any misconduct proceedings would likely be a misconduct meeting or a misconduct hearing,
- (e) that the officer has the right to seek advice from the officer's staff association or any other body and of the effect of regulation 6(1) and (2),
- (f) the effect of regulations 7(1) to (3) and 17,
- (g) that it may harm the officer's case if the officer fails to attend an interview of which the officer has been given notice under regulation 19(6) (interviews during investigation), and
- (h) that whilst the officer does not have to say anything it may harm the officer's case if the officer does not mention when interviewed or when providing any information under regulation 17(1) or 30(2) or (3) something later relied on in any disciplinary proceedings.

(2) Where a notice is given under paragraph (1), the investigator must—

- (a) subject to the harm test and except where paragraph (6) applies by virtue of sub-paragraph (b) of that paragraph, give the officer concerned the written terms of reference of the investigation, or
- (b) where written terms of reference are not provided under sub-paragraph (a), give the officer concerned written notice stating that the terms of reference are not being provided and explaining why.

(3) The investigator must give the officer concerned the written terms of reference, or, as the case may be, the written notice, under paragraph (2)—

- (a) where practicable, at the same time as notice is given under paragraph (1), or
- (b) otherwise, within a period of 5 working days, beginning with the first working day after the day on which such notice is given.

(4) Subject to the harm test and except where paragraph (6) applies by virtue of sub-paragraph (c) of that paragraph, where notice is given under paragraph (1) and the relevant authority revises its severity assessment in accordance with regulation 13(6), the relevant authority must as soon as practicable give the officer concerned a written notice of the result of the revised severity assessment.

(5) Subject to the harm test and except where paragraph (6) applies by virtue of sub-paragraph (d) of that paragraph, where the written terms of reference are given under paragraph (2) and those terms are revised by the investigator, the investigator must as soon as practicable give the officer concerned the revised terms of reference.

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(6) This paragraph applies for so long as the investigator considers that giving—

- (a) a written notice under paragraph (1),
- (b) terms of reference under paragraph (2),
- (c) a written notice under paragraph (4), or
- (d) revised terms of reference under paragraph (5),

might prejudice the investigation or any other investigation (including, in particular, a criminal investigation).

(7) Once a written notice has been given in accordance with paragraph (1), the investigator must notify the officer concerned of the progress of the investigation—

- (a) if there has been no previous notification following the supply of the written notice under paragraph (1), before the end of 4 weeks beginning with the first working day after that written notice was given, and
- (b) in any other case, before the end of 4 weeks beginning with the first working day after the previous notification.

Commencement Information

I16 Sch. 1 para. 16 in force at 2.11.2020, see [reg. 1](#)

Representations to the investigator

17.—(1) Before the end of 10 working days beginning with the first working day after the terms of reference, or, as the case may be, written notice stating terms are not being provided has been given under regulation 16(2)—

- (a) the officer concerned may provide a written or oral statement relating to any matter under investigation to the investigator, including any mitigating circumstances relevant to any such matter, and
- (b) the officer concerned or the officer’s police friend may provide any relevant documents to the investigator.

(2) The investigator must, as part of the investigation, consider any such statement or document and must make a record of having received it.

(3) The period of 10 working days referred to in paragraph (1) may be extended by the investigator.

(4) In this regulation “relevant document”—

- (a) means a document relating to any matter under investigation, and
- (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed.

Commencement Information

I17 Sch. 1 para. 17 in force at 2.11.2020, see [reg. 1](#)

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Timeliness of investigation

18.—(1) Where an investigation is not completed within a relevant period, the relevant authority must, subject to paragraph (3), provide as soon as practicable the following information in writing to the Secretary of State—

- (a) the date on which the allegation came to the attention of the relevant authority,
- (b) the date on which notice was given under regulation 16(1),
- (c) the progress of the investigation,
- (d) an estimate of when—
 - (i) the investigation will be concluded, and
 - (ii) a report will be submitted under regulation 20,
- (e) the reason for the length of time taken by the investigation, and
- (f) a summary of planned steps to progress the investigation and bring it to a conclusion.

(2) For the purposes of this regulation, each of the following is a “relevant period”—

- (a) the first relevant period is the period of 12 months beginning with the day on which the allegation first came to the attention of the relevant authority,
- (b) each subsequent relevant period is the period of 6 months beginning with the day after the end of the previous relevant period.

(3) The requirement to provide information under paragraph (1) does not apply in a case where it appears to the relevant authority that to do so might prejudice the investigation or any other investigation (including a criminal investigation).

(4) Subject to the harm test, a copy of the information provided under paragraph (1) must be sent to the officer concerned.

Commencement Information

118 Sch. 1 para. 18 in force at 2.11.2020, see [reg. 1](#)

Interviews during investigation

19.—(1) Where an investigator wishes to interview the officer concerned as part of the investigation, the investigator must, if reasonably practicable, agree a date and time for the interview with the officer.

(2) No interview may take place until the officer concerned has been provided with the terms of reference or, as the case may be, a written notice stating terms are not being provided under regulation 16(2).

(3) Where no date and time is agreed under paragraph (1), the investigator must specify a date and time for the interview.

(4) Where a date and time is specified under paragraph (3) and—

- (a) the officer concerned or the officer’s police friend will not be available, and
- (b) the officer proposes an alternative date or time which satisfies paragraph (5),

the interview must be postponed to the date or time proposed by the officer.

(5) An alternative time must—

- (a) be reasonable, and

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- (b) fall before the end of the period of 5 working days beginning with the first working day after the day specified by the investigator.
- (6) The investigator must give the officer concerned written notice of the date, time and place of the interview.
- (7) The investigator must, in advance of the interview, provide the officer concerned with such information as the investigator considers appropriate in the circumstances of the case to enable the officer to prepare for the interview.
- (8) The officer concerned must attend the interview.
- (9) A police friend must not answer any questions asked of the officer concerned during the interview.

Commencement Information

119 Sch. 1 para. 19 in force at 2.11.2020, see [reg. 1](#)

Report of investigation

- 20.**—(1) On completion of the investigation, the investigator must as soon as practicable submit a written report on the investigation to the relevant authority.
- (2) The written report must—
 - (a) provide an accurate summary of the evidence,
 - (b) attach or refer to any relevant documents,
 - (c) indicate the investigator’s opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer, and
 - (d) where the investigator’s opinion under sub-paragraph (c) is that there is no case to answer, indicate the investigator’s opinion as to whether the matter should be referred to be dealt with under the Performance Regulations or the reflective practice review process.
 - (3) If at any time during the investigation the investigator believes that the relevant authority would, on consideration of the matter, be likely to determine that the special conditions are satisfied, the investigator must, whether or not the investigation is complete, submit to the relevant authority—
 - (a) a statement of the investigator’s belief and the grounds for it, and
 - (b) a written report on the investigation to that point.
 - (4) If at any time during the investigation the investigator believes that, in light of evidence made available to the investigator that was not available to the relevant authority when it made its severity assessment or any revised severity assessment under regulation 13, the relevant authority would, on further consideration of the matter, be likely to determine that the conduct which is the subject matter of the allegation, if proved, would amount to neither misconduct nor gross misconduct, the investigator must, whether or not the investigation is complete, submit to the relevant authority—
 - (a) a statement of the investigator’s belief and the grounds for it,
 - (b) a written report on the investigation to that point, and
 - (c) a statement of the investigator’s opinion as to whether the matter should be referred to be dealt with under the Performance Regulations or the reflective practice review process.
 - (5) Where a report is submitted to the relevant authority under paragraph (4), the relevant authority must make a further severity assessment under regulation 13.

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(6) If the relevant authority assesses that the conduct if proved would amount to misconduct or gross misconduct, the investigator must continue to proceed with the investigation that has been commenced.

(7) If the relevant authority makes an assessment other than that the conduct if proved would amount to misconduct or gross misconduct—

- (a) the case must be dealt with in accordance with regulation 13,
- (b) the investigation must be promptly concluded, and
- (c) the relevant authority must as soon as practicable and in addition to any notice required under regulation 13(7), give the officer concerned notice in writing that—
 - (i) the notice given to the officer under regulation 16(1) has been withdrawn and no further action will be taken pursuant to that notice, and
 - (ii) the investigation has been concluded.

Commencement Information

I20 Sch. 1 para. 20 in force at 2.11.2020, see [reg. 1](#)

PART 4

Misconduct proceedings

General

21. Any period of time specified in this Part in relation to misconduct proceedings may be reduced by agreement between the relevant authority, the officer concerned, where the Director General or Ombudsman is presenting the case, the Director General or Ombudsman, as the case may be, and the person conducting or chairing the misconduct proceedings.

Commencement Information

I21 Sch. 1 para. 21 in force at 2.11.2020, see [reg. 1](#)

National security: power to give directions in relation to misconduct hearings

22.—(1) If the Secretary of State considers it expedient in the interests of national security, the Secretary of State may give a direction (“the direction”) in writing, in relation to a misconduct hearing, relating to one or more of the following matters—

- (a) that all or part of the misconduct hearing must be conducted in private;
- (b) that a specified person must be excluded from all or part of the misconduct hearing;
- (c) that steps must be taken to conceal the identity of a witness;
- (d) that specified information must be excluded from any notice published under regulation 35 (public notification of misconduct hearing) or report published in accordance with regulation 42(6) (report of outcome of misconduct hearing).

(2) The Secretary of State must provide the direction (or a copy of it) to the relevant authority as soon as possible.

(3) Following receipt of the direction, the relevant authority must supply a copy of it to the person conducting or chairing the misconduct hearing as soon as possible.

(4) The person conducting or chairing the misconduct hearing must comply with the direction.

Commencement Information

I22 Sch. 1 para. 22 in force at 2.11.2020, see [reg. 1](#)

Referral of case to misconduct proceedings

23.—(1) Subject to regulation 49, on receipt of the investigator’s report under regulation 20(1) or an equivalent report submitted under external procedures, the relevant authority must, as soon as practicable, determine—

- (a) whether the officer concerned has a case to answer in respect of misconduct or gross misconduct or whether the officer has no case to answer,
- (b) if there is a case to answer, whether or not misconduct proceedings should be brought against the officer, and
- (c) if so, and subject to paragraph (9), what form the misconduct proceedings should take.

(2) Where the relevant authority determines that the officer concerned has breached the Standards of Professional Behaviour, but that the case does not amount to misconduct, the case is to be dealt with under these Regulations as if the relevant authority had determined that there was no case to answer.

(3) In a case where the misconduct proceedings have been delayed by virtue of regulation 9(3), as soon as practicable after—

- (a) the relevant authority considers that such proceedings would no longer prejudice any criminal proceedings, or
- (b) any criminal proceedings have concluded (whatever the outcome of those proceedings),

the relevant authority must, subject to regulation 49(3) and paragraph (9) and unless the relevant authority must refer the case to misconduct proceedings in accordance with paragraph (8), make a further determination as to the matters set out in paragraph (1)(a) to (c).

(4) Where the relevant authority determines there is no case to answer or that no misconduct proceedings will be brought, it must assess whether—

- (a) the case amounts to practice requiring improvement,
- (b) the matter should be referred to be dealt with under the Performance Regulations, or
- (c) it should take no further action.

(5) The relevant authority must consult the line manager of the officer concerned before making an assessment in terms of paragraph (4)(a) or (b).

(6) As soon as practicable after it has completed the assessment under paragraph (4), the relevant authority must—

- (a) inform the officer concerned of the outcome of its assessment, and
- (b) subject to the harm test, give the officer a copy of the investigator’s report or such parts of that report as relate to the officer.

(7) Where the relevant authority assesses that the case amounts to practice requiring improvement, it must direct that the matter is dealt with under the reflective practice review process set out in Part 6.

(8) Where the relevant authority —

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- (a) has a duty under paragraph 23(5B) of Schedule 3 to the 2002 Act (duties with respect to disciplinary proceedings)(12) to comply with a direction to bring misconduct proceedings of a form specified in a determination of the Director General,
 - (b) accepts a recommendation made under paragraph 25(4C)(c) or (4E)(c) of that Schedule (reviews with respect to an investigation)(13) that misconduct proceedings of the form specified in the recommendation are brought,
 - (c) has a duty under paragraph 27(4)(b) of that Schedule (duties with respect to disciplinary proceedings etc.) to comply with a direction to give effect to a recommendation to bring misconduct proceedings of a form specified in a recommendation made under paragraph 25(4C) of that Schedule, or
 - (d) has been directed under section 59(5) of the 1998 Act to bring disciplinary proceedings,
- it must, subject to regulation 9(3), refer the case to misconduct proceedings of the form specified.

(9) Where the relevant authority determines under paragraph (1) to refer the case to misconduct proceedings—

- (a) having determined that the officer concerned has a case to answer in respect of gross misconduct, those proceedings must be a misconduct hearing,
- (b) where the officer had a final written warning in force at the date of the severity assessment under regulation 13(1) or under external procedures, those proceedings must be a misconduct hearing,
- (c) where the officer has been reduced in rank under the Ministry of Defence Police (Conduct) Regulations 2004(14), or these Regulations less than 2 years prior to the severity assessment under regulation 13(1) or, as the case may be, under external procedures, those proceedings must be a misconduct hearing, and
- (d) having determined that the officer has a case to answer in respect of misconduct and that the case does not fall under sub-paragraphs (a), (b) or (c), those proceedings must be a misconduct meeting.

(10) Where the relevant authority fails to make the determination referred to in paragraph (1) before the end of 15 working days beginning with the first working day after receipt of the report, it must notify the officer concerned of the reason for this.

(11) In determining whether any criminal proceedings are to be treated as concluded for the purposes of this regulation, any right of appeal is to be disregarded.

Commencement Information

I23 Sch. 1 para. 23 in force at 2.11.2020, see [reg. 1](#)

Presenting of case by the Director General or the Ombudsman

24.—(1) The Director General may decide to present the case on behalf of the relevant authority where—

- (a) paragraph (2) applies and the case is referred to a misconduct hearing or an accelerated misconduct hearing, or
- (b) paragraph (4) applies and the case is referred to an accelerated misconduct hearing.

(12) Sub-paragraph (5B) was inserted, with sub-paragraphs (5A) to (5F) by the Policing and Crime Act 2017 (c. 3), Schedule 5, paragraph 26.

