

2024 No. 521

POLICE, ENGLAND AND WALES

The Police (Conduct) (Amendment) Regulations 2024

Made - - - - *15th April 2024*

Laid before Parliament *16th April 2024*

Coming into force - - *7th May 2024*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 50(1), (2)(e), (3), (3A), (4) and (7), 51(1), (2)(ba), (2A), (2B), (3A) and (4), 84(1)(b), (2)(c) and (6) of the Police Act 1996(a), and section 36(1)(a) and (b) of the Police Reform Act 2002(b) and section 29(7)(b) of the Policing and Crime Act 2017(c).

In accordance with section 63(3)(a) of the Police Act 1996(d), the Secretary of State has supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration the representations made by that Board before making these Regulations.

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Police (Conduct) (Amendment) Regulations 2024.

(2) They come into force on 7th May 2024.

(3) They extend to England and Wales.

Amendment of The Police (Conduct) Regulations 2020 and interpretation

2.—(1) The 2020 Regulations are amended in accordance with regulations 3 to 6.

(2) In these Regulations, “the 2020 Regulations” means The Police (Conduct) Regulations 2020(e).

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- (a) 1996 c. 16; section 50(3) was substituted by paragraph 3(2) of Schedule 22 to the Criminal Justice and Immigration Act 2008 c. 4; section 50(3A) was inserted by section 29(2) of the Policing and Crime Act 2017 (c. 3) and its application limited by section 29(7) of that Act; section 50(4) was amended by paragraph 3(3) of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4) and by section 157(1) of the Police Reform and Social Responsibility Act 2011 (c. 13); section 51(2)(ba) was inserted by section 35 of the Police Reform Act 2002 (c. 30) and amended by paragraphs 1 and 4(2) of Schedule 22 to 2008 c. 4; section 51(2A) was inserted by paragraph 4(3) of Schedule 22 to 2008 c. 4; section 51(2B) was inserted by section 29(2) of 2017 c. 3; section 51(3A) was inserted by section 128(1) of the Police Act 1997 (c. 50); section 84 was substituted by paragraph 7 of Schedule 22 to 2008 c. 4. There are other amendments but none is relevant.
- (b) 2002 c. 30; section 36 was amended by paragraph 53 of Schedule 9 to the Police and Crime Act 2017 (c. 3).
- (c) 2017 c. 3.
- (d) Relevant amendments made by paragraph 78(3) of Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraph 6 of Schedule 22 to the Criminal Justice and Immigration Act 2008 (c. 4), section 10 of the Policing and Crime Act 2009 (c. 26) and section 123 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).
- (e) S.I. 2020/4; to which there are amendments but none is relevant.

Amendments relating to composition of misconduct panels

3.—(1) In regulation 2 (interpretation and delegation)—

(a) in paragraph (3), for “paragraph (4)”, substitute “paragraphs (4) and (4A)”;

(b) after paragraph (4), insert—

“(4A) Where a chief officer of police is required to—

(a) chair misconduct proceedings under regulation 28(4)(a); or

(b) conduct an accelerated misconduct hearing under regulation 55,

the chief officer of police may delegate the responsibility for chairing or conducting the disciplinary proceedings in accordance with paragraphs (4B) and (4C).

(4B) Where the chief officer of police delegates under paragraph (4A) the responsibility for chairing or conducting disciplinary proceedings, the person to whom that responsibility is delegated must be—

(a) a senior officer;

(b) a former senior officer, who last served as a senior officer no more than five years before the date on which the responsibility for chairing or conducting the disciplinary proceedings is to be delegated to them; or

(c) unless the case to which the disciplinary proceedings relate substantially involves operational policing matters, a police staff member who, in the opinion of the chief officer of police, is of at least a similar level of seniority to a senior officer.

(4C) But where the chief officer of police delegates, under paragraph (3), their functions under regulation 49, the person to whom the responsibility has been delegated under paragraph (4A) must not be the same senior officer who—

(a) certified the case under regulation 49 as being one where the special conditions are satisfied; or

(b) authorised the decision to certify under paragraph (4)(b).”.

(2) In regulation 8 (legal and other representation)—

(a) in paragraph (6), for “the misconduct proceedings or accelerated misconduct hearing or”, substitute “a misconduct meeting or an”; and

(b) in paragraph (7), omit “At a misconduct meeting or an appeal meeting,”.

(3) In regulation 28 (persons conducting misconduct proceedings)—

(a) in paragraph (1), in sub-paragraph (b), for “appointed” substitute “constituted”;

(b) in paragraph (2), for “and (5)”, substitute “to (5A)”,

(c) for paragraph (4), substitute—

“(4) Subject to paragraphs (4A), (5) and (5A) (and see also regulation 2(4A) (delegation of responsibility for chairing or conducting misconduct proceedings)), the panel of persons must comprise—

(a) a chair, who must be the chief officer of police of the police force concerned;

(b) a person appointed by the local policing body, who—

(i) has qualifications or experience relevant for the purpose of disciplinary proceedings; and

(ii) is selected on a fair and transparent basis from the list of candidates with such qualifications or experience maintained by the local policing body for the purpose of this sub-paragraph; and

(c) a person appointed by the local policing body, who need not have such qualifications or experience, selected on a fair and transparent basis from the list of candidates maintained by the local policing body for the purpose of this sub-paragraph.

