

SCHEDULE 4

Regulation 4

The Performance Regulations

CONTENTS

PART 1

Introduction

1. Regulations
2. Application
3. Interpretation and delegation

PART 2

General

4. Police friend
5. Legal and other representation
6. Provision of notices or documents
7. Procedure at meetings under these Regulations
8. Nominated persons
9. Reference to certain periods
10. Suspension of certain periods
11. Meeting following investigation by the Director General
12. Provision of information to the Director General
13. Meeting following referral under the Conduct Regulations

PART 3

First stage

14. Circumstances in which a first stage meeting may be required
15. Arrangement of first stage meeting
16. Procedure at first stage meeting
17. Procedure following first stage meeting
18. Appeal against the finding and outcome of a first stage meeting
19. Arrangement of first stage appeal meeting
20. Procedure at first stage appeal meeting

PART 4

Second stage

21. Circumstances in which a second stage meeting may be required
22. Arrangement of second stage meeting
23. Circumstances in which a second stage meeting may be required without a first stage meeting
24. Procedure at second stage meeting
25. Procedure following second stage meeting
26. Appeal against the finding and outcome of a second stage meeting
27. Arrangement of second stage appeal meeting

Status: This is the original version (as it was originally made).

28. Procedure at second stage appeal meeting

PART 5

Third stage

29. Assessment following second stage meeting
30. Arrangement of a third stage meeting
31. Circumstances in which a third stage meeting may be required without a prior first or second stage meeting
32. Arrangement of a third stage meeting without a prior first or second stage meeting
33. Appointment of panel members
34. Right of officer concerned to object to panel members
35. Procedure on receipt of notice of third stage meeting
36. Witnesses
37. Timing and notice of third stage meeting
38. Postponement and adjournment of a third stage meeting
39. Participation of Director General and investigator at third stage meeting
40. Attendance of complainant or interested person at third stage meeting
41. Attendance of others at a third stage meeting
42. Exclusion from a third stage meeting
43. Procedure at a third stage meeting
44. Finding
45. Outcomes
46. Assessment of performance or attendance following third stage meeting where a written improvement notice has been issued
47. Assessment of performance or attendance following third stage meeting where a final written improvement notice has been issued or extended
48. Third stage meeting under regulation 47
Signature
Explanatory Note

PART 1

Introduction

Regulations

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.

Application

2.—(1) Subject to paragraph (2), these Regulations apply where unsatisfactory performance or attendance by an MDP officer comes to the attention of the line manager of the MDP officer, or the chief constable, on or after 2nd November 2020.

- (2) These Regulations do not apply in relation to—
- (a) a senior officer;

- (b) an MDP officer of the rank of constable who has not completed the period of probation applicable to the officer.

Interpretation and delegation

3.—(1) In these Regulations—

“first stage appeal meeting” has the meaning given to it by regulation 18(8);

“first stage meeting” has the meaning given to it by regulation 14;

“gross incompetence” means a serious inability or serious failure of an MDP officer to perform the duties of the officer’s rank or the role the officer is currently undertaking to a satisfactory standard or level, without taking into account the officer’s attendance, to the extent that dismissal would be justified and “grossly incompetent” is to be construed accordingly;

“human resources professional” means an MDP officer or staff member who has specific responsibility for personnel matters relating to members of the MDP;

“investigator”, other than in regulation 13, means a person appointed or designated under external procedures established for England and Wales;

“nominated person” means a person appointed by the senior manager in accordance with regulation 8;

“officer concerned” means the MDP officer in respect of whom proceedings under these Regulations are, or are proposed to be, taken;

“panel” means a panel appointed by the relevant authority in accordance with regulation 33 subject to any change to the membership of that panel in accordance with regulation 34 and regulations 47;

“police friend” means a person chosen by the officer concerned in accordance with regulation 4;

“proposed witness” means a witness whose attendance at a third stage meeting the officer concerned or the relevant authority (as the case may be) wishes to request of the panel chair;

“relevant authority” means the chief constable;

“relevant terms of the final written improvement notice” has the meaning given to it by regulation 26;

“relevant terms of the written improvement notice” has the meaning given to it by regulation 18;

“second line manager” means the person appointed by the relevant authority to act as the second line manager for the purposes of these Regulations in relation to the officer concerned and who is either—

- (a) a member of the MDP having supervisory responsibility for the line manager and who (in a case where the line manager is a member of the force) is senior in rank to the line manager, or

- (b) a staff member who has supervisory responsibility for the line manager;

“second stage appeal meeting” has the meaning given to it by regulation 26(8);

“second stage meeting” has the meaning given to it by regulation 21(2) or 23(5)(e), as the context requires;

“senior manager” means—

- (a) the MDP officer or staff member who is the supervisor of the person who is, in relation to the officer concerned, the second line manager, or

Status: This is the original version (as it was originally made).

- (b) in the absence of such supervisor, the MDP officer or staff member nominated by the relevant authority to carry out any of the functions of such supervisor under these Regulations, being of at least the same or equivalent rank or grade as the person who is, in relation to the officer concerned, the second line manager;

“staff association” means the Defence Police Federation;

“third stage meeting” has the meaning given to it by regulation 29(2) or 31(3), as the context requires;

(2) In these Regulations—

(a) a reference to—

(i) unsatisfactory performance or attendance, or

(ii) the performance or attendance of an MDP officer being unsatisfactory,

is a reference to an inability or failure of an MDP officer to perform the duties of the role or rank the officer is currently undertaking to a satisfactory standard or level;

(b) “unsatisfactory performance or attendance” may be construed as a reference to unsatisfactory performance and attendance;

(c) “performance or attendance” may be construed as a reference to performance and attendance.

(3) In these Regulations, references to paragraphs of Schedule 3 to the 2002 Act are to those paragraphs as applied under an agreement under section 26(1) of the 2002 Act.

(4) Information in documents which are stated to be subject to the harm test under these Regulations must not be given 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, criminal proceedings,

(b) necessary in the interests of national security,

(c) necessary for the purposes 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) 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 unsatisfactory performance or attendance in question,

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

(g) otherwise in the public interest.

(5) The relevant authority may, subject to paragraph (5), delegate any of its functions under these Regulations to—

(a) a member of the MDP of at least the rank of inspector, or

(b) a staff member who, in the opinion of the relevant authority, is of at least a similar level of seniority to an inspector.

(6) Where the relevant authority delegates its functions under regulation 31, a decision under sub-paragraph (a) or (c) of regulation 31(1) must be authorised by a senior officer.

PART 2

General

Police friend

4.—(1) The officer concerned may choose—

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

who is not otherwise involved in the matter, to act as a police friend.

(2) The police friend may—

- (a) advise the officer concerned throughout the proceedings under these Regulations,
- (b) represent the officer at any meeting under these Regulations, unless the officer has the right to be legally represented under regulation 5 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 meeting which the officer is required to attend 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).

Legal and other representation

5.—(1) Where the officer concerned is required to attend a third stage meeting under regulation 31, the officer has the right to be legally represented at the meeting by a relevant lawyer of the officer's choice.

(2) If the officer concerned chooses not to be legally represented—

- (a) the meeting may take place and the officer may be dismissed or be subject to any other outcome ordered under regulation 45(2) or (6) without being legally represented, and
- (b) the panel conducting the meeting may nevertheless be advised by a relevant lawyer at the meeting in accordance with regulation 41(3).

(3) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, the officer may be represented at a meeting under these Regulations only by a police friend.

(4) A third stage meeting under regulation 31 must not take place unless the officer concerned has been notified in writing of the effect of this regulation.

Provision of notices or documents

6. Where any written notice or document is to be given 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,

Status: This is the original version (as it was originally made).

- (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.

Procedure at meetings under these Regulations

7.—(1) Where the officer concerned participates in a third stage meeting by video link or other means under regulation 37(9) or otherwise does not attend a meeting under these Regulations, the officer may nevertheless be represented at that meeting by—

- (a) a police friend, or
- (b) where the officer was required to attend the third stage meeting under regulation 31, the officer's relevant lawyer.

(2) Where the officer concerned does not participate in a third stage meeting by video link or other means under regulation 37(9) or otherwise does not attend a meeting under these Regulations, the meeting may be proceeded with and concluded in the absence of the officer whether or not the officer is so represented.

(3) During any meeting under these Regulations, the person representing the officer concerned may—

- (a) address the meeting 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 meeting,
 - (iv) make representations concerning any aspect of proceedings under these Regulations, and
 - (v) in the case of a third stage meeting only, subject to paragraph (7), ask questions of any witnesses;
- (b) confer with the officer.

(4) Where the person representing the officer concerned is a relevant lawyer, the police friend may also confer with the officer.

(5) Where the officer concerned is participating in a third stage meeting by video link or other means in accordance with regulation 37(9), the person representing the officer or (if different) the police friend (or both) may also participate in the third stage meeting by such means together with the officer.

(6) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer during a meeting.

(7) The panel chair must determine whether any question should be put to a witness at a third stage meeting.

(8) At any meeting under these Regulations, the person or panel conducting the meeting may not make a finding of unsatisfactory performance or attendance or gross incompetence unless—

- (a) the person or panel is satisfied on the balance of probabilities that there has been unsatisfactory performance or attendance or gross incompetence, or
- (b) the officer concerned admits unsatisfactory performance or attendance or gross incompetence.

