



POLICE (CONDUCT) REGULATIONS 2014

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Consultation draft

Statutory Document No. 20XX/XX



Police Act 1993

POLICE (CONDUCT) REGULATIONS 2014

Laid before Tynwald:

Coming into Operation:

The Department of Home Affairs makes the following Regulations under sections 8, 8A, 8B, 8D, 8F and 8G of the *Police Act 1993*.

PART 1

PRELIMINARY

1 Title

These Regulations are the Police (Conduct) Regulations 2014.

2 Commencement

These Regulations come into operation on *****.

3 Revocation and transitional provisions

(1) Subject to paragraph (2), the –

- (a) Isle of Man Police (Senior Officer) (Discipline) Regulations 1980¹
- (b) Isle of Man Police (Discipline) (Amendment) Regulations 1994²;
- (c) Isle of Man Police (Discipline) Regulations 1995³; and
- (d) Isle of Man Police (Discipline) (Amendment) Regulations 1998⁴;

are revoked.

(2) Where an allegation in respect of conduct by a police officer comes to the attention of an appropriate authority before these regulations come into operation, the regulations referred to in paragraph (1) will continue to have effect.

¹ GC 209/80

² SD 535/94

³ SD 336/95

⁴ SD 391/98

4 Interpretation and delegation

(1) In these Regulations—

“**the Act**” means the *Police Act 1993*;

“**the Police Regulations**” means the Police Regulations 2014⁵;

“**adviser**” means any person who, in the view of the person chairing any disciplinary proceedings or appeal proceedings, is suitable to provide advice on matter of fact or on the procedures applicable to the misconduct proceeding;

“**allegation**” means an allegation relating to a complaint or conduct matter;

“**appeals regulations**” means the regulations relating to appeals hearings from time to time in force under sections 8, 8A, 8D, 8F and 8G of the Act;

“**appropriate authority**” means—

- (a) where the officer concerned is the Chief Constable or a senior officer, the Department;
- (b) in any other case, either –
 - (i) the Chief Constable;
 - (ii) a senior officer; or
 - (iii) an officer from a police force outside of the Island who is appointed by the Department and is of the same rank or higher than the officer concerned.

“**appeal hearing**” means an appeal hearing held in accordance with regulation 40;

“**appeal proceedings**” means a meeting held in accordance with regulation 39 following misconduct proceedings;

“**bank holiday**” means a day which is a bank holiday as prescribed by an order made by the Council of Ministers further to the *Bank Holidays Act 1989*;

“**the Commissioner**” means the Police Complaints Commissioner appointed further to paragraph 2 of Schedule 1 to the Act;

“**complainant**” means a person by whom the a complaint is made further to paragraph 1 of Schedule 1 to the Act;

“**complaint**” has the meaning given to it by paragraph 1 of Schedule 1 to the Act;

“**conduct**” includes acts, omissions, statements and decisions (whether actual, alleged or inferred);

⁵ SD *****/2014

“**conduct matter**” means any matter where there is an indication (whether from the circumstances or otherwise) that the officer concerned may have—

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings;

“**conduct regulations**” means the regulations relating to conduct from time to time in force under sections 8, 8A, 8D, 8F and 8G of the Act;

“**criminal proceedings**” means—

- (a) any prospective criminal proceedings; or
- (b) all criminal proceedings brought which have not been brought to a conclusion (apart from the bringing and determination of any appeal other than an appeal against conviction to the Staff of Government Division of the General Registry);

“**Department**” means the Department of Home Affairs;

“**disciplinary action**” means, in order of seriousness starting with the least serious action—

- (a) management advice;
- (b) a written warning;
- (c) a final written warning;
- (d) an extension to a final written warning as described in regulation 36(7)(b);
- (e) dismissal with notice; or
- (f) dismissal without notice.

“**disciplinary proceedings**” means any proceedings under these Regulations and any appeal from misconduct proceedings or a special case hearing dealt with under the appeals regulations;

“**document**” means anything in which information of any description is recorded and includes any recording of a visual image or images;

“**gross misconduct**” means a breach of the Standards of Professional Behaviour so serious that dismissal would be justified;

“**harm test**” has the meaning given to it in regulation 6;

“**HMCIC**” means Her Majesty’s Chief Inspector of Constabulary appointed under section 54(1) of the *Police Act 1996* (of Parliament);

“**human resources professional**” means a police officer or civil servant who has specific responsibility for personnel matters relating to members of a police force;

“**informant**” means a person who provides information to an investigation on the basis that his or her identity is not disclosed during the course of the disciplinary proceedings;