(13) Sub-paragraphs (4A) to (4J) were inserted by the Policing and Crime Act 2017, Schedule 5, paragraph 34.

(14) [S.I. 2004/653](#).

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- (2) This paragraph applies to a case—
 - (a) in respect of which a duty referred to in regulation 23(8)(a) or (c) arises, and
 - (b) where one of the conditions set out in paragraph (3) is satisfied.
- (3) The conditions are—
 - (a) the relevant authority, when its views were sought in respect of the case under paragraph 23(5A)(a)(i) of Schedule 3 to the 2002 Act⁽¹⁵⁾ (action by the Director General in relation to an investigation report under paragraph 22), or subsequently, has expressed a view as to whether any person to whose conduct the case relates has a case to answer in respect of misconduct or gross misconduct that differed from the determination of the Director General under paragraph 23(5A)(b)(i) on that matter,
 - (b) the relevant authority notified the Director General under paragraph 25(4D)(a) of Schedule 3 to the 2002 Act⁽¹⁶⁾ (reviews with respect to an investigation) that it did not accept a recommendation of the Director General under paragraph 25(4C)(c)(i) of Schedule 3 to the 2002 Act (reviews with respect to an investigation),
 - (c) the relevant authority and the Director General agree that the Director General should present the case, or
 - (d) the Director General is of the view that in the particular circumstances of the case there is a compelling public interest for the Director General to present the case.
- (4) This paragraph applies to a case where—
 - (a) the relevant authority submitted a memorandum to the Director General setting out its reasons for determining either that—
 - (i) the special conditions are not satisfied, or
 - (ii) although the special conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings, and
 - (b) the Director General directed the relevant authority to certify the case as one where the special conditions are satisfied for the purposes of these Regulations.
- (5) Where the Director General makes a decision under paragraph (1) to present a case, the Director General must as soon as practicable inform the relevant authority of the decision.
- (6) The Ombudsman must present the case on behalf of the relevant authority where the Ombudsman has, under section 59(5) of the 1998 Act, directed the chief constable that proceedings are to be brought.
- (7) The relevant authority must give the Director General or the Ombudsman any assistance the Director General or the Ombudsman reasonably requires for the purpose of presenting a case.
- (8) The special conditions are that—
 - (a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct, and
 - (b) it is in the public interest for the person whose conduct it is to cease being an MDP officer without delay.

⁽¹⁵⁾ Sub-paragraph (5A) was inserted, with sub-paragraphs (5B) to (5F), by paragraph 26 of Schedule 5 to the Policing and Crime Act 2017 (c. 3).

⁽¹⁶⁾ Sub-paragraph (4D) was inserted, with sub-paragraphs (4A) to (4J), by paragraph 34 of Schedule 5 to the Policing and Crime Act 2017.

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Commencement Information

I24 Sch. 1 para. 24 in force at 2.11.2020, see [reg. 1](#)

Joint misconduct proceedings

25.—(1) Subject to paragraphs (6) and (7), where under regulation 23 the relevant authority refers two or more cases arising from the same matter or incident, which relate to more than one MDP officer, to a misconduct hearing, the cases may be referred to a joint misconduct hearing.

(2) Subject to paragraph (6), where under regulation 23 the relevant authority refers two or more cases arising from the same matter or incident, which relate to more than one MDP officer, to a misconduct meeting, the cases may be referred to a joint misconduct meeting.

(3) Where cases are referred to joint misconduct proceedings, a reference to “the officer concerned” in regulations 26 to 43, if the context so requires, means—

- (a) any of the officers concerned, or
- (b) each of the officers concerned.

(4) Where cases are referred to joint misconduct proceedings, the officer concerned in any of the cases may object and request separate proceedings.

(5) The person conducting or chairing the misconduct proceedings must consider any objection under paragraph (4) and determine whether the request for separate proceedings should be allowed.

(6) Cases may only be referred to joint misconduct proceedings where all or none of the officers concerned are senior officers.

(7) A case in respect of which the Director General has made a decision to present a case under regulation 24(1) may only be referred to a joint misconduct hearing on the direction of the Director General, following consultation with the relevant authority.

(8) The relevant authority must comply with a direction given under paragraph (7).

(9) Where the Ombudsman is required to present a case under regulation 24(6), it can only be referred to a joint misconduct hearing if the Ombudsman agrees.

Commencement Information

I25 Sch. 1 para. 25 in force at 2.11.2020, see [reg. 1](#)

Withdrawal of misconduct proceedings

26.—(1) Subject to paragraph (4), at any time before the beginning of the misconduct proceedings, the relevant authority—

- (a) if it is no longer satisfied that there is a case to answer in respect of misconduct or gross misconduct, must direct that the case be withdrawn, and
- (b) where sub-paragraph (a) does not apply, may direct that the case be withdrawn.

(2) Where a direction is given under paragraph (1)—

- (a) the relevant authority may—
 - (i) take no further action against the officer concerned,
 - (ii) refer the matter to the reflective practice review process, or
 - (iii) refer the matter to be dealt with under the Performance Regulations, and

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- (b) the relevant authority must as soon as practicable give the officer concerned—
 - (i) written notice of the direction, indicating whether any action will be taken under paragraph (2)(a), and
 - (ii) where the investigation has been completed, on request and subject to the harm test, a copy of the investigator’s report or such parts of that report as relate to the officer.
- (3) Before referring a matter to the reflective practice review process or to be dealt with under the Performance Regulations, the relevant authority must consult the line manager of the officer concerned.
- (4) A case investigated under external procedures established for England and Wales or Northern Ireland may only be withdrawn—
 - (a) in relation to England and Wales—
 - (i) on the direction of the Director General, following consultation with the relevant authority, if paragraph (5) applies, or
 - (ii) following consultation with the Director General, in all other cases;
 - (b) in relation to Northern Ireland—
 - (i) with leave of the Ombudsman, following consultation with the relevant authority, if paragraph (6) applies;
 - (ii) on the decision of the relevant authority, in all other cases.
- (5) This paragraph applies in a case where the Director General has—
 - (a) made a recommendation under paragraph 25(4C)(c) of Schedule 3 to the 2002 Act (duties with respect to disciplinary proceedings) which the relevant authority accepted,
 - (b) given a direction, under paragraph 23(5A)(e) or paragraph 27(4)(a) of that Schedule to bring disciplinary proceedings.
- (6) This paragraph applies in a case relating to MDP officers who are not senior officers, where the Ombudsman has—
 - (a) made a recommendation under section 59(2)(a) of the 1998 Act (steps to be taken after the investigation – disciplinary proceedings), or
 - (b) given a direction under section 59(5) of that Act to bring disciplinary proceedings.

Commencement Information

I26 Sch. 1 para. 26 in force at 2.11.2020, see [reg. 1](#)

Persons conducting misconduct proceedings

- 27.—**(1) Where the officer concerned is an officer other than a senior officer—
- (a) where the case is referred to a misconduct meeting, that meeting must be conducted by a person—
 - (i) appointed by the relevant authority,
 - (ii) who is not an interested party, and
 - (iii) is appointed in accordance with paragraph (3);
 - (b) where the case is referred to a misconduct hearing, that hearing must be conducted by a panel of three persons appointed in accordance with paragraph (4).

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(2) Where the officer concerned is a senior officer and the case is referred to misconduct proceedings, those misconduct proceedings must be conducted by a panel of three persons appointed in accordance with paragraph (5).

(3) The person appointed by the relevant authority in accordance with this paragraph must be—

- (a) an MDP officer of at least one rank higher than the officer concerned, or
- (b) unless the case substantially involves operational police matters, a staff member who, in the opinion of the relevant authority, is more senior than the officer concerned.

(4) A panel appointed in accordance with this paragraph must comprise—

- (a) a chair appointed by the relevant authority, selected on a fair and transparent basis from the list of legally qualified persons maintained by the Secretary of State for the purposes of these Regulations,
- (b) an MDP officer of the rank of superintendent or above, who is of at least one rank above the officer concerned, and
- (c) a person appointed by the relevant authority, selected on a fair and transparent basis, from a list of candidates maintained by the Secretary of State for the purpose of these Regulations.

(5) A panel appointed in accordance with this paragraph must comprise—

- (a) a chair appointed by the relevant authority, selected on a fair and transparent basis from the list of legally qualified persons maintained by the Secretary of State for the purposes of these Regulations,
- (b) the Inspector of Constabulary, and
- (c) a person appointed by the relevant authority, selected on a fair and transparent basis, from a list of candidates maintained by the Secretary of State for the purpose of these Regulations.

(6) In this regulation “legally qualified person” means a person who satisfies the judicial-appointment eligibility condition on a 5-year basis.

(7) For the purposes of section 4(4) of the 1987 Act (power to prescribe “the panel” for the purposes of conducting the proceedings), the panel of persons or the person specified by this regulation to conduct misconduct proceedings is prescribed as “the panel”.

Commencement Information

I27 Sch. 1 para. 27 in force at 2.11.2020, see [reg. 1](#)

Role of chair of misconduct hearing

28.—(1) The chair of a panel appointed under regulation 27 must take appropriate action to ensure the efficient and effective bringing of the proceedings and that they are conducted in a timely, fair and transparent manner.

(2) In particular, and subject to paragraph (6)(a), the chair must ensure that the first day of the misconduct hearing is not more than 100 working days beginning with the day after the date on which notice is given under regulation 29(1).

(3) The chair must decide, before the end of 5 working days beginning with the first working day after the day on which the documents were supplied to the chair under regulation 31(6), whether to conduct a misconduct pre-hearing, in order to agree directions and to fix a date for the hearing, in accordance with regulation 32.

(4) Where the chair decides not to conduct a misconduct pre-hearing, the chair must determine the date, time and duration of the misconduct hearing, following consultation with the parties by

telephone or by such other electronic means as may be agreed between the parties or, where the parties fail to agree, as decided by the chair.

(5) Subject to paragraphs (6)(b) and (7), where paragraph (4) applies, the misconduct hearing must take place before the end of the period of 30 working days beginning with the first working day after the day on which the documents were supplied to the chair under regulation 31(6).

(6) Where the chair considers that it would be in the interests of justice to do so, the chair may extend—

- (a) the period of 100 working days specified in paragraph (2),
- (b) the period of 30 working days specified in paragraph (5).

(7) Any of the parties may apply to the chair for the misconduct hearing to take place later than is provided for in paragraph (5).

(8) Any such application must set out the reasons for the application.

(9) The chair must determine whether it would be in the interests of justice for the application to be granted, provided that the date fixed for the commencement of the hearing must be within the period specified in paragraph (2), or such period as extended under paragraph (6)(a).

(10) For the purposes of this regulation “parties” means the relevant authority or, as the case may be, the officer concerned, the officer’s representatives and, where the Director General or the Ombudsman is presenting the case, the Director General or, as the case may be, the Ombudsman.

Commencement Information

I28 Sch. 1 para. 28 in force at 2.11.2020, see [reg. 1](#)

Notice of referral to misconduct proceedings

29.—(1) Where a case is referred to misconduct proceedings, the relevant authority must as soon as practicable give the officer concerned—

- (a) written notice of—
 - (i) the referral,
 - (ii) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct, as the case may be,
 - (iii) the name of the person appointed to conduct (in the case of a misconduct meeting for an officer other than a senior officer) or chair (in any other case) the misconduct proceedings and, in the case of a chair, confirmation that the person has been selected on a fair and transparent basis,
 - (iv) the effect of paragraphs (3) to (6) of this regulation,
 - (v) the effect of regulations 7(1) to (3) in relation to the form of misconduct proceedings to which the case is being referred,
 - (vi) where relevant, the fact that—
 - (aa) the Director General has made a decision under regulation 24(1) to present the case, or
 - (bb) the Ombudsman is required under regulation 24(6) to present the case, and
 - (vii) where relevant, the fact that the case has been referred to joint misconduct proceedings under regulation 25,
- (b) a copy of any statement the officer may have made to the investigator during the course of the investigation, and

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- (c) subject to the harm test, a copy of—
- (i) the investigator’s report or such parts of that report as relate to the officer (together with any document attached to or referred to in that report which relates to the officer), and
 - (ii) any other document which might reasonably be considered capable of undermining or assisting the case.
- (2) As soon as practicable after any person has been appointed under regulation 7(6) to advise the person conducting or chairing the misconduct proceedings, the relevant authority must give the officer concerned written notice of the name of that person and of the effect of paragraphs (3) to (6) of this regulation.
- (3) The officer concerned may object to any person whom the officer is notified under the preceding provisions of this regulation is to—
- (a) conduct or, as the case may be, chair the misconduct proceedings, or
 - (b) advise the person conducting or, as the case may be, chairing the misconduct proceedings.
- (4) Any such objection must be—
- (a) made in writing to the relevant authority, and
 - (b) in the case of joint misconduct proceedings, copied to each other officer concerned,
- before the end of 3 working days beginning with the first working day after the officer is given notice of the person’s name and must set out the grounds of objection of the officer.
- (5) The relevant authority must notify the officer concerned in writing as soon as reasonably practicable whether it upholds or rejects an objection to a person appointed to conduct or, as the case may be, chair the misconduct proceedings or to any person appointed under regulation 7(6) to advise the person conducting or chairing the misconduct proceedings.
- (6) If the relevant authority upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with regulation 7(6) and (7) or 27 as appropriate).
- (7) As soon as reasonably practicable after any such appointment, the relevant authority must give a written notice to the officer concerned of the name of the new person appointed to conduct or, as the case may be, chair the misconduct proceedings or of the new adviser to the person conducting or chairing the misconduct proceedings, and of the effect of paragraphs (8) and (9) of this regulation.
- (8) The officer concerned may object to the appointment of a person appointed under paragraph (6) of this regulation.
- (9) In relation to an objection under paragraph (8) of this regulation—
- (a) paragraph (4) applies except in so far as it specifies the period of time for making an objection,
 - (b) the objection must be made before the end of 3 working days beginning with the first working day after the officer concerned has been given the notice referred to in paragraph (7),
 - (c) paragraphs (5) to (7) apply, with the exception of the requirement in paragraph (7) for the relevant authority to give written notice of the effects of paragraphs (8) and (9).
- (10) Where the Director General has made a decision under regulation 24(1) to present a case, or the Ombudsman is required under regulation 24(6) to present a case, the relevant authority must—
- (a) consult the Director General, or the Ombudsman, as the case may be, about—
 - (i) the contents of the written notice to be given under paragraph (1)(a) to the extent to which they relate to the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct, as the case may be,

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- (ii) the application of the harm test under paragraph (1)(c), and
- (iii) the documents that may be provided under paragraph (1)(c)(ii),
- (b) comply with any direction given by the Director General or the Ombudsman in relation to the matters specified in sub-paragraph (a), and
- (c) provide the Director General or the Ombudsman with a copy of the written notices given under paragraphs (1) and (2).