(9) The person conducting or chairing a meeting under these Regulations may allow any document to be considered at that meeting notwithstanding that a copy of it has not been—

- (a) given to the person by the officer concerned in accordance with regulation 15(9), 18(6)(b), 22(8), 26(6)(b) or 35(3),
- (b) given to the officer concerned in accordance with regulation 15(2) or (3), 22(2), 30(2) or 32(2), or
- (c) made available to each panel member or given to the officer concerned under regulation 33(9).

Nominated persons

8.—(1) A senior manager may appoint another person (a “nominated person”) to carry out any of the functions of the line manager or the second line manager in these Regulations.

(2) A person appointed to carry out any of the functions of the line manager under paragraph (1) may not also be appointed under that paragraph to carry out any of the functions of the second line manager.

(3) A person appointed to carry out any of the functions of the second line manager under paragraph (1) may not also be appointed under that paragraph to carry out any of the functions of the line manager.

(4) A nominated person must be a member of the MDP or a staff member and must be, in the opinion of the relevant authority, of at least the same or equivalent rank or grade as the person whose functions the nominated person is carrying out.

(5) Where a nominated person is appointed, references in these Regulations to a line manager or a second line manager, as the case may be, must be construed as references to the nominated person, in relation to the functions which the nominated person has been appointed to carry out.

Reference to certain periods

9.—(1) The relevant authority may, on the application of the officer concerned or otherwise, extend the period specified in accordance with any of the regulations mentioned in paragraph (2) if it is satisfied that it is appropriate to do so.

(2) The regulations are—

- (a) regulation 16(6)(c),
- (b) regulation 24(6)(c), and
- (c) regulation 45(7)(c) and (8)(a).

(3) Unless the relevant authority is satisfied that there are exceptional circumstances making it appropriate, any such period may not be extended if the extension would result in the total length of that period exceeding 12 months.

(4) Where an extension is granted under paragraph (1) of a period specified under a regulation mentioned in paragraph (2), any reference in these Regulations to such period is to be construed as a reference to that period as so extended.

Suspension of certain periods

10.—(1) Any reference in these Regulations to a period mentioned in paragraph (2) does not include any time when the officer concerned is taking extended special unpaid leave.

(2) A period is—

- (a) a period specified in accordance with regulation 16(6)(c);
- (b) the validity period of a written improvement notice specified in regulation 17(4);
- (c) a period specified in accordance with regulation 24(6)(c);

Status: This is the original version (as it was originally made).

- (d) the validity period of a final written improvement notice specified in regulation 25(4);
- (e) a period specified under regulation 45(7)(c), (d) or (8)(a);
- (f) the validity period of a final written improvement notice extended under regulation 45(8)(c).

Meeting following investigation by the Director General

11.—(1) The relevant authority must direct the line manager of the officer concerned to take the action specified in paragraph (2), (3) or (4), as the case may be, where—

- (a) regulation 31 does not apply, and
- (b) the relevant authority—
 - (i) receives an investigator’s report submitted under paragraph 22 or 24A of Schedule 3 to the 2002 Act (final reports on investigations)(1), and in making a determination under paragraph 24(6) (action by the relevant authority in response to an investigation report)(2) of 24C(4) of that Schedule (action by the Director General in response to an investigation report)(3), considers that the performance of the MDP officer is unsatisfactory,
 - (ii) has a duty under paragraph 23(5B) of that Schedule (duties of relevant authority in relation to direction by Director General to bring disciplinary proceedings)(4) to comply with a direction to bring disciplinary proceedings, following a determination under paragraph 23(5A)(b) of that Schedule (duties of Director General on receipt or completion of report on investigation)(5) that a person’s performance is unsatisfactory,
 - (iii) accepts a recommendation made under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation)(6) that misconduct proceedings of the form specified in the recommendation are brought,
 - (iv) accepts a recommendation made under paragraph 25(4E)(c) of that Schedule that misconduct proceedings of the form specified in the recommendation are brought,
 - (v) accepts a recommendation made under paragraph 27(3A) of that Schedule (recommendation of Director General to relevant authority)(7) in relation to the unsatisfactory performance of an MDP officer, or

(1) Paragraph 22 was substituted by paragraphs 1, 11 and 21 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (“the 2005 Act”) and amended by paragraphs 1, 3 and 12 of Schedule 23 to the Criminal Justice and Immigration Act 2008 (“the 2008 Act”) and section 19 of, and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017 (“the 2017 Act”). Paragraph 24A was inserted by paragraphs 1, 11 and 24 of Schedule 12 to the 2005 Act and amended by paragraphs 1, 3 and 15 of Schedule 23 to the 2008 Act and section 18 of, and paragraphs 9, 28 and 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the 2017 Act.

(2) Paragraph 24(6) was substituted by paragraph 14(6) of the Schedule 23 to the 2008 Act and amended by paragraph 14(3) of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and paragraphs 27(2) and 47(h)(xiii) of Schedule 5 to the 2017 Act.

(3) Paragraphs 24C was inserted by paragraphs 1, 11 and 24 of Schedule 12 to the 2005 Act and amended by section 138 of, and paragraph 95 of Schedule 11 to, the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12) (“the 2014 Act”) and paragraphs 15 and 56 of Schedule 9 to the 2017 Act.

(4) Paragraph 23(5B) was inserted by paragraphs 9 and 26 of Schedule 5 to the 2017 Act.

(5) Paragraph 23(5A) was inserted by paragraphs 9 and 26 of Schedule 5 to the 2017 Act and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(6) Paragraph 25(4A) to (4J) was inserted by paragraphs 29 and 34(1) and (5) of Schedule 5 to the 2017 Act and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(7) Paragraph 27(3A) was inserted by section 138(2) and (4) of the 2014 Act and amended by paragraph 56(2) of Schedule 9 to the 2017 Act.

(vi) has a duty under paragraph 27(4)(b) of that Schedule (duties with respect to disciplinary proceedings etc)(8) to comply with a direction to give effect to a recommendation referred to in paragraph (iii) or (v).

(2) In a case where—

- (a) the officer concerned has received a written improvement notice under regulation 17 or 45 in relation to unsatisfactory performance which is similar to or connected with the unsatisfactory performance to which the determination mentioned in paragraph (1)(b)(i) or (ii) or the recommendation mentioned in paragraph (1)(b)(iii), (iv) or (v) relates, and
- (b) the validity period of the written improvement notice, within the meaning of regulation 17(4) or 45(7)(d), has not expired,

the line manager must require the officer to attend a second stage meeting.

(3) In a case where—

- (a) the officer concerned has received a final written improvement notice under regulation 25 or 45 in relation to unsatisfactory performance which is similar to or connected with the unsatisfactory performance to which the determination mentioned in paragraph (1)(b)(i) or (ii) or the recommendation mentioned in paragraph (1)(b)(iii), (iv) or (v) relates, and
- (b) the validity period of the final written improvement notice, within the meaning of—
 - (i) regulation 25(4) or regulation 45(7)(d), or,
 - (ii) where the period is extended under regulation 45(8), regulation 45(8)(c),has not expired,

the line manager must require the officer to attend a third stage meeting.

(4) In any other case, the line manager must require the officer concerned to attend a first stage meeting.

(5) The line manager must comply with a direction given by the relevant authority under paragraph (1).

(6) Where an MDP officer is required to attend a meeting under this regulation—

- (a) regulations 15 to 20 apply, if the meeting is a first stage meeting,
- (b) regulations 22 to 28 apply, if the meeting is a second stage meeting, and
- (c) regulations 30, 33 to 38 and 41 to 48 apply, if the meeting is a third stage meeting,

but this is subject to paragraphs (7) and (8).

(7) Subject to the harm test under these Regulations (see regulation 3(4)), the duty to provide documents in each of regulations 15(2), 22(2) and 30(2) has effect as a duty to provide the officer concerned with a copy of—

- (a) the investigator's report referred to in paragraph (1)(b)(i);
- (b) any determination of the Director General mentioned in paragraph (1)(b)(ii);
- (c) any recommendation mentioned in paragraph (1)(b)(iii), (iv) or (v).

(8) Where an MDP officer is required to attend a third stage meeting under paragraph (3) by reason of the fact that the officer is subject to a final written improvement notice issued under regulation 45—

- (a) the meeting must be conducted by the same panel as conducted the initial third stage meeting,
- (b) regulation 47(11) to (15) apply in relation to that panel, and

(8) Paragraph 27(4) was amended by paragraphs 15 and 56 of Schedule 9 to the 2017 Act.

Status: This is the original version (as it was originally made).

(c) the officer concerned does not have the right to object to panel members under regulation 34, except in accordance with regulation 47(15).

(9) Where the relevant authority fails to make the determination referred to in paragraph (1)(b) (i) (in so far as it involves consideration of the performance of an MDP officer) before the end of 15 working days beginning with the first working day after receipt of the investigator's report, it must notify the officer concerned of the reason for this.

Provision of information to the Director General

12.—(1) This regulation applies in a case where—

- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act (investigations directed by or by the Director General) applied, or
- (b) paragraph 16 of that Schedule (investigations by the authority on its own behalf) applied and—

- (i) the Director General—

- (aa) made a recommendation under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation) which the relevant authority accepted;

- (bb) made a recommendation under paragraph 27(3A) of that Schedule (recommendation of Director General to authority) which the relevant authority accepted, or

- (cc) gave a direction to the relevant authority under paragraph 27(4)(a) of that Schedule (direction by Director General where authority does not take steps to secure that full effect is given to Director General's recommendation), or

- (ii) the Secretary of State for Defence made a recommendation under paragraph 25(4E) (c) of that Schedule (reviews with respect to an investigation) which the relevant authority accepted.

