
STATUTORY RULES OF NORTHERN IRELAND

2000 No. 316

POLICE

**Royal Ulster Constabulary (Unsatisfactory Performance)
Regulations 2000**

Made 23rd October 2000

Coming into operation 6th November 2000

To be laid before Parliament

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The Secretary of State, in pursuance of Sections 25 and 26 of the Police (Northern Ireland) Act 1998^(a) and after consulting, in accordance with section 64(4) of that Act, the Police Authority, the Police Association and the Police Ombudsman, hereby makes the following regulations:—

PART I

GENERAL

Citation and commencement

1. These Regulations may be cited as the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000 and shall come into operation on 6th November 2000.

Interpretation

2. In these Regulations—

“the assistant chief constable” means a member of that rank who is required by the Chief Constable to exercise any function of the

(a) 1998 c. 32 (N.I.)

assistant chief constable specified in these regulations in relation to the member concerned and shall include a member acting in place of that assistant chief constable;

“countersigning officer” means a member of a rank not lower than that of inspector who—

(a) has supervisory responsibility for, and

(b) is at least one rank above that of,
the member concerned;

“first interview” means an interview arranged in terms of regulation 5;

“interviewing officer” means the member who conducts an interview arranged in terms of regulation 5;

“member” means a member of the Royal Ulster Constabulary; or a member of the Royal Ulster Constabulary Reserve appointed on either a full-time or a part-time basis;

“member concerned” means a member to whom these regulations apply and in respect of whom proceedings under these regulations are, or are proposed to be, taken;

“police officer” means a member of a police force in Great Britain;

“personnel officer” means [a person employed under Article 3(5) of the Police (Northern Ireland) Order 1997(a) or] a member who, in either case, has responsibility for personnel matters relating to members;

“reporting officer” means the member of a rank not lower than that of sergeant who has the immediate supervisory responsibility for the member concerned;

“second interview” means an interview arranged in terms of regulation 9;

“senior officer” means a police officer of the rank of chief constable, deputy chief constable or assistant chief constable;

“unsatisfactory performance” means failure to carry out the role of a police officer to the agreed standard;

“unsatisfactory performance hearing” means a hearing arranged in terms of regulation 13.

Application

3. These regulations shall not apply in relation to—

(a) senior officers; or

(b) members of the rank of constable who have not yet completed their period of probation.

PART II

FIRST INTERVIEW

Circumstances in which a first interview may be required

4. Where the reporting officer for a member is of the opinion that the member's performance is unsatisfactory, he may require the member to attend an interview (in these regulations referred to as a first interview) to discuss the member's performance.

Arrangement of first interview

5.—(1) If the reporting officer decides to require a member to attend a first interview, he shall—

(a) send a notice in writing to the member concerned—

(i) requiring him to attend, at a specified time and place, an interview with the reporting officer or, if the member concerned so requests but subject to paragraph (4), the countersigning officer;

(ii) stating the reasons why the interview is required; and

(iii) informing him that he may be accompanied and represented at the interview by a member of a police force selected by him; and

(b) send a copy of the notice to the countersigning officer.

(2) A member who receives a notice pursuant to paragraph (1) may, not later than 7 days (or such longer period as the reporting officer may permit when sending the notice in terms of paragraph (1)(a)) after the date on which the notice was sent to him, request by notice in writing to the reporting officer that the interview be conducted by the countersigning officer.

(3) If the reporting officer receives notification in terms of paragraph (2), he shall, subject to paragraph (4), arrange for the interview to be conducted by the countersigning officer.

(4) In any case where it is not reasonably practicable for the countersigning officer to conduct the first interview, another member of the same or higher rank may conduct the interview in his place.

Procedure at first interview

6.—(1) The following provisions of this regulation shall apply to the procedure to be followed at the first interview.

(2) The interviewing officer shall—

(a) explain to the member concerned the reasons why the reporting officer is of the opinion that the member's performance is unsatisfactory; and

(b) provide him with a full opportunity of making representations in response.