Commencement Information

I29 Sch. 1 para. 29 in force at 2.11.2020, see [reg. 1](#)

Procedure on receipt of notice

- 30.**—(1) Before the end of—
- (a) 15 working days beginning with the first working day after the documents have been supplied to the officer concerned under regulation [29\(1\)](#), or
 - (b) where that period is extended by the person conducting or chairing the misconduct proceedings for exceptional circumstances, such extended period,
- the officer concerned must comply with paragraphs (2) and (3).
- (2) The officer concerned must give the relevant authority—
- (a) written notice of whether or not they accept that their conduct amounts to misconduct or gross misconduct, as the case may be,
 - (b) where they accept that their conduct amounts to misconduct or gross misconduct, as the case may be, any written submission they wish to make in mitigation, and
 - (c) where they do not accept that their conduct amounts to misconduct or gross misconduct, as the case may be, or they dispute part of the case against them, written notice of—
 - (i) the allegations they dispute and their account of the relevant events, and
 - (ii) any arguments on points of law they wish to be considered by the person or panel conducting the misconduct proceedings.
- (3) The officer concerned must provide the relevant authority with a copy of any document they intend to rely on at the misconduct proceedings.
- (4) Before the end of 3 working days beginning with the first working day after the date on which the officer concerned has complied with paragraph (2), the relevant authority and the officer concerned must each—
- (a) supply to the other a list of proposed witnesses and include brief details of the evidence that each witness is able to adduce, or
 - (b) give notice to the other that they do not propose any witnesses.
- (5) Where the Director General has made a decision under regulation [24\(1\)](#) to present a case, or the Ombudsman is required under regulation [24\(6\)](#) to present a case—
- (a) the officer concerned must, within the time period specified in paragraph (1), provide the Director General or the Ombudsman, as appropriate, with a copy of the documents specified in paragraphs (2) and (3), and
 - (b) the duty specified in paragraph (4) to supply a list of proposed witnesses or give notice that there are no proposed witnesses lies with the Director General or the Ombudsman, and not with the relevant authority.

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Commencement Information

I30 Sch. 1 para. 30 in force at 2.11.2020, see [reg. 1](#)

Witnesses and documents to be supplied

31.—(1) The relevant authority must supply to the person conducting or chairing the misconduct proceedings any lists of proposed witnesses supplied or notice given under regulation [30\(4\)](#).

(2) Any such lists or notice must be supplied before the end of 10 working days beginning with the first working day after the parties supplied the lists or notice under regulation [30\(4\)](#).

(3) The person conducting or chairing the misconduct proceedings must—

- (a) consider any lists of proposed witnesses,
- (b) consider any documents supplied under paragraph (6), and
- (c) subject to paragraph (5), determine as soon as practicable, which, if any, witnesses should attend the misconduct proceedings.

(4) Paragraph (3) does not apply where regulation [32\(8\)](#) applies (matters to be decided at misconduct pre-hearing).

(5) No witness may give evidence at misconduct proceedings unless the person conducting or chairing the proceedings reasonably believes that it is necessary for the witness to do so in the interests of justice, in which case the person conducting or chairing the proceedings must—

- (a) where the witness is an MDP officer, cause that person to be ordered to attend the misconduct proceedings, and
- (b) in any other case, cause the witness to be given notice that their attendance is necessary and of the date, time and place of the proceedings.

(6) Before the end of 10 working days beginning with the first working day after the date on which the officer concerned has complied with regulation [30\(2\)](#), the relevant authority must supply to the person conducting or chairing the misconduct proceedings a copy of—

- (a) the documents given to the officer under regulation [29\(1\)](#),
- (b) the documents provided by the officer under—
 - (i) regulation [30\(2\)](#) and (3), and
 - (ii) where paragraph (7) applies, regulation [54](#), and
- (c) where the officer—
 - (i) does not accept that the conduct amounts to misconduct or gross misconduct, as the case may be, or
 - (ii) disputes any part of the case,
any other documents that, in the opinion of the relevant authority, should be considered at the misconduct proceedings.

(7) This paragraph applies where the relevant authority has directed, in accordance with regulation [49](#), that the case be dealt with under this Part.

(8) Prior to the misconduct proceedings, the relevant authority must supply the officer concerned with—

- (a) a list of the documents supplied under paragraph (6), and
- (b) a copy of any such document, where it has not already been supplied.

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(9) The relevant authority may apply to the person conducting or chairing the misconduct proceedings for an extension of—

- (a) the period of 10 working days referred to in paragraph (2),
- (b) the period of 10 working days referred to in paragraph (6).

(10) Any such application must set out the period of the required extension and the reasons for the application.

(11) On receipt of such an application the person conducting or chairing the misconduct proceedings must determine whether the period should be extended and if so by how long.

(12) Where a period is extended, paragraph (2) or, as the case may be, paragraph (6), has effect as if for the period specified in those provisions there were substituted the extended period.

(13) Where the Director General has made a decision under regulation 24(1) to present a case, or the Ombudsman is required under regulation 24(6) to present a case—

- (a) the duty specified in paragraph (1) to supply any lists of witnesses or notice lies with the Director General or the Ombudsman and not with the relevant authority,
- (b) the duty specified in paragraph (6) to supply the specified documents to the person conducting or chairing the misconduct proceedings lies with the Director General or the Ombudsman and not with the relevant authority,
- (c) paragraph (6)(c) must be read as if “or the Director General” or, as the case may be “of the Ombudsman” were inserted after “the relevant authority”, and
- (d) the power referred to in paragraph (9) to apply for an extension of the periods of time referred to in paragraphs (2) and (6) lies with the Director General or the Ombudsman and not with the relevant authority.

Commencement Information

I31 Sch. 1 para. 31 in force at 2.11.2020, see [reg. 1](#)

Misconduct pre-hearing

32.—(1) Where the person appointed to chair a misconduct hearing (“the chair”) has decided under regulation 28(3) to conduct a misconduct pre-hearing, the chair must as soon as practicable—

- (a) specify a date and time for a misconduct pre-hearing, which must be within a period of 15 working days, or such extended period as the chair may specify under paragraph (10)(a), beginning with the first working day after the day on which the documents were supplied to the chair under regulation 31(6), and
- (b) give written notice of the date, time and place of the misconduct pre-hearing to—
 - (i) the officer concerned,
 - (ii) the relevant authority, and
 - (iii) the Director General or the Ombudsman, where the Director General or the Ombudsman—
 - (aa) is presenting the case, or
 - (bb) is entitled to attend the misconduct hearing under regulation 37(1).

(2) Subject to paragraph (4), where a date and time is specified under paragraph (1) and—

- (a) the officer concerned or their police friend will not be available, and
- (b) the officer proposes an alternative date or time which satisfies paragraph (3),

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the misconduct pre-hearing must be postponed to the date or time proposed by the officer.

- (3) An alternative time must—
 - (a) be reasonable, and
 - (b) fall before the end of 5 working days beginning with the first working day after the day specified by the chair.
- (4) In the case of joint misconduct proceedings, where a date and time is specified under paragraph (1) and one or more of the officers concerned or their police friend will not be available at that time, the chair must—
 - (a) consult each of the officers concerned as regards the timing of the misconduct pre-hearing, and
 - (b) determine the date and time of the misconduct pre-hearing, which must fall within the period specified in paragraph (3)(b).
- (5) Subject to paragraph (6), a misconduct pre-hearing must be in private.
- (6) The following are entitled to attend the misconduct pre-hearing—
 - (a) those listed in paragraph (1)(b),
 - (b) the officer's police friend,
 - (c) the officer's relevant lawyer,
 - (d) the relevant lawyer representing the relevant authority,
 - (e) the Director General's or, as the case may be, the Ombudsman's relevant lawyer, where the Director General or the Ombudsman is presenting the case or would be entitled to attend the misconduct hearing under regulation 37(1), and
 - (f) any person appointed under regulation 7(6) to advise the person conducting or chairing the misconduct pre-hearing.
- (7) A misconduct pre-hearing may be conducted by telephone or by such other electronic means as may be agreed between the parties, or, where the parties fail to agree, as decided by the chair.
- (8) At the misconduct pre-hearing the chair must—
 - (a) determine the date, time and duration of the misconduct hearing, following consultation with the parties,
 - (b) consider any lists of proposed witnesses supplied under regulation 31(1) and, in accordance with regulation 31(5), determine which, if any, witnesses should attend the misconduct hearing,
 - (c) consider any documents supplied under regulation 31(6),
 - (d) consider any procedural or preliminary legal arguments or points of law raised and whether it is appropriate for those matters to be dealt with at the misconduct pre-hearing or the misconduct hearing,
 - (e) consider any issues related to disclosure of documents for the purposes of the misconduct hearing, and
 - (f) seek representations from the parties as to whether to—
 - (i) exclude any person under regulation 38(6)(a),
 - (ii) impose conditions under regulation 38(6)(b), or
 - (iii) prohibit the publication of any matter under regulation 38(6)(c).
- (9) Subject to paragraph (10)(b) and (11), the misconduct hearing must take place before the end of 30 working days beginning with the date of the misconduct pre-hearing.

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(10) Where the chair considers that it would be in the interests of justice to do so, the chair may extend—

- (a) the period of 15 working days specified in paragraph (1)(a),
- (b) the period of 30 working days specified in paragraph (9).

(11) Any of the parties may apply to the chair for the misconduct hearing to take place later than is provided for in paragraph (9).

(12) Any such application must set out the reasons for the application.

(13) The chair must determine whether it would be in the interests of justice for the application to be granted, provided that the date fixed for the commencement of the hearing must be within the period specified in regulation 28(2), or such extended period as the chair may specify under regulation 28(6)(a).

(14) At the misconduct pre-hearing the chair may issue directions including, but not limited to, the matters set out in this regulation, other than paragraph (8)(f).

(15) Within the period of 5 working days beginning with the date of the misconduct pre-hearing, the chair must serve on the parties a summary of the key matters discussed and a record of any directions issued.

(16) The parties must comply with any directions issued under paragraph (14).

(17) For the purposes of this regulation “parties” means the relevant authority, the officer concerned, the officer’s representatives and, where the Director General or the Ombudsman is presenting the case, the Director General or the Ombudsman.

Commencement Information

I32 Sch. 1 para. 32 in force at 2.11.2020, see [reg. 1](#)

Timing of misconduct meeting

33.—(1) Subject to paragraphs (2), (6) and (8), the misconduct meeting must take place before the end of 20 working days beginning with the first working day after—

- (a) the officer complies with regulation 30(2) and (3),
- (b) the expiry of the 15 working day period referred to in regulation 30(1)(a), if the officer has not complied with regulation 30(2) and (3) within that period, or
- (c) where the 15 working day period referred to in regulation 30(1)(a) is extended in accordance with regulation 30(1)(b), the expiry of such extended period.

(2) The person conducting or chairing the misconduct meeting may extend the period specified in paragraph (1) where they consider that it would be in the interests of justice to do so.

(3) Where the person conducting or chairing the misconduct meeting decides to extend the period under paragraph (2), or decides not to do so following representations from the officer concerned or the relevant authority, they must provide written notification of the reasons for that decision to the authority and the officer.

(4) The person conducting or chairing the misconduct meeting must, if reasonably practicable, agree a date and time for the misconduct meeting with the officer concerned.

(5) Where no date and time is agreed under paragraph (4), the person conducting or chairing the misconduct meeting must specify a date and time for that meeting.

- (6) Subject to paragraph (8), where a date and time is specified under paragraph (5) and—
 - (a) the officer concerned or the officer’s police friend will not be available, and

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(b) the officer proposes an alternative date or time which satisfies paragraph (7), the misconduct meeting must be postponed to the date or time proposed by the officer.

(7) An alternative time must—

(a) be reasonable, and

(b) fall before the end of 5 working days beginning with the first working day after the day specified by the person conducting or chairing the misconduct meeting.

(8) In the case of a joint misconduct meeting, where a date and time is specified under paragraph (5) and one or more of the officers concerned or their police friend will not be available at that time, the person conducting or chairing the misconduct meeting must—

(a) consult each of the officers concerned as regards the timing of the misconduct meeting, and

(b) determine the date and time of the misconduct meeting, which must fall within the period specified in paragraph (7)(b).

(9) When a date and time for the misconduct meeting has been agreed under this regulation, the person conducting or chairing the misconduct meeting must inform the relevant authority of the date, time and place of the misconduct meeting.

Commencement Information

I33 Sch. 1 para. 33 in force at 2.11.2020, see [reg. 1](#)

Notice of misconduct proceedings and panel

34.—(1) The relevant authority must give the officer concerned written notice of the date, time and place of the misconduct proceedings.

(2) Where the misconduct proceedings are to be conducted by a panel, as soon as practicable after the persons comprising that panel (other than the chair) have been determined, the relevant authority must give the officer concerned written notice of the names of such persons and of the effect of paragraphs (3) to (6) of this regulation.

(3) The officer concerned may object to any person whom the officer is notified under this regulation is to conduct (other than as chair) the misconduct proceedings.

(4) Any such objection must be made in writing to the chair before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer.

(5) The chair must notify the officer concerned in writing whether the chair upholds or rejects an objection to any panel member.

(6) If the chair upholds the objection, the person to whom the officer concerned objects must be replaced with a new panel member appointed in accordance with regulation 27.

(7) As soon as reasonably practicable after any such appointment, the chair must give a written notice to the officer concerned of the name of the new panel member and of the effect of paragraphs (8) and (9) of this regulation.

(8) The officer concerned may object to the appointment of a person appointed under paragraph (6).

