
STATUTORY INSTRUMENTS

2020 No. 3

The Police (Performance) Regulations 2020

PART 1

Preliminary

Citation and commencement

1. These Regulations may be cited as the Police (Performance) Regulations 2020 and come into force on 1st February 2020.

Commencement Information

I1 Reg. 1 in force at 1.2.2020, see [reg. 1](#)

Application

2.—(1) Subject to paragraph (2), these Regulations apply where unsatisfactory performance or attendance by a police officer comes to the attention of the line manager of the officer, or a chief officer of police, on or after 1st February 2020.

(2) These Regulations do not apply in relation to—

- (a) a member of a police force above the rank of chief superintendent;
- (b) an officer of the rank of constable who has not completed the period of probation applicable to the officer.

Commencement Information

I2 Reg. 2 in force at 1.2.2020, see [reg. 1](#)

Revocations and transitional provisions

3.—(1) Subject to paragraph (2), the following Regulations are revoked—

- (a) the Police (Performance) Regulations 2012⁽¹⁾;
- (b) the Police (Performance) (Amendment) Regulations 2014⁽²⁾.

(2) The Regulations mentioned in paragraph (1) and regulation 7(11)(a) of the Police Barred List and Police Advisory List Regulations 2017⁽³⁾ as in force immediately before these Regulations come into force continue to have effect in relation to—

(1) [S.I. 2012/2631](#).
(2) [S.I. 2014/2403](#).
(3) [S.I. 2017/1135](#).

Status: Point in time view as at 01/02/2020.

Changes to legislation: There are currently no known outstanding effects for the The Police (Performance) Regulations 2020, PART 1. (See end of Document for details)

- (a) unsatisfactory performance or attendance or gross incompetence which came to the attention of the line manager of an officer or a chief officer of police before 1st February 2020;
- (b) unsatisfactory performance or attendance or gross incompetence which came to the attention of the line manager of an officer or a chief officer of police on or after 1st February 2020 but which relates to a matter being handled under the Regulations mentioned in paragraph (1).

Commencement Information

I3 Reg. 3 in force at 1.2.2020, see [reg. 1](#)

Interpretation and delegation

4.—(1) In these Regulations—

- “the 1996 Act” means the Police Act 1996;
- “the 2002 Act” means the Police Reform Act 2002;
- “the Conduct Regulations” means the Police (Conduct) Regulations 2020(4);
- “appropriate authority” means the chief officer of police of the police force concerned;
- “complainant” is to be construed in accordance with section 29(2) of the 2002 Act (interpretation of Part 2)(5);
- “complaint” has the meaning given to it by section 12 of the 2002 Act (complaints, matters and persons to which Part 2 applies)(6);
- “conduct matter” has the meaning given to it by section 12 of the 2002 Act(7);
- “Director General” means the Director General of the Independent Office for Police Conduct, established under section 9 of the 2002 Act (the Independent Office for Police Conduct)(8);
- “DSI matter” has the meaning given to it by section 12 of the 2002 Act(9).
- “document” means anything in which information of any description is recorded;
- “first stage appeal meeting” has the meaning given to it by regulation 19(8);
- “first stage meeting” has the meaning given to it by regulation 15;
- “gross incompetence” means a serious inability or serious failure of a police 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 a police officer or police staff member who has specific responsibility for personnel matters relating to members of a police force;

(4) S.I. 2020/4.

(5) Section 29(2) was amended by paragraph 6 of Schedule 4 to the 2017 Act.

(6) Section 12(1) to (1B) was substituted for section 12(1) by section 14(2) of the 2017 Act.

(7) Section 12(2) was amended by sections 2(3)(a) and 3(3) of the Police (Complaints and Conduct) Act 2012 (c. 22) and paragraph 8(6)(a) of Schedule 14 to the Police Reform and Social Responsibility Act 2011 (c. 13) (“the 2011 Act”).

(8) Section 9 of the 2002 Act established a body corporate known as the Independent Police Complaints Commission (IPCC). Section 9 was amended by section 33(2) and (4) of the 2017 Act to provide that the body corporate known as the IPCC would continue to exist and would be known instead as the Independent Office for Police Conduct (IOPC). There are other amendments of section 9 but none is relevant.

(9) Section 12(2A) to (2D) was inserted by paragraph 3 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c. 15) (“the 2005 Act”).