(3) If, after considering any representations made by the member concerned, the interviewing officer is satisfied that the member's performance has been unsatisfactory, he shall—

- (a) inform the member in what respect his performance as a member is considered unsatisfactory;
- (b) warn him that he is required to improve his performance in any such respect;
- (c) inform him of any specific action which he is required to take to achieve such an improvement; and
- (d) warn him that if a sufficient improvement is not made within such period as the interviewing officer shall specify, he may be required to attend a second interview in accordance with regulation 9.

(4) The interviewing officer may only, if he considers it appropriate, recommend that the member concerned seek assistance in relation to any matter affecting his health or welfare.

(5) The interviewing officer may adjourn the interview to a specified later time or date if it appears to him necessary or expedient to do so.

Procedure following first interview

7.—(1) The interviewing officer shall, not later than 7 days after the date of the conclusion of the first interview—

- (a) cause to be prepared a written record of the substance of the matters discussed during the interview; and
- (b) send a copy of that record to the member concerned together with a notice in writing informing him that he may submit written comments not later than 7 days after the date on which the copy is sent.

(2) Subject to paragraph (3), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the interviewing officer not later than 7 days after the date on which it was sent.

(3) The interviewing officer may, on the application of the member concerned, extend the period specified in paragraph (2) if he is satisfied it is appropriate to do so.

(4) The interviewing officer shall send a copy of the record of the interview, and of any written comments of the member concerned, to—

- (a) the personnel officer; and
- (b) if the interview was conducted by the reporting officer, the countersigning officer; or
- (c) if the interview was conducted by the countersigning officer, the reporting officer; or
- (d) if the interview was conducted by any other officer, to the reporting officer and the countersigning officer.

PART III

SECOND INTERVIEW

Circumstances in which a second interview may be required

8. Where the reporting officer is of the opinion that a member who was warned in terms of regulation 6(3) that he was required to improve his performance has, at the end of the period specified by the interviewing officer in terms of regulation 6(3), failed to make a sufficient improvement in his performance, he may, with the agreement of the countersigning officer, require the member concerned to attend a further interview (in these regulations referred to as a second interview) to discuss the member's performance.

Arrangement of second interview

9.—(1) If the reporting officer with the agreement of the countersigning officer decides to require a member to attend a second interview, he shall—

- (a) send a notice in writing to the member concerned—
 - (i) requiring him to attend, at a specified time and place, an interview with the countersigning officer and a personnel officer;
 - (ii) stating the reasons why the interview is required; and
 - (iii) informing him that he may be accompanied and represented at the interview by a member of a police force selected by him; and
- (b) send a copy of the notice to the countersigning officer and to the personnel officer.

(2) In any case where it is not reasonably practicable for the countersigning officer to participate in the second interview, another member of the same or higher rank may so participate in his place.

Procedure at second interview

10.—(1) The following provisions of this regulation shall apply to the procedure to be followed at a second interview.

(2) Subject to regulation 9(2), the interview shall be conducted by the countersigning officer and the personnel officer.

- (3) The countersigning officer shall—
 - (a) explain to the member concerned the reasons why the countersigning officer and the reporting officer are of the opinion that the member has failed to make a sufficient improvement in his performance; and
 - (b) provide him with a full opportunity of making representations in response.

(4) If, after considering any representations made by the member concerned, the countersigning officer is satisfied that the member's performance has been unsatisfactory during the period specified by the interviewing officer in terms of regulation 6(3), he shall—

- (a) inform the member concerned in what respect his performance as a member is considered unsatisfactory;

- (b) warn him that he is required to improve his performance in any such respect;
 - (c) inform him of any specific action which he is required to take to achieve such an improvement; and
 - (d) warn him that if a sufficient improvement is not made within such period as the countersigning officer shall specify, he may be required to attend an unsatisfactory performance hearing at which the chairman will have the power, if appropriate, to require him to resign from the force or to order reduction in rank.
- (5) The countersigning officer may adjourn the interview to a specified later time or date if it appears to him necessary or expedient to do so.