(9) In relation to an objection under paragraph (8) of this regulation—

(a) paragraph (4) applies except in so far as it specifies the period of time for making an objection,

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- (b) the objection must be made before the end of 3 working days beginning with the first working day after the officer concerned has been given the notice referred to in paragraph (7), and
- (c) paragraphs (5) to (7) apply, with the exception of the requirement in paragraph (7) for the chair to give written notice of the effects of paragraphs (8) and (9).

(10) Where the Director General or the Ombudsman is entitled to attend the misconduct proceedings to make representations under regulation 37(1), the relevant authority must give the Director General or, as the case may be, the Ombudsman, written notice of the date, time and place of the proceedings.

(11) Where the Director General has made a decision under regulation 24(1) to present a case, each of paragraphs (1), (2) and (7) must be read as if “and the Director General” were inserted after “the officer concerned”.

(12) When the Ombudsman is required under regulation 24(6) to present a case, each of paragraphs (1), (2) and (7) must be read as if “and the Ombudsman” were inserted after “the officer concerned”.

Commencement Information

I34 Sch. 1 para. 34 in force at 2.11.2020, see [reg. 1](#)

Public notification of misconduct hearings

35.—(1) The person chairing a misconduct hearing (“the chair”) may require the relevant authority to give notice of the hearing which contains information relating to one or more of—

- (a) the name of the officer concerned,
- (b) the date of the hearing,
- (c) the time of the hearing,
- (d) the place at which the hearing will take place, and
- (e) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct, as the case may be, as set out in the notice given in accordance with regulation 29(1)(a).

(2) Where the chair requires notice to be given in accordance with paragraph (1), the relevant authority must publish the notice on its website as soon as practicable after notice of the hearing is given under regulation 34(1).

(3) Any person to whom this paragraph applies may make written representations to the chair in relation to—

- (a) whether, and (if so) the extent to which, the chair should exclude any person from the whole or part of the hearing under regulation 38(6)(a),
- (b) whether the chair should impose any conditions under regulation 38(6)(b),
- (c) whether the chair should give directions prohibiting the publication of any matter relating to the proceedings under regulation 38(6)(c),
- (d) in the light of the representations made under sub-paragraphs (a) to (c)—
 - (i) whether the chair should require notice to be given under paragraph (1),
 - (ii) which types of information mentioned in paragraph (1)(a) to (e) should be included in any such notice.

(4) Paragraph (3) applies to—

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- (a) the officer concerned,
- (b) the relevant authority,
- (c) the complainant,
- (d) any interested person,
- (e) any witness, and
- (f) the Director General or the Ombudsman.

(5) Written representations in relation to the matters specified in paragraph (3)(a) to (c) may also be made by any journalist or other representative of the media to the chair.

(6) Any written representations made in accordance with paragraph (3) or (5), as the case may be, must be provided no later than the date specified by the chair for provision of such representations.

Commencement Information

I35 Sch. 1 para. 35 in force at 2.11.2020, see [reg. 1](#)

Attendance of officer concerned at misconduct proceedings

36.—(1) Subject to paragraph (2), the officer concerned must attend the misconduct proceedings.

(2) Where the officer concerned informs the person conducting or chairing the misconduct proceedings in advance that the officer is unable to attend on grounds which the person conducting or chairing those proceedings considers reasonable, that person may allow the officer to participate in the proceedings by video link or other means.

(3) Where under paragraph (2) the officer concerned is allowed to and does so participate in the misconduct proceedings, or where the officer otherwise does not attend the misconduct proceedings—

- (a) the officer may nonetheless be represented at those proceedings by—
 - (i) a police friend, or
 - (ii) in the case of a misconduct hearing, a relevant lawyer (in which case the police friend may also attend), and
- (b) the proceedings may be proceeded with and concluded in the absence of the officer whether or not the officer is so represented.

(4) Where the officer concerned is represented in accordance with paragraph (3), the police friend or relevant lawyer of the officer, or both, as the case may be, may participate using the video link or other means where such means are also used by the officer.

Commencement Information

I36 Sch. 1 para. 36 in force at 2.11.2020, see [reg. 1](#)

Participation of the Director General, Ombudsman and investigator at misconduct proceedings

37.—(1) The Director General or, as the case may be, Ombudsman, may attend a misconduct hearing to make representations in any case where—

- (a) the complaint has been investigated under paragraphs 18 or 19 of Schedule 3 to the 2002 Act or sections 54(2), (3)(a) or 55(3), (5) or (6) of the 1998 Act, or

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- (b) the complaint has been investigated under paragraph 16 of Schedule 3 to the 2002 Act or section 57 of the 1998 Act, and—
 - (i) the Director General—
 - (aa) made a recommendation under paragraph 25(4C)(c) of that Schedule (duties with respect to disciplinary proceedings) in respect of any MDP officer which the relevant authority accepted, or
 - (bb) gave a direction under paragraph 27(4)(a) of that Schedule (duties with respect to disciplinary proceedings), or
 - (ii) the Ombudsman made a recommendation under section 59(2) of the 1998 Act which the chief constable accepted.
- (2) Where the Director General or Ombudsman so attends the misconduct proceedings—
 - (a) if it is a misconduct hearing the Director General or Ombudsman may be represented by a relevant lawyer,
 - (b) the Director General or Ombudsman must notify the complainant or any interested person prior to those proceedings, and
 - (c) the person conducting or chairing the misconduct proceedings must notify the officer concerned prior to those proceedings.
- (3) The investigator or a nominated person must attend the misconduct proceedings on the request of the person conducting or chairing those proceedings to answer questions.
- (4) For the purposes of this regulation, a “nominated person” is a person who, in the opinion of—
 - (a) the relevant authority,
 - (b) in a case investigated under where paragraph 18 or 19 of Schedule 3 to the 2002 Act under external procedures the Director General directed the investigation or carried out the investigation, the Director General, or
 - (c) in a case where under external procedures established for Northern Ireland, the Ombudsman investigated the case, or supervised the investigation, the Ombudsman,has sufficient knowledge of the investigation of the case to be able to assist the person conducting or chairing the misconduct proceedings.
- (5) Where more than one allegation is considered in the same misconduct proceedings in accordance with regulation 3(9), this regulation applies to the whole of the proceedings and accordingly the Director General or the Ombudsman, as the case may be, may make representations in respect of any allegation.
- (6) Paragraph (1) does not apply—
 - (a) to the Director General where the Director General has decided under regulation 24(1) to present the case, or
 - (b) to the Ombudsman where the Ombudsman is required under regulation 24(6) to present the case.

Commencement Information

I37 Sch. 1 para. 37 in force at 2.11.2020, see [reg. 1](#)

Reporting restrictions, participation and exclusions from proceedings

38.—(1) Subject to paragraph (6) and any direction to the contrary given under regulation 22 (national security: power to give directions) a misconduct hearing must be held in public.

Changes to legislation: The Ministry of Defence Police (Conduct, Performance and Appeals Tribunals) Regulations 2020, SCHEDULE 1 is up to date with all changes known to be in force on or before 26 May 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details) View outstanding changes

(2) Subject to regulations 37 and 39 and paragraph (3) of this regulation, a misconduct meeting must be held in private.

(3) A person nominated by the Director General or the Ombudsman may attend a misconduct meeting which arises from a case which has been investigated under external procedures as an observer.

(4) Unless expressly authorised by the person conducting or chairing a misconduct meeting, a witness, other than a witness who is also a complainant, an interested person or the officer concerned, may only attend the meeting for the purpose of giving evidence.

(5) The person conducting or chairing a misconduct meeting may permit a witness in the meeting to be accompanied by one other person at that meeting.

(6) Having considered any representations received under regulations 32(8)(f), 35(3) and 35(5), the person conducting or chairing the misconduct proceedings may—

(a) exclude from the whole or part of the proceedings any person who would otherwise be entitled to attend the proceedings by virtue of regulation 39 or this regulation so far as the person conducting or chairing the misconduct proceedings considers it necessary—

(i) in the interests of justice,

(ii) to protect the Convention rights of any person, or

(iii) where the proceedings involve confidential information and publicity would damage that confidentiality,

(b) in order to facilitate the proper conduct of those proceedings, impose conditions relating to the attendance at the proceedings of any person who is entitled to attend the proceedings by virtue of regulation 39 or this regulation, and

(c) in the case of a chair appointed under regulation 27(4) or (5), give such directions as they think appropriate prohibiting the publication of any matter relating to the proceedings.

(7) If a person is to give evidence as a witness in misconduct proceedings, the witness, and any person accompanying the witness, must not attend the proceedings before the witness is called to give evidence.

(8) Where it appears to the person conducting or chairing the misconduct proceedings that any person may, in giving evidence, disclose information the disclosure of which ought not to be disclosed to any person, other than a party to the proceedings, attending the proceedings because it is information to which paragraph (9) applies, they must require such attendees to withdraw while the evidence is given.

(9) This paragraph applies to information in so far as the person conducting or chairing the misconduct proceedings considers that preventing disclosure of it to an attendee is—

(a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings,

(b) necessary in the interests of national security,

(c) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders,

(d) necessary for the purpose of the prevention or detection of misconduct by other MDP officers or their apprehension for such matters,

(e) necessary and proportionate for the protection of the welfare and safety of any informant or witness, or

(f) otherwise in the public interest.

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Commencement Information

I38 Sch. 1 para. 38 in force at 2.11.2020, see [reg. 1](#)

Attendance of complainant, interested persons and others at misconduct proceedings

39.—(1) This regulation applies in the case of misconduct proceedings arising from a case which has been investigated under external procedures established for England and Wales, Northern Ireland, or Scotland.

(2) The relevant authority must notify the complainant and any interested person of the date, time and place of the misconduct proceedings and, if applicable, of their right to make representations under regulation 35(3).

(3) Subject to regulation 38(4) and (6), the complainant or any interested person may attend the misconduct meeting as an observer.

(4) Subject to regulation 38(4) and (6), a complainant or interested person may be accompanied at a misconduct meeting by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.

(5) The person conducting or chairing the misconduct proceedings may, at the person's discretion, put any questions to the officer concerned that the complainant or interested person may request be put to the officer.

(6) Where regulation 37 applies, a person nominated by the Director General or the Ombudsman may attend a misconduct meeting as an observer.

Commencement Information

I39 Sch. 1 para. 39 in force at 2.11.2020, see [reg. 1](#)

Procedure at misconduct proceedings

40.—(1) The person conducting or chairing the misconduct proceedings must determine the procedure at those proceedings and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.

(2) The misconduct proceedings must not proceed unless the officer concerned has been notified of the effect of regulation 7(1) to (3) in relation to the form of misconduct proceedings taking place.

(3) Subject to paragraph (4), the person conducting or chairing the misconduct proceedings may from time to time adjourn the proceedings if it appears to the person to be necessary or expedient to do so.

(4) The misconduct proceedings must not, except in exceptional circumstances, be adjourned solely to allow the complainant or any witness or interested person to attend.

(5) At the beginning of the misconduct proceedings, the person conducting or chairing the misconduct proceedings must give the officer concerned the opportunity to say whether or not the officer accepts that the officer's conduct amounts to misconduct or gross misconduct, as the case may be.

(6) The person representing the relevant authority may—

(a) address the proceedings in order to do any or all of the following—

(i) put the case of the authority,

(ii) sum up that case,

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- (iii) respond on behalf of the authority to any view expressed at the proceedings,
 - (iv) make representations concerning any aspect of proceedings under these Regulations, and
 - (v) subject to paragraph (10), ask questions of any witnesses, and
- (b) confer with the authority.
- (7) The person representing the officer concerned may—
- (a) address the proceedings in order to do all or any of the following—
 - (i) put the case of the officer,
 - (ii) sum up that case,
 - (iii) respond on behalf of the officer to any view expressed at the proceedings,
 - (iv) make representations concerning any aspect of proceedings under these Regulations, and
 - (v) subject to paragraph (10), ask questions of any witnesses, and
 - (b) confer with the officer.
- (8) Where (at a misconduct hearing) the person representing the officer concerned is a relevant lawyer, the police friend of the officer may also confer with the officer.
- (9) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer during the misconduct proceedings.
- (10) The person conducting or chairing the misconduct proceedings must determine whether any question should be put to a witness.
- (11) The person conducting or chairing the misconduct proceedings may allow any document to be considered at those proceedings notwithstanding that a copy of it has not been supplied—
- (a) by the officer concerned to the relevant authority in accordance with regulation 30(3), or
 - (b) to the officer concerned in accordance with regulation 29(1).
- (12) Paragraph (14) applies where evidence is given or considered at the misconduct proceedings that the officer concerned—
- (a) on being questioned by an investigator at any time after the officer was given written notice under regulation 16(1) or external procedures, or
 - (b) in submitting any information or by not submitting any information at all under regulation 17(1) or 30(2) or (3) (or, where paragraph (13) applies, regulation 54) or external procedures,
- failed to mention any fact relied on in the officer’s case at the misconduct proceedings, being a fact which in the circumstances existing at the time, the officer could reasonably have been expected to mention when so questioned or when providing such information.
- (13) This paragraph applies where the relevant authority has directed, in accordance with regulation 50(1), that the case be dealt with under this Part.
- (14) Where this paragraph applies, the person or panel conducting the misconduct proceedings may draw such inferences from the failure as appear proper.
- (15) The person or panel conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts—
- (a) in the case of a misconduct meeting, to misconduct or not, or
 - (b) in the case of a misconduct hearing, to misconduct, gross misconduct or neither.

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(16) The person or panel conducting the misconduct proceedings must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless—

- (a) they are satisfied on the balance of probabilities that this is the case, or
- (b) the officer admits it is the case.

(17) At misconduct proceedings conducted by a panel, any decision must be based on a majority but must not indicate whether it was taken unanimously or by a majority.

(18) Where the Director General has made a decision under regulation 24(1) to present a case, paragraph (6) must be read as if for “The person representing the relevant authority” there were substituted “The Director General”.

(19) Where the Ombudsman is required under regulation 24(6) to present a case, paragraph (6) must be read as if for “The person representing the relevant authority” there were substituted “The Ombudsman”.