“**interested party**” means a person whose appointment could reasonably give rise to a concern as to whether he or she could act impartially under these Regulations;

“**investigator**” means a person appointed under regulation 14;

“**management action**” means action or advice intended to improve the conduct of the officer concerned;

“**management advice**” means management action imposed following misconduct proceedings or appeal proceedings;

“**misconduct**” means a breach of the Standards of Professional Behaviour;

“**misconduct hearing**” means a hearing to which the officer concerned is referred under regulation 20 and at which he or she may be dealt with by disciplinary action up to and including dismissal;

“**misconduct meeting**” means a meeting to which the officer concerned is referred under regulation 20 and at which he or she may be dealt with by disciplinary action up to and including a final written warning;

“**misconduct proceeding**” means a misconduct meeting or misconduct hearing;

“**the officer concerned**” means the police officer in relation to whose conduct there has been an allegation;

“**performance regulations**” means the regulations relating to performance from time to time in force under sections 8, 8A, 8D, 8F and 8G of the Act;

“**personal record**” means a personal record kept under regulation 22 of the Police Regulations 2014;

“**police force**” means, except when stated otherwise —

- (a) where the officer concerned is a member of a police force, the Isle of Man Constabulary; and
- (b) where the officer concerned is a special constable, the Isle of Man Constabulary;

“**police friend**” means a person chosen by the officer concerned in accordance with regulation 8;

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

“**proposed witness**” means a witness whose attendance at the misconduct proceedings the officer concerned or the appropriate

authority (as the case may be) wishes to request of the person conducting or chairing those proceedings;

“**relevant lawyer**” means either;

- (a) an “**advocate**”, meaning a person in receipt of an advocate’s commission further to section 16 of the *Advocates Act 1995* or a temporary advocate’s licence further to section 17 of the *Advocates Act 1995*;
- (b) a “**solicitor**”, meaning a person who has been admitted as a solicitor of the Senior Courts of England and Wales and whose name is on the roll kept by the Society under section 6 of the *Solicitors Act 1974* (of Parliament) save that in the Solicitors Regulation Authority (SRA) Indemnity Insurance Rules includes a person who practises as a solicitor whether or not he or she has in force a practising certificate, and also includes practice under home title of a former registered European lawyer (namely, an individual registered with the SRA under regulation 17 of the European Communities (Lawyer’s Practice) Regulations 2000 (SI 2000/ no.1119) (of Parliament) who has become a solicitor; or
- (c) a “**barrister**”, meaning a person providing legal services who is regulated by the General Council of the Bar;

“**senior officer**” means a member of a police force who is of the rank, substantive or otherwise, of superintendent or Deputy Chief Constable;

“**special case hearing**” means a hearing to which the officer concerned is referred under regulation 41 after the case has been certified as a special case;

“**special case proceedings**” means the referral of a case to a special case hearing and any proceedings at or in connection with such a hearing;

“**staff association**” means—

- (a) in relation to a member of a police force of the rank of chief inspector or below, the Isle of Man Police Federation;
- (b) in relation to a member of a police force of the rank of superintendent, the Police Superintendents’ Association of England and Wales; and
- (c) in relation to the Deputy Chief Constable and the Chief Constable, the Chief Police Officers’ Staff Association;

“**Standards of Professional Behaviour**” means the standards of professional behaviour contained in the Schedule; and

“**working day**” means any day other than a Saturday or Sunday or a day which is a bank holiday or a public holiday in the Isle of Man.

- (2) In these Regulations—

- (a) a reference to an officer other than a senior officer must include a reference to a special constable, regardless of his or her level of seniority;
 - (b) a reference to a copy of a statement must, where it was not made in writing, be construed as a reference to a copy of an account of that statement;
 - (c) the “**special conditions**” are that—
 - (i) there is sufficient evidence, in the form of written statements or other documents, without the need for further evidence, whether written or oral, to establish on the balance of probabilities that the conduct of the officer concerned constitutes gross misconduct; and
 - (ii) it is in the public interest for the officer concerned to cease to be a police officer without delay.
- (3) For the purposes of these Regulations—
- (a) a written warning must remain in force for a period of 12 months from the date on which it takes effect; and
 - (b) subject to regulations 36(7)(b) and 56(3)(b), a final written warning must remain in force for a period of 18 months from the date on which it takes effect.
- (4) The reference to the period of—
- (a) 12 months in paragraph (3)(a); and
 - (b) 18 months in paragraph (3)(b) and regulations 36(8) and 56(4),
- must not include any time when the officer concerned is taking a career break (under regulation 40(12) of the Police Regulations 2014) and the determination of the Department made under that regulation).
- (5) Where the appropriate authority is the Chief Constable, he or she may, subject to paragraph (6), delegate any of his or her functions under these Regulations to a—
- (a) member of a police force of at least the rank of chief inspector; or
 - (b) a human resources professional who, in the opinion of the Chief Constable is of at least a similar level of seniority to a chief inspector.
- (6) Where the Chief Constable delegates his or her functions under regulation 12 or 42, the decisions must be authorised by a senior officer.