Procedure following second interview

11.—(1) The countersigning officer shall, not later than 7 days after the conclusion of the second interview—

- (a) in consultation with the personnel officer, prepare a written record of the substance of the matters discussed during the interview; and
 - (b) send a copy of that record to the member concerned together with a notice in writing—
 - (i) if a warning was given in terms of regulation 10(4), confirming the terms of that warning; and
 - (ii) informing him that he may submit written comments not later than 7 days after the date on which the copy is sent.
- (2) Subject to paragraph (3), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the countersigning officer not later than 7 days after the date on which it was sent.
- (3) The countersigning officer may, on the application of the member concerned, extend the period specified in paragraph (2) if he is satisfied that it is appropriate to do so.
- (4) If the countersigning officer receives any written comments in terms of paragraph (2), he shall ensure that they are retained with the record of the interview.

(5) The countersigning officer shall send a copy of the record of the interview, and of any written comments of the member concerned, to the personnel officer and, if the interview was conducted by the countersigning officer or any other officer, the reporting officer.

Assessment of performance following second interview

12.—(1) Not later than 14 days after the date on which the period specified in regulation 10(4)(d) ends—

- (a) the reporting officer and the countersigning officer shall assess the performance of the member concerned during that period; and
- (b) either a member or a personnel officer authorised for the purpose shall inform the member concerned in writing whether the reporting officer

and the countersigning officer are of the opinion that there has been a sufficient improvement in performance during that period.

(2) If the reporting officer and the countersigning officer are of the opinion that there has been an insufficient improvement, the member concerned shall also, within the period of 14 days mentioned in paragraph (1), be informed in writing that he will be required to attend, at a time (being not sooner than 21 days, but not later than 56 days, after the date on which the notification under this paragraph is sent) to be notified separately, an unsatisfactory performance hearing (hereafter in this Part referred to as “the hearing”) to consider his performance.

PART IV

UNSATISFACTORY PERFORMANCE HEARING

Arrangement of hearing

13. A member or personnel officer authorised for the purpose shall, not less than 21 days before the date fixed for the hearing, send a notice in writing to the member concerned—

- (a) requiring him to attend the hearing at a specified time and place;
- (b) stating the reasons why the hearing is required;
- (c) informing him that he may be represented—
 - (i) either by counsel or a solicitor; or
 - (ii) by a member of a police force selected by him who may be a representative of a Staff Association; and
- (d) warning him of the powers to make a disposal which are available to the chairman of the hearing in the event that the chairman finds that the member’s performance has been unsatisfactory.

Procedure at hearing

14.—(1) The hearing shall be conducted by a member who is appointed for the purpose by the assistant chief constable and who is referred to in these regulations as the chairman of the hearing.

- (2) The chairman shall be—
 - (a) a member or, if, at the request of the assistant chief constable, the chief officer of a police force in Great Britain (as defined in the Police Act 1996^(a)) or the Police (Scotland) Act 1967^(b), as the case may be) agrees to provide a chairman, a member of that other force;
 - (b) of the rank of assistant chief constable; and
 - (c) a person who has neither attended nor otherwise been involved with the first interview or the second interview held in relation to the member concerned.

(a) 1996 c. 16

(b) 1967 c. 77

(3) The chairman may be assisted by up to two other members who are of at least the rank of superintendent who shall act as assessors.

(4) As soon as the assistant chief constable has appointed the chairman, he shall arrange for a copy of any document—

(a) which was available to the interviewing officer in relation to the first interview;

(b) which was available to the countersigning officer in relation to the second interview; and

(c) which was prepared or submitted in terms of regulation 11, 12 or 13, to be made available to the chairman.

(5) Subject to the provisions of this regulation, the procedure at the hearing shall be such as the chairman may determine.

(6) The hearing shall be held in private.

(7) The chairman shall afford the member concerned a full opportunity of making representations in relation to the matters referred to in the notice sent in terms of regulation 13.

(8) A verbatim record of the proceedings at the hearing must be taken.

(9) The chairman shall prepare a written note summarising the proceedings at the hearing.

(10) Subject to regulation 15(1), if the member concerned does not attend the hearing or at any adjournment thereof, the hearing may be proceeded with and concluded in his absence if it appears to the chairman just and proper to do so.

(11) Where, owing to the absence of the member concerned, it is not possible to comply with the whole or any part of the procedure described in this regulation or regulation 15, the case may be proceeded with as if that procedure had been complied with.