Commencement Information

I40 Sch. 1 para. 40 in force at 2.11.2020, see [reg. 1](#)

Outcome of misconduct proceedings

41.—(1) The person or panel conducting misconduct proceedings may, subject to the provisions of this regulation—

- (a) impose any one of the disciplinary actions mentioned in paragraph (2) or (3) as appropriate;
 - (b) where they find the conduct amounts to neither gross misconduct nor misconduct, direct that the matter is referred to be dealt with under the reflective practice review process.
- (2) The disciplinary action available at a misconduct meeting is—
- (a) a written warning,
 - (b) a final written warning.
- (3) The disciplinary action available at a misconduct hearing is—
- (a) where the person or panel conducting the misconduct proceedings decide that the conduct of the officer concerned amounts to misconduct, in accordance with regulation 40(15)—
 - (i) a written warning,
 - (ii) a final written warning,
 - (iii) reduction in rank, where paragraph (5) or (6) applies,
 - (iv) dismissal without notice, where paragraph (5) or (6) applies,
 - (b) where the person or panel conducting the misconduct proceedings decide the conduct of the officer concerned amounts to gross misconduct, in accordance with regulation 40(15)—
 - (i) a final written warning,
 - (ii) reduction in rank,
 - (iii) dismissal without notice.

(4) The disciplinary action referred to in paragraph (3) has effect from the date on which it is notified to the officer concerned.

(5) This paragraph applies where a final written warning was in force on the date of the severity assessment made under regulation 13(1) or external procedures.

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(6) This paragraph applies where it is decided at misconduct proceedings that the officer's conduct amounts to misconduct and the decision is based on the officer's conduct arising from more than one incident and those incidents are not closely factually connected.

(7) A written warning must not be given where, on the date of the severity assessment under regulation 13(1) or external procedures, the officer concerned had a written warning in force.

(8) Neither a written warning nor a final written warning must be given where, on the date of the severity assessment under regulation 13(1) or external procedures, the officer concerned had a final written warning in force.

(9) Where a written warning or final written warning is given, that warning remains in force for—

- (a) a period of 18 months beginning with the day on which it was notified to the officer concerned, in the case of a written warning, or
- (b) a period of 2 years beginning with the day on which it was notified to the officer concerned, in the case of a final written warning.

(10) Where a final written warning is given under paragraph (3), the period in paragraph (9) (b) may be extended, by the persons considering the question of disciplinary action, to a maximum period of 5 years.

(11) The references to a period in paragraph (9)(a) and (b), including any such period as extended, if relevant, in accordance with paragraph (10), does not include any time when the officer is taking extended special unpaid leave.

(12) Reduction in rank may only be imposed under this regulation where the persons imposing the disciplinary action consider this is an appropriate sanction, taking into account the views of the relevant authority including in relation to the likely operational impact.

(13) Where, on the date of the severity assessment under regulation 13(1) or under external procedures, the officer concerned is subject to a reduction in rank under these Regulations or the Ministry of Defence Police (Conduct) Regulations 2004(17), a reduction in rank must not be imposed.

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

- (a) must have regard to the record of police service of the officer concerned as shown on the officer's personal record,
- (b) may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question, and
- (c) must give—
 - (i) the officer,
 - (ii) if the officer is legally represented, the officer's relevant lawyer or, if the officer is not legally represented, the officer's police friend,
 - (iii) the relevant authority or the person appointed to represent such authority in accordance with regulation 7(5),
 - (iv) the Director General or the Director General's relevant lawyer, where the Director General made a decision under regulation 24(1) to present the case, and
 - (v) the Ombudsman or the Ombudsman's relevant lawyer, where the Ombudsman has been directed to present the case under regulation 24(6),

an opportunity to make oral or written representations before any such question is determined, including on the appropriate level of disciplinary action, and

(17) S.I. 2004/653.

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- (d) where representations are received in relation to mitigating circumstances—
 - (i) must consider whether those circumstances have been mentioned at an earlier stage in the proceedings and, if they have not been so mentioned, whether the officer could reasonably have been expected to so mention them, and
 - (ii) in the light of their conclusions under paragraph (i), may determine that it is appropriate to place less weight on those circumstances.

Commencement Information

I41 Sch. 1 para. 41 in force at 2.11.2020, see [reg. 1](#)

Notification of outcome

42.—(1) The person conducting or chairing the misconduct proceedings must, before the end of a period of 5 working days beginning with the first working day after the completion of the misconduct hearing or misconduct meeting, submit a report to the relevant authority setting out—

- (a) the finding of the person or panel conducting the misconduct proceedings;
- (b) the reasons for that finding;
- (c) any disciplinary action imposed;
- (d) any direction that the matter be dealt with under the reflective practice review process.

(2) The relevant authority must, as soon as practicable after receiving the report under paragraph (1), notify the officer concerned of the outcome by sending the officer a copy of—

- (a) the report submitted under paragraph (1), and
- (b) where there was a finding of misconduct or gross misconduct, a notice of the right of appeal in accordance with paragraph (3).

(3) A notice of the right of appeal under paragraph (2) is a notice—

- (a) where the officer concerned is not a senior officer—
 - (i) if the case was decided at a misconduct meeting, of the right of appeal under regulation 44, or
 - (ii) if the case was decided at a misconduct hearing, of the right of appeal under the Appeals Tribunals Regulations,
- (b) where the officer concerned is a senior officer, of the right of appeal under the Appeals Tribunals Regulations.

(4) In all cases referred to in paragraph (3) the notice of the right of appeal must be in writing and include the name of the person to whom an appeal should be sent.

(5) The relevant authority must send a copy of any report under this regulation to—

- (a) the Director General, in any case where the Director General—
 - (i) presented the case, or
 - (ii) was entitled to attend to make representations under regulation 37(1),
- (b) the Ombudsman, in any case in which the Ombudsman—
 - (i) presented the case, or
 - (ii) was entitled to make representations under regulation 37(1), and
- (c) the complainant and any interested person, in any case to which regulation 39 applies.

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(6) Subject to the harm test and to paragraph (10), the person chairing a misconduct hearing must require the relevant authority to publish the report submitted under paragraph (1).

(7) Where the relevant authority is required to publish the report in accordance with paragraph (6), it must do so as soon as practicable after the officer has been notified of the outcome of the proceedings under paragraph (2).

(8) Where the relevant authority publishes a report in accordance with paragraph (6), it must publish the report on its website for a period of not less than 28 days.

(9) Prior to publication of a report under paragraph (6) the relevant authority may, subject to paragraph (12), redact the document—

(a) in so far as the authority considers redaction is—

- (i) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings,
- (ii) necessary in the interests of national security,
- (iii) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders,
- (iv) necessary for the purpose of the prevention or detection of misconduct by other MDP officers or their apprehension for such matters,
- (v) necessary and proportionate for the protection of the welfare and safety of any informant or witness,
- (vi) otherwise in the public interest, and

(b) in line with any restrictions imposed on the disclosure of information during the course of the proceedings.

(10) The person chairing the misconduct hearing may dispense with the requirement under paragraph (6) to publish the report if in the particular circumstances of the case the person considers it is appropriate to do so on any of the grounds set out in paragraph (9)(a) or (b).

(11) In making a decision under paragraph (10), the person chairing the misconduct hearing may have regard to any representations—

- (a) provided under regulation 35(3) or (5), or
- (b) made at the misconduct hearing.

(12) Information that has already been published during the course of the proceedings may not be redacted under paragraph (9).

Commencement Information

I42 Sch. 1 para. 42 in force at 2.11.2020, see [reg. 1](#)

Record of misconduct proceedings

43.—(1) A record of the misconduct proceedings must be taken and in the case of a misconduct hearing that record must be verbatim.

(2) The officer concerned must, on request, be supplied with a copy of the record of the proceedings at the misconduct proceedings.

Commencement Information

I43 Sch. 1 para. 43 in force at 2.11.2020, see [reg. 1](#)

Appeal from misconduct meeting: officers other than senior officers

44.—(1) Where the officer concerned is an officer, other than a senior officer, whose case was decided at a misconduct meeting, the officer may, subject to the provisions of this regulation, appeal—

- (a) if the officer admitted the officer's conduct amounted to misconduct, against any disciplinary action imposed under regulation 41, or
- (b) if (after the officer denied misconduct) the person or panel conducting the misconduct meeting found that the officer's conduct amounted to misconduct, against that finding or any disciplinary action imposed under regulation 41.

(2) The only grounds of appeal under this regulation are that—

- (a) the finding or disciplinary action imposed was unreasonable,
- (b) there is evidence that could not reasonably have been considered at the misconduct meeting which could have materially affected the finding or decision on disciplinary action, or
- (c) there was a serious breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

(3) An appeal under this regulation must be commenced by the officer concerned giving written notice of appeal to the relevant authority—

- (a) before the end of 7 working days beginning with the first working day after the report is given to the officer under regulation 42 (unless this period is extended by the relevant authority for exceptional circumstances), and
- (b) stating the grounds of appeal and whether a meeting is requested.

(4) An appeal under this regulation must be determined—

- (a) where the person who conducted the misconduct meeting was a member of a police force, by—
 - (i) an MDP officer of at least one rank higher than that person, or
 - (ii) unless the case substantially involves operational policing matters, a staff member who, in the opinion of the relevant authority, is more senior than that person,
- (b) where the person who conducted the misconduct meeting was a staff member, by—
 - (i) a member of a police force who, in the opinion of the relevant authority is more senior than that person, or
 - (ii) a more senior staff member,

who is not an interested party, appointed by the relevant authority.

(5) The relevant authority must as soon as practicable give the officer concerned written notice of—

- (a) the name of the person appointed to determine the appeal under paragraph (4),
- (b) the name of any person appointed under regulation 7(6) to advise the person determining the appeal, and
- (c) the effect of paragraphs (6) to (9) of this regulation.

(6) The officer concerned may object to any person whom the officer is notified under this regulation is to—

- (a) determine the appeal, or
- (b) advise the person determining the appeal.

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(7) Any such objection must be made in writing to the relevant authority before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer.

(8) The relevant authority must notify the officer concerned in writing whether it upholds or rejects an objection to the person appointed to determine the appeal or to any person appointed under regulation 7(6) to advise the person determining the appeal.

(9) If the relevant authority upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with regulation 7(6) and (7) or paragraph (4) as appropriate).

(10) As soon as reasonably practicable after any such appointment, the relevant authority must give a written notice to the officer concerned of the name of the new person appointed to determine the appeal or the advisor to the person determining the appeal, as the case may be, and of the effect of paragraphs (11) and (12) of this regulation.

(11) The officer concerned may object to the appointment of a person appointed under paragraph (9).

(12) In relation to an objection under paragraph (11) of this regulation—

- (a) paragraph (7) applies except in so far as it specifies the period of time for making an objection,
- (b) the objection must be made before the end of 3 working days beginning with the first working day after the officer concerned is given the notice referred to in paragraph (10),
- (c) paragraphs (8) to (10) apply, with the exception of the requirement in paragraph (10) for the relevant authority to give written notice of the effects of paragraphs (11) and (12).

(13) The relevant authority must supply the person determining the appeal with a copy of—

- (a) the documents given to the person who held the misconduct meeting as specified in regulation 31(6),
- (b) the notice of appeal given by the officer concerned under paragraph (3),
- (c) the record of the misconduct meeting taken under regulation 43(1), and
- (d) any evidence of a kind referred to in paragraph (2)(b) that the officer wishes to submit in support of the appeal.

(14) The person determining the appeal must determine whether the notice of appeal sets out arguable grounds of appeal and if they decide that it does not, they must dismiss the appeal.

Commencement Information

I44 Sch. 1 para. 44 in force at 2.11.2020, see [reg. 1](#)

Appeal meeting

45.—(1) This regulation applies where the officer concerned requests a meeting in the written notice of appeal under regulation 44(3).

(2) If the person determining the appeal determines under regulation 44(14) that the notice of appeal sets out arguable grounds of appeal, they must hold an appeal meeting with the officer concerned, subject to paragraphs (3) and (5), before the end of 5 working days beginning with the first working day after that determination.

(3) The person determining the appeal may extend the time period specified in paragraph (2) where they consider that it would be in the interests of justice to do so.

(4) The person determining the appeal must specify a date and time for the appeal meeting.

- (5) Where—
- (a) the officer concerned or the officer’s police friend will not be available, and
 - (b) the officer proposes an alternative date or time which satisfies paragraph (6),
- the appeal meeting must be postponed to the date or time proposed by the officer.
- (6) An alternative time must—
- (a) be reasonable, and
 - (b) fall before the end of 5 working days beginning with the first working day after the day specified by the person determining the appeal.
- (7) The relevant authority must give written notice of the date, time and place of the appeal meeting to—
- (a) the officer concerned,
 - (b) where the Director General or the Ombudsman was entitled to attend the misconduct meeting to make representations under regulation 37(1), or to nominate a person to attend the meeting as an observer under regulation 39(6), the Director General or the Ombudsman, as the case may be, and
 - (c) where the complainant or an interested person was entitled to attend the misconduct meeting under regulation 39(3), the complainant or, as the case may be, interested person.
- (8) The appeal meeting must not be held until the person determining the appeal has received a copy of the documents under regulation 44(13).
- (9) The person determining the appeal must determine the procedure at the appeal meeting and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.
- (10) Subject to the provisions of this regulation, any interested person or complainant entitled to be given notice of the appeal meeting under paragraph (7) may attend the appeal meeting as an observer.
- (11) Where the officer concerned objects to the complainant or interested person being present whilst a submission is made in mitigation on the officer’s behalf, the person determining the appeal may require the complainant or interested person to withdraw while the submission is made.
- (12) The person determining the appeal may impose such conditions as they see fit relating to the attendance of persons under paragraph (10) at the appeal meeting (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the appeal meeting.

Commencement Information

I45 Sch. 1 para. 45 in force at 2.11.2020, see [reg. 1](#)

Finding of the appeal

- 46.**—(1) The person determining the appeal may—
- (a) confirm or reverse the decision appealed against,
 - (b) deal with the officer concerned in any manner in which the person or panel conducting the misconduct meeting could have dealt with the officer under regulation 41.
- (2) Before the end of 3 working days beginning with the first working day after the determination of the appeal, the relevant authority must give the officer concerned written notice of that determination with a summary of the reasons.