(2) Where this regulation applies, the relevant authority must—

- (a) send the Director General a copy of—

- (i) any written record and written improvement notice given to the officer concerned under regulation 17(5);

- (ii) any written notice and written summary given to the officer concerned under regulation 20(9);

- (iii) any written notice as to improvement in performance or attendance under regulation 21(1)(b);

- (iv) any written record and final written improvement notice given to the officer concerned under regulation 25(5);

- (v) any written notice and written summary given to the officer concerned under regulation 28(9);

- (vi) any written notice as to improvement in performance or attendance under regulation 29(1)(b);

- (vii) any written decision given to the officer concerned under regulation 44(3);

- (viii) any final written improvement notice issued or extended under regulation 45(3);

- (ix) any written improvement notice issued under regulation 45(6);

- (x) any written notice as to improvement in performance or attendance under regulation 47(1)(b), and

- (b) notify the Director General if it extends, under regulation 9(1), any period specified in accordance with regulation 16(6)(c), 24(6)(c) or 45(7)(c) or (8)(a).

Meeting following referral under the Conduct Regulations

13.—(1) Where neither regulation 23 nor regulation 31 applies and the relevant authority assesses under regulation 13(2)(b), 23(4)(b) or 26(2)(a)(iii) of the Conduct Regulations that a matter should be referred to be dealt with under these Regulations—

- (a) the relevant authority must direct the line manager of the officer concerned to take the action specified in regulation 11(2), (3) or (4), as the case may be, and
 - (b) paragraphs (2) to (8) of regulation 11 apply, with the following modifications—
 - (i) in each of paragraphs (2)(a) and (3)(a), for the words from “the determination” to “(1)(b)(ii)” substitute “the assessment mentioned in regulation 13(1)”;
 - (ii) in paragraph (5), for “paragraph (1)” substitute “regulation 13(1)(a)”;
 - (iii) in paragraph (6), for “this regulation” substitute “regulation 13”;
 - (iv) in paragraph (7), for sub-paragraph (a) substitute—
 - “(a) where relevant, the investigator’s report submitted under regulation 20 of the Conduct Regulations;”.
- (2) In paragraph (1)(b)(iv), “investigator” means a person—
- (a) appointed under regulation 14 of the Conduct Regulations, or
 - (b) appointed or, as the case may be, designated as an investigator under external procedures established for England and Wales.

PART 3

First stage

Circumstances in which a first stage meeting may be required

14. Where the line manager of an MDP officer considers that the performance or attendance of that officer is unsatisfactory, the line manager may require the officer concerned to attend a meeting (in these Regulations referred to as a first stage meeting) to discuss the performance or attendance of the officer.

Arrangement of first stage meeting

15.—(1) Where the line manager requires an MDP officer to attend a first stage meeting, the line manager must give a written notice to the officer concerned—

- (a) requiring the officer to attend a first stage meeting with the line manager,
- (b) informing the officer of the procedures for determining the date and time of the meeting under paragraphs (4) to (7),
- (c) summarising the reasons why the officer’s performance or attendance is considered unsatisfactory,
- (d) informing the officer of the possible outcomes of a first stage meeting, a second stage meeting and a third stage meeting,
- (e) informing the officer that a human resources professional or an MDP officer may attend the meeting to advise the line manager on the proceedings,

Status: This is the original version (as it was originally made).

- (f) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting,
 - (g) informing the officer that the officer may seek advice from a representative of the staff association,
 - (h) informing the officer that the officer may be accompanied and represented at the meeting by a police friend, and
 - (i) informing the officer that the officer must provide to the line manager in advance of the meeting a copy of any document the officer intends to rely on at the meeting.
- (2) The notice must be accompanied by a copy of any document relied on by the line manager when considering that the performance or attendance of the officer concerned is unsatisfactory.
- (3) Where a reflective review development report has been produced under regulation 70 of the Conduct Regulations in relation to a matter which is similar to or connected with unsatisfactory performance to be discussed at the first stage meeting, the notice must also be accompanied by a copy of that report.
- (4) The line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.
- (5) Where no date and time is agreed, the line manager must specify a date and time for the meeting.
- (6) Where a date and time is specified and—
- (a) the officer concerned or a police friend will not be available at that time, and
 - (b) the officer proposes an alternative time which satisfies paragraph (7),
- the meeting must be postponed to the 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 line manager under paragraph (5).
- (8) The line manager must give the officer concerned a written notice of the date and time of the first stage meeting determined in accordance with paragraphs (4) to (7) and of the place of the meeting.
- (9) In advance of the first stage meeting, the officer concerned must provide the line manager with a copy of any document the officer intends to rely on at the meeting.

Procedure at first stage meeting

- 16.**—(1) This regulation applies to the procedure to be followed at the first stage meeting.
- (2) The meeting must be conducted by the line manager.
- (3) A human resources professional or an MDP officer may attend the meeting to advise the line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 15(1) may attend the meeting if the officer concerned consents.
- (5) The line manager must—
- (a) explain to the officer concerned the reasons why the line manager considers that the performance or attendance of the officer is unsatisfactory,
 - (b) provide the officer with an opportunity to make representations in response, and

- (c) provide the police friend (if the officer has one) with an opportunity to address the meeting in accordance with regulation 7(3)(a).
- (6) If, after considering such representations (if any) and address (if any), the line manager finds that the performance or attendance of the officer concerned has been unsatisfactory, the line manager must—
 - (a) inform the officer in what respect the officer's performance or attendance is considered unsatisfactory,
 - (b) inform the officer of the improvement that is required in performance or attendance,
 - (c) inform the officer that, if a sufficient improvement is not made within such reasonable period as the line manager specifies (being a period not exceeding 12 months), the officer may be required to attend a second stage meeting in accordance with regulation 21,
 - (d) inform the officer that the officer will receive a written improvement notice, and
 - (e) inform the officer that if sufficient improvement is not maintained during any part of the validity period of the notice remaining after the expiry of the period specified in accordance with sub-paragraph (c), the officer may be required to attend a second stage meeting in accordance with regulation 21.
- (7) The line manager may, if the line manager considers it appropriate, recommend that the officer concerned seek assistance in relation to any matter affecting the officer's health or welfare.
- (8) The line manager may postpone or adjourn the meeting to a specified time, or date and time, if it appears to the line manager necessary or expedient to do so.

Procedure following first stage meeting

- 17.—(1) The line manager must, as soon as reasonably practicable after the conclusion of the first stage meeting—
- (a) cause to be prepared a written record of the meeting, and
 - (b) where the line manager found at the meeting that the performance or attendance of the officer concerned has been unsatisfactory, cause to be prepared a written improvement notice.
- (2) Where the officer concerned has failed to attend a first stage meeting, if the line manager finds that the performance or attendance of the officer has been unsatisfactory, the line manager must as soon as reasonably practicable—
- (a) cause to be prepared a written improvement notice, and
 - (b) if the police friend attended the meeting, cause to be prepared a written record of the meeting.
- (3) A written improvement notice must—
- (a) record the matters of which the officer concerned was informed (or would have been informed had the officer attended the meeting) under sub-paragraphs (a) to (c) and (e) of regulation 16(6),
 - (b) state the period for which it is valid, and
 - (c) be signed and dated by the line manager.
- (4) A written improvement notice is valid for a period of 12 months beginning with the date of the notice.
- (5) The line manager must give a copy of any written record and any written improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.

Status: This is the original version (as it was originally made).

(6) Where the line manager found that the performance or attendance of the officer concerned has been unsatisfactory and has caused to be prepared a written improvement notice, the line manager must, at the same time as giving the documents mentioned in paragraph (5), give a written notice to the officer of—

- (a) the matters set out in regulation 18,
- (b) the name of the second line manager to whom a written notice of appeal must be given under regulation 18(5),
- (c) the officer's rights under paragraph (7), and
- (d) the effect of paragraphs (8) and (9).

(7) Subject to paragraph (9), the officer concerned may submit written comments on any written record to the line manager before the end of 7 working days beginning with the first working day after the day on which the officer receives the copy.

(8) The line manager may, on the application of the officer concerned, extend the period specified in paragraph (7) if satisfied that it is appropriate to do so.

(9) The officer concerned may not submit written comments on the written record if the officer has exercised a right to appeal under regulation 18.

(10) The line manager must ensure that any written record, any written improvement notice and any written comments of the officer concerned on the written record are retained together and filed.

Appeal against the finding and outcome of a first stage meeting

18.—(1) This regulation applies where, at the first stage meeting, the line manager found that the performance or attendance of the officer concerned has been unsatisfactory.

(2) Where this regulation applies, the officer concerned may appeal against—

- (a) that finding, or
- (b) any of the matters specified in paragraph (3) and recorded in the written improvement notice (in these Regulations referred to as the relevant terms of the written improvement notice),

or both.

(3) These matters are—

- (a) the respect in which the performance or attendance of the officer concerned is considered unsatisfactory,
- (b) the improvement that is required in performance or attendance,
- (c) the length of the period specified by the line manager in accordance with regulation 16(6) (c).

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

- (a) that the finding of unsatisfactory performance or attendance was unreasonable;
- (b) that any of the relevant terms of the written improvement notice are unreasonable;
- (c) that there is evidence that could not reasonably have been considered at the first stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the written improvement notice;
- (d) that there was a breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the written improvement notice.

(5) The officer concerned may commence an appeal by giving a written notice of appeal to the second line manager before the end of 7 working days beginning with the first working day after receipt of the documents referred to in regulation 17(5).

(6) The notice must—

- (a) set out the grounds of appeal, and
- (b) be accompanied by any evidence on which the officer relies.