Postponement or adjournment of hearing

15.—(1) If the member concerned intimates to the chairman that he will be unable to attend the hearing, or if in the absence of such intimation does not attend the hearing, and the chairman is satisfied that a good reason for such non-attendance is given by, or on behalf of, the member concerned, he shall postpone, or as the case may be adjourn, the hearing.

(2) The chairman may also adjourn the hearing if, having given the member concerned the opportunity of making representations in terms of regulation 14(7), he considers it appropriate to allow a further period for assessment of the member's performance.

(3) Where the chairman makes an adjournment for the purpose of paragraph (2), he shall—

(a) specify a period (not exceeding 3 months) during which the reporting officer and the countersigning officer shall assess the performance of the member concerned;

(b) fix a date on which the hearing shall resume; and

- (c) require the member concerned to attend on that date at a specified time and place.
- (4) Not later than 14 days after the date on which the period for further assessment specified by the chairman in terms of paragraph (3)(a) ends—
 - (a) the reporting officer and the countersigning officer shall prepare a report containing their assessment of the performance of the member concerned during that period; and
 - (b) the countersigning officer shall send the report to the chairman and a copy of the report to the member concerned.
- (5) At the continuation of the hearing the chairman shall afford the member concerned a full opportunity of making representations in relation to the matters referred to in the report mentioned in paragraph (4).
- (6) Where, at the time the report mentioned in paragraph (4) is sent in terms of paragraph (4)(b), the chairman is absent, incapacitated or suspended from duty and it is likely that his absence, incapacity or suspension will continue for a period of more than 28 days, the assistant chief constable shall arrange for another member, being a member who would have been eligible for appointment as chairman in terms of regulation 14(1) and (2) in relation to the hearing in question, to carry out in relation to the member concerned the functions of the chairman specified in paragraph (5) and in regulations 16 and 17 and, accordingly, in relation to the member concerned, references to the chairman in regulations 18 to 21 shall be construed as including any member appointed in accordance with this paragraph to carry out functions of the chairman.

Finding

16.—(1) Subject to paragraph (2), at the conclusion of the hearing, the chairman shall reach a decision whether the performance of the member concerned—

- (a) in the period referred to in regulation 10(4)(d); or
- (b) where the hearing was adjourned under regulation 15(2), over the whole of the period comprising the period referred to in regulation 10(4)(d) and the further period specified by the chairman in terms of regulation 15(3)(a),

has been satisfactory or not.

(2) The chairman may, at the conclusion of the hearing, defer reaching his decision until a later time or date if it appears necessary to do so.

(3) The decision of the chairman shall state the finding and, where he has found that the performance of the member concerned has not been satisfactory, his reasons as well as any disposal which he makes in accordance with regulation 17.

(4) After recording his decision in writing, the chairman shall forthwith send a copy of it to—

- (a) the member concerned;
- (b) the assistant chief constable; and
- (c) the personnel officer.

Disposal

17.—(1) If the chairman makes a finding that the performance of the member concerned during the relevant period has been unsatisfactory, he may—

- (a) require the member concerned to resign from the force either forthwith or on such later date as may be specified;
- (b) order reduction in his rank with immediate effect and issue a written warning to him that unless a sufficient improvement in his performance is made within such period as the chairman shall specify, he may, following consideration of his performance during that period in accordance with regulation 18, be required to resign from the force; or
- (c) issue such written warning as is mentioned in sub-paragraph (b).

(2) Where the disposal under paragraph (1)(a) is made and where the member concerned has not resigned from the force in accordance with the requirement, then the effect of the decision shall be to dismiss the member concerned from the force either forthwith or on the date which was specified by the chairman.

Assessment of performance following hearing

18.—(1) This regulation applies where the member concerned has been given a written warning in terms of paragraph (1)(b) or (c) of regulation 17.

(2) Not later than 14 days after the end of the period specified in the warning, the reporting officer and the countersigning officer shall—

- (a) assess the performance of the member concerned during that period;
- (b) cause to be prepared a report on the performance which shall be submitted to the chairman; and
- (c) send a copy of the report to the member concerned and inform him that he may submit written comments to the chairman not later than 7 days after the date on which it was sent.