(4A) A person may not be appointed under paragraph (4)(b) or (c) unless the person is a lay person, within the meaning set out in paragraph 10(aa) of Schedule 6 to the Police Act 1996(a),

(d) for paragraph (5), substitute—

“(5) Subject to paragraph (5A), where the officer concerned is a senior officer, for paragraph (4)(a) substitute—

“(a) a chair, appointed by the appropriate authority, who must be a senior officer of a police force other than the police force concerned, who is of a more senior rank than the officer concerned;”.

(5A) Where the officer concerned is a chief officer of police, Deputy Commissioner of Police of the Metropolis or Assistant Commissioner of Police of the Metropolis, for paragraph (4)(a) substitute—

“(a) a chair, appointed by the local policing body, who must be HMCIC or an inspector of constabulary nominated by HMCIC;”.

(5B) A person is to be appointed by the local policing body as an adviser to the chair and panel of persons conducting a misconduct hearing under paragraphs (4) to (5A), selected on a fair and transparent basis from a list of legally qualified persons maintained by a local policing body for the purpose of this paragraph.

(5C) The legally qualified person appointed under paragraph (5B) must provide advice to the panel of persons conducting or to the person chairing a misconduct hearing upon request by the chair in respect of any legal or procedural issues relating to the misconduct proceedings.

(5D) The panel of persons conducting or the person chairing a misconduct hearing must have regard to any advice given by the legally qualified person in accordance with paragraph (5C).

(5E) Paragraph (5F) applies where the officer concerned is not a senior officer and—

- (a) the appropriate authority, when its views were sought in respect of the case under paragraph 23(5A)(a)(i) or (iii) of Schedule 3 to the 2002 Act (action by the Director General in relation to an investigation report under paragraph 22 of that Schedule), expressed a view on the matter that differed from the determination of the Director General under paragraph 23(5A)(b) of that Schedule; or
- (b) the appropriate authority notified the Director General under paragraph 25(4D)(a) of Schedule 3 to the 2002 Act (reviews with respect to an investigation) that it did not accept a recommendation of the Director General under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation).

(5F) Where this paragraph applies, the Director General may, within 10 working days beginning with the day after the day on which the Director General makes the determination referred to in paragraph (5E)(a) or the recommendation referred to in paragraph (5E)(b), make written representations to the chief officer of police who is to chair the misconduct proceedings under paragraph (4)(a) as to whether the chief officer of police should delegate responsibility for chairing the misconduct proceedings to a person from a police force other than the police force concerned.

(5G) The chief officer of police to whom representations have been made under paragraph (5F) must—

- (a) have regard to those representations; and
- (b) within 10 working days beginning with the day on which the representations were received, determine whether or not to delegate responsibility for chairing the misconduct proceedings to a person from a police force other than the police force concerned.”.

(a) Paragraph 10(aa) was added by section 31(5) of the Police and Crime Act 2017 (c. 3).

- (4) In regulation 29(1) (role of chair of misconduct hearing)—
- (a) for “appointed” substitute “constituted”; and
 - (b) after “regulation 28” insert “or the person to whom the responsibility for chairing the hearing has been delegated under regulation 2(4A)”.
- (5) In regulation 30 (notice of referral to misconduct proceedings)—
- (a) in paragraph (1)(a)(iv)—
 - (i) for “appointed” substitute “who is”;
 - (ii) omit the words beginning with “and” to the end;
 - (b) after paragraph (1) insert—

“(1A) Where, under regulation 2(4A), the chief officer of police of the police force concerned delegates responsibility for chairing a misconduct hearing to another person, the chief officer of police must, as soon as practicable afterwards, give the officer concerned written notice of the name of the person to whom that responsibility has been delegated and the effect of paragraphs (3) to (6) of this regulation.”;
 - (c) in paragraph (2), for “misconduct proceedings”, substitute “misconduct meeting”;
 - (d) after paragraph (2) insert—

“(2A) As soon as practicable after a legally qualified person has been appointed under regulation 28(5B) in relation to the misconduct hearing, the appropriate authority must give the officer concerned written notice of the name of that person and the effect of paragraphs (3) to (6) of this regulation.”;
 - (e) in paragraph (3)—
 - (i) omit “or” at the end of sub-paragraph (a);
 - (ii) in sub-paragraph (b), for “misconduct proceedings”, substitute “misconduct meeting”;
 - (iii) at the end of sub-paragraph (b), insert “or”; and
 - (iv) after sub-paragraph (b) insert—

“(c) be the legally qualified person appointed under regulation 28(5B) in respect of the misconduct hearing.”;
 - (f) in paragraph (4)(a)—
 - (i) at the end of paragraph (i), omit “or”; and
 - (ii) after paragraph (i), insert—

“(ia) where the objection is to the chief officer of police chairing a misconduct hearing under regulation 28(4)(a) or a person to whom the responsibility for chairing a misconduct hearing has been delegated under regulation 2(4A), the chief officer of police of the police force concerned; or”
 - (g) in paragraph (5)—
 - (i) after “authority”, insert “, the chief officer of police of the police force concerned”;
 - (ii) for the words from “appointed” to “chair” substitute “conducting or, as the case may be, chairing”;
 - (iii) after “misconduct proceedings” in the first place it occurs, insert “, the legally qualified person appointed under regulation 28(5B)”;
 - (iv) for “misconduct proceedings”, in the second place it appears, substitute “misconduct meeting”;
 - (h) in paragraph (6)—
 - (i) after “authority”, insert “, the chief officer of police of the police force concerned”;
 - (ii) for “regulation” insert “paragraph (6A) or (6C), or regulation 2(4A),”;
 - (i) after paragraph (6) insert—

“(6A) Where—

- (a) the chair of the misconduct hearing is the chief officer of police of the police force concerned; and
- (b) an objection is upheld against them,

the chief officer of police must delegate responsibility for chairing that misconduct hearing in accordance with regulation 2(4B).