(7) The second line manager may, on the application of the officer concerned, extend the period specified in paragraph (5) if satisfied that it is appropriate to do so.

(8) Subject to paragraph (9), the meeting at which the appeal is to be heard (referred to in these Regulations as the first stage appeal meeting) must take place before the end of 7 working days beginning with the first working day after the day on which the second line manager receives the notice under paragraph (5).

(9) A first stage appeal meeting may take place after the period of 7 working days referred to in paragraph (8) if the second line manager considers it necessary or expedient, in which case the second line manager must give the officer a written notice of the reasons.

Arrangement of first stage appeal meeting

19.—(1) As soon as reasonably practicable after receiving the notice of appeal referred to in regulation 18(5), the second line manager must give the officer concerned a written notice—

- (a) informing the officer of the procedures for determining the date and time of the meeting under paragraphs (2) to (5),
- (b) informing the officer that a human resources professional or an MDP officer may attend the meeting to advise the second line manager on the proceedings,
- (c) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting,
- (d) informing the officer that the officer may seek advice from a representative of the staff association, and
- (e) informing the officer that the officer may be accompanied and represented at the meeting by a police friend.

(2) The second line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.

(3) Where no date and time is agreed, the second line manager must specify a date and time for the meeting.

(4) Where a date and time is specified and—

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

the meeting must be postponed to the time proposed by the officer.

(5) 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 second line manager under paragraph (3).

(6) The second line manager must give the officer concerned a written notice of the date and time of the first stage appeal meeting determined in accordance with paragraphs (2) to (5) and of the place of the meeting.

Procedure at first stage appeal meeting

- 20.**—(1) This regulation applies to the procedure to be followed at a first stage appeal meeting.
- (2) The meeting must be conducted by the second line manager.
- (3) A human resources professional or an MDP officer may attend the meeting to advise the second line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 19(1) may attend the meeting if the officer concerned consents.
- (5) The second line manager must—
- (a) provide the officer concerned with an opportunity to make representations, and
 - (b) provide the police friend (if the officer has one) with an opportunity to address the meeting in accordance with regulation 7(3)(a).
- (6) After considering such representations (if any) and address (if any), the second line manager may—
- (a) confirm or reverse the finding of unsatisfactory performance or attendance,
 - (b) confirm or vary any of the relevant terms of the written improvement notice appealed against.
- (7) Where the second line manager reverses the finding of unsatisfactory performance or attendance, the second line manager must also revoke the written improvement notice.
- (8) The second line manager may postpone or adjourn the meeting to a specified time, or date and time, if it appears to the second line manager necessary or expedient to do so.
- (9) As soon as reasonably practicable after the conclusion of the meeting and in any event before the end of 3 working days beginning with the first working day after the conclusion of the meeting, the officer concerned must be given a written notice of the second line manager’s decision and a written summary of the reasons for that decision.
- (10) Where the second line manager has—
- (a) reversed the finding of unsatisfactory performance or attendance and revoked the written improvement notice, or
 - (b) varied any of the relevant terms of the written improvement notice,
- the decision of the second line manager takes effect by way of substitution for the finding, the written improvement notice issued or the relevant terms of the written improvement notice appealed against immediately after the first stage meeting.

PART 4

Second stage

Circumstances in which a second stage meeting may be required

- 21.**—(1) Where an MDP officer has received a written improvement notice, as soon as reasonably practicable after the date with which the period specified in accordance with regulation 16(6)(c) ends—
- (a) the line manager must assess the performance or attendance of the officer concerned during that period, in consultation with the second line manager or a human resources professional (or both), and

- (b) the line manager must give the officer a written notice as to whether the line manager considers that there has been a sufficient improvement in performance or attendance during that period.

(2) If the line manager considers that there has not been a sufficient improvement, the line manager must, at the same time as giving a notice under paragraph (1)(b), also give the officer concerned a written notice that the officer is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider performance or attendance.

(3) The officer concerned may be required to attend a second stage meeting under paragraph (4) where—

- (a) the officer has not been required to attend a second stage meeting under paragraph (2), or
- (b) the officer has been required to attend a second stage meeting under paragraph (2) but the second line manager did not make a finding of unsatisfactory performance or attendance at that meeting.

(4) If the line manager considers that the officer concerned has failed to maintain a sufficient improvement in performance or attendance during any part of the validity period of the written improvement notice remaining after the expiry of the period specified in accordance with regulation 16(6)(c), the line manager must give the officer a written notice of the matters set out in paragraph (5).

(5) Those matters are—

- (a) that the line manager is of the view mentioned in paragraph (4), and
- (b) that the officer concerned is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider performance or attendance.

(6) Any second stage meeting which an MDP officer is required to attend other than such a meeting under regulation 23 must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice.

Arrangement of second stage meeting

22.—(1) Where the line manager requires the officer concerned to attend a second stage meeting, the second line manager must as soon as reasonably practicable give the officer a written notice—

- (a) referring to the requirement that the officer attend a second stage meeting with the second line manager,
- (b) informing the officer of the procedures for determining the date and time of the meeting under paragraphs (3) to (6),
- (c) summarising the reasons why the officer's performance or attendance is considered unsatisfactory,
- (d) informing the officer of the possible outcomes of a second stage meeting and a third stage meeting,
- (e) informing the officer that the line manager may attend the meeting,
- (f) informing the officer that a human resources professional or an MDP officer may attend the meeting to advise the second line manager on the proceedings,
- (g) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting,
- (h) informing the officer that the officer may seek advice from a representative of the staff association,

Status: This is the original version (as it was originally made).

- (i) informing the officer that the officer may be accompanied and represented at the meeting by a police friend, and
 - (j) informing the officer that the officer must provide to the second line manager in advance of the meeting a copy of any document the officer intends to rely on at the meeting.
- (2) The notice must be accompanied by a copy of any document relied on by the line manager when the line manager formed the view referred to in regulation 21(2) or (4), as the case may be.
- (3) The second line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.
- (4) Where no date and time is agreed, the second line manager must specify a date and time for the meeting.
- (5) Where a date and time is specified and—
- (a) the officer concerned or a police friend will not be available at that time, and
 - (b) the officer proposes an alternative time which satisfies paragraph (6),
- the meeting must be postponed to the 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 second line manager under paragraph (4).
- (7) The second line manager must give the officer concerned a written notice of the date and time of the second stage meeting determined in accordance with paragraphs (3) to (6) and of the place of the meeting.
- (8) In advance of the second stage meeting, the officer concerned must provide the second line manager with a copy of any document the officer intends to rely on at the meeting.

Circumstances in which a second stage meeting may be required without a first stage meeting

- 23.**—(1) This regulation applies where—
- (a) regulation 32 does not apply, and
 - (b) conditions A and B are satisfied.
- (2) Condition A is that the relevant authority assesses under regulation 23(4)(b) or 26(2)(a)(iii) of the Conduct Regulations that a matter should be referred to be dealt with under these Regulations.
- (3) Condition B is that the relevant authority—
- (a) considers that there are reasonable grounds, based on evidence from an investigation under external procedures established for England and Wales or Northern Ireland or an investigation or misconduct proceedings under the Conduct Regulations, to conclude that the officer concerned has demonstrated a serious inability or serious failure to perform the duties of the officer's rank or the role the officer is currently undertaking to a satisfactory standard or level, such that a referral to a second stage meeting is appropriate, and
 - (b) having consulted the officer and the line manager, or second line manager, of the officer, is satisfied that the officer has been given a reasonable opportunity to address that inability or failure to perform, but has failed to make a sufficient improvement.
- (4) The relevant authority must as soon as reasonably practicable give the officer concerned and the line manager of the officer a written notice of the matters set out in paragraph (5).
- (5) Those matters are—
- (a) that the relevant authority is of the view mentioned in paragraph (3),

- (b) the reasons why the performance of the officer concerned is assessed as unsatisfactory,
 - (c) the reasons why it is considered appropriate for the matter to be referred to a second stage meeting,
 - (d) summary evidence in support of the conclusion that the performance is unsatisfactory, and
 - (e) that the officer is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider the officer's performance.
- (6) Where notice has been given in accordance with paragraph (4), the line manager must require the officer concerned to attend a second stage meeting.
- (7) Where an MDP officer is required to attend a second stage meeting under this regulation, regulations 22 and 24 to 28 apply with the following modifications—
- (a) omit regulation 22(2);
 - (b) in regulation 24(6), omit the words from “during the period” to “specified period”;
 - (c) in regulation 26(2)(c), for “line manager” substitute “relevant authority”;
 - (d) in regulation 26(4)(a), for the words from “as the meeting” to the end substitute “as the conclusions of the relevant authority under regulation 23(3) were unreasonable”.