(3) The chairman—

- (a) shall consider the report and any recommendation contained in it;
- (b) shall consider any written comments made by or on behalf of the member concerned by virtue of paragraph (2)(c); and
- (c) if he is satisfied that there has been an insufficient improvement in the performance of the member concerned, shall require the member to resign from the force with effect from the end of the period of one month after the date on which notification of the decision is made; or
- (d) if he is satisfied that there has been a sufficient improvement in performance, shall record that decision and direct that no further proceedings shall be taken under these regulations in relation to the period in question.

(4) The chairman shall record his decision in writing and shall forthwith send a copy of it to—

- (a) the member concerned;
- (b) the assistant chief constable;
- (c) the personnel officer;
- (d) the countersigning officer; and
- (e) the reporting officer.

(5) Where the chairman requires the member concerned to resign pursuant to paragraph (3)(c) and the member has not resigned from the force in accordance with the requirement, then the effect of the decision shall be to dismiss the member from the force with effect from the end of the period of one month after the date on which notification of the decision was made in terms of paragraph (4).

(6) Where, at the time the report mentioned in paragraph (2)(b) is submitted, the chairman is absent, incapacitated or suspended from duty and it is likely that his absence, incapacity or suspension will continue for a period of more than 28 days, the assistant chief constable shall arrange for another member, being a member who would have been eligible for appointment as chairman in terms of regulation 14(1) and (2) in relation to the hearing in question, to carry out in relation to the member concerned the functions of the chairman specified in this regulation and, accordingly, in relation to the member concerned, references to the chairman in regulations 19 to 21 shall, in relation to an appeal made under regulation 19(2), be construed as including any member appointed in accordance with this paragraph to carry out functions of the chairman.

PART V

REVIEW

Request for a review

19.—(1) Where a sanction is imposed under regulation 17 the member concerned shall be entitled to request the Chief Constable to review the finding or the sanction imposed or both.

(2) A request for a review must be made to the Chief Constable in writing within 14 days of receipt of the written summary of reasons given in accordance with regulation 16, or within such longer period as the Chief Constable may, in his discretion, allow, having regard to the circumstances of the case.

(3) The request for a review shall state the grounds on which the review is requested and whether a meeting is requested.

Conduct of the review

20.—(1) The Chief Constable shall hold a meeting with the member concerned if requested to do so.

(2) Where a meeting is held the member concerned may be accompanied by a member of a police force selected by him or, if he was legally represented at the hearing, by a solicitor or Counsel.

Finding of the review

21.—(1) The member concerned shall be informed of the finding of the Chief Constable in writing within three working days of completion of the review.

(2) The Chief Constable may confirm the decision of the hearing or he may impose a different sanction but he may not impose a sanction greater than that imposed at the hearing.

(3) The decision of the Chief Constable shall take effect by way of substitution for the decision of the hearing and as from the date of that hearing.

(4) Where as a result of the decision of the review the member concerned is dismissed, required to resign or reduced in rank he shall be notified in writing of his right to appeal to a Police Appeals Tribunal.

Hearing of review in absence of the Chief Constable

22. Where the Chief Constable is an interested party, or during any absence, incapacity or suspension from duty of the chief constable, or during any vacancy in the office of chief constable, the review shall be conducted by a senior officer who is not an interested party.

PART IV

SUPPLEMENTAL

Amendment of the Royal Ulster Constabulary Regulations 1996

23.—(1) Regulation 15 (contents of personal records) of the Royal Ulster Constabulary Regulations 1996^(a) shall be amended in accordance with paragraphs (2) and (3).

(2) In paragraph (2)—

(a) in sub-paragraph (g), there shall be inserted before the word “punishments” the words “disposals or”; and

(b) the proviso shall be omitted.

(3) After paragraph (2) there shall be inserted the following paragraph—

“(2A) There shall be expunged from the personal record—

(a) any record of punishment of a fine or of a reprimand, made in terms of the Discipline Regulations, after 3 years free from punishment other than a caution; and any record of any other punishment made in such terms, after 5 years free from punishment other than a caution; but, in the case of a period free from punishment, other than a caution, which expired before 1st July 1989, only if the member so requests;

(b) any record of a disposal made in terms of the Royal Ulster Constabulary (Conduct) Regulations 2000^(b) after 3 years free from any disposal other than a caution; and

(a) S.R. 1996 No. 473, to which there are amendments not relevant to these regulations

(b) S.R. 2000 No. 315

(c) in the case of any proceedings taken against the member concerned under the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000^(a), any record of proceedings (including any disposal made under those regulations) after 2 years have elapsed since the date of the last event to take place in terms of those regulations in relation to any proceedings taken against the member concerned.”.