5 Interested person

- (1) For the purpose of these Regulations a person is an “**interested person**” if –

- (a) that person has an interest in being kept properly informed about the handling of a complaint or conduct matter;
 - (b) it appears to the Commissioner or to an appropriate authority that he or she is a person falling within paragraph (2) or (3); and
 - (c) that person has indicated that he consents to the provision of information to him in accordance with this regulation and that consent has not been withdrawn.
- (2) A person falls within this paragraph in the case of a complaint or conduct matter if –
- (a) that person is a relative of a person whose death is the alleged result from the conduct complained of or to which the recordable conduct matter relates;
 - (b) that person is a relative of a person whose serious injury is the alleged result from that conduct and that other person is incapable of making a complaint;
 - (c) that person has suffered serious injury as the alleged result of that conduct.
- (3) A person who does not fall within paragraph (2) and has an interest in being kept properly informed about the handling of a complaint or conduct matter falls within this paragraph if –
- (a) the Commissioner or the appropriate authority considers the person has an interest in the handling of the complaint or conduct matter which is sufficient to make it appropriate for information to be provided to that person in accordance with this regulation; and
 - (b) that person has indicated that he or she consents to the provision of information to him or her in accordance with this regulation.
- (4) In any case in which there is an investigation of a conduct matter –
- (a) by the appropriate authority on its own behalf, or
 - (b) under the supervision of the Commissioner,
- the appropriate authority must provide the interested person with all such information as must keep him or her properly informed subject to the harm test, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (6).
- (5) In any case in which there is an investigation of a complaint –
- (a) by the appropriate authority on its own behalf, or
 - (b) under the supervision of the Commissioner,
- the appropriate authority must provide the interested person with all such information as must keep him or her properly informed subject to

the harm test, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (6).

- (6) The matters of which the interested person must be kept properly informed are—
- (a) whether the investigation was or was not conducted to the appropriate authority's or Commissioner's satisfaction;
 - (b) specifying any respect in which it was not so conducted and as to which the appropriate authority or the Commissioner considers that his or her dissatisfaction ought to be recorded; and
 - (c) dealing with such other matters relating to the investigation or the supervision of it as the appropriate authority or Commissioner considers should be —
 - (i) brought to the attention of the Chief Constable, the complainant or the officer under investigation, or
 - (ii) dealt with in the public interest.

6 The harm test

Information in documents which are stated to be subject to the harm test under these Regulations must not be supplied to the person concerned in so far as the appropriate authority considers that preventing disclosure to that person is—

- (a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any criminal proceedings;
- (b) necessary in the interests of national security;
- (c) necessary for the purpose of the prevention or detection of crime, or the apprehension or prosecution of offenders;
- (d) necessary for the purpose of the prevention or detection of misconduct by other police officers or police staff members or their apprehension for such matters;
- (e) justified on the grounds that providing the information would involve disproportionate effort in comparison to the seriousness of the allegations against the officer concerned;
- (f) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
- (g) otherwise in the public interest.

PART 2

GENERAL

7 Application

- (1) These Regulations apply where an allegation comes to the attention of an appropriate authority which indicates that the conduct of a police officer may amount to misconduct or gross misconduct.
- (2) Where an appropriate authority is considering more than one allegation in relation to the same police officer, the allegations may be taken together and treated as a single allegation for the purposes of any provision of these Regulations which requires a person to make an assessment, finding, determination or decision in connection with conduct which is the subject matter of an allegation.