Procedure at second stage meeting

- 24.**—(1) This regulation applies to the procedure to be followed at the second stage meeting.
- (2) The meeting must be conducted by the second line manager and may be attended by the line manager.
- (3) A human resources professional or an MDP officer may attend the meeting to advise the second line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 22(1) may attend the meeting if the officer concerned consents.
- (5) The second line manager must—
- (a) explain to the officer concerned the reasons why the officer has been required to attend the meeting,
 - (b) provide the officer with an opportunity to make representations in response, and
 - (c) provide the police friend (if the officer has one) with an opportunity to address the meeting in accordance with regulation 7(3)(a).
- (6) If, after considering such representations (if any) and address (if any), the second line manager finds that the performance or attendance of the officer concerned has been unsatisfactory during the period specified in accordance with regulation 16(6)(c) or during any part of the validity period of the written improvement notice remaining after the expiry of that specified period, the second line manager must—
- (a) inform the officer in what respect the performance or attendance is considered unsatisfactory,
 - (b) inform the officer of the improvement that is required in performance or attendance,
 - (c) inform the officer that, if a sufficient improvement is not made within such reasonable period as the second line manager specifies (being a period not exceeding 12 months), the officer may be required to attend a third stage meeting in accordance with regulation 29 and the second line manager must specify the date with which this period ends,
 - (d) inform the officer that the officer will receive a final written improvement notice, and
 - (e) inform the officer that if the sufficient improvement referred to in sub-paragraph (c) is not maintained during any part of the validity period of the notice remaining after the expiry

Status: This is the original version (as it was originally made).

of the period specified in accordance with sub-paragraph (c), the officer may be required to attend a third stage meeting in accordance with regulation 29.

(7) The second line manager may, if the second line manager considers it appropriate, recommend that the officer concerned seek assistance in relation to any matter affecting the officer's health or welfare.

(8) The second line manager may postpone or adjourn the meeting to a specified time, or date and time, if it appears to the second line manager necessary or expedient to do so.

Procedure following second stage meeting

25.—(1) The second line manager must, as soon as reasonably practicable after the conclusion of the second stage meeting—

- (a) cause to be prepared a written record of the meeting, and
- (b) where the second line manager made a finding at the meeting as set out in regulation 24(6), cause to be prepared a final written improvement notice.

(2) Where the officer concerned has failed to attend a second stage meeting, if the second line manager makes a finding as set out in regulation 24(6), the second line manager must as soon as reasonably practicable—

- (a) cause to be prepared a final written improvement notice, and
- (b) if the police friend attended the meeting, cause to be prepared a written record of the meeting.

(3) A final written improvement notice must—

- (a) record the matters of which the officer concerned was informed (or would have been informed had the officer attended the meeting) under sub-paragraphs (a) to (c) and (e) of regulation 24(6),
- (b) state the period for which it is valid, and
- (c) be signed and dated by the second line manager.

(4) A final written improvement notice is valid for a period of twelve months beginning with the date of the notice.

(5) The second line manager must give a copy of the written record and any final written improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.

(6) Where the second line manager made a finding as set out in regulation 24(6) and has caused to be prepared a final written improvement notice, the second line manager must, at the same time as giving the documents mentioned in paragraph (5), give the officer concerned a written notice of—

- (a) the matters set out in regulation 26(3),
- (b) the name of the senior manager to whom a written notice of appeal must be given under regulation 26(5),
- (c) the officer's rights under paragraph (7), and
- (d) the effect of paragraphs (8) and (9).

(7) Subject to paragraph (9), the officer concerned may submit written comments on the written record to the second line manager before the end of 7 working days beginning with the first working day after the day on which the copy is received by the officer.

(8) The second line manager may, on the application of the officer concerned, extend the period specified in paragraph (7) if satisfied that it is appropriate to do so.

(9) The officer concerned may not submit written comments on the written record if the officer has exercised a right to appeal under regulation 26.

(10) The second line manager must ensure that any written record, any final written improvement notice and any written comments of the officer concerned on the written record are retained together and filed.

Appeal against the finding and outcome of a second stage meeting

26.—(1) This regulation applies where, at the second stage meeting, the second line manager found that the performance or attendance of the officer concerned has been unsatisfactory as set out in regulation 24(6).

(2) Where this regulation applies, the officer concerned may appeal against one or more of the following—

- (a) that finding;
- (b) any of the matters specified in paragraph (3) and recorded in the final written improvement notice (in these Regulations referred to as the relevant terms of the final written improvement notice);
- (c) the decision of the line manager to require the officer concerned to attend the second stage meeting.

(3) The matters are—

- (a) the respect in which the performance or attendance of the officer concerned is considered unsatisfactory;
- (b) the improvement that is required in performance or attendance;
- (c) the length of the period specified by the second line manager in accordance with regulation 24(6)(c).

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

- (a) that, in relation to an appeal under paragraph (2)(c), the officer concerned should not have been required to attend the second stage meeting as the meeting did not concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice;
- (b) that the finding of unsatisfactory performance or attendance was unreasonable;
- (c) that any of the relevant terms of the final written improvement notice are unreasonable;
- (d) that there is evidence that could not reasonably have been considered at the second stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice;
- (e) that there was a breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice.

(5) An appeal must be commenced by the officer concerned giving a written notice of appeal to the senior manager before the end of 7 working days beginning with the first working day after receipt of the documents referred to in regulation 25(5).

(6) The notice must—

- (a) set out the grounds of appeal of the officer concerned, and
- (b) be accompanied by any evidence on which the officer relies.

(7) The senior manager may, on the application of the officer concerned, extend the period specified in paragraph (5) if satisfied that it is appropriate to do so.

Status: This is the original version (as it was originally made).

(8) Subject to paragraph (9), the meeting at which the appeal will be heard (referred to in these Regulations as a second stage appeal meeting) must take place before the end of 7 working days beginning with the first working day after the day on which the notice under paragraph (5) is received by the senior manager.

(9) A second stage appeal meeting may take place after the period of 7 working days referred to in paragraph (8) if the senior manager considers it necessary or expedient, in which case the senior manager must give the officer concerned a written notice of the reasons.

Arrangement of second stage appeal meeting

27.—(1) As soon as reasonably practicable after receiving the notice of appeal referred to in regulation 26(5), the senior manager must give the officer concerned a written notice—

- (a) informing the officer of the procedures for determining the date and time of the meeting under paragraphs (2) to (5),
- (b) informing the officer that a human resources professional or an MDP officer may attend the meeting to advise the senior manager on the proceedings,
- (c) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting,
- (d) informing the officer that the officer may seek advice from a representative of the staff association, and
- (e) informing the officer that the officer may be accompanied and represented at the meeting by a police friend.

(2) The senior manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.

(3) Where no date and time is agreed, the senior manager must specify a date and time for the meeting.

(4) Where a date and time is specified and—

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

the meeting must be postponed to the time proposed by the officer.

(5) 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 senior manager under paragraph (3).

(6) The senior manager must give the officer concerned a written notice of the date, time and place of the second stage appeal meeting.

Procedure at second stage appeal meeting

28.—(1) This regulation applies to the procedure to be followed at a second stage appeal meeting.

(2) The meeting must be conducted by the senior manager.

(3) A human resources professional or an MDP officer may attend the meeting to advise the senior manager on the proceedings.

(4) Any other person specified in the notice referred to in regulation 27(1) may attend the meeting if the officer concerned consents.

(5) The senior manager must—

- (a) provide the officer concerned with an opportunity to make representations, and
 - (b) provide the police friend (if the officer has one) with an opportunity to address the meeting in accordance with regulation 7(3)(a).
- (6) After considering such representations (if any) and address (if any), the senior manager may—
- (a) in an appeal under regulation 26(2)(c), make a finding that the officer concerned should not have been required to attend the second stage meeting and reverse the finding made at that meeting;
 - (b) confirm or reverse the finding of unsatisfactory performance or attendance made at the second stage meeting;
 - (c) confirm or vary the relevant terms of the final written improvement notice appealed against.
- (7) Where the senior manager reverses the finding of unsatisfactory performance or attendance made at the second stage meeting, the senior manager must also revoke the final written improvement notice.
- (8) The senior manager may postpone or adjourn the meeting to a specified time, or date and time, if it appears to the senior manager necessary or expedient to do so.
- (9) As soon as reasonably practicable after the conclusion of the meeting and in any event before the end of 3 working days beginning with the first working day after the conclusion of the meeting, the senior manager must give the officer concerned a written notice of the senior manager's decision and a written summary of the reasons for that decision.
- (10) Where the senior manager has—
- (a) reversed the finding of unsatisfactory performance or attendance made at the second stage meeting (see regulation 24(6)) and revoked the final written improvement notice, or
 - (b) varied any of the relevant terms of the final written improvement notice,
- the decision of the senior manager takes effect by way of substitution for the finding and the final written improvement notice issued or the relevant terms of the final written improvement notice appealed against immediately after the second stage meeting.

PART 5

Third stage

Assessment following second stage meeting

29.—(1) Where an MDP officer has received a final written improvement notice, as soon as reasonably practicable after the date with which the period specified in accordance with regulation 24(6)(c) ends—

- (a) the line manager must assess the performance or attendance of the officer concerned during that period, in consultation with the second line manager or a human resources professional (or both), and
- (b) the line manager must give the officer a written notice as to whether the line manager considers that there has been a sufficient improvement in performance or attendance during that period.

(2) If the line manager considers that there has not been a sufficient improvement, the line manager must, at the same time as the line manager gives a notice under paragraph (1)(b), also give the officer concerned a written notice that the officer is required to attend a meeting (in these Regulations referred to as a third stage meeting) to consider performance or attendance.

Status: This is the original version (as it was originally made).

(3) The officer concerned may be required to attend a third stage meeting under paragraph (4) where—

- (a) the officer has not been required to attend a third stage meeting under paragraph (2), or
- (b) the officer has been required to attend a third stage meeting under paragraph (2) but the panel did not make a finding of unsatisfactory performance or attendance at that meeting.

(4) If the line manager considers that the officer concerned has failed to maintain a sufficient improvement in performance or attendance during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 24(6)(c), the line manager must give the officer a written notice of the matters set out in paragraph (5).

(5) Those matters are—

- (a) that the line manager is of the view mentioned in paragraph (4), and
- (b) that the officer concerned is required to attend a meeting (in these Regulations referred to as a third stage meeting) to consider performance or attendance.