“interested person” means a person who has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter in accordance with section 21 of the 2002 Act (duty to provide information for other persons)(**10**);

“investigator”, other than in regulation 14, means a person appointed or designated under paragraph 16, 18 or 19 of Schedule 3 to the 2002 Act (investigations)(**11**), as the case may be;

“line manager” means the police officer or the police staff member who, in either case, has immediate supervisory responsibility for the officer concerned;

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

“panel” means a panel appointed by the appropriate authority in accordance with regulation 34 subject to any change to the membership of that panel in accordance with regulation 35 and to regulations 48 and 49;

“police barred list” means the list referred to in section 88B(2) of the 1996 Act (duty to maintain police barred list)(**12**);

“police force concerned” means—

- (a) the police force of which the officer concerned is a member, or
- (b) where the officer concerned is a special constable, the police force maintained for the police area for which the officer is appointed as a special constable;

“police friend” means a person chosen by the officer concerned in accordance with regulation 5;

“police officer” means a member of a police force or a special constable;

“police staff member” means—

- (a) a member of the civilian staff of a police force, within the meaning of section 102(4) and (6) of the Police Reform and Social Responsibility Act 2011 (interpretation of Part 1)(**13**), or
- (b) an employee of the Common Council of the City of London who is under the direction and control of a chief officer;

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

“relevant lawyer” has the same meaning as in section 84(4) of the 1996 Act (representation at disciplinary and other proceedings)(**14**);

“relevant terms of the final written improvement notice” has the meaning given to it by regulation 27;

“relevant terms of the written improvement notice” has the meaning given to it by regulation 19;

(10) Section 21 was amended by paragraphs 1 and 7 of Schedule 12 to the 2005 Act, section 15 of the 2017 Act and paragraphs 1 and 4 of Schedule 4 to, paragraph 47(d) of Schedule 5 to, and paragraphs 15 and 27 of Schedule 9 to that Act.

(11) Paragraph 16 was amended by paragraphs 11 and 14 of Schedule 12 to the 2005 Act, paragraphs 1, 11 and 12 of Schedule 14 to the 2011 Act, paragraphs 8 and 17 of Schedule 6 to the Crime and Courts Act 2013 (c. 22) and paragraphs 9 and 16 of Schedule 5 to the 2017 Act; paragraph 18 was amended by paragraphs 1, 11 and 16 of Schedule 12 to the 2005 Act and by paragraphs 9, 15, 18 and 19 of Schedule 5 to the 2017 Act; paragraph 19 was amended by paragraphs 1, 11 and 17 of Schedule 12 to the 2005 Act and paragraphs 9, 15, 20 and 56 of Schedule 9 to the 2017 Act. There are other amendments of paragraphs 16, 18 and 19 but none is relevant.

(12) Section 88B was inserted by Schedule 8 to the 2017 Act.

(13) 2011 c. 13.

(14) Section 84 was substituted by paragraphs 1 and 7 of Schedule 22 to the 2008 Act and amended by paragraphs 1 and 40 of Schedule 16 to the 2011 Act and section 29(1) and (4) of the 2017 Act.

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“second line manager” means the person appointed by the appropriate 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 police force concerned 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 police staff member who has supervisory responsibility for the line manager;

“second stage appeal meeting” has the meaning given to it by regulation 27(8);

“second stage meeting” has the meaning given to it by regulation 22(2) or 24(5)(e), as the context requires;

“senior manager” means—

- (a) the police officer or police staff member who is the supervisor of the person who is, in relation to the officer concerned, the second line manager, or
- (b) in the absence of such supervisor, the police officer or police staff member nominated by the appropriate 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—

- (a) in relation to a member of a police force of the rank of chief inspector or below, the Police Federation of England and Wales, and
- (b) in relation to a member of a police force of the rank of superintendent or chief superintendent, the Police Superintendents’ Association;

“third stage meeting” has the meaning given to it by regulation 30(2) or 32(3), as the context requires;

“working day” means any day other than—

- (c) a Saturday or Sunday;
- (d) Christmas Day or Good Friday, or
- (e) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(15) in England and Wales.