8 Police Friend

- (1) The officer concerned may choose—
 - (a) a police officer;
 - (b) where the officer concerned is a member of a police force, a person nominated by the officer's staff association,
who is not otherwise involved in the matter, to act as the officer's police friend.
- (2) A police friend may—
 - (a) advise the officer concerned throughout the proceedings under these Regulations;
 - (b) unless the officer concerned has the right to be legally represented and chooses to be so represented, represent the officer concerned at the misconduct proceedings or special case hearing or appeal proceedings;
 - (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations; and
 - (d) accompany the officer concerned to any interview, meeting or hearing which forms part of any proceedings under these Regulations.
- (3) Where a police friend is a police officer, the Chief Constable must permit him or her to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

9 Legal and other representation

- (1) The officer concerned has the right to be legally represented, by a relevant lawyer of the officer's choice, at a misconduct hearing or a special case hearing.
- (2) If the officer concerned chooses not to be legally represented at such a hearing the officer may be dismissed or receive any other outcome under regulation 36 or 56 without the officer being so represented.
- (3) Except in a case where the officer concerned has the right to be legally represented and chooses to be so represented, the officer may be represented at misconduct proceedings or a special case hearing or appeal proceedings only by a police friend.
- (4) The appropriate authority may be represented at misconduct proceedings or a special case hearing or appeal proceedings by—
 - (a) a police officer or police staff member of the police force concerned; or
 - (b) at a misconduct hearing or a special case hearing only, a relevant lawyer (whether or not the officer concerned chooses to be legally represented).
- (5) Subject to paragraph (6), the appropriate authority may appoint a person to advise the person or persons conducting the misconduct proceedings or special case hearing or appeal proceeding.
- (6) At a misconduct meeting or at appeal proceedings arising from a misconduct meeting the person appointed under paragraph (5) must not be a relevant lawyer.

10 Provision of notices or documents

Where any written notice or document is to be given or supplied to the officer concerned under these Regulations, it must be—

- (a) given to the officer in person;
- (b) left with some person at, or sent by recorded delivery to, the officer's last known address; or
- (c) in respect of a written notice under regulation 16(1), given to the officer in person by the officer's police friend where the police friend has agreed with the appropriate authority to deliver the notice.

11 Outstanding or possible criminal proceedings

- (1) Subject to the provisions of this regulation, proceedings under these Regulations will proceed without delay.

- (2) Before referring a case to misconduct proceedings or a special case hearing, the appropriate authority must decide whether misconduct proceedings or special case proceedings would prejudice any criminal proceedings.
- (3) For any period during which the appropriate authority considers any misconduct proceedings or special case proceedings would prejudice any criminal proceedings, no such misconduct or special case proceedings must take place.
- (4) Where a witness who is or may be a witness in any criminal proceedings is to be or may be asked to attend misconduct proceedings, the appropriate authority must consult the relevant prosecutor (and when doing so must inform the officer of the names and addresses of all such witnesses) before making its decision under paragraph (2).
- (5) For the purposes of this regulation “**relevant prosecutor**” means the Attorney General or any other person who has or is likely to have responsibility for the criminal proceedings.

12 Suspension

- (1) The appropriate authority may, subject to the provisions of this regulation, suspend the officer concerned from his or her office as constable and from membership of the police force.
- (2) An officer concerned who is suspended under this regulation remains a police officer for the purposes of these Regulations.
- (3) A suspension under this regulation must be with pay.
- (4) The appropriate authority must not suspend a police officer under this regulation unless the following conditions (“**the suspension conditions**”) are satisfied—
 - (a) having considered temporary redeployment to alternative duties or an alternative location as an alternative to suspension, the appropriate authority has determined that such redeployment is not appropriate in all the circumstances of the case; and
 - (b) it appears to the appropriate authority that either—
 - (i) the effective investigation of the case may be prejudiced unless the officer concerned is so suspended; or
 - (ii) having regard to the nature of the allegation and any other relevant considerations,
the public interest requires that the officer should be so suspended.
- (5) The appropriate authority may exercise the power to suspend the officer concerned under this regulation at any time from the date on which these Regulations first apply to the officer concerned in accordance with regulation 7 until—

- (a) it is decided that the conduct of the officer concerned must not be referred to misconduct proceedings or a special case hearing; or
 - (b) such proceedings have concluded.
- (6) The appropriate authority may suspend the officer concerned with effect from the date and time of notification which must be given either –
 - (a) in writing with a summary of the reasons; or
 - (b) orally, in which case the appropriate authority must confirm the suspension in writing with a summary of the reasons before the end of 3 working days beginning with the first working day after the suspension.
- (7) The officer concerned (or the officer's police friend) may make representations against the officer's suspension to the appropriate authority –
 - (a) before the end of 7 working days beginning with the first working day after the officer being suspended;
 - (b) at any time during the suspension if the officer reasonably believes that circumstances relevant to the suspension conditions have changed.
- (8) The appropriate authority must review the suspension conditions –
 - (a) on receipt of any representations under paragraph (7)(a);
 - (b) if there has been no previous review, before the end of 4 weeks beginning with the first working day after the suspension;
 - (c) in any other case –
 - (i) on being notified that circumstances relevant to the suspension conditions may have changed (whether by means of representations made under paragraph (7)(b) or otherwise); or
 - (ii) before the end of 4 weeks beginning with the day after the previous review.
- (9) Where, following a review under paragraph (8), the suspension conditions remain satisfied and the appropriate authority decides the suspension should continue, it must, before the end of 3 working days beginning with the day after the review, so notify the officer concerned in writing with a summary of the reasons.
- (10) Subject to paragraph (12), where the officer concerned is suspended under this regulation, the officer must remain so suspended until whichever of the following occurs first –
 - (a) the suspension conditions are no longer satisfied; or