(6) Unless regulation 31 applies, any third stage meeting which an MDP officer is required to attend must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.

Arrangement of a third stage meeting

30.—(1) Where the line manager requires the officer concerned to attend a third stage meeting, the senior manager must as soon as reasonably practicable give the officer a written notice—

- (a) referring to the requirement that the officer attend a third stage meeting with a panel appointed by the relevant authority,
- (b) informing the officer of the procedures for determining the date and time of the meeting under regulation 37,
- (c) summarising the reasons why performance or attendance is considered unsatisfactory,
- (d) informing the officer of the possible outcomes of the meeting,
- (e) informing the officer that a human resources professional and an MDP officer may attend the meeting to advise the panel on the proceedings,
- (f) informing the officer that a relevant lawyer may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting,
- (g) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting,
- (h) informing the officer that the officer may seek advice from a representative of the staff association, and
- (i) informing the officer that the officer may be accompanied and represented at the meeting by a police friend.

(2) The notice must be accompanied by a copy of any document relied on by the line manager when the line manager formed the view referred to in regulation 29(2) or (4), as the case may be.

(3) A third stage meeting under this regulation must not take place unless the officer concerned has been notified of the right to representation under paragraph (1)(i).

Circumstances in which a third stage meeting may be required without a prior first or second stage meeting

31.—(1) This regulation applies where the relevant authority—

- (a) decides that the performance of an MDP officer constitutes gross incompetence,
 - (b) has a duty under paragraph 23(5B)(9) of Schedule 3 to the 2002 Act (duties of appropriate authority in relation to direction by Director General to bring disciplinary proceedings) to comply with a direction, following a determination under paragraph 23(5A)(b) of that Schedule (duties of Director General on receipt or completion of report on investigation) that a person's performance is unsatisfactory and amounts to gross incompetence,
 - (c) decides to accept a recommendation made under paragraph 25(4C)(c)(10) of that Schedule (reviews with respect to an investigation) that misconduct proceedings of the form specified in the recommendation are brought,
 - (d) decides to accept a recommendation made under paragraph 25(4E)(c) of that Schedule that misconduct proceedings of the form specified in the recommendation are brought,
 - (e) decides to accept a recommendation made under paragraph 27(3A)(11) of that Schedule (recommendation of Director General to appropriate authority) that a police officer's performance is unsatisfactory and amounts to gross incompetence, or
 - (f) 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 referred to in sub-paragraph (c) or (e).
- (2) The relevant authority must inform the officer concerned in writing that the officer is required to attend a meeting to consider performance where this regulation applies.
- (3) Such meeting is referred to in these Regulations as a third stage meeting, notwithstanding that the officer concerned has not attended a first stage meeting or a second stage meeting in respect of such performance.

Arrangement of a third stage meeting without a prior first or second stage meeting

32.—(1) Where the relevant authority has informed the officer concerned under regulation 31(2) that the officer is required to attend a third stage meeting, the relevant authority must as soon as reasonably practicable give the officer a written notice—

- (a) referring to the requirement that the officer attend a third stage meeting with a panel appointed by the relevant authority,
- (b) informing the officer of the procedures for determining the date and time of the meeting under regulation 37,
- (c) summarising the reasons why the officer's performance is considered to constitute gross incompetence,
- (d) informing the officer of the possible outcomes of the meeting,
- (e) informing the officer that a human resources professional and an MDP officer may attend the meeting to advise the panel on the proceedings,
- (f) informing the officer that a relevant lawyer may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting,
- (g) in a case to which regulation 39 applies, informing the officer that the Director General may attend the meeting to make representations,
- (h) in a case to which regulation 40 applies, informing the officer that the complainant or any interested person may attend the meeting as an observer,

(9) Sub-paragraphs (5A) to (5F) were inserted by paragraph 26 of Schedule 5 to the Policing and Crime Act 2017 (c. 3).

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

(11) Sub-paragraph (3A) was inserted by section 1238(4) of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), and amended by paragraph 56 of Schedule 9 to the Policing and Crime Act 2017.

Status: This is the original version (as it was originally made).

- (i) in a case to which regulation 41(5) applies, informing the officer that a person nominated by the Director General may attend the meeting as an observer,
 - (j) informing the officer that, if the officer consents, any other person specified in the notice may attend the meeting,
 - (k) in a case to which regulation 41(9) applies, informing the officer that the Director General may direct that the whole or part of the meeting be in public,
 - (l) informing the officer that the officer may seek advice from a representative of the staff association,
 - (m) informing the officer of the effect of regulation 5, and
 - (n) informing the officer that the officer may be accompanied at the meeting by a police friend.
- (2) Subject to the harm test under these Regulations (see regulation 3(4)), the notice must be accompanied by a copy of—
- (a) any document relied on by the relevant authority when it formed the view referred to in sub-paragraph (a) of regulation 31(1), in a case where regulation 31 applies by virtue of that sub-paragraph, or
 - (b) in a case investigated under eternal procedures established for England and Wales—
 - (i) the investigator’s report under paragraph 22 or 24A(12) of Schedule 3 to the 2002 Act (reports of final investigations) and the determination of the Director General under paragraph 23(5A)(b) (duties of Director General on receipt or completion of report on investigation), or
 - (ii) in a case where regulation 32 applies by virtue of paragraph (1)(b), (c) or (d), the recommendation made under paragraph 25(4C)(c) (reviews with respect to an investigation), paragraph 27(3A) (recommendation of Director General to appropriate authority), or paragraph 25(4E)(c) (reviews with respect to an investigation), of that Schedule.

Appointment of panel members

33.—(1) The third stage meeting must be conducted by a panel comprising a panel chair and two other members.

(2) The panel must be appointed by the relevant authority and consist of at least one MDP officer and one human resources professional.

(3) The panel chair must be a senior officer or a member of a relevant force holding a rank above that of chief superintendent or a senior human resources professional.

(4) The second panel member must be either an MDP officer or an officer of a relevant force, or a human resources professional of at least the rank of superintendent or (in the opinion of the relevant authority) equivalent rank.

(5) The third panel member must be either an MDP officer or an officer of a relevant force, or a staff member of at least the rank of superintendent or (in the opinion of the relevant authority) equivalent rank.

(6) Each panel member must be of at least the same rank as the officer concerned or (in the opinion of the relevant authority) equivalent rank.

(7) No panel member may be an interested party.

(12) Paragraph 24A was inserted by paragraph 24 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c. 15), and amended by paragraph 45 of Schedule 5, and 56 of Schedule 9, to the Policing and Crime Act 2017. There are other amendments to this provision which are not relevant to this instrument.

(8) As soon as reasonably practicable after the panel members have been appointed, the relevant authority must give the officer concerned a written notice of their names.

(9) As soon as the relevant authority has appointed the panel members, the relevant authority must arrange for a copy of any document—

- (a) which was available to the line manager in relation to any first stage meeting,
- (b) which was available to the second line manager in relation to any second stage meeting, or
- (c) which was prepared or submitted under regulation 17, 20, 25, 28, 29, 30, 31 or 32 as the case may be,

to be made available to each panel member, and a copy of any such document must be given to the officer concerned.

(10) In this regulation—

“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;

“senior human resources professional” means a human resources professional who, in the opinion of the relevant authority, has sufficient seniority, skills and experience to be a panel chair.

Right of officer concerned to object to panel members

34.—(1) The officer concerned may object to the appointment of any of the panel members.

(2) 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 receipt of the notice referred to in regulation 33(8) and must set out the grounds of objection of the officer concerned.

(3) The relevant authority must give the officer concerned a written notice as to whether it upholds or rejects an objection to any panel member.

(4) If the relevant authority upholds an objection, the relevant authority must remove that member from the panel and must appoint a new member to the panel.

(5) If the relevant authority appoints a new panel member under paragraph (4), it must ensure that the requirements for the composition of the panel in regulation 33 continue to be met.

(6) As soon as reasonably practicable after any such appointment, the relevant authority must give the officer concerned a written notice of the name of the new panel member.

(7) The officer concerned may object to the appointment of a panel member appointed under paragraph (4).

(8) Any such objection must be made in writing before the end of 3 working days beginning with the first working day after receipt of the notice referred to in paragraph (6) and must set out the grounds of objection of the officer concerned.

(9) The relevant authority must comply with paragraphs (3) to (6) in relation to the objection referred to in paragraph (7).

Procedure on receipt of notice of third stage meeting

35.—(1) Before the end of—

- (a) 14 working days beginning with the first working day after the date on which a notice has been given to the officer concerned under regulation 30 or 32, or
- (b) where that period is extended by the panel chair for exceptional circumstances, such extended period,

the officer concerned must comply with paragraphs (2) and (3).

Status: This is the original version (as it was originally made).

- (2) The officer concerned must give the relevant authority—
 - (a) a written notice of whether or not the officer accepts that the officer’s performance or attendance has been unsatisfactory or that the officer has been grossly incompetent, as the case may be;
 - (b) where the officer accepts that the officer’s performance or attendance has been unsatisfactory or that the officer has been grossly incompetent, any written submission the officer wishes to make in mitigation;
 - (c) where the officer does not accept that the officer’s performance or attendance has been unsatisfactory or that the officer has been grossly incompetent, or where the MDP officer disputes all or part of the matters referred to in the notice given under regulation 30 or 32, a written notice of—
 - (i) the matters the officer disputes and the officer’s account of the relevant events, and
 - (ii) any arguments on points of law the officer wishes to be considered by the panel.
- (3) The officer concerned must provide the relevant authority and the panel with a copy of any document the officer intends to rely on at the third stage meeting.
- (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 senior manager and the officer must each give to the other a list of proposed witnesses or give notice to the other that they do not have any proposed witnesses, and any list of proposed witnesses must include brief details of the evidence that each witness is able to adduce.
- (5) Where there are proposed witnesses, the officer concerned must, if reasonably practicable, agree a list of proposed witnesses with the senior manager.
- (6) Where no list of proposed witnesses is agreed under paragraph (5), the officer concerned must give the relevant authority the officer’s list of proposed witnesses.