(6B) The delegation referred to in paragraph (6A) is to be treated as having been done under regulation 2(4A).

(6C) Where—

- (a) the chair of the misconduct proceedings is appointed by the local policing body under regulation 28(5A); and
- (b) an objection is upheld against the chair,

the local policing body must require HMCIC to chair the misconduct proceedings or to nominate an inspector of constabulary to replace the chair under regulation 28(5A).”;

(j) in paragraph (7)—

- (i) after “appointment”, insert “or after any such delegation,”;
- (ii) for “appointed to” substitute “who is to”;
- (iii) after “misconduct proceedings”, in the first place it occurs, insert “, the new legally qualified person appointed under regulation 28(5B)”;
- (iv) for “misconduct proceedings”, in the second place it appears, substitute “misconduct meeting”;

(k) in paragraph (8), for the words beginning with “appointment” to the end, substitute “person who, in accordance with paragraph (6), replaces a person in respect of whom an objection has been upheld”.

(6) In regulation 33 (misconduct pre-hearing)—

- (a) at the end of paragraph (1)(b)(iv)(bb) insert “and”;
- (b) after paragraph (1)(b)(iv), insert—

“(v) the legally qualified person appointed under regulation 28(5B).”;

(c) after paragraph (8), insert—

“(8A) At the misconduct pre-hearing, the chair—

- (a) may require the legally qualified person appointed under regulation 28(5B) to provide advice on any legal or procedural matters relating to the misconduct proceedings;
- (b) must have regard to advice provided by the legally qualified person under subparagraph (a) or regulation 28(5C).”.

(7) In regulation 39 (reporting restrictions, participation and exclusions from proceedings), in paragraph (3)(c), for “chair appointed under regulation 28(4)” substitute “person chairing the misconduct hearing under regulation 28(4) to (5A) or to whom the responsibility for chairing the hearing has been delegated under regulation 2(4A)”.

(8) In regulation 41 (procedure at misconduct proceedings), after paragraph (14) insert—

“(14A) The advice provided by the legally qualified person under regulation 28(5D) must be given to all parties to the misconduct hearing.

(14B) In paragraph (14A) “parties” means the panel of persons constituted in accordance with regulation 28, any person to whom responsibility for chairing the misconduct hearing has been delegated under regulation 2(4A), the appropriate authority or, as the case may be, the originating authority, the officer concerned, the representatives of the officer concerned and, where the Director General is presenting the case, the Director General.”.

(9) In regulation 43 (notification of outcome)—

- (a) in paragraph (1), at the beginning, insert “Subject to paragraph (1B),”;
 - (b) after paragraph (1) insert—
 - “(1A) The person chairing a misconduct hearing may require the legally qualified person appointed under regulation 28(5B) to provide advice in respect of legal and procedural issues relating to the report under paragraph (1).
 - (1B) The person chairing a misconduct hearing may delegate responsibility for preparing the report under paragraph (1) to the legally qualified person appointed under regulation 28(5B).
 - (1C) Where the person chairing the misconduct hearing delegates responsibility for preparing the report under paragraph (1B)—
 - (a) the legally qualified person must submit the report to the person chairing the misconduct hearing within five working days beginning with the first working day after completion of the misconduct hearing; and
 - (b) the person chairing the misconduct hearing—
 - (i) may amend the report prepared by the legally qualified person; and
 - (ii) must satisfy themselves that they are content with the report prepared by the legally qualified person (whether or not they have amended it under paragraph (i)).
 - (1D) Where the person chairing a misconduct hearing delegates responsibility for preparing the report under paragraph (1B), paragraph (1) is to be read as if for “five working days” there were substituted “10 working days”.
- (10) In regulation 51 (notice of referral to accelerated misconduct hearing)—
- (a) in paragraph (2)—
 - (i) at the end of sub-paragraph (a), omit “and”;
 - (ii) after sub-paragraph (b), insert—
 - “(c) notify the officer concerned of the name of the person conducting or chairing the accelerated misconduct hearing; and
 - (d) notify the officer concerned of the effect of paragraphs (2C) to (2F) of this regulation.”.
 - (b) after paragraph (2) insert—
 - “(2A) Where, under regulation 2(4A), the chief officer of police of the police force concerned delegates responsibility for conducting an accelerated misconduct hearing to another person, the chief officer of police must, as soon as practicable afterwards, give the officer concerned written notice of the name of the person to whom that responsibility has been delegated and the effect of paragraphs (2C) to (2F) of this regulation.
 - (2B) As soon as practicable after a legally qualified person has been appointed under regulation 55(4A) in relation to the misconduct proceedings, the appropriate authority must give the officer concerned written notice of the name of that person the effect of paragraphs (2C) to (2F) of this regulation.
 - (2C) The officer concerned may object to any person whom the officer is notified under the preceding provisions of this regulation is to—
 - (a) conduct, or as the case may be, chair the accelerated misconduct hearing; or
 - (b) be the legally qualified person appointed under regulation 55(4A) in respect of the accelerated misconduct hearing.
 - (2D) Any such objection must be—
 - (a) made in writing to—
 - (i) the local policing body, where the person in relation to whom the objection is made was appointed by that body;

- (ii) where the objection is to the chief officer of police conducting an accelerated misconduct hearing under regulation 55(1) or a person to whom the responsibility for conducting an accelerated hearing has been delegated under regulation 2(4A), the chief officer of police of the police force concerned; or
- (iii) the appropriate authority in all other cases; and

- (b) in the case of a joint accelerated misconduct hearing, copied to each other officer concerned,

before the end of three working days beginning with the first working day after the officer is given notice of the person's name and must set out the grounds of objection of the officer.