- (b) either of the events mentioned in paragraph (5)(a) or, subject to paragraph (11), (5)(b) have occurred.
- (11) Where an officer concerned who is suspended is dismissed with notice under regulation 36 the officer, must remain suspended until the end of the notice period.

PART 3

INVESTIGATIONS

13 Assessment of conduct

- (1) Subject to paragraph (6) the appropriate authority must assess whether the conduct which is the subject matter of the allegation, if proved, would amount to misconduct or gross misconduct or neither.
- (2) Where the appropriate authority assesses that the conduct, if proved, would amount to neither misconduct nor gross misconduct, it may –
 - (a) take no action;
 - (b) take management action against the officer concerned; or
 - (c) refer the matter to be dealt with under the Performance Regulations.
- (3) Where the appropriate authority assesses that the conduct, if proved, would amount to misconduct, it must determine whether or not it is necessary for the matter to be investigated and –
 - (a) if so, the matter must be investigated and the appropriate authority must further determine whether, if the matter were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing;
 - (b) if not, the appropriate authority may –
 - (i) take no action; or
 - (ii) take management action against the officer concerned.
- (4) Where the appropriate authority determines that the conduct, if proved, would amount to gross misconduct, the matter must be investigated.
- (5) At any time before the start of misconduct proceedings, the appropriate authority may revise its assessment of the conduct under paragraph (1) if it considers it appropriate to do so.
- (6) Where the appropriate authority decides under this regulation to take no action, take management action or to refer the matter to be dealt with under the Performance Regulations, it must so notify the officer concerned in writing as soon as practicable.

14 Appointment of investigator

- (1) This regulation applies where the matter is to be investigated in accordance with regulation 13.
- (2) The appropriate authority must, subject to paragraph (3), appoint a person to investigate the matter.
- (3) A person must not be appointed to investigate the matter under this regulation—
 - (a) unless he or she has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
 - (b) if he or she is an interested party;
 - (c) if he or she works, directly or indirectly, under the management of the officer concerned; or
 - (d) in a case where the officer concerned is the Chief Constable or a senior officer, if he or she is—
 - (i) the Chief Constable or a senior officer; or
 - (ii) a member of the police force.

15 Investigation

The purpose of the investigation is to—

- (a) gather evidence to establish the facts and circumstances of the alleged misconduct or gross misconduct; and
- (b) assist the appropriate authority to establish whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

16 Written notices

- (1) The investigator must as soon as is reasonably practicable after being appointed, and subject to paragraph (3), cause the officer concerned to be given written notice—
 - (a) describing the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour;
 - (b) of the appropriate authority's assessment of whether that conduct, if proved, would amount to misconduct or gross misconduct;
 - (c) that there is to be an investigation into the matter and the identity of the investigator;
 - (d) of whether, if the matter were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing and the reason for this;

- (e) that if the likely form of any misconduct proceedings to be held changes, further notice (with reasons) must be given;
 - (f) informing the officer that he or she has the right to seek advice from the officer's staff association or any other body and of the effect of regulation 8(1) and (2);
 - (g) of the effect of regulations 9(1) to (3) and 17; and
 - (h) informing the officer that whilst he or she does not have to say anything it may harm the officer's case if he or she does not mention when interviewed or when providing any information under regulations 17(1) or 23(2) or (3) something which he or she later relies on in any misconduct proceedings or special case hearing or at appeal proceedings or appeal hearing.
- (2) If following service of the notice under paragraph (1), the appropriate authority revises its assessment of the conduct in accordance with regulation 13(5) or its determination of the likely form of any misconduct proceedings to be taken, the appropriate authority must, as soon as practicable, give the officer concerned further written notice of—
- (a) the assessment of whether the conduct, if proved, would amount to misconduct or gross misconduct as the case may be and the reason for that assessment; and
 - (b) whether, if the case were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing and the reason for this.
- (3) The requirement to give a written notice to the officer concerned under paragraph (1) does not apply for so long as the investigator considers that giving such a notice might prejudice the investigation or any other investigation (including, in particular, a criminal investigation).
- (4) Once a written notice has been given in accordance with paragraph (1), the investigator must notify the officer concerned of the progress of the investigation—
- (a) if there has been no previous notification following the supply of the written notice under paragraph (1), before the end of 4 weeks beginning with the first working day after the start of the investigation; and
 - (b) in any other case, before the end of 4 weeks beginning with the first working day after the previous notification.