(2) In these Regulations—

- (a) a reference to—
 - (i) unsatisfactory performance or attendance; or
 - (ii) the performance or attendance of an officer being unsatisfactory,
 is a reference to an inability or failure of a police 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) 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 appropriate 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 police officers or police staff members 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.
- (4) The appropriate authority may, subject to paragraph (5), delegate any of its functions under these Regulations to—
- (a) a member of a police force of at least the rank of inspector, or
 - (b) a police staff member who, in the opinion of the appropriate authority, is of at least a similar level of seniority to an inspector.
- (5) Where the appropriate authority delegates its functions under regulation 32, a decision under sub-paragraph (a) or (c) of regulation 32(1) must be authorised by a member of a police force holding a rank above that of chief superintendent.
- (6) Any proceedings under these Regulations are disciplinary proceedings for the purposes of—
- (a) section 87(5) of the 1996 Act (guidance concerning disciplinary proceedings)**(16)**, and
 - (b) section 36(2) of the 2002 Act (conduct of disciplinary proceedings).
- (7) Any proceedings under these Regulations are disciplinary proceedings—
- (a) for the purposes of paragraph (a) of the definition of “disciplinary proceedings” in section 29(1) of the 2002 Act (interpretation), but only for the purposes of the following provisions of that Act—
 - (i) section 22(8) (guidance issued by the Director General);
 - (ii) the following provisions of Schedule 3 to the 2002 Act (handling of complaints and conduct matters etc.)—
 - (aa) paragraph 2(6B) (complaints which must be handled in accordance with Schedule 3)**(17)**;
 - (bb) paragraph 6(2E) (handling of complaints other than by way of investigation: admissibility of statements in proceedings)**(18)**;
 - (cc) paragraph 6A(10) (reviews relating to complaints dealt with other than by investigation: references to outcome of a complaint)**(19)**;
 - (dd) paragraph 19ZG(2) (retention of items by the Director General)**(20)**;

(16) Section 87(1A) to (5) was substituted for section 87(2) by paragraph 18 of Schedule 7 to the 2002 Act and amended by paragraph 9(3) of Schedule 22 to the 2008 Act.

(17) Paragraph 2(6B) was inserted by paragraphs 1 and 2 of Schedule 5 to the 2017 Act.

(18) Paragraph 6(2E) was inserted by paragraphs 5 and 9 of Schedule 5 to the 2017 Act.

(19) Paragraph 6A(10) was inserted by paragraphs 29 and 31 of Schedule 5 to the 2017 Act.

(20) Paragraph 19ZG was inserted by section 20(1) of the 2017 Act. Sub-paragraph (2) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.

Status: Point in time view as at 01/02/2020.

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- (ee) paragraph 19ZH(6) (restrictions on access to items retained by the Director General)(**21**);
- (ff) paragraph 20(1) (restrictions on proceedings pending the conclusion of an investigation)(**22**);
- (gg) paragraph 22(10) (purposes for which appropriate authority may request items from investigator)(**23**);
- (hh) paragraph 23(5A) (duties of Director General on receipt or completion of report on investigation)(**24**);
- (ii) paragraph 24(6B) (duties of appropriate authority on receipt of report on investigation)(**25**);
- (jj) paragraph 25(4C), (4E) and (14) (reviews with respect to an investigation: powers of relevant review body and references to outcome of a complaint)(**26**);
- (kk) paragraph 27(2) (duties of appropriate authority following memorandum under paragraph 24C)(**27**).

Commencement Information

I4 Reg. 4 in force at 1.2.2020, see [reg. 1](#)

- (21) Paragraph 19ZH was inserted by section 20(1) of the 2017 Act. Sub-paragraph (6) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.
- (22) Paragraph 20(1) was inserted by paragraphs 1 and 2 of Schedule 11, and paragraphs 1, 11 and 18 of Schedule 12, to the 2005 Act and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the 2017 Act.
- (23) Paragraph 22(10) was inserted by paragraphs 1, 3 and 12 of Schedule 23 to the 2008 Act.
- (24) 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.
- (25) Paragraph 24(6B) was inserted by section 15(1) and (10)(a) of the 2017 Act.
- (26) Paragraph 25(4C), (4E) and (14) was inserted by paragraphs 29 and 34 of Schedule 5 to the 2017 Act. Sub-paragraphs (4C) and (4E) were amended by paragraphs 15 and 56 of Schedule 9 to that Act.
- (27) Paragraph 27(2) was amended by section 15(1) and (10)(b) of the 2017 Act..

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