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(3) The decision of the person determining the appeal takes effect by way of substitution for the decision of the person conducting or chairing the misconduct meeting and as from the date of the written notice of the outcome of that meeting.

(4) The relevant authority must give the Director General or, as the case may be, the Ombudsman, written notice of the determination of the appeal with a summary of reasons where the Director General or Ombudsman had a right to attend the misconduct proceedings under regulation 37(1).

Commencement Information

I46 Sch. 1 para. 46 in force at 2.11.2020, see [reg. 1](#)

PART 5

Accelerated Misconduct Hearings

General

47. Any period of time specified in this Part in relation to an accelerated misconduct hearing may be reduced by agreement between the relevant authority, the officer concerned, where the Director General or Ombudsman is presenting the case, the Director General or the Ombudsman, as the case may be, and the person conducting or chairing the accelerated misconduct hearing.

Commencement Information

I47 Sch. 1 para. 47 in force at 2.11.2020, see [reg. 1](#)

National security: power to give directions in relation to accelerated misconduct hearings

48.—(1) If the Secretary of State considers it expedient in the interests of national security, the Secretary of State may give a direction (“the direction”), in writing, in relation to an accelerated misconduct hearing, relating to one or more of the following matters—

- (a) that all or part of the accelerated misconduct hearing must be conducted in private;
- (b) that a specified person must be excluded from all or part of the accelerated misconduct hearing;
- (c) that specified information must be excluded from any notice published under regulation 53 (public notification of accelerated misconduct hearing) or report published under regulation 63(5) (publication of information in relation to outcome).

(2) The Secretary of State must provide the direction (or a copy of it) to the relevant authority as soon as possible.

(3) Following receipt of the direction, the relevant authority must supply a copy of it to the person conducting or chairing the accelerated misconduct hearing as soon as possible.

(4) The person conducting or chairing the accelerated misconduct hearing must comply with the direction.

Commencement Information

I48 Sch. 1 para. 48 in force at 2.11.2020, see [reg. 1](#)

Referral of case to accelerated misconduct hearing

49.—(1) On receipt of a statement submitted by the investigator under regulation 20(3), the relevant authority must determine whether the special conditions are satisfied.

(2) The “special conditions” are—

- (a) that there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that the conduct of the officer concerned constitutes gross misconduct, and
- (b) that it is in the public interest for the officer concerned to cease to be a member of the MDP without delay.

(3) In a case where misconduct proceedings or an accelerated misconduct hearing have been delayed by virtue of regulation 9(3), as soon as practicable after—

- (a) the relevant authority considers that such proceedings or hearing would no longer prejudice any criminal proceedings, or
- (b) any criminal proceedings have concluded (whatever the outcome),

the relevant authority may make a determination, or in the case of an accelerated misconduct hearing must make a further determination, as to whether the special conditions are satisfied.

(4) Where the relevant authority determines that the special conditions are satisfied, unless it considers that the circumstances are such as to make it inappropriate to do so, it must certify the case as one where the special conditions are satisfied and, subject to regulation 9(3), refer it to an accelerated misconduct hearing.

(5) Where the relevant authority determines—

- (a) that the special conditions are not satisfied, or
- (b) that, although those conditions are satisfied, the circumstances are such as to make such certification inappropriate,

it must, if the investigation was incomplete, return the case to the investigator to complete the investigation or, in any other case, proceed in accordance with Part 4.

(6) Where the relevant authority is to proceed in accordance with Part 4, regulation 23(1) must be read as if the words “Subject to regulation 49, on receipt of the investigator’s report under regulation 20(1), or an equivalent report made under external procedures” were omitted.

(7) Where the relevant authority certifies a case as one where the special conditions are satisfied under external procedures, it must, subject to regulation 9(3), refer it to an accelerated misconduct hearing.

Commencement Information

I49 Sch. 1 para. 49 in force at 2.11.2020, see [reg. 1](#)

Remission of case

50.—(1) Subject to paragraph (4), at any time after the case has been referred to an accelerated misconduct hearing but before the beginning of that hearing, the relevant authority may direct that the case be dealt with under Part 4 if it considers that the special conditions are no longer satisfied.

(2) Where a direction is made under paragraph (1) the officer concerned must be notified before the end of 3 working days beginning with the first working day after that direction is made and the relevant authority must proceed in accordance with Part 4.

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(3) Where the relevant authority is to proceed in accordance with Part 4, regulation 23(1) must be read as if the words “Subject to regulation 49, on receipt of the investigator’s report under regulation 20(1), or an equivalent report made under external procedures” were omitted.

(4) Paragraph (1) does not apply to a case where—

- (a) the Director General has given a direction under external procedures established for England and Wales to certify a case as once where the special conditions are satisfied;
- (b) the Ombudsman has given a direction under external procedures established for Northern Ireland that accelerated proceedings are brought.

Commencement Information

I50 Sch. 1 para. 50 in force at 2.11.2020, see [reg. 1](#)

Notice of referral to accelerated misconduct hearing

51.—(1) Where a case is certified, whether under regulation 49(4) or under external procedures, as one where the special conditions are satisfied and referred to an accelerated misconduct hearing, the relevant authority must as soon as practicable give the officer concerned written notice of these matters and must supply the officer with a copy of—

- (a) the certificate issued under regulation 49(4) or under external procedures,
- (b) any statement the officer may have made to the investigator during the course of the investigation, and
- (c) subject to the harm test—
 - (i) the investigator’s report or such parts of that report as relate to the officer (together with any document attached to or referred to in that report as relates to the officer), and
 - (ii) any other document which might reasonably be considered capable of undermining or assisting the case.

(2) The notice given under paragraph (1) must—

- (a) describe the conduct that is the subject matter of the case and how that conduct is alleged to amount to gross misconduct, and
- (b) where relevant, specify that—
 - (i) the Director General has made a decision under regulation 24(1) to present the case, or
 - (ii) the Ombudsman is required under regulation 24(6) to present the case.

(3) Where paragraph (2)(b) applies, the relevant authority must—

- (a) consult the Director General or the Ombudsman, as appropriate, about the contents of the written notice to be given under paragraph (1) and on the application of the harm test under paragraph (1)(c),
- (b) comply with any direction given by the Director General or the Ombudsman, as appropriate, in relation to the matters specified in paragraph (a), and
- (c) provide the Director General or the Ombudsman, as appropriate, with a copy of the written notice given under paragraph (1).

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Commencement Information

I51 Sch. 1 para. 51 in force at 2.11.2020, see [reg. 1](#)

Notice of accelerated misconduct hearing

52.—(1) The relevant authority must specify a date for the accelerated misconduct hearing which must be not less than 10 and not more than 15 working days after the date on which notice is given under regulation [51\(1\)](#) (notice of referral to accelerated conduct hearing) and must as soon as practicable—

- (a) notify the officer concerned and the person conducting or chairing the accelerated misconduct hearing of the date, time and place of that hearing, and
- (b) notify the officer concerned of the effect of regulation [7\(1\)](#) to [\(3\)](#) in relation to an accelerated misconduct hearing.

(2) Where the Director General has made a decision under regulation [24\(1\)](#) to present a case or is entitled to attend the accelerated misconduct hearing to make representations under regulation [58\(1\)](#), the relevant authority must notify the Director General of the date, time and place of the hearing.

(3) When the Ombudsman is required under regulation [24\(6\)](#) to present a case, or is entitled to attend the accelerated misconduct hearing to make representations under regulation [58\(1\)](#), the relevant authority must notify the Ombudsman of the date, time and place of the hearing.

Commencement Information

I52 Sch. 1 para. 52 in force at 2.11.2020, see [reg. 1](#)

Public notification of accelerated misconduct hearing

53.—(1) The person conducting or chairing an accelerated misconduct hearing may require the relevant authority to give notice of the hearing which contains information relating to one or more of—

- (a) the name of the officer concerned,
- (b) the date of the hearing,
- (c) the time of the hearing,
- (d) the place at which the hearing will take place, and
- (e) the conduct that is the subject matter of the case and how that conduct is alleged to amount to gross misconduct, as set out in the notice given in accordance with regulation [51\(2\)](#).

(2) Where the person conducting or chairing the accelerated misconduct hearing requires notice to be given in accordance with paragraph (1), the relevant authority must publish the notice on its website as soon as practicable after notice of the hearing is given under regulation [52\(1\)](#).

(3) Any person to whom this paragraph applies may make written representations to the person conducting or chairing the accelerated misconduct hearing in relation to—

- (a) whether, and (if so) the extent to which, the person conducting or chairing the accelerated misconduct hearing should exclude any person from the whole or part of the hearing under regulation [59\(2\)\(a\)](#),
- (b) whether the person conducting or chairing the accelerated misconduct hearing should impose any conditions under regulation [59\(2\)\(b\)](#),

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- (c) whether the person conducting or chairing the accelerated misconduct hearing should give directions prohibiting the publication of any matter relating to the proceedings under regulation 59(2)(c),
- (d) in the light of the representations made under sub-paragraphs (a) to (c)—
 - (i) whether the person conducting or chairing the accelerated misconduct hearing should require notice to be given under paragraph (1),
 - (ii) which types of information mentioned in paragraph (1)(a) to (e) should be included in any such notice.
- (4) Paragraph (3) applies to—
 - (a) the officer concerned,
 - (b) the relevant authority,
 - (c) the complainant,
 - (d) any interested person,
 - (e) the Director General, and
 - (f) the Ombudsman.
- (5) Written representations, in relation to the matters specified in paragraph (3)(a) to (c), may also be made by any representative of the media to the person conducting or chairing the accelerated misconduct hearing.
- (6) Any written representations made in accordance with paragraph (3) or (5), as the case may be, must be provided no later than the date specified by the person conducting or chairing the accelerated misconduct hearing for provision of such representations.

Commencement Information

I53 Sch. 1 para. 53 in force at 2.11.2020, see [reg. 1](#)

Procedure on receipt of notice

- 54.**—(1) Before the end of 7 working days beginning with the first working day after the written notice is given to the officer concerned under regulation 51(1), the officer concerned must give the relevant authority—
- (a) written notice of whether or not they accept that their conduct amounts to gross misconduct;
 - (b) where they accept that their conduct amounts to gross misconduct, any written submission they wish to make in mitigation;
 - (c) where they do not accept that their conduct amounts to gross misconduct, written notice of—
 - (i) the allegations they dispute and their account of the relevant events, and
 - (ii) any arguments on points of law they wish to be considered by the person or panel conducting the accelerated misconduct hearing;
 - (d) a copy of any document they intend to rely on at the accelerated misconduct hearing.
- (2) Where the Director General has made a decision under regulation 24(1) to present a case, the officer concerned must provide the Director General with a copy of the documents they have provided in accordance with paragraph (1).

(3) Where the Ombudsman is required under regulation 24(6) to present a case, the officer concerned must provide the Ombudsman with a copy of the documents they have provided in accordance with paragraph (1).

Commencement Information

I54 Sch. 1 para. 54 in force at 2.11.2020, see [reg. 1](#)

Persons conducting accelerated misconduct hearing

55.—(1) Where the officer concerned is not a senior officer, the accelerated misconduct hearing must be conducted by the chief constable.

(2) Where the chief constable is an interested party or is unavailable, the accelerated misconduct hearing must be conducted by the chief officer of police of a relevant force.

(3) Where the officer concerned is a senior officer, the accelerated misconduct hearing must be conducted by a panel of persons specified in paragraph (4), appointed by the relevant authority.

(4) Those persons are—

- (a) a chair selected in accordance with regulation 27(4)(a),
- (b) the Inspector of Constabulary, and
- (c) a person selected in accordance with regulation 27(4)(c).

Commencement Information

I55 Sch. 1 para. 55 in force at 2.11.2020, see [reg. 1](#)

Documents to be supplied

56.—(1) Prior to the accelerated misconduct hearing the relevant authority must supply the person conducting or chairing the accelerated misconduct hearing with a copy of—

- (a) the notice given to the officer concerned under regulation 51(1),
- (b) the other documents given to the officer under regulation 51(1),
- (c) the documents provided by the officer under—
 - (i) regulation 54, and
 - (ii) where paragraph (2) applies, regulation 30(2) and (3),
- (d) where the officer concerned does not accept that the officer's conduct amounts to gross misconduct, any other documents that, in the opinion of the relevant authority, should be considered at the hearing.

(2) This paragraph applies in a case where misconduct proceedings have been delayed by virtue of regulation 9(3) and the relevant authority has certified the case as one where the special conditions are satisfied following a determination made under regulation 49(3).

(3) Prior to the accelerated misconduct hearing, the relevant authority must provide the officer concerned with—

- (a) a list of the documents supplied under paragraph (1), and
- (b) a copy of any such document, where it has not already been supplied.

(4) Where the Director General has made a decision under regulation 24(1) to present a case, the duty specified in paragraph (1) to supply the specified documents to the person conducting or

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chairing the accelerated misconduct hearing lies with the Director General and not with the relevant authority.

(5) Where the Ombudsman is required under regulation 24(6) to present a case, the duty specified in paragraph (1) to supply the specified documents to the person conducting or chairing the accelerated misconduct hearing lies with the Ombudsman and not with the relevant authority.

Commencement Information

I56 Sch. 1 para. 56 in force at 2.11.2020, see [reg. 1](#)

Attendance of officer concerned at accelerated misconduct hearing

57.—(1) Subject to paragraph (2), the officer concerned must attend the accelerated misconduct hearing.

(2) Where the officer concerned informs the person conducting or chairing the accelerated misconduct hearing in advance that the officer is unable to attend on grounds which the person conducting or chairing the hearing considers reasonable, that person may allow the officer to participate in the hearing by video link or other means.

(3) Where under paragraph (2) the officer concerned is allowed to and does so participate in the accelerated misconduct hearing, or where the officer otherwise does not attend the accelerated misconduct hearing—

- (a) the officer may nonetheless be represented at that hearing by—
 - (i) a police friend, or
 - (ii) a relevant lawyer (in which case the police friend may also attend), and
- (b) the hearing may be proceeded with and concluded in the absence of the officer whether or not the officer is so represented.

(4) Where the officer concerned is represented in accordance with paragraph (3), the police friend or relevant lawyer of the officer, or both, as the case may be, may participate using the video link or other means where such means are also used by the officer.

