

**1999 No. 818**

**POLICE**

**The Police Appeals Tribunals Rules 1999**

<i>Made</i> - - - -	<i>13th March 1999</i>
<i>Laid before Parliament</i>	<i>22nd March 1999</i>
<i>Coming into force</i>	<i>1st April 1999</i>

The Secretary of State, in exercise of the powers conferred on him by section 85 of the Police Act 1996(a) and after consultation with the Council on Tribunals in accordance with section 8 of the Tribunals and Inquiries Act 1992(b), hereby makes the following Rules:

**Citation and commencement**

**1.** These Rules may be cited as the Police Appeals Tribunals Rules 1999 and shall come into force on 1st April 1999.

**Revocations and transitional provisions**

**2.—(1)** Subject to paragraph (2), the Police (Appeals) Rules 1985(c) (hereinafter called “the 1985 Rules”) are hereby revoked.

(2) In relation to an appeal against a decision made in accordance with the Police (Discipline) Regulations 1985(d) or the Police (Discipline) (Senior Officers) Regulations 1985(e)–

- (a) nothing in these Rules shall apply, and
- (b) the 1985 Rules shall continue to have effect.

**Interpretation**

**3.—(1)** In these Rules, unless the context otherwise requires–

“the Act” means the Police Act 1996;

“original hearing” means the conduct hearing or inefficiency hearing at the conclusion of which the appellant was found to have failed to meet the appropriate standard or, as the case may be, the appellant’s performance was found to have been unsatisfactory;

“tribunal” in relation to a case means the police appeals tribunal appointed to determine that case.

(2) In these Rules, any expression which appears also in the Police (Conduct) Regulations 1999(f) or the Police (Efficiency) Regulations 1999(g) shall, unless the contrary intention appears, have the same meaning as in those Regulations.

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(a) 1996 c. 16.

(b) 1992 c. 53; Schedule 1 (which specifies the tribunals to which the consultation requirement applies) was amended by paragraph 46 of Schedule 7 to the Police Act 1996.

(c) S.I. 1985/576.

(d) S.I. 1985/518, as amended by S.I. 1991/1673, S.I. 1995/1475 and S.I. 1995/2517.

(e) S.I. 1985/519.

(f) S.I. 1999/730.

(g) S.I. 1999/732.

### **The respondent**

4.—(1) The respondent on an appeal by a senior officer shall be a person designated for the purpose by the relevant police authority.

(2) The respondent on an appeal by a member of a police force who is not a senior officer shall be the chief officer of that force.

### **Notice of appeal**

5.—(1) Subject to rule 7 and paragraph (2), the time within which notice of an appeal under section 85 of the Act shall be given is 21 days from the date on which the decision appealed against was notified to the appellant in pursuance of regulations made in accordance with section 50(3) of the Act.

(2) In a case to which regulation 39 of the Police (Conduct) Regulations 1999 or regulation 25 of the Police (Conduct) (Senior Officers) Regulations 1999<sup>(a)</sup> applies where the decision appealed against was given in pursuance of those Regulations as modified by Part II of Schedule 2 or, as the case may be, by Part II of the Schedule to those Regulations, the time within which notice of an appeal under section 85 of the Act shall be given is 28 days from—

- (a) the conclusion of any criminal proceedings in which the appellant is charged with an offence in respect of the conduct to which the decision appealed against related; or
- (b) a decision that no such criminal proceedings will be instituted or taken over by the Director of Public Prosecutions has been communicated to the appellant.

(3) The notice of appeal shall be given in writing to the relevant police authority and a copy of the notice shall be sent to the respondent.

### **Procedure on notice of appeal**

6.—(1) As soon as practicable after receipt of a copy of the notice of appeal, the respondent shall provide to the relevant police authority—

- (a) a copy of the report of the person who made the decision appealed against;
- (b) the transcript of the proceedings at the original hearing; and
- (c) any documents which were made available to the person conducting the original hearing.

(2) A copy of the transcript mentioned in paragraph (1)(b) shall at the same time be sent to the appellant.

(3) Subject to rule 7, the appellant shall, within 28 days of the date on which he receives a copy of the transcript mentioned in paragraph (1)(b), submit to the relevant police authority—

- (a) a statement of the grounds of appeal;
- (b) any supporting documents; and
- (c) either—
  - (i) any written representations which the appellant wishes to make under paragraph 6 of Schedule 6 to the Act or, as the case may be, any request to make oral representations under that paragraph; or
  - (ii) a statement that he does not wish to make any such representations as are mentioned in paragraph (i):

Provided that, in a case where the appellant submits a statement under sub-paragraph (c)(ii), nothing in this paragraph shall prevent representations under paragraph 6 of Schedule 6 to the Act being made by him to the chairman of the tribunal.