17 Representations to the investigator

- (1) Before the end of 10 working days starting with the first working day after which the notice is given under regulation 16(1) (unless this period is extended by the investigator)—

- (a) the officer concerned may provide a written or oral statement relating to any matter under investigation to the investigator; and
 - (b) the officer concerned or the officer's police friend may provide any relevant documents to the investigator.
- (2) The investigator must, as part of his or her investigation, consider any such statement or document and must make a record of having received it.
- (3) In this regulation “**relevant document**” –
- (a) means a document relating to any matter under investigation, and
 - (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed.

18 Interviews during investigation

- (1) Where an investigator wishes to interview the officer concerned as part of his or her investigation, he or she must, if reasonably practicable, agree a date and time for the interview with the officer concerned.
- (2) Where no date and time is agreed under paragraph (1), the investigator must specify a date and time for the interview.
- (3) Where a date and time is specified under paragraph (2) and –
- (a) the officer concerned or the officer's police friend is not available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (4), the interview must be postponed to the time proposed by the officer concerned.
- (4) An alternative time must –
- (a) be reasonable; and
 - (b) fall before the end of the period of 5 working days beginning with the first working day after the day specified by the investigator.
- (5) The officer concerned must be given written notice of the date, time and place of the interview.
- (6) The investigator must, in advance of the interview, provide the officer concerned with such information as the investigator considers appropriate in the circumstances of the case to enable the officer concerned to prepare for the interview.
- (7) The officer concerned must attend the interview.
- (8) A police friend may not answer any questions asked of the officer concerned during the interview.

19 Report of investigation

- (1) On completion of his or her investigation the investigator must as soon as practicable submit a written report on the investigation to the appropriate authority.
- (2) The written report must—
 - (a) provide an accurate summary of the evidence;
 - (b) attach or refer to any relevant documents; and
 - (c) indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.
- (3) If at any time during the investigation the investigator believes that the appropriate authority would, on consideration of the matter, be likely to determine that the special conditions are satisfied, he or she will, whether or not the investigation is complete, submit to the appropriate authority—
 - (a) a statement of the investigator's belief and the grounds for it; and
 - (b) a written report on his or her investigation to that point.

PART 4**MISCONDUCT PROCEEDINGS****20 Referral of case to misconduct proceedings**

- (1) Subject to regulation 42 and paragraph (6)—
 - (a) on receipt of the investigator's written report; and
 - (b) in the case of such a report submitted by the investigator, in making a determination as to what action to take in respect of matters dealt with in that report,
the appropriate authority must, as soon as practicable, determine whether the officer concerned has a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.
- (2) Subject to paragraph (6), in a case where the disciplinary proceedings have been delayed by virtue of regulation 11(3), as soon as practicable after the appropriate authority considers that such proceedings would no longer prejudice any criminal proceedings, it must, subject to regulation 42(3), make a further determination as to whether the officer concerned has a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

- (3) Where the appropriate authority determines there is no case to answer, it may—
- (a) take no further disciplinary action against the officer concerned;
 - (b) take management action against the officer concerned; or
 - (c) refer the matter to be dealt with under the Performance Regulations.
- (4) Where the appropriate authority determines that there is a case to answer in respect of gross misconduct, it must, subject to regulation 11(3) and paragraph (2), refer the case to a misconduct hearing.
- (5) Where the appropriate authority determines that there is a case to answer in respect of misconduct, it may—
- (a) subject to regulation 11(3) and paragraph (2), refer the case to misconduct proceedings; or
 - (b) take management action against the officer concerned.
- (6) Where the appropriate authority—
- (a) accepts a recommendation under paragraph 9(1) of Schedule 1 to the Act; or
 - (b) has a duty under paragraph 9(3) of Schedule 1 to the Act to comply with a direction to give effect to such a recommendation,
- it must, subject to regulation 11(3), refer the case to such a misconduct proceeding.
- (7) Where the appropriate authority fails to—
- (a) make the determination referred to in paragraph (1); and
 - (b) where appropriate, decide what action to take under paragraph (5), before the end of 15 working days beginning with the first working day after receipt of the investigator's written report, it must notify the officer concerned of the reason for this.
- (8) Where under paragraph (5) the appropriate authority determines to take management action, it must give the officer concerned written notice of this as soon as practicable.
- (9) Where the appropriate authority determines under paragraph (5) to refer the case to misconduct proceedings—
- (a) where the officer concerned had a final written warning in force at the date of the assessment of conduct under regulation 13(1) of these Regulations, those proceedings must be a misconduct hearing;
 - (b) where the officer concerned has been reduced in rank under the conduct regulations less than 18 months prior to the assessment of