Witnesses

- 36.**—(1) As soon as reasonably practicable after any list of proposed witnesses has been—
- (a) agreed under regulation 35(5), or
 - (b) given under regulation 35(6),
- the relevant authority must give that list to the panel chair, together with, in the latter case, a list of its proposed witnesses.
- (2) The panel chair must—
 - (a) consider the list or lists of proposed witnesses, and
 - (b) subject to paragraph (3), determine which, if any, witnesses should attend the third stage meeting.
 - (3) The panel chair may determine that witnesses not named in any list of proposed witnesses should attend the third stage meeting.
 - (4) No witness may give evidence at a third stage meeting unless the panel chair reasonably believes that it is necessary in the interests of fairness for the witness to do so, in which case the chair must—
 - (a) where the witness is an MDP officer, cause that person to be ordered to attend the third stage meeting, and
 - (b) in any other case, cause the witness to be given notice that the witness’s attendance is necessary and of the date, time and place of the meeting.

Timing and notice of third stage meeting

37.—(1) Subject to paragraphs (2) and (6) and regulation 38, the third stage meeting must take place before the end of 30 working days beginning with the first working day after the day on which a notice has been given to the officer concerned under regulation 30 or 32.

(2) The panel chair may extend the time period specified in paragraph (1) where the panel chair considers that it would be in the interests of fairness to do so.

(3) Where the panel chair extends the time period under paragraph (2), the panel chair must give a written notice of the reasons for so doing to the relevant authority and the officer concerned.

(4) The panel chair must, if reasonably practicable, agree a date and time for the third stage meeting with the officer concerned.

(5) Where no date and time is agreed, the panel chair must specify a date and time for the third stage meeting.

(6) Where a date and time is specified and—

(a) the officer concerned or a police friend will not be available at that time, and

(b) the officer proposes an alternative time which satisfies paragraph (7),

the third stage meeting must be postponed to the 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 panel chair.

(8) The panel chair must give the officer concerned a written notice of the date and time of the third stage meeting determined in accordance with this regulation and of the place of the meeting.

(9) Where the officer concerned informs the panel chair in advance that the officer is unable to attend the third stage meeting on grounds which the panel chair considers reasonable, the panel chair may allow the officer to participate in the meeting by video link or other means.

(10) Where the Director General is entitled to attend the third stage meeting to make representations under regulation 39(2), or to nominate a person to attend the proceedings as an observer under regulation 41(4), the relevant authority must give the Director General written notice of the date, time and place of the proceedings.

Postponement and adjournment of a third stage meeting

38.—(1) If the panel chair considers it necessary or expedient, the panel chair may direct that the third stage meeting take place at a date and time that is later than that specified in the notice given under regulation 37.

(2) Such direction may specify a date and time which falls after the period of 30 working days referred to in regulation 37(1).

(3) Where the panel chair makes a direction under paragraph (1), the panel chair must give a written notice of the reasons and the revised date, time and place for the meeting to—

(a) the officer concerned,

(b) the other panel members, and

(c) the relevant authority.

Participation of Director General and investigator at third stage meeting

39.—(1) This regulation applies in a case falling within regulation 31, where—

Status: This is the original version (as it was originally made).

- (a) paragraph 18 or 19 of Schedule 3 to the 2002 Act applied (investigations directed by or by the Director General), or
 - (b) paragraph 16 of that Schedule (investigations by the relevant authority on its own behalf) applied and—
 - (i) the Director General—
 - (aa) made a recommendation under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation) which the relevant authority accepted,
 - (bb) made a recommendation under paragraph 27(3A) of that Schedule (recommendation of Director General to relevant authority) which the relevant authority accepted, or
 - (cc) gave a direction under paragraph 27(4)(a) of that Schedule (direction by Director General where relevant authority does not take steps to secure that full effect is given to Director General’s recommendation), or
 - (ii) the Secretary of State for Defence made a recommendation under paragraph 25(4E) (c) of that Schedule (reviews with respect to an investigation) which the relevant authority accepted.
- (2) The Director General may attend the third stage meeting to make representations, and where the Director General does so—
- (a) the Director General may be represented by a relevant lawyer,
 - (b) the Director General must notify the complainant or any interested person before the meeting, and
 - (c) the panel chair must notify the officer concerned before the meeting.
- (3) The investigator or a nominated person must attend the third stage meeting on the request of the panel chair to answer questions.
- (4) For the purpose of this regulation, a “nominated person” is a person who, in the opinion of—
- (a) the relevant authority, or
 - (b) in a case to which paragraph 18 or 19 of Schedule 3 to the 2002 Act (investigations directed by or by the Director General) applied,
- has sufficient knowledge of the investigation of the case to be able to assist the panel.

Attendance of complainant or interested person at third stage meeting

40.—(1) This regulation applies in a case falling within regulation 31 where the third stage meeting arises from a complaint or conduct matter investigated under external procedures established for England and Wales, Northern Ireland or Scotland.

(2) The relevant authority must give the complainant or any interested person a written notice of the date, time and place of the third stage meeting.

- (3) Subject to this regulation and any conditions imposed under regulation 41(12)—
- (a) the complainant may attend as an observer any part of the third stage meeting relating to the subject matter of the complaint, and
 - (b) an interested person may attend as an observer any part of the third stage meeting relating to the subject matter of the complaint or conduct matter in respect of which the person is an interested person.

(4) Subject to paragraph (5) and any conditions imposed under regulation 41(12), a complainant or interested person may be accompanied by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.

(5) Where a complainant or interested person, or any accompanying person, is to give evidence as a witness at the third stage meeting, the complainant or interested person and any accompanying person may not be allowed to attend the meeting before giving evidence.

(6) Where the officer concerned objects to the complainant or interested person, or any accompanying person, being present while a submission is made in mitigation on the officer's behalf, the panel chair may require the complainant or interested person, or any accompanying person, to withdraw while the submission is made.

(7) The panel chair may, at the panel chair's discretion, put any questions to the officer concerned that the complainant or interested person may request be put to the officer.

Attendance of others at a third stage meeting

41.—(1) Subject to regulations 39 and 40 and paragraph (10) of this regulation, the third stage meeting must be in private.

(2) A human resources professional and an MDP officer may attend the meeting to advise the panel on the proceedings.

(3) A relevant lawyer may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting.

(4) Where regulation 39 applies, a person nominated by the Director General may attend a third stage meeting held under regulation 31 as an observer.

(5) Any other person specified in the notice to the officer concerned in accordance with regulation 30(1)(g) or 32(1)(j) may attend the meeting if the officer consents.

(6) Subject to any contrary decision by the panel chair, a witness other than a complainant, interested person or the officer concerned may only attend the third stage meeting for the purposes of giving their evidence.

(7) The panel chair may, at the panel chair's discretion, permit a witness in the third stage meeting to be accompanied at that meeting by one other person.

(8) This paragraph applies where—

- (a) a third stage meeting is held under regulation 31;
- (b) the Director General investigated the case under paragraph 19 of Schedule 3 to the 2002 Act;
- (c) the Director General considers that, because of the gravity of the case or other exceptional circumstances, it would be in the public interest for all or part of the third stage meeting to be held in public;
- (d) the Director General has consulted with—
 - (i) the relevant authority;
 - (ii) the officer concerned;
 - (iii) the complainant or interested person;
 - (iv) any witnesses.

(9) Where paragraph (8) applies, the Director General may direct that the whole or part of the third stage meeting be in public.

(10) The panel is under a duty to comply with a direction given under paragraph (9).

Status: This is the original version (as it was originally made).

(11) A direction under paragraph (9), together with the reasons for it, must be notified as soon as practicable, and in any event before the end of 5 working days beginning with the first working day after the decision was taken, to the persons consulted under that paragraph.

(12) The panel chair may impose such conditions as the panel chair sees fit relating to the attendance under regulation 40 or this regulation of persons at the third stage meeting (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the meeting.

Exclusion from a third stage meeting

42.—(1) Where it appears to the panel chair that any person may, in giving evidence, disclose information which ought not to be disclosed to any person attending the meeting, other than the officer concerned, because it is information to which paragraph (2) applies, the panel chair must require such attendees to withdraw while the evidence is given.

(2) This paragraph applies to information in so far as the panel chair considers that preventing disclosure of it 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 purposes of the prevention or detection of misconduct by—
 - (i) other MDP officers, or
 - (ii) persons under the direction or control of a chief officer of a relevant force, 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.

Procedure at a third stage meeting

43.—(1) The panel chair must determine the procedure at the third stage meeting and, in so far as it is set out in these Regulations, must determine it in accordance with these Regulations.

(2) Where the officer concerned is required to attend a third stage meeting under regulation 29, the panel chair must—

- (a) provide the officer with an opportunity to make representations in relation to the matters referred to in the notice given under regulation 30, and
- (b) provide the police friend (if the officer has one) with an opportunity to address the meeting in relation to such matters in accordance with regulation 7(3)(a).