(4) The documents submitted to the police authority under paragraph (3) shall, as soon as practicable, be copied to the members of the tribunal and to the respondent.

(5) The respondent shall, not later than 21 days from the date on which he receives the copy documents sent to him under paragraph (4), submit to the relevant police authority—

- (a) a statement of his response to the appeal;
- (b) any supporting documents; and

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(a) S.I. 1999/731.

(c) either—

- (i) any written representations which the respondent wishes to make under paragraph 6 of Schedule 6 to the Act or, as the case may be, any request to make oral representations under that paragraph; or
- (ii) a statement that he does not wish to make any such representations as are mentioned in paragraph (i):

Provided that, in a case where the respondent submits a statement under sub-paragraph (c)(ii), nothing in this paragraph shall prevent representations under paragraph 6 of Schedule 6 to the Act being made by him to the chairman of the tribunal.

(6) The respondent shall at the same time send a copy of the documents referred to in paragraph (5)(a) and (c) to the appellant, together with a list of the documents (if any) referred to in paragraph (5)(b).

(7) The documents submitted to the police authority under paragraph (5) shall, as soon as practicable, be copied to the members of the tribunal.

(8) So far as applicable, rules 8 and 9 shall apply in relation to the hearing of any oral representations under paragraph 6 of Schedule 6 to the Act as they apply in relation to the hearing of an appeal under section 85 of the Act; and the appellant and the respondent shall be entitled to be represented at the hearing of such oral representations as if it were the hearing of such an appeal.

#### **Extensions of time limits**

7.—(1) The relevant police authority may extend the period referred to in rule 5(1) or (2) or 6(3) in any case where the authority is satisfied, on the application of the appellant, that by reason of the special circumstances of the case it is just to do so; and in such a case rules 5 and 6 shall have effect as if for that period there were substituted such extended period as the authority may specify.

(2) Where the relevant police authority refuses an application by the appellant under paragraph (1), it shall give the appellant notice in writing of the reasons for the decision and of the right of appeal conferred by paragraph (3).

(3) An appellant whose application under paragraph (1) is refused may, not later than 14 days after receiving notice under paragraph (2), appeal in writing to the chairman of the tribunal against the decision of the relevant police authority.

(4) The chairman may, on such an appeal, make any decision which the relevant police authority had power to make under paragraph (1); and, where he extends the period referred to in rule 5(1) or (2) or 6(3), rules 5 and 6 shall have effect as if for that period there were substituted such extended period as the chairman may specify.

#### **Procedure at hearing**

8.—(1) Where a case is to be determined at a hearing, the chairman of the tribunal shall cause the appellant and the respondent to be given notice of the date of the hearing not less than 28 days, or such shorter period as may with the agreement of both parties be determined, before the hearing begins.

(2) Subsections (2) and (3) of section 250 of the Local Government Act 1972<sup>(a)</sup> (powers in relation to local inquiries) shall apply to the hearing as if—

- (a) references to a local inquiry were references to a hearing held under Schedule 6 to the Act;
- (b) references to the person appointed to hold the inquiry, or to the person holding the inquiry, were references to the chairman of the tribunal; and
- (c) references to that section were references to this rule.

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(a) 1972 c. 70.

(3) The tribunal may proceed with the hearing in the absence of either party, whether represented or not, if it appears to be just and proper to do so, and may adjourn it from time to time as may appear necessary for the due hearing of the case.

(4) Subject to these Rules, the procedure at a hearing shall be determined by the tribunal.

### **Hearing to be in private**

**9.**—(1) Subject to paragraph (3) and rule 12, the hearing shall be held in private:

Provided that it shall be within the discretion of the tribunal to allow such person or persons as it considers desirable to attend the whole or such part of the hearing as it may think fit.

(2) Notwithstanding that the tribunal has allowed a person to attend the hearing, where it appears to the tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed to a member of the public, the tribunal shall require any member of the public present to withdraw while that evidence is given.

(3) A member of the Council on Tribunals shall be entitled to attend the hearing.