(2E) The appropriate authority, the chief officer of police of the police force concerned or, as the case may be, the local policing body must notify the officer concerned in writing whether it upholds or rejects an objection to a person conducting or, as the case may be, chairing the accelerated misconduct hearing or the legally qualified person appointed under regulation 55(4A).

(2F) If the appropriate authority, the chief officer of police of the police force concerned or, as the case may be, the local policing body upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with paragraph (2G) or (2I), or regulation 2(4A) or 55, as appropriate).

(2G) Where—

- (a) the person conducting the accelerated misconduct hearing is the chief officer of police of the police force concerned; and
- (b) an objection is upheld against them,

the chief officer of police must delegate responsibility for conducting that accelerated misconduct hearing in accordance with regulation 2(4B) and (4C).

(2H) The delegation referred to in paragraph (2G) is to be treated as having been done under regulation 2(4A).

(2I) Where—

- (a) the person chairing the accelerated misconduct hearing is appointed by the local policing body under regulation 55(4)(a); and
- (b) an objection is upheld against the chair,

the local policing body must require HMCIC to chair the accelerated misconduct hearing or nominate an inspector of constabulary to replace the chair under regulation 28(5A).

(2J) As soon as reasonably practicable after any such appointment or after any such delegation, the appropriate authority must give a written notice to the officer concerned of the name of the new person who is to conduct or, as the case may be, chair the accelerated misconduct hearing or, as the case may be, the legally qualified person appointed under regulation 55(4A), and of the effects of paragraphs (2K) and (2L).

(2K) The officer concerned may object to the person who, in accordance with paragraph (2F), replaces a person in respect of whom an objection has been upheld.

(2L) In relation to an objection under paragraph (2K)—

- (a) paragraph (2D) applies, except insofar as it specifies the period of time for making an objection;
- (b) the objection must be made before the end of three working days beginning with the first working day after the officer concerned has been given the notice referred to in paragraph (7); and
- (c) paragraphs (2E) to (2J) apply, with the exception of the requirement in paragraph (2J) for the appropriate authority to give written notice of the effects of paragraphs (2K) and this paragraph.”.

(11) In regulation 52 (notice of accelerated misconduct hearing), after paragraph (1) insert—

“(1A) Where—

- (a) the officer concerned raises an objection under regulation 51(2C) or (2K); and
- (b) that objection is upheld,

the appropriate authority must specify a date to replace that specified under paragraph (1), which must be not less than 10 and not more than 15 working days after the date on which the person in respect of whom the objection was made is replaced.”.

(12) In regulation 55 (persons conducting accelerated misconduct hearing)—

(a) for paragraph (1) substitute—

“(1) Where the officer concerned is an officer other than a senior officer, the accelerated misconduct hearing must be conducted by the chief officer of police of the police force concerned (but see regulation 2(4A)).”;

(b) omit paragraph (2);

(c) in paragraph (3), omit “appointed by the local policing body”;

(d) in paragraph (4)—

(i) for sub-paragraph (a), substitute—

“(a) a chair, who must be—

(i) where the officer is a chief officer of police, a Commissioner of Police of the Metropolis, a Deputy Commissioner of Police of the Metropolis or an Assistant Commissioner of Police of the Metropolis, HMCIC or an inspector of constabulary nominated by HMCIC, appointed by the local policing body;
or

(ii) in every other case, a more senior officer than the officer concerned from a force other than the force concerned, appointed by the appropriate authority;

(aa) a person selected in accordance with regulation 28(4)(b); and”;

(ii) omit sub-paragraph (b);

(e) after paragraph (4) insert—

“(4A) A legally qualified person is to be appointed by the local policing body as an adviser to the chair and the panel of persons specified in paragraph (4), to be selected in accordance with regulation 28(5B).

(4B) The legally qualified person appointed under paragraph (4A) must provide advice to the panel of persons conducting or to the person chairing an accelerated misconduct hearing on request by the chair in respect of any legal or procedural matters relating to the accelerated misconduct hearing.

(4C) The panel of persons conducting or the person chairing an accelerated misconduct hearing must have regard to any advice given by the legally qualified person in accordance with paragraph (4B).

(4D) Paragraph (4E) applies where the officer concerned is not a senior officer and—

(a) the appropriate authority, when its views were sought in respect of the case under paragraph 23(5A)(a)(i) or (iii) of Schedule 3 to the 2002 Act (action by the Director General in relation to an investigation report under paragraph 22 of that Schedule), expressed a view on the matter that differed from the determination of the Director General under paragraph 23(5A)(b) of that Schedule; or

(b) the appropriate authority notified the Director General under paragraph 25(4D)(a) of Schedule 3 to the 2002 Act (reviews with respect to an investigation) that it did not accept a recommendation of the Director General under paragraph 25(4C)(c) of that Schedule (reviews with respect to an investigation).

(4E) Where this paragraph applies, the Director General may, within five working days beginning with the day after the day on which the Director General makes the determination referred to in paragraph (4D)(a) or the recommendation referred to in paragraph (4D)(b), make written representations to the chief officer of police who is to

chair the accelerated misconduct hearing under paragraph (1) as to whether the chief officer of police should delegate responsibility for chairing the accelerated misconduct hearing to a person from a police force other than the police force concerned.