(3) Where the officer concerned is required to attend a third stage meeting under regulation 31, the panel chair must—

- (a) provide the officer concerned with an opportunity to make representations in relation to the matters referred to in the notice given under regulation 32;
- (b) provide the person representing the officer with an opportunity to address the meeting in relation to such matters in accordance with regulation 7(3)(a).

(4) The panel chair may adjourn the meeting to a specified time, or date and time, if it appears to the panel chair necessary or expedient to do so.

(5) A verbatim record of the meeting must be taken and the officer concerned must, on request, be given a copy.

Finding

44.—(1) Following the third stage meeting, the panel must make a finding as to whether—

- (a) in a case falling within regulation 29(2), the performance or attendance of the officer concerned during the period specified in accordance with regulation 24(6)(c) has been satisfactory,
- (b) in a case falling within regulation 29(4), the performance or attendance of the officer concerned during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 24(6)(c) has been satisfactory, or
- (c) in a case falling within regulation 31, the performance of the officer concerned constitutes gross incompetence, unsatisfactory performance or neither.

(2) The panel must prepare (or must cause to be prepared) their decision in writing which must state the finding and their reasons, as well as any outcome which they order under regulation 45.

(3) As soon as reasonably practicable and in any event before the end of 3 working days beginning with the first working day after the conclusion of the meeting, the panel chair must give a written copy of the decision to—

- (a) the officer concerned, and
- (b) the line manager.

(4) Where the panel have made a finding of unsatisfactory performance or attendance or gross incompetence, the copy of the decision given to the officer concerned must be accompanied by a written notice setting out the circumstances in which and the time within which an MDP officer may appeal under the Appeals Tribunals Regulations.

(5) Any finding or decision of the panel under this regulation or regulation 46 must be based on a simple majority but must not indicate whether it was taken unanimously or by a majority.

Outcomes

45.—(1) If the panel make a finding that, in a case falling within regulation 29(2) or (4), the performance or attendance of the officer concerned has been unsatisfactory they may, subject to paragraph (4), order—

- (a) one of the outcomes mentioned in paragraph (3)(a), (c) or (f), or
- (b) where the panel are satisfied that there are exceptional circumstances which justify it, the outcome mentioned in paragraph (3)(d).

(2) If the panel make a finding that, in a case falling within regulation 31, the performance of the officer concerned constitutes gross incompetence, they may, subject to paragraph (4), order one of the outcomes mentioned in paragraph (3)(b), (c), (e) or (f).

(3) The outcomes are—

- (a) dismissal of the officer concerned with notice, the period of the notice to be decided by the panel, subject to a minimum period of 28 days;
- (b) dismissal of the officer concerned with immediate effect;
- (c) reduction in rank of the officer concerned with immediate effect;
- (d) an extension of the period of the final written improvement notice issued to the officer concerned;

Status: This is the original version (as it was originally made).

- (e) the issue to the officer concerned of a final written improvement notice;
 - (f) redeployment of the officer concerned to alternative duties (which may involve a reduction of rank) within the MDP.
- (4) The panel may not order a reduction in rank with immediate effect where the third stage meeting relates to the attendance of the officer.
- (5) In considering whether to order any of the outcomes mentioned in paragraph (3), the panel—
- (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 their consideration, and
 - (c) must give—
 - (i) the officer, the officer's police friend or, in a case falling within regulation 31, the officer's relevant lawyer, and
 - (ii) the relevant authority,
- an opportunity to make oral or written representations before making a decision.
- (6) If the panel make a finding, in a case falling within regulation 31, of unsatisfactory performance, they must order the issue to the officer concerned of a written improvement notice.
- (7) A written improvement notice or a final written improvement notice issued under this regulation must—
- (a) state in what respect the performance or attendance of the officer concerned (as the case may be) is considered unsatisfactory or the performance, grossly incompetent,
 - (b) state the improvement that is required in performance or attendance,
 - (c) state that, if a sufficient improvement is not made within such reasonable period as the panel specifies (being a period not exceeding 12 months), the officer may be required to attend a second stage meeting (in the case of a written improvement notice) or another third stage meeting (in the case of a final written improvement notice) and state the date with which this period ends,
 - (d) state that it is valid for a period of 12 months beginning with the date of the notice,
 - (e) state that, if the sufficient improvement referred to in sub-paragraph (c) is not maintained during any part of the validity period remaining after the expiry of the period specified in accordance with sub-paragraph (c), the officer may be required to attend a second stage meeting (in the case of a written improvement notice) or another third stage meeting (in the case of a final written improvement notice), and
 - (f) be signed and dated by the panel chair.
- (8) Where the panel orders an extension of the period relating to the final written improvement notice—
- (a) the notice must be amended—
 - (i) to state that if the officer concerned does not make a sufficient improvement within such reasonable period as the panel specifies (being a period not exceeding 12 months) the officer may be required to attend another third stage meeting, and
 - (ii) to state the date with which this period ends;
 - (b) the panel may vary any of the other matters recorded in the notice;
 - (c) the notice is valid for a further period of 12 months.

Assessment of performance or attendance following third stage meeting where a written improvement notice has been issued

46.—(1) Where a written improvement notice has been issued under regulation 45, the performance or attendance of the officer concerned must be assessed under regulation 21 as if the officer had received a written improvement notice under regulation 17.

(2) Where, as a result of such assessment, the officer concerned is required to attend a second stage meeting, these Regulations have effect as if the officer had been required to attend that meeting under regulation 21 in which case—

- (a) references to the period specified in accordance with regulation 16(6)(c) must be construed as references to the period specified under regulation 45(7)(c), and
- (b) references to the validity period of the written improvement notice must be construed as references to the validity period of the written improvement notice issued under regulation 45.

(3) Where an MDP officer is required to attend such a second stage meeting, that meeting must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice.

Assessment of performance or attendance following third stage meeting where a final written improvement notice has been issued or extended

47.—(1) Where a final written improvement notice has been issued under regulation 45, as soon as reasonably practicable after the end of the period specified by the panel under regulation 45(7)(c) or, where the panel orders an extension of the period, regulation 45(8)(a)—

- (a) the panel must assess the performance or attendance of the officer concerned (as the case may be) during that period, and
- (b) the panel chair must give the officer a written notice as to whether the panel considers that there has been a sufficient improvement in performance or attendance during that period.

(2) If the panel considers that there has not been a sufficient improvement, the panel chair must, at the same time as the panel chair gives a written notice under paragraph (1)(b), also give the officer concerned a written notice that the officer is required to attend another third stage meeting to consider the officer's performance or attendance.

(3) The officer concerned may be required to attend a third stage meeting under paragraph (4) where—

- (a) the officer has not been required to attend a third stage meeting under paragraph (2), or
- (b) the officer has been required to attend a third stage meeting under paragraph (2) but the panel did not make a finding of unsatisfactory performance or attendance at that meeting.

(4) If the panel considers that the officer concerned has failed to maintain a sufficient improvement in performance or attendance during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 45(7)(c) or, where the panel orders an extension of the period, regulation 45(8)(a), the panel chair must give the officer a written notice of the matters set out in paragraph (5).

(5) Those matters are—

- (a) that the panel is of the view mentioned in paragraph (4), and
- (b) that the officer concerned is required to attend another third stage meeting to consider the officer's performance or attendance.

(6) In a case falling within paragraph (2) or (4), the relevant authority must give the officer concerned the notice referred to in regulation 30.

Status: This is the original version (as it was originally made).

(7) Where the officer concerned is required to attend a third stage meeting under this regulation, these Regulations have effect as if the case fell within regulation 29(2) or (4), as the case may be.

(8) Where these Regulations have effect in the manner described in paragraph (7)—

(a) references to the period specified in accordance with regulation 24(6)(c) are to be construed as references to the period specified under regulation 45(7)(c) or (8)(a), as the case may be, and

(b) references to the validity period of the final written improvement notice are to be construed as references to the validity period mentioned in regulation 45(7)(d) or (8)(c), as the case may be.

(9) Any third stage meeting which an MDP officer is required to attend under this regulation must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice issued or extended under regulation 45 or, if amended under regulation 45(8)(a), as so amended.

(10) References in this regulation to the panel are references to the panel that conducted the initial third stage meeting, subject to paragraph (11).

(11) Where any of the panel members are not able to continue to act as such, the relevant authority must remove that member from the panel and must appoint a new member to the panel.

(12) If the relevant authority appoints a new panel member under paragraph (11), it must ensure that the requirements for the composition of the panel in regulation 33 continue to be met.

(13) As soon as reasonably practicable after any such appointment, the relevant authority must give the officer concerned a written notice of the name of the new panel member.

(14) The officer concerned may object to the appointment of a panel member appointed under paragraph (11).

(15) Any such objection must be made in accordance with regulation 34(2), provided that it must be made before the end of 3 working days beginning with the first working day after receipt of the notice referred to in paragraph (13); and the relevant authority must comply with regulation 34(3) to (6) in relation to the objection but paragraph (7) of that regulation does not apply.

Third stage meeting under regulation 47

48.—(1) Where an MDP officer is required to attend another third stage meeting under regulation 47—

(a) that meeting must be conducted by the same panel as conducted the initial third stage meeting (subject to any change in that panel under regulation 47);

(b) the officer concerned may not object to panel members under regulation 34, except in accordance with regulation 47;

(c) subject to paragraph (2), regulations 35 to 45 apply to, or in relation to, that meeting.

(2) Following that third stage meeting, the panel may not order an extension of the period of the final written improvement notice issued to the officer concerned.