### **Evidence at hearing**

**10.**—(1) Unless the tribunal otherwise determines, the evidence adduced by the respondent shall be given first.

(2) All oral evidence given at the hearing shall be given on oath.

(3) All witnesses giving evidence at the hearing shall be subject to examination and cross-examination.

(4) Any question as to whether any evidence is admissible, or whether any question should or should not be put to a witness, shall be determined by the tribunal.

(5) A verbatim record of the evidence given at the hearing shall be taken and kept for a period of not less than seven years from the date of the end of the hearing unless the chairman of the tribunal requests that a transcription of the record be made.

### **Statements in lieu of oral evidence**

**11.**—(1) Subject to the provisions of this rule, the tribunal may admit evidence by way of a written statement made by a person, notwithstanding that he may not be called as a witness, so, however, that evidence shall not be admissible under this rule if it would not have been admissible had it been given orally.

(2) For the purposes of this rule, a written statement purporting to be made and signed by a person and witnessed by another person shall be presumed to have been made by that person unless the contrary be shown.

(3) Nothing in this rule shall prejudice the admission of written evidence which would be admissible apart from the provisions of this rule.

### **Attendance of complainant at hearing**

**12.**—(1) This rule shall apply in relation to a hearing where the decision appealed against arose from a complaint and the appeal is not against sanction only.

(2) The chairman of the tribunal shall cause notice of the date of the hearing to be sent to the complainant, at the same time as such notice is sent to the appellant and the respondent in pursuance of rule 8(1).

(3) Notwithstanding anything in rule 9(1) but subject to paragraph (5), the tribunal shall allow the complainant to attend the hearing while witnesses are being examined, or cross-examined, on the facts alleged and, if the tribunal considers it appropriate so to do on account of the age of the complainant, or otherwise, shall allow him to be accompanied by a personal friend or relative who is not to be called as a witness at the inquiry:

Provided that—

- (a) where the complainant is to be called as a witness at the hearing he and any person allowed to accompany him shall not be allowed to attend before he gives his evidence; and
- (b) where it appears to the tribunal that a witness may in giving evidence disclose information which, in the public interest, ought not to be disclosed to a member of the public, it shall require the complainant and any person allowed to accompany him to withdraw while that evidence is given.

(4) Where the appellant gives evidence, then, after the person representing the respondent has had an opportunity of cross-examining him, the chairman of the tribunal shall put to him any questions which the complainant requests should be so put and might have been properly so put by way of cross-examination and, at his discretion, may allow the complainant himself to put such questions to the appellant.

(5) Subject as aforesaid, the complainant and any person allowed to accompany him shall neither intervene in, nor interrupt the hearing; and if he or such a person should behave in a disorderly or abusive manner, or otherwise misconduct himself, the chairman of the tribunal may exclude him from the remainder of the hearing.

#### **Statement of tribunal's determination**

**13.**—(1) The chairman of the tribunal shall prepare a written statement of the tribunal's determination of the appeal and of the reasons for the decision.

(2) The statement prepared under paragraph (1) and a record of any order made under section 85(2) of the Act shall be submitted to the relevant police authority and, in the case of an appeal by a senior officer, to the Secretary of State within a reasonable period after the determination of the appeal.

(3) The relevant police authority shall, as soon as practicable, copy the statement and any record of an order submitted to it under paragraph (2) to the appellant and the respondent.

(4) In a case where the decision appealed against arose from a complaint, the relevant police authority shall notify the complainant of the outcome of the appeal.

Home Office  
13th March 1999

*Jack Straw*  
One of Her Majesty's Principal Secretaries of State

## **EXPLANATORY NOTE**

*(This note is not part of the Rules)*

These Rules make provision as to the procedure on appeals to police appeals tribunals under section 85 of the Police Act 1996 (“the Act”).

Rule 2 revokes, with transitional provisions, the Police (Appeals) Rules 1985 and rule 3 provides for the interpretation of these Rules. Rule 4 prescribes who shall be the respondent to an appeal and rules 5 and 6 provide for the notice of appeal to be given in writing within the prescribed period and for the procedure on such notice being given. Rule 7 allows for the extension of prescribed time limits.

Rules 8 to 11 provide for the procedure to be followed, and for the evidence to be given, at a hearing held to determine an appeal and rule 12 makes provision for the attendance of the complainant in a case arising from a complaint by a member of the public. Rule 13 requires a written statement of the tribunal’s determination to be prepared.

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