Peter Mandelson

Northern Ireland Office
23rd October 2000

One of Her Majesty’s Principal
Secretaries of State

^(a) S.R. 2000 No. 316

EXPLANATORY NOTE

(This note is not part of the Regulations.)

These regulations make provision with respect to the assessment of the performance of members of the Royal Ulster Constabulary and the Royal Ulster Constabulary Reserve and establish procedures for cases in which a member who is not performing satisfactorily may be dealt with by way of requirement to resign, reduction in rank or warning. Parts II and III of the regulations make provision for interviewing members where it is considered that their performance is unsatisfactory and identifying areas of the performance which require improvement. Part IV makes provision for the holding of a hearing (called an unsatisfactory performance hearing) where it is considered that a member's performance has not improved. If the chairman of the hearing finds that the member's performance has been unsatisfactory he may require the member concerned to resign, order reduction in his rank or issue a warning. Part V makes provision for an appeal to the Chief Constable.

Regulations 4 to 7 make provision with respect to the first stage, in dealing with a member whose performance is considered unsatisfactory. The member concerned may be required to attend a first interview with the reporting or countersigning officer. The purpose is to explain why his performance is considered unsatisfactory and to allow the member concerned to make representations. The interviewing officer may, if he considers it appropriate, warn the member concerned that his performance must improve within a specified period and require specific action to be taken. A formal record must be made.

Regulations 8 to 11 make provision with respect to a second interview where the performance of the member concerned has not improved sufficiently. The interview is held by a countersigning officer and a personnel officer. Regulation 10 sets out the procedure. If, after considering any representations by the member concerned, it is considered that the member's performance has continued to be unsatisfactory, similar steps may be taken as may be taken following the first interview.

Regulations 12 to 18 make provision with respect to unsatisfactory performance hearings. The member concerned shall be required to attend a hearing if the reporting officer and countersigning officer are of the opinion that there has been an insufficient improvement in his performance since the second interview.

Regulation 13 provides for the arranging of a hearing and regulation 14 specifies the procedure to be followed. A chairman must be appointed who must be the rank of assistant chief constable.

The member concerned (who may be represented by counsel or a solicitor or by another member) must be given the opportunity of making representations. Regulation 15 enables the chairman to adjourn the hearing.

This may be done where the member concerned fails to attend. The chairman may also adjourn the hearing for up to 3 months to allow a further period for assessment by the reporting officer and the countersigning officer of his performance. In such circumstances, these officers must prepare a report which will be considered by the chairman together with any further representations by the member concerned.

Regulation 16 requires the chairman to decide whether the performance of the member concerned is satisfactory or not and to notify his decision. Where he finds that the performance has been unsatisfactory, the chairman may in terms of regulation 17 make a disposal. This may take the form of a requirement to resign, reduction in rank or a warning.

Regulation 18 makes provision for further assessment of the performance of the member concerned if he was given a warning in terms of regulation 17(1)(c). It specifies further procedures in terms of which a report must be made after a specified period. Following consideration of any written comments by the member concerned, the chairman must consider if there has been a sufficient improvement. If there has not, the chairman must require the member to resign.

Regulation 19 makes provision for the member concerned, who has received a sanction, to request a chief constable's review and the time limits within which to do it.

Regulation 20 provides for the Chief Constable to hold a meeting with the member concerned including legal representation if applicable, while regulation 21 provides for the sanction to be confirmed or varied.

Regulation 22 provides for the hearing of a review in the absence of the Chief Constable.

Regulation 23 makes minor and consequential amendments to the Royal Ulster Constabulary Regulations 1996 concerning the keeping of records made in disciplinary, conduct or unsatisfactory performance proceedings.

Regulation 24 makes minor and consequential amendments to the Royal Ulster Constabulary Regulations 1996 concerning the keeping of records made in disciplinary, conduct or unsatisfactory performance proceedings.

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