(4F) The chief officer of police to whom representations have been made under paragraph (4E) must—

- (a) have regard to those representations; and
- (b) within five working days beginning with the day on which the representations were received, determine whether or not to delegate responsibility for chairing the accelerated misconduct hearing to a person from a police force other than the police force concerned.”.

(13) In regulation 61 (procedure at accelerated misconduct hearing), after paragraph (14) insert—

“(14A) The advice provided by the legally qualified person under regulation 55(4B) must be given to all parties to the accelerated misconduct hearing.

(14B) In paragraph (14A) “parties” means the panel of persons appointed in accordance with regulation 55(4), the appropriate authority or, as the case may be, the originating authority, the officer concerned, the representatives of the officer and, where the Director General is presenting the case, the Director General.”.

(14) In regulation 63 (notification of outcome of accelerated misconduct hearing)—

- (a) at the beginning of paragraph (1) insert “Subject to paragraph (1B),”;
- (b) after paragraph (1) insert—

“(1A) The person chairing the accelerated misconduct hearing under regulation 55(4) may require the legally qualified person appointed under regulation 55(4A) to provide advice in respect of legal and procedural issues relating to the report under paragraph (1).

(1B) The person chairing the accelerated misconduct hearing under regulation 55(4) may delegate responsibility for preparing the report under paragraph (1) to the legally qualified person appointed under regulation 55(4A).

(1C) Where the person chairing the accelerated misconduct hearing under regulation 55(4) delegates responsibility for preparing the report under paragraph (1B)—

- (a) the legally qualified person must submit the report to the person chairing the accelerated misconduct hearing within five working days beginning with the first working day after completion of the accelerated misconduct hearing;
- (b) the person chairing the accelerated misconduct hearing—
 - (i) may amend the report prepared by the legally qualified person; and
 - (ii) must satisfy themselves that they are content with the report prepared by the legally qualified person (whether or not they have amended it under paragraph (i)).

(1D) Where the person chairing an accelerated misconduct hearing delegates responsibility for preparing the report under paragraph (1B), paragraph (1) is to be read as if for “five working days” there were substituted “10 working days”.

(15) In Schedule 1 (modifications to the Regulations in their application to former officers)—

- (a) in paragraph 20 (modification to regulation 28)—
 - (i) omit sub-paragraph (b)(ii);
 - (ii) after sub-paragraph (c), insert—

“(d) in paragraph (5), in the substitute sub-paragraph (a), after “officer concerned” there were inserted “was at the relevant time”;
- (e) in paragraph (5A), for “the officer concerned is”, there were substituted “the officer concerned was at the relevant time”; and

- (f) in paragraph (5E), for “is not a senior officer”, there were substituted “was not a senior officer at the relevant time”.
- (b) in paragraph 21 (modification to regulation 30)—
 - (i) for paragraph (a)(i)(bb) substitute—
 - “(bb) for the words form “conduct” to the end, there were substituted “chair the misconduct proceedings”;
 - (ii) for sub-paragraph (b), substitute—
 - “(b) paragraph (2) were omitted;”;
 - (iii) in sub-paragraph (c)—
 - (aa) after paragraph (i), insert—
 - “(ia) at the end of sub-paragraph (a), there were inserted “; or”;
 - (bb) for paragraph (ii), substitute—
 - “(ii) sub-paragraph (b) were omitted;”;
 - (iv) for sub-paragraph (d), substitute—
 - “(d) in paragraph (5)—
 - (i) “conducting or, as the case may be” were omitted;
 - (ii) after “misconduct proceedings” there were inserted “or”;
 - (iii) the words from “or to any person” to the end were omitted;”;
 - (v) in sub-paragraph (e), for “and (7)”, substitute “8(6) and (7)”;
 - (vi) 8(6) and (7)”;
 - (vii) in sub-paragraph (f)—
 - (aa) after sub-paragraph (i), insert—
 - “(ia) after “misconduct proceedings” there were inserted “or”;
 - (bb) for sub-paragraph (ii), substitute—
 - “(ii) the words from “or of the new adviser” to “misconduct meeting,” were omitted.”;
- (c) in paragraph 29 (modification to regulation 39), in sub-paragraph (b)(ii), for “28(4)” substitute “regulation 2(4A)”;
- (d) after paragraph 36, insert—

“Modification to regulation 51 (notice of referral to accelerated misconduct hearing)

36A. Regulation 51 (notice of referral to an accelerated misconduct hearing) is to be read as if—

- (a) in paragraph (1)(c)—
 - (i) the “and” at the end of paragraph (i) were omitted;
 - (ii) after paragraph (i), there were inserted—
 - “(ia) in the case of a Condition C person, any written statement or document provided to the Director General under regulation 4B(3) and any response to a consultation carried out under regulation 4B(4); and”;
- (b) in paragraph (2)—
 - (i) the “and” at the end of sub-paragraph (c) were omitted;
 - (ii) after sub-paragraph (d) there were inserted—
 - “(e) set out the fact that the officer will be subject to disciplinary proceedings under these Regulations; and

- (f) set out the fact that, if the allegation of gross misconduct is proved, the officer may be subject to a finding that the officer would have been dismissed if the officer had not ceased to be a member of a police force or a special constable.”.”;
- (e) in paragraph 37 (modification to regulation 55), after paragraph (b), insert—
 - “(c) in paragraph (4D), for “is not a senior officer”, there were substituted “was not a senior officer at the relevant time”.”.

Amendments relating to conflicts of interest

4.—(1) In regulation 2(1) (interpretation and delegation), omit the definition of “interested party”.

