
STATUTORY INSTRUMENTS

2020 No. 4

The Police (Conduct) Regulations 2020

PART 4

Misconduct proceedings

Outcome of misconduct proceedings

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

- (a) impose any disciplinary action mentioned in paragraph (2) or (3) as appropriate;
 - (b) where they find the conduct amounts to neither gross misconduct nor misconduct, direct that the matter is referred to be dealt with under the reflective practice review process.
- (2) The disciplinary action available at a misconduct meeting is—
- (a) a written warning;
 - (b) a final written warning.
- (3) The disciplinary action available at a misconduct hearing is—
- (a) where the person conducting or chairing the misconduct proceedings decides the conduct of the officer concerned amounts to misconduct, in accordance with regulation 41(15)—
 - (i) a written warning;
 - (ii) a final written warning;
 - (iii) reduction in rank, where paragraph (5) or (6) applies;
 - (iv) dismissal without notice, where paragraph (5) or (6) applies;
 - (b) where the person conducting or chairing the misconduct proceedings decides the conduct of the officer concerned amounts to gross misconduct, in accordance with regulation 41(15)—
 - (i) a final written warning;
 - (ii) reduction in rank;
 - (iii) dismissal without notice.

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

(5) This paragraph applies where a final written warning was in force on the date of the severity assessment under regulation 14(1) of these Regulations or under regulation 16 of the Complaints and Misconduct Regulations.

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

(7) Where, on the date of the severity assessment under regulation 14(1) of these Regulations or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had a written warning in force, a written warning must not be given.

(8) Where, on the date of the severity assessment under regulation 14(1) of these Regulations or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had a final written warning in force, neither a written warning nor a final written warning may be given.

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

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

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

(11) The references to a period in paragraph (9)(a) and (b), including any such period as extended, if relevant, in accordance with paragraph (10), does not include any time when the officer is taking a career break (under regulation 33(12) of the Police Regulations (leave) and the determination of the Secretary of State made under that regulation)(1).

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

(13) Where, on the date of the severity assessment under regulation 14(1) of these Regulations or under regulation 16 of the Complaints and Misconduct Regulations, the officer concerned had been reduced in rank under the Police (Conduct) Regulations 2004(2) or under these Regulations, a reduction in rank may not be imposed.

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

- (a) must have regard to the record of police service of the officer concerned as shown on the officer's personal record;
- (b) may receive evidence from any witness whose evidence would, in their opinion, assist them in determining the question, including evidence of mitigating circumstances disclosed prior to the hearing to—
 - (i) a police force;
 - (ii) a registered medical practitioner, or
 - (iii) a staff association;
- (c) must give—
 - (i) the officer;
 - (ii) if the officer is legally represented, the officer's relevant lawyer or, if the officer is not legally represented, the officer's police friend;
 - (iii) the appropriate authority or, as the case may be, the originating authority or the person appointed to represent such authority in accordance with regulation 8(5), and
 - (iv) the Director General or the Director General's relevant lawyer, where the Director General made a decision under regulation 24(1) to present the case,

(1) Regulation 33 was amended by S.I. 2006/3449 and 2011/3026.

(2) S.I. 2004/645.

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

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

(15) Paragraph (16) applies where an officer is dismissed at a misconduct hearing.

(16) The person chairing a misconduct hearing must provide any information to the appropriate authority or, as the case may be, the originating authority, that the person considers ought to be included by virtue of regulation 3(2)(1) of the Police Barred List and Police Advisory List Regulations 2017⁽³⁾ in the barred list report relating to the officer concerned (information relating to whether exemptions to requirement to publish the barred list entry apply).

(3) S.I. 2017/1135.