Commencement Information

I57 Sch. 1 para. 57 in force at 2.11.2020, see [reg. 1](#)

Participation of Director General, Ombudsman and investigator at accelerated misconduct hearing

58.—(1) The Director General or, as the case may be, Ombudsman, may attend an accelerated misconduct hearing to make representations in any case where—

- (a) the complaint has been investigated under paragraphs 18 or 19 of Schedule 3 to the 2002 Act or section 54(2), (3)(a) or section 55(3), (5) or (6) of the 1998 Act,
- (b) directed or supervised, under external procedures, the investigation of a complaint, or
- (c) the complaint has been investigated under paragraph 16 of Schedule 3 to the 2002 Act or section 57 of the 1998 Act—
 - (i) where the Director General—

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- (aa) made a recommendation under paragraph 25(4C)(c) of that Schedule (duties with respect to disciplinary proceedings) which the relevant authority accepted, or
 - (bb) gave a direction under paragraph 27(4)(a) of that Schedule (duties with respect to disciplinary proceedings), or
 - (ii) where the Ombudsman made a recommendation under section 59(2) of the 1998 Act which the chief constable accepted.
- (2) Where the Director General or Ombudsman so attends the accelerated misconduct hearing—
- (a) the Director General or Ombudsman may be represented by a relevant lawyer,
 - (b) the Director General or Ombudsman must notify the complainant or any interested person prior to the hearing, and
 - (c) the person conducting or chairing the accelerated misconduct hearing must notify the officer concerned prior to the hearing.
- (3) The investigator or a nominated person must attend the accelerated misconduct hearing on the request of the person conducting or chairing the hearing to answer questions.
- (4) For the purposes of this regulation, a “nominated person” is a person who, in the opinion of—
- (a) the relevant authority, or
 - (b) in a case investigated under paragraph 18 or 19 of Schedule 3 to the 2002 Act where under external procedures the Director General directed the investigation or carried out the investigation, the Director General, or
 - (c) in a case investigated under section 54(2), (3)(a) or section 55(3), (5) or (6) of the 1998 Act where under external procedures the Ombudsman investigated the case, or supervised the investigation, the Ombudsman,
- has sufficient knowledge of the investigation of the case to be able to assist the person conducting or chairing the accelerated misconduct hearing.
- (5) Paragraph (1) does not apply in a case where—
- (a) the Director General has made a decision under regulation 24(1) to present a case, or
 - (b) the Ombudsman is required under regulation 24(6) to present a case.

Commencement Information

I58 Sch. 1 para. 58 in force at 2.11.2020, see [reg. 1](#)

Reporting restrictions and participation at accelerated misconduct hearing

- 59.**—(1) Subject to paragraph (2), an accelerated misconduct hearing must be in public.
- (2) Having considered any representations received under regulation 53(3) and (5), the person conducting or chairing the accelerated misconduct hearing may—
- (a) in relation to the attendance at the hearing of a person under this regulation, exclude any person as they see fit from the whole or a part of it,
 - (b) impose such conditions as they see fit relating to the attendance under this regulation of any person at the hearing in order to facilitate the proper conduct of it, and
 - (c) give such directions as they think appropriate prohibiting the publication of any matter relating to the hearing.

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(3) Where the person conducting or chairing the accelerated misconduct hearing excludes a person under paragraph (2)(a) which has the effect of excluding a representative of the media, or gives a direction under paragraph (2)(c), any representative of the media may make representations to the person conducting or chairing the accelerated misconduct hearing about the exclusion or, as the case may be, direction.

Commencement Information

I59 Sch. 1 para. 59 in force at 2.11.2020, see [reg. 1](#)

Notice to complainant and interested persons of accelerated misconduct hearing

60.—(1) This regulation applies in the case of an accelerated misconduct hearing arising from the investigation of a conduct matter or complaint under external procedures.

(2) The relevant authority must notify the complainant and any interested person of the date, time and place of the accelerated misconduct hearing and of their right to make representations under regulation [53\(3\)](#).

Commencement Information

I60 Sch. 1 para. 60 in force at 2.11.2020, see [reg. 1](#)

Procedure at accelerated misconduct hearing

61.—(1) The person conducting or chairing the accelerated misconduct hearing must determine the procedure at the hearing and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.

(2) The accelerated misconduct hearing must not proceed unless the officer concerned has been notified of the effect of regulation [7\(1\)](#) to [\(3\)](#) in relation to an accelerated misconduct hearing.

(3) Subject to paragraph (4), the person conducting or chairing the accelerated misconduct hearing may from time to time adjourn the hearing if it appears to the person to be necessary or expedient to do so.

(4) The accelerated misconduct hearing must not, except in exceptional circumstances, be adjourned solely to allow the complainant or any interested person to attend.

(5) At the beginning of the accelerated misconduct hearing, the person conducting or chairing the accelerated misconduct hearing must give the officer the opportunity to say whether or not the officer accepts that the officer's conduct amounts to gross misconduct.

(6) No witnesses other than the officer concerned may give evidence at the accelerated misconduct hearing and the person conducting or chairing the accelerated misconduct hearing must determine whether and by whom the officer concerned can be questioned.

(7) The person representing the relevant authority may—

(a) address the hearing in order to do any or all of the following—

(i) put the case of the authority,

(ii) sum up that case,

(iii) respond on behalf of the authority to any view expressed at the accelerated misconduct hearing, and

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- (iv) make representations concerning any aspect of proceedings under these Regulations, and
 - (b) confer with the authority.
- (8) The person representing the officer concerned may—
- (a) address the hearing in order to do any or all of the following—
 - (i) put the case of the officer,
 - (ii) sum up that case,
 - (iii) respond on behalf of the officer to any view expressed at the accelerated misconduct hearing, and
 - (iv) make representations concerning any aspect of proceedings under these Regulations, and
 - (b) if the officer concerned is present at the accelerated misconduct hearing or is participating in it by video link or other means in accordance with regulation 57(2), confer with the officer.
- (9) Where the person representing the officer concerned is a relevant lawyer, the police friend of the officer may also confer with the officer in the circumstances mentioned in paragraph (8)(b).
- (10) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer during the accelerated misconduct hearing.
- (11) The person conducting or chairing the accelerated misconduct hearing may allow any document to be considered at the hearing notwithstanding that a copy of it has not been supplied—
- (a) by the officer concerned to the relevant authority in accordance with regulation 54(1)(d), or
 - (b) to the officer in accordance with regulation 51(1).
- (12) Where evidence is given or considered at the accelerated misconduct hearing that the officer concerned—
- (a) on being questioned by an investigator, at any time after the officer was given written notice under regulation 16(1) of these Regulations or external procedures, or
 - (b) in submitting any information or by not submitting any information at all under (or, where paragraph (14) applies, regulation 17(1) or 31(2) or (3)) or under external procedures,
- failed to mention, any fact relied on in the officer's case at the accelerated misconduct hearing, being a fact which in the circumstances existing at the time, the officer could reasonably have been expected to mention when so questioned or when providing such information, paragraph (13) applies.
- (13) Where this paragraph applies, the person conducting or chairing the accelerated misconduct hearing may draw such inferences from the failure as appear proper.
- (14) This paragraph applies where the case was certified as one where the special conditions are satisfied following a determination made under regulation 49(4), being a case where misconduct proceedings have been delayed by virtue of regulation 9(3).
- (15) The person conducting or chairing the accelerated misconduct hearing must review the facts of the case and decide whether or not the conduct of the officer concerned amounts to gross misconduct.
- (16) The person conducting or chairing the accelerated misconduct hearing must not find that the conduct of the officer concerned amounts to gross misconduct unless—
- (a) they are satisfied on the balance of probabilities that this is the case, or
 - (b) the officer admits it is the case.

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(17) At an accelerated misconduct hearing conducted by a panel, any decision must be based on a majority but must not indicate whether it was taken unanimously or by a majority.

(18) Where the Director General has made a decision under regulation 24(1) to present a case, paragraph (7) must be read as if for “The person representing the relevant authority” there were substituted “The Director General”.

(19) Where the Ombudsman is required under regulation 24(6) to present a case, paragraph (7) must be read as if for “The person representing the relevant authority” there were substituted “The Ombudsman”.

Commencement Information

I61 Sch. 1 para. 61 in force at 2.11.2020, see [reg. 1](#)

Outcome of accelerated misconduct hearing

62.—(1) Where the person conducting or chairing the accelerated misconduct hearing finds that the conduct of the officer concerned amounts to gross misconduct, they must impose disciplinary action, which, subject to the provisions of this regulation, may be—

- (a) a final written warning,
- (b) reduction in rank, or
- (c) dismissal without notice.

(2) The disciplinary action has effect from the date on which it is notified to the officer concerned.

(3) Where, on the date of the severity assessment under regulation 13(1) or under external procedures, the officer concerned had a final written warning in force, a final written warning must not be given.

(4) Where a final written warning is given, that warning remains in force for—

- (a) a period of 2 years beginning with the day on which it was notified to the officer concerned, or
- (b) such longer period as the person or panel considering the question of disciplinary action may determine, up to a maximum of 5 years beginning with the day on which it was notified to the officer.

(5) The reference to a period in paragraph (4)(a) and (b) does not include any time when the officer concerned is taking extended special unpaid leave.

(6) Reduction in rank may only be imposed under this regulation where the person or panel imposing the disciplinary action consider this is an appropriate sanction, taking into account the views of the relevant authority, including in relation to the likely operational impact.

(7) Where, on the date of the severity assessment under regulation 13(1) or under external procedures, the officer concerned is subject to a reduction in rank under these Regulations or the Ministry of Defence Police (Conduct) Regulations 2004, a reduction in rank must not be imposed.

(8) Where the person conducting or chairing the accelerated misconduct hearing finds that the conduct of the officer concerned does not amount to gross misconduct, they may—

- (a) dismiss the case, or
- (b) return the case to the relevant authority to deal with in accordance with Part 4.

(9) Where the case is returned to the relevant authority under paragraph (8)(b), the relevant authority must proceed in accordance with Part 4, subject to regulation 23(1) being read as if the

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words “Subject to regulation 47, on receipt of the investigator’s report under regulation 20(1) or an equivalent report made under external procedures,” were omitted.

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

- (a) must have regard to the record of police service of the officer concerned as shown on the officer’s personal record,
- (b) may consider such documentary evidence as would, in their opinion, assist them in determining the question,
- (c) must give—
 - (i) the officer,
 - (ii) if the officer is legally represented, the officer’s relevant lawyer or, where the officer is not legally represented, the officer’s police friend,
 - (iii) the relevant authority or the person appointed to represent such authority in accordance with regulation 7(5),
 - (iv) the Director General or the Director General’s relevant lawyer, where the Director General presented the case on behalf of the relevant authority, and
 - (v) the Ombudsman or the Ombudsman’s relevant lawyer, where the Ombudsman presented the case on behalf of the relevant authority,

an opportunity to make oral or written representations before any such question is determined, including on the appropriate level of disciplinary action, and

- (d) where representations are received in relation to mitigating circumstances—
 - (i) must consider whether those circumstances have been mentioned at an earlier stage in the proceedings and, if they have not been so mentioned, whether the officer could reasonably have been expected to so mention them, and
 - (ii) in the light of their conclusions under paragraph (i), may determine that it is appropriate to place less weight on those circumstances.

Commencement Information

I62 Sch. 1 para. 62 in force at 2.11.2020, see [reg. 1](#)

Notification of outcome

63.—(1) The person conducting or chairing the accelerated misconduct hearing must, before the end of a period of 5 working days beginning with the first working day after the completion of the accelerated misconduct hearing, submit a report to the relevant authority, setting out—

- (a) the finding of the person or panel conducting the accelerated misconduct hearing;
- (b) the reasons for that finding;
- (c) any disciplinary action imposed.

(2) A report under this regulation must include notice of the right of appeal under the Appeals Tribunals Regulations.

(3) The relevant authority must, as soon as practicable after receiving the report under paragraph (1), notify the officer concerned of the outcome by sending the officer a copy of that report.

(4) The relevant authority must send a copy of any report under this regulation to—

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- (a) the Director General or the Ombudsman, in any case where the Director General or the Ombudsman—
 - (i) presented the case, or
 - (ii) was entitled to attend to make representations under regulation 58(1), and
- (b) the complainant and any interested person, in any case to which regulation 60 (accelerated misconduct hearing arising from the investigation of a conduct matter or complaint under external procedures) applies.

(5) Subject to the harm test and paragraph (9), the person conducting or chairing the accelerated misconduct hearing must require the relevant authority to publish the report submitted under paragraph (1).

(6) Where the relevant authority is required to publish the report in accordance with paragraph (5), it must do so as soon as practicable after the officer concerned is notified of the outcome of the accelerated misconduct hearing under paragraph (3).

(7) Where the relevant authority publishes a report in accordance with paragraph (5), it must publish the notice on its website for a period of not less than 28 days.

(8) Prior to publication of a report under paragraph (5) the relevant authority may, subject to paragraph (11), redact the document—

- (a) in so far as the authority considers redaction is—
 - (i) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings,
 - (ii) necessary in the interests of national security,
 - (iii) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders,
 - (iv) necessary for the purpose of the prevention or detection of misconduct by other MDP officers or their apprehension for such matters,
 - (v) necessary and proportionate for the protection of the welfare and safety of any informant or witness, or
 - (vi) otherwise in the public interest, and
- (b) in line with any restrictions imposed on the disclosure of information during the course of the proceedings.

(9) The person conducting or chairing the accelerated misconduct hearing may dispense with the requirement under paragraph (5) to publish the report if in the particular circumstances of the case the person considers it is appropriate to do so on any of the grounds set out in paragraph (8)(a) or (b).

(10) In making a decision under paragraph (9), the person conducting or chairing the accelerated misconduct hearing may have regard to any representations—

- (a) provided under regulation 53(3) or (5), or
- (b) made at the accelerated misconduct hearing.

(11) Information that has already been published during the course of the proceedings may not be redacted under paragraph (8).

Commencement Information

I63 Sch. 1 para. 63 in force at 2.11.2020, see [reg. 1](#)

Record of accelerated misconduct hearing

64.—(1) A verbatim record of the proceedings at the accelerated misconduct hearing must be taken.