(2) After regulation 12, insert—

“Conflicts of interest: disciplinary proceedings

12A.—(1) A responsible authority that is aware that relevant circumstances exist in relation to a person must not—

- (a) appoint that person to a regulated position; or
- (b) delegate the responsibility for chairing or conducting disciplinary proceedings to that person under regulation 2(4A).

(2) A responsible authority that has—

- (a) appointed a person to a regulated position; or
- (b) delegated the responsibility for chairing or conducting disciplinary proceedings to a person under regulation 2(4A),

must, without delay after becoming aware that relevant circumstances exist in relation to the person, replace that person (in accordance with regulation 8, 28, 45 or 55), or, as the case may be, delegate responsibility for chairing or conducting the disciplinary proceedings to another person in accordance with regulation 2(4B) or, as the case may be, 2(4B) and (4C).

(3) A chief officer of police required to chair or conduct disciplinary proceedings under regulation 28(4)(a) or 55(1), who is, or becomes, aware that any relevant circumstances exist in relation to themselves must, without delay, delegate the responsibility for chairing or conducting disciplinary proceedings in accordance with regulation 2(4B) or, as the case may be, 2(4B) and (4C).

(4) The delegations required by paragraph (2) and (3) are to be treated as having been done under regulation 2(4A).

(5) A person who is aware of any relevant circumstances that exist in relation to themselves must not take up or act in a regulated position.

(6) A person other than a chief officer of police required to chair or conduct disciplinary proceedings under regulation 28(4)(a) or 55(1) who becomes aware of any relevant circumstances that exist in relation to themselves after having taken up a regulated position must inform the responsible authority of those relevant circumstances without delay.

(7) A person who becomes aware of any relevant circumstances that exist in relation to themselves must inform the responsible authority of those relevant circumstances without delay if the person is aware of the possibility of—

- (a) the responsibility for chairing or conducting misconduct proceedings being delegated to them under regulation 2(4A); or
- (b) being appointed to a regulated position.

(8) In this regulation a “regulated position” is—

- (a) chairing or conducting disciplinary proceedings;

- (b) chairing or conducting a misconduct meeting or an appeal meeting;
- (c) acting as an adviser appointed under regulation 8(6); or
- (d) acting as an adviser appointed under regulation 28(5B) or 55(4A).

(9) In this regulation—

“responsible authority” means—

- (a) in relation to the delegation of responsibility for chairing or conducting disciplinary proceedings under regulation 2(4A), a chief officer of police;
- (b) in relation to the appointment of a person to a regulated position, the person or body who is to make the appointment;

“relevant circumstances” mean circumstances, in relation to a person, that give rise, or may reasonably be considered to give rise, to a conflict of interest in relation to the person’s functions in respect of the disciplinary proceedings.”.

(3) In regulation 15 (appointment of investigator), after paragraph (4), insert—

“(5) In this regulation, “interested party” means a person whose appointment could reasonably give rise to a concern as to whether a person could act impartially under these Regulations.”.

(4) In regulation 28(1) (persons conducting misconduct proceedings), in sub-paragraph (a), omit “who is not an interested party”.

(5) In regulation 45(4), (appeal from misconduct meeting: officers other than senior officers), in the words after sub-paragraph (b), omit “who is not an interested party,”.

Amendments relating to support of local policing bodies in scrutiny of disciplinary proceedings

5.—(1) In regulation 39 (reporting restrictions, participation and exclusion from proceedings), after paragraph (3), insert—

“(3A) Where the person chairing a misconduct hearing exercises their power under paragraph (3) to exclude any person from all or part of the hearing, impose conditions that have the effect of excluding any person from all or part of the hearing or prohibit the publication of any matter relating to the hearing, the person must give written reasons to the local policing body for taking such action.”.

(2) In regulation 43 (notification of outcome)—

(a) in paragraph (1)—

- (i) at the end of sub-paragraph (d), insert “and”; and
- (ii) after sub-paragraph (d) insert—

“(e) where it was found that the conduct of the officer concerned amounted to gross misconduct but the disciplinary action imposed was not dismissal without notice, the reasons for that decision.”;

(b) in paragraph (5)—

- (i) omit the “and” at the end of sub-paragraph (a)(ii);
- (ii) at the end of sub-paragraph (b), insert “and”; and
- (iii) after sub-paragraph (b) insert—

“(c) the local policing body where—

- (i) the appropriate authority or originating authority is not a local policing body; and
- (ii) the person conducting the misconduct hearing found that the conduct of the officer concerned amounted to gross misconduct but the disciplinary action imposed was not dismissal without notice.”.

(3) In regulation 59 (reporting restrictions and participation at accelerated misconduct hearings), after paragraph (3), insert—

“(4) Where the person conducting or chairing an accelerated misconduct hearing exercises their power under paragraph (2) to exclude any person from all or part of the hearing, impose conditions that have the effect of excluding any person from all or part of the hearing or prohibit the publication of any matter relating to the hearing, the person must give written reasons to the local policing body for taking such action.”.

(4) In regulation 63 (notification of outcome)—

(a) in paragraph (1)—

(i) at the end of sub-paragraph (c), insert “and”;

(ii) after sub-paragraph (c) insert—

“(d) where it was found that the conduct of the officer concerned amounted to gross misconduct but the disciplinary action imposed was not dismissal without notice, the reasons for that decision.”;

(b) in paragraph (4)—

(i) omit the “and” at the end of sub-paragraph (a)(ii);

(ii) at the end of sub-paragraph (b) insert “and”; and

(iii) after sub-paragraph (b) insert—

“(c) where the person conducting the accelerated misconduct hearing found that the conduct of the officer concerned amounted to gross misconduct but the disciplinary action imposed was not dismissal without notice, the local policing body.”.