conduct under regulation 13(1) of these Regulations, those proceedings must be a misconduct hearing; and

- (c) in all other cases those proceedings must be a misconduct meeting.

21 Withdrawal of case

- (1) At any time before the beginning of the misconduct proceedings, the appropriate authority may direct that the case be withdrawn.
- (2) Where a direction is given under paragraph (1)—
 - (a) the appropriate authority may—
 - (i) take no further action against the officer concerned;
 - (ii) take management action against the officer concerned; or
 - (iii) refer the matter to be dealt with under the Performance Regulations; and
 - (b) the appropriate authority must as soon as practicable give the officer concerned—
 - (i) written notice of the direction, indicating whether any action must be taken under paragraph (2)(a); and
 - (ii) where the investigation has been completed, on request and subject to the harm test, a copy of the investigator's report or such parts of that report as relate to the officer concerned.

22 Notice of referral to misconduct proceedings and panel membership

- (1) Where a case is referred to misconduct proceedings, the appropriate authority must as soon as practicable give the officer concerned—
 - (a) written notice of—
 - (i) the referral;
 - (ii) the conduct that is the subject matter of the case and how that conduct is alleged to amount to misconduct or gross misconduct as the case may be;
 - (iii) the name of the person appointed to (in the case of a misconduct meeting for an officer other than a senior officer) conduct, or (in any other case) chair the misconduct proceedings and of the effect of paragraphs (3) to (6) of this regulation; and
 - (iv) the effect of regulation 9(1) to (3) in relation to the form of misconduct proceedings to which the case is being referred;

- (b) a copy of any statement he or she may have made to the investigator during the course of the investigation; and
 - (c) subject to the harm test, a copy of—
 - (i) the investigator's report or such parts of that report as relate to him or her (together with any document attached to or referred to in that report which relates to him or her); and
 - (ii) any other relevant document gathered during the course of the investigation.
- (2) As soon as practicable after—
- (a) any person has been appointed under regulation 9(5) to advise the person or persons conducting the misconduct proceedings; and
 - (b) where the misconduct proceedings are to be conducted by a panel, the person or persons comprising that panel (other than the chair) have been determined,
- the appropriate authority must give the officer concerned written notice of the names of such persons and of the effect of paragraphs (3) to (6) of this regulation.
- (3) The officer concerned may object to any person whom he or she is notified under the preceding provisions of this regulation is to—
- (a) conduct (including chair) his or her misconduct proceedings; or
 - (b) advise the person or persons conducting those proceedings.
- (4) Any such objection must be made in writing to the appropriate authority before the end of 3 working days beginning with the first working day after the officer concerned is given notice of the person's name and must set out the grounds of objection of the officer concerned.
- (5) The appropriate authority must notify the officer concerned in writing whether it upholds or rejects an objection to any panel member or to any person appointed under regulation 9(5) to advise the person or persons conducting the misconduct proceedings.
- (6) If the appropriate authority upholds the objection, the person to whom the officer concerned objects must be replaced (in accordance with regulations 9(5) and (6) or 26 and 27 as appropriate).
- (7) As soon as reasonably practicable after any such appointment, the appropriate authority must notify in writing the officer concerned of the name of the new panel member, or the adviser to the person or persons conducting the misconduct proceedings, as the case may be.
- (8) The officer concerned may object to the appointment of a person appointed under paragraph (6).

- (9) Any such objection must be made in accordance with paragraph (4), provided that it must be made before the end of 3 working days beginning with the first working day after receipt of the notification referred to in paragraph (7); and the appropriate authority must comply with paragraphs (5) to (7) in relation to that objection, but paragraph (8) must not apply.
- (10) In this regulation “**relevant document**” means a document which, in the opinion of the appropriate authority, is relevant to the case the officer concerned has to answer.