(2) The officer concerned must, on request, be supplied with a copy of the record of the proceedings at the accelerated misconduct hearing.

Commencement Information

I64 Sch. 1 para. 64 in force at 2.11.2020, see [reg. 1](#)

PART 6

Reflective practice review process

Interpretation and application

65.—(1) In this Part—

“participating officer” means the MDP officer whose actions or behaviour are subject to the reflective practice review process, and

“reviewer” means the person who is conducting the reflective practice review process.

(2) The reviewer must be—

- (a) the line manager of the participating officer,
- (b) another officer who is senior to the participating officer, or
- (c) a staff member who, in the opinion of the relevant authority, is more senior than the participating officer.

(3) This Part applies where a matter has been referred to be dealt with under the reflective practice review process—

- (a) under these Regulations, or
- (b) under external procedures.

Commencement Information

I65 Sch. 1 para. 65 in force at 2.11.2020, see [reg. 1](#)

General

66.—(1) Where a matter is dealt with under this Part, regulation [6\(2\)\(b\)](#) to [\(d\)](#) does not apply.

(2) Where more than one officer is involved in a matter that has been referred to be dealt with under the reflective practice review process, a joint reflective practice review discussion may take place, provided that individual reflective review development reports are produced.

(3) A participating officer must not be prevented from applying for or obtaining a promotion by reason of the officer’s participation in the reflective practice review process.

(4) Any account given by the participating officer under regulation [67\(1\)\(b\)](#) or during the reflective practice review discussion held under regulation [69](#) is not admissible in any subsequent disciplinary proceedings brought against the participating officer, except to the extent that it consists

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of an admission relating to a matter that has not been referred to be dealt with under the reflective practice review process.

Commencement Information

I66 Sch. 1 para. 66 in force at 2.11.2020, see [reg. 1](#)

Referral to reflective practice review process

67.—(1) Where a matter is referred to the reflective practice review process, the reviewer must as soon as practicable provide the following to the participating officer—

- (a) details of the matter that has been referred and the circumstances that are being considered, and
- (b) an invitation to provide an account of the matter that has been referred for review.

(2) The participating officer must provide any account under paragraph (1)(b) within 5 working days beginning with the first working day after the day on which the invitation to do so is received, unless a longer period is agreed with the reviewer.

(3) The reflective practice review process consists of a fact-finding stage and a discussion stage, followed by the production of a reflective review development report.

Commencement Information

I67 Sch. 1 para. 67 in force at 2.11.2020, see [reg. 1](#)

Fact-finding stage

68.—(1) Enquiries made by the reviewer during the fact-finding stage must be reasonable, proportionate and relevant to the purpose, which is to establish the facts of the matter subject to the review process.

(2) Paragraphs (3) and (4) apply to a matter that has been referred under these Regulations to be dealt with under the reflective practice review process.

(3) If at any time during the fact-finding stage substantial evidence becomes available to the reviewer, which was not available to the relevant authority when the matter was referred to be dealt with under the reflective practice review process, the reviewer must refer the matter to the relevant authority for a further assessment under regulation 13.

(4) Where a matter is so referred for a further assessment, unless such further assessment is that the conduct, if proved, would amount to practice requiring improvement, the reflective practice review process must not be continued.

Commencement Information

I68 Sch. 1 para. 68 in force at 2.11.2020, see [reg. 1](#)

Discussion stage

69.—(1) The reviewer must, following completion of the fact-finding stage, invite the participating officer to attend a reflective practice review discussion.

(2) Such discussion should take place as soon as reasonably practicable.

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- (3) The discussion must include, in particular—
- (a) a discussion of the practice requiring improvement and related circumstances that have been identified, and
 - (b) the identification of key lessons to be learnt by the participating officer, line management or the MDP, to address the matter and prevent a reoccurrence of the matter.

Commencement Information

I69 Sch. 1 para. 69 in force at 2.11.2020, see [reg. 1](#)

Reflective review development report

70.—(1) The reviewer must, following completion of the discussion stage, produce a reflective review development report.

- (2) A reflective review development report must contain—
- (a) a summary of the issue and any relevant background circumstances,
 - (b) a summary of the reflective practice review discussion,
 - (c) key actions to be undertaken within a specified time period,
 - (d) any lessons identified for the participating officer,
 - (e) any lessons identified for the line management or the MDP,
 - (f) a specified period of time for reviewing the report and the actions taken.

(3) The reviewer must send a copy of the report to the relevant authority.

(4) The relevant authority must take appropriate action to ensure that any lessons identified for the line management or the MDP are addressed.

(5) A copy of the report, together with a note of the review of the report and of actions taken, must be retained.

(6) The report and review notes must be discussed as part of the participating officer's performance and development review during the 12 month period following production of the report.

Commencement Information

I70 Sch. 1 para. 70 in force at 2.11.2020, see [reg. 1](#)

Failure to engage with the reflective practice review process

71. If the reviewer considers that the participating officer is failing to engage with the reflective practice review process, the reviewer may refer that failure for assessment by the relevant authority under regulation [13](#).

Commencement Information

I71 Sch. 1 para. 71 in force at 2.11.2020, see [reg. 1](#)

Changes to legislation:

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View outstanding changes

Changes and effects yet to be applied to :

- Sch. 1 para. 27(1)(a)(ii) omitted by S.I. 2024/603 reg. 2(7)(a)(i)
- Sch. 1 para. 28(10) omitted by S.I. 2024/603 reg. 2(8)(b)
- Sch. 1 para. 32(17) omitted by S.I. 2024/603 reg. 2(11)(e)
- Sch. 1 para. 55(2) omitted by S.I. 2024/603 reg. 2(20)(b)
- Sch. 1 para. 27(4) substituted by S.I. 2024/603 reg. 2(7)(d)
- Sch. 1 para. 27(5) substituted by S.I. 2024/603 reg. 2(7)(e)
- Sch. 1 para. 27(6) substituted by S.I. 2024/603 reg. 2(7)(g)
- Sch. 1 para. 29(4) substituted by S.I. 2024/603 reg. 2(9)(f)
- Sch. 1 para. 29(5) substituted by S.I. 2024/603 reg. 2(9)(g)
- Sch. 1 para. 55(4) substituted by S.I. 2024/603 reg. 2(20)(d)
- Sch. 1 para. 27(1)(a)(iii) word inserted by S.I. 2024/603 reg. 2(7)(a)(ii)
- Sch. 1 para. 29(3) word omitted by S.I. 2024/603 reg. 2(9)(e)(i)
- Sch. 1 para. 32(1)(b) word omitted by S.I. 2024/603 reg. 2(11)(b)
- Sch. 1 para. 42(5) word omitted by S.I. 2024/603 reg. 2(15)(c)(i)
- Sch. 1 para. 51(2) word omitted by S.I. 2024/603 reg. 2(18)(a)(i)
- Sch. 1 para. 63(4) word omitted by S.I. 2024/603 reg. 2(23)(c)(i)
- Sch. 1 para. 7(7) word substituted by S.I. 2024/603 reg. 2(3)(b)
- Sch. 1 para. 21 word substituted by S.I. 2024/603 reg. 2(6)
- Sch. 1 para. 27(1)(b) word substituted by S.I. 2024/603 reg. 2(7)(b)
- Sch. 1 para. 27(2) word substituted by S.I. 2024/603 reg. 2(7)(b)
- Sch. 1 para. 29(3)(b) word substituted by S.I. 2024/603 reg. 2(9)(e)(ii)
- Sch. 1 para. 29(7) word substituted by S.I. 2024/603 reg. 2(9)(j)(iv)
- Sch. 1 para. 31(1) word substituted by S.I. 2024/603 reg. 2(10)(a)
- Sch. 1 para. 31(2) word substituted by S.I. 2024/603 reg. 2(10)(a)
- Sch. 1 para. 38(6)(c) word substituted by S.I. 2024/603 reg. 2(13)(a)(ii)
- Sch. 1 para. 47 word substituted by S.I. 2024/603 reg. 2(17)
- Sch. 1 para. 2(1) words inserted by S.I. 2024/603 reg. 2(2)(a)(i)
- Sch. 1 para. 27(2) words inserted by S.I. 2024/603 reg. 2(7)(c)
- Sch. 1 para. 29(6) words inserted by S.I. 2024/603 reg. 2(9)(h)(i)
- Sch. 1 para. 29(6) words inserted by S.I. 2024/603 reg. 2(9)(h)(ii)
- Sch. 1 para. 29(7) words inserted by S.I. 2024/603 reg. 2(9)(j)(i)
- Sch. 1 para. 29(7) words inserted by S.I. 2024/603 reg. 2(9)(j)(iii)
- Sch. 1 para. 31(2) words inserted by S.I. 2024/603 reg. 2(10)(b)(ii)
- Sch. 1 para. 55(1) words inserted by S.I. 2024/603 reg. 2(20)(a)
- Sch. 1 para. 2(1) words omitted by S.I. 2024/603 reg. 2(2)(a)(ii)
- Sch. 1 para. 2(1) words omitted by S.I. 2024/603 reg. 2(2)(a)(iii)
- Sch. 1 para. 29(1)(a)(iii) words omitted by S.I. 2024/603 reg. 2(9)(a)(ii)
- Sch. 1 para. 31(2) words omitted by S.I. 2024/603 reg. 2(10)(b)(i)
- Sch. 1 para. 35(5) words omitted by S.I. 2024/603 reg. 2(12)
- Sch. 1 para. 44(1)(b) words omitted by S.I. 2024/603 reg. 2(16)(a)
- Sch. 1 para. 44(4)(b)(i) words omitted by S.I. 2024/603 reg. 2(16)(b)(iii)
- Sch. 1 para. 2(3) words substituted by S.I. 2024/603 reg. 2(2)(b)
- Sch. 1 para. 7(6) words substituted by S.I. 2024/603 reg. 2(3)(a)
- Sch. 1 para. 28(1) words substituted by S.I. 2024/603 reg. 2(8)(a)
- Sch. 1 para. 29(1)(a)(iii) words substituted by S.I. 2024/603 reg. 2(9)(a)(i)
- Sch. 1 para. 29(2) words substituted by S.I. 2024/603 reg. 2(9)(c)
- Sch. 1 para. 29(7) words substituted by S.I. 2024/603 reg. 2(9)(j)(ii)
- Sch. 1 para. 29(8) words substituted by S.I. 2024/603 reg. 2(9)(k)
- Sch. 1 para. 32(1) words substituted by S.I. 2024/603 reg. 2(11)(a)

- Sch. 1 para. 38(6)(c) words substituted by S.I. 2024/603 reg. 2(13)(a)(i)
- Sch. 1 para. 42(1) words substituted by S.I. 2024/603 reg. 2(15)(a)(i)
- Sch. 1 para. 44(4)(a) words substituted by S.I. 2024/603 reg. 2(16)(b)(i)
- Sch. 1 para. 44(4)(b)(i) words substituted by S.I. 2024/603 reg. 2(16)(b)(ii)
- Sch. 1 para. 55(3) words substituted by S.I. 2024/603 reg. 2(20)(c)
- Sch. 1 para. 63(1) words substituted by S.I. 2024/603 reg. 2(23)(a)(i)

Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- Sch. 1 para. 2(4A)-(4D) inserted by S.I. 2024/603 reg. 2(2)(c)
- Sch. 1 para. 11A inserted by S.I. 2024/603 reg. 2(4)
- Sch. 1 para. 14(5) inserted by S.I. 2024/603 reg. 2(5)
- Sch. 1 para. 27(5A)-(5G) inserted by S.I. 2024/603 reg. 2(7)(f)
- Sch. 1 para. 29(1A) inserted by S.I. 2024/603 reg. 2(9)(b)
- Sch. 1 para. 29(2A) inserted by S.I. 2024/603 reg. 2(9)(d)
- Sch. 1 para. 29(3)(c) and word inserted by S.I. 2024/603 reg. 2(9)(e)(iii)
- Sch. 1 para. 29(6A)-(6C) inserted by S.I. 2024/603 reg. 2(9)(i)
- Sch. 1 para. 32(1)(b)(iv) and word inserted by S.I. 2024/603 reg. 2(11)(c)
- Sch. 1 para. 32(8A) inserted by S.I. 2024/603 reg. 2(11)(d)
- Sch. 1 para. 38(6A) inserted by S.I. 2024/603 reg. 2(13)(b)
- Sch. 1 para. 40(14A) inserted by S.I. 2024/603 reg. 2(14)
- Sch. 1 para. 42(1)(e) and word inserted by S.I. 2024/603 reg. 2(15)(a)(ii)
- Sch. 1 para. 42(1A)-(1D) inserted by S.I. 2024/603 reg. 2(15)(b)
- Sch. 1 para. 42(5)(d) and word inserted by S.I. 2024/603 reg. 2(15)(c)(ii)
- Sch. 1 para. 51(2)(c)(d) inserted by S.I. 2024/603 reg. 2(18)(a)(ii)
- Sch. 1 para. 51(2A)-(2M) inserted by S.I. 2024/603 reg. 2(18)(b)
- Sch. 1 para. 52(1A) inserted by S.I. 2024/603 reg. 2(19)
- Sch. 1 para. 55(5)-(11) inserted by S.I. 2024/603 reg. 2(20)(e)
- Sch. 1 para. 59(4) inserted by S.I. 2024/603 reg. 2(21)
- Sch. 1 para. 61(14A) inserted by S.I. 2024/603 reg. 2(22)
- Sch. 1 para. 63(1)(d) and word inserted by S.I. 2024/603 reg. 2(23)(a)(ii)
- Sch. 1 para. 63(1A)-(1D) inserted by S.I. 2024/603 reg. 2(23)(b)
- Sch. 1 para. 63(4)(c) and word inserted by S.I. 2024/603 reg. 2(23)(c)(ii)
- Sch. 2 para. 22(d)-(f) inserted by S.I. 2024/603 reg. 3(4)(c)
- Sch. 2 para. 37(a)(iv) inserted by S.I. 2024/603 reg. 3(9)(a)
- Sch. 2 para. 43(za) inserted by S.I. 2024/603 reg. 3(11)(a)
- Sch. 2 para. 47(c)-(e) inserted by S.I. 2024/603 reg. 3(12)