(5) In Schedule 1 (modifications to the Regulations in their application to former officers)—

(a) in paragraph 33 (modification to regulation 43), after sub-paragraph (a)(iii), insert—

“(iv) in sub-paragraph (e), as if for “was not” there were substituted “would not have been” and, after “notice”, there were inserted “if the officer concerned had not ceased to be a member of a police force or a special constable”;

(b) for paragraph 40 (modification to regulation 63) substitute—

“Modification to regulation 63 (notification of outcome)

40. Regulation 63(1) is to be read as if—

(a) for sub-paragraph (c), there were substituted—

“(c) whether disciplinary action for gross misconduct was imposed.”; and

(b) in sub-paragraph (d), for “was not” there were substituted “would not have been” and after “notice” there were inserted “if the officer concerned had not ceased to be a member of a police force or a special constable”;

Amendments relating to practice requiring improvement

6.—(1) In regulation 2(1) (interpretation), for the definition of “practice requiring improvement”, substitute—

““practice requiring improvement” has the meaning given in paragraph (7);”.

(2) After paragraph (6), insert

“(7) In these Regulations, “practice requiring improvement” means underperformance or conduct not amounting to misconduct or gross misconduct, which falls short of the expectations of the public and the police service.

(8) When a person assesses whether an officer’s performance or conduct amounts to “practice requiring improvement”, they must have regard to the Code of Ethics, published by the College of Policing, as amended from time to time(a).”.

Saving and transitional provision

7.—(1) The amendments made by regulations 3, 4, 5 and 6 do not have effect in relation to any matter in respect of which the officer concerned has been given notice, before the coming into force of these Regulations under—

- (a) regulation 30(1) of the 2020 Regulations (notice of referral to misconduct proceedings); or
- (b) regulation 51(1) (notice of referral to accelerated misconduct hearing) of the 2020 Regulations.

(2) This paragraph applies in relation to a matter to which condition 1 and 2 apply.

(3) Condition 1 is that the officer concerned has been given a notice under regulation 30(1) or 51(1) of the 2020 Regulations in respect of the matter.

(4) Condition 2 is that the persons who are to comprise the panel conducting the misconduct hearing or accelerated misconduct hearing relating to the matter, under regulation 28 or 55 respectively of the 2020 Regulations, were not determined before the coming into force of these Regulations.

(5) Where paragraph (2) applies, the 2020 Regulations are to have effect as if, in regulation 28 (persons conducting misconduct proceedings), in paragraph (4)(a)—

- (a) for “the list” there were substituted “a list”; and
- (b) for “the local policing body” there were substituted “a local policing body”.

(6) In this regulation, “accelerated misconduct hearing”, “misconduct hearing” and “officer concerned” have the meanings given in regulation 2(1) of the 2020 Regulations.

Chris Philp
Minister of State
Home Office

15th April 2024

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations amend the Police (Conduct) Regulations 2020 (S.I. 2020/4) (“the 2020 Regulations”).

Regulations 1 and 2 make general provision.

Regulation 3 makes amendments relating to the composition of misconduct panels.

Regulation 3(1)(b) adds a power into regulation 2 of the 2020 Regulations enabling the chief officer of police to delegate the responsibility for chairing or conducting disciplinary proceedings if they consider it appropriate in a particular case. Such delegation may only be made in accordance with certain requirements.

Regulation 3(2) narrows the power of the appropriate authority to appoint a person conducting or chairing misconduct proceedings or an accelerated misconduct hearing in light of the amendments made by subsequent provisions of this regulation.

(a) The Code of Ethics can be downloaded from <https://www.college.policing.uk/ethics/code-of-ethics>. A hard copy can be obtained by writing to the College of Policing, Leamington Road, Ryton-on-Dunsmore, CV8 3EN.

Regulation 3(3) changes the composition of the panel that is to conduct a misconduct hearing, constituted under regulation 28 of the 2020 Regulations. The panel is to comprise a chair, who must be the chief of police of the police force concerned, and two lay members. Further, regulation 3(3) makes provision for a legally qualified person to be appointed by the local policing body whose duty is to provide advice to the panel of persons conducting or the person chairing a misconduct hearing. That person must have regard to the advice given by the legally qualified person. Regulation 3(3) also makes provision for the Director General to make recommendations to a chief officer of police acting as the chair of a panel as to whether they should delegate responsibility for chairing the panel to a person from another police force. The chief officer of police must have regard to those representations.

Regulation 3(4) makes amendments related to those made by regulation 3(1) and (3).

Regulation 3(5) makes consequential amendments to regulation 30 of the 2020 Regulations. It requires a chief officer of police who delegates responsibility for chairing a misconduct hearing to notify the officer concerned in writing of the person to whom that responsibility has been delegated. Further, it requires notice to be given to the officer concerned of the legally qualified person appointed under regulation 28(5B) and enables the officer concerned to raise objections against them.

Regulation 3(6) amends the procedure for the misconduct pre-hearing in regulation 33 of the 2020 Regulations. It requires the chair to, as soon as practicable, give written notice of the date, time and place of the misconduct pre-hearing to the legally qualified person appointed under regulation 28(5B). The amendments made by this provision further empower the chair to require the legally qualified person to provide advice and requires the chair to have regard to that advice.

Regulation 3(8) amends regulation 41 of the 2020 Regulations. It requires the legally qualified person to give their advice to all parties to a misconduct hearing and defines what is meant by “parties”.

Regulation 3(9) enables the person chairing a misconduct hearing to require the legally qualified person to provide advice relating to the report they must prepare under regulation 43(1) of the 2020 Regulations. Under these amendments, the chair is able to delegate preparation of that report to the legally qualified person and imposes time limits on the preparation of the report by the legally qualified person, where such responsibility is delegated to them, enables the person chairing the misconduct hearing to amend the report and requires that person to satisfy themselves that they are content with the report prepared by the legally qualified person, whether or not they have amended the report.

Regulation 3(10) amends provision relating to the notice of referral to an accelerated misconduct hearing. It requires the appropriate authority to include in their notice to the officer concerned under regulation 51(1) of the 2020 Regulations the name of the person conducting or chairing the accelerated misconduct hearing and the name of the legally qualified person who has been appointed under regulation 55(4A) of the 2020 Regulations in relation to that hearing. It further applies the provisions of regulation 30, as amended by regulation 3(5), for the purpose of accelerated misconduct hearings.

Regulation 3(11) requires the appropriate authority to specify a new date for an accelerated misconduct hearing where the officer concerned raises an objection under regulation 30 of the 2020 Regulations (as applied to accelerated misconduct hearings) and that objection is upheld. It imposes time constraints on the specification of that date.

Regulation 3(12) makes changes to the persons conducting or chairing an accelerated misconduct hearing under regulation 55 of the 2020 Regulations. It provides that, where the officer is an officer other than a senior officer, the accelerated misconduct hearing must be conducted by the chief officer of police of the police force concerned. Where the officer is a senior officer and therefore the hearing must be conducted by a panel, this provision makes changes to the appointment of the chair and applies the related provisions of regulation 28 of the 2020 Regulations, as amended by these Regulations. It further makes equivalent provisions in relation

to the appointment of a legally qualified person, the duties on that person and the duties on the chief of police, as are made by regulation 3(3) to regulation 28 of the 2020 Regulations.

Regulation 3(13) amends regulation 61 of the 2020 Regulations. It requires the legally qualified person to give their advice to all parties to an accelerated misconduct hearing and defines what is meant by “parties”.

Regulation 3(14) makes equivalent changes to regulation 63 of the 2020 Regulations in respect of accelerated misconduct hearings as are made by regulation 3(9) in respect of misconduct hearings.

Regulation 3(15) amends Schedule 1 to the 2020 Regulations to apply the changes made by these Regulations to former officers.

Regulation 4 introduces rules in relation to potential conflicts of interest for persons involved in disciplinary proceedings.

Regulation 4(2) inserts regulation 12A into the 2020 Regulations. Regulation 12A introduces new rules on appropriate authorities and chief officers of police regarding the appointment of persons to chair, conduct or advise disciplinary proceedings.

In particular, an appropriate authority may not appoint a person to chair or conduct disciplinary proceedings, chair or conduct a misconduct meeting or appeal meeting, act as an adviser under regulation 8(6) of the 2020 Regulations or act as a legally qualified person under regulation 28 or 55 of the 2020 Regulations if they are aware that circumstances exist that give rise, or may reasonably give rise, to a conflict of interest in relation to that person. Similarly, a chief officer of police may not delegate responsibility for chairing or conducting disciplinary proceedings if they are aware of such circumstances existing in relation to that person.

If the appropriate authority or chief officer of police become aware that such circumstances exist in relation to a person after they have appointed, or delegated responsibility to, that person, the person must be replaced. Similarly, there is a duty on a person not to take up or act in a regulated position if they are aware or become aware of relevant circumstances existing in relation to them.

Regulation 4(1), (3), (4) and (5) make amendments that are consequential on the addition of regulation 12A to the 2020 Regulations by regulation 4(2).

Regulation 5 makes amendments relating to the support of local policing bodies in scrutiny of disciplinary proceedings.

Regulation 5(1) requires the person chairing or conducting misconduct proceedings to give written reasons to the local policing body for exercising their power under regulation 39(3) of the 2020 Regulations to exclude a person from a misconduct hearing, impose conditions that have the effect of excluding a person from that hearing or prohibit the publication of any matter relating to that hearing.

Regulation 5(2) provides that where misconduct proceedings find that the conduct of the officer amounts to gross misconduct but the disciplinary action imposed was not dismissal without notice, the reasons for that decision must be included in the report to the appropriate authority or originating authority under regulation 43(1) of the 2020 Regulations. Further, any report under that regulation must be sent to the local policing body where the appropriate authority or originating authority is not the local policing body and the misconduct proceedings find that the conduct of the officer amounts to gross misconduct but the disciplinary action imposed was not dismissal without notice.

Regulation 5(3) and (4) make equivalent provision for accelerated misconduct hearings as regulation 5(1) and (2) do respectively for misconduct proceedings.

Regulation 5(5) amends Schedule 1 to the 2020 Regulations to apply the changes made by these Regulations to former officers.

Regulation 6 introduces a new definition for “practice requiring improvement” into the 2020 Regulations and requires persons to have regard to the Code of Ethics published by the College of

Policing when making an assessment as to whether their conduct or performance amounts to practice requiring improvement.

Regulation 7 makes saving and transitional provision.

An impact assessment has not been produced as no, or no significant, impact on the private or voluntary sectors is foreseen.

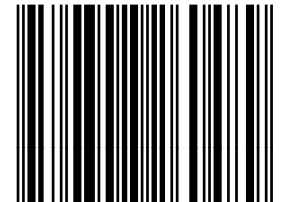
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