23 Procedure on receipt of notice

- (1) Before the end of—
 - (a) 14 working days beginning with the first working day after the documents have been supplied to the officer concerned under regulation 22(1); or
 - (b) where that period is extended by the person conducting or chairing the misconduct proceedings for exceptional circumstances, such extended period,the officer concerned must comply with paragraphs (2) and (3).
- (2) The officer concerned must provide to the appropriate authority—
 - (a) written notice of whether or not the officer accepts that the officer’s conduct amounts to misconduct or gross misconduct as the case may be;
 - (b) where the officer accepts that the officer’s conduct amounts to misconduct or gross misconduct as the case may be, any written submission the officer wishes to make in mitigation; and
 - (c) where the officer does not accept that the officer’s conduct amounts to misconduct or gross misconduct as the case may be, or the officer disputes part of the case against the officer, written notice of—
 - (i) the allegations the officer disputes and the officer’s account of the relevant events; and
 - (ii) any arguments on points of law the officer wishes to be considered by the person or persons conducting the misconduct proceedings.
- (3) The officer concerned must provide the appropriate authority with a copy of any document he or she intends to rely on at the misconduct proceedings.
- (4) Before the end of 3 working days beginning with the first working day after the date on which the officer concerned has complied with paragraph (2), the appropriate authority and the officer concerned must

each supply to the other a list of proposed witnesses or give notice that they do not have any proposed witnesses; and any list of proposed witnesses must include brief details of the evidence that each witness is able to adduce.

- (5) Where there are proposed witnesses, the officer concerned must, if reasonably practicable, agree a list of proposed witnesses with the appropriate authority.

24 Witnesses

- (1) As soon as practicable after any list of proposed witnesses has been—
- (a) agreed under regulation 23(5); or
 - (b) where there is no agreement under regulation 23(5), supplied under regulation 23(4), the appropriate authority must supply that list to the person conducting or chairing the misconduct proceedings.
- (2) The person conducting or chairing the misconduct proceedings must—
- (a) consider the list or lists of proposed witnesses; and
 - (b) subject to paragraph (3), determine which, if any, witnesses should attend the misconduct proceedings.
- (3) A witness must not give evidence at misconduct proceedings unless the person conducting or chairing those proceedings reasonably believes that it is necessary for the witness to do so in the interests of justice, in which case he or she must—
- (a) where the witness is a police officer, cause that person to be ordered to attend the misconduct proceedings; and
 - (b) in any other case, cause the witness to be given notice that his or her attendance is necessary and of the date, time and place of the proceedings.

25 Timing and notice of misconduct proceedings

- (1) Subject to paragraphs (2) and (6), the misconduct proceedings must take place—
- (a) in the case of a misconduct meeting, before the end of 20 working days; or
 - (b) in the case of a misconduct hearing, before the end of 30 working days,

beginning with the first working day after the documents have been supplied to the officer concerned under regulation 22(1).

- (2) The person conducting or chairing the misconduct proceedings may extend the period specified in paragraph (1) where he or she considers that it would be in the interests of justice to do so.
- (3) Where the person conducting or chairing the misconduct proceedings decides to extend the period under paragraph (2), or decides not to do so following representations from the officer concerned or the appropriate authority, he or she must provide written notification of his or her reasons for that decision to the appropriate authority and the officer concerned.
- (4) The person conducting or chairing the misconduct proceedings must, if reasonably practicable, agree a date and time for the misconduct proceedings with the officer concerned.
- (5) Where no date and time is agreed under paragraph (4), the person conducting or chairing the misconduct proceedings must specify a date and time for those proceedings.
- (6) Where a date and time is specified under paragraph (5) and—
 - (a) either –
 - (i) the officer concerned; or
 - (ii) police friend of the officer concerned;is not available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (7),the misconduct proceedings must be postponed to the time proposed by the officer concerned.
- (7) An alternative time must—
 - (a) be reasonable; and
 - (b) fall before the end of 5 working days beginning with the first working day after the day specified by the person conducting or chairing the misconduct proceedings.
- (8) The officer concerned must be given written notice of the date, time and place of the misconduct proceedings.
- (9) Where the Commissioner is entitled to attend the misconduct proceedings to make representations under regulation 30(1), or to nominate a person to attend the proceedings as an observer under regulation 32(2), the Commissioner must be given written notice of the date, time and place of the proceedings.

26 Persons conducting misconduct proceedings: officers other than senior officers

- (1) This regulation applies where the officer concerned is an officer other than a senior officer.
- (2) The misconduct meeting must be conducted by a person appointed by the appropriate authority who is not an interested party or the Chief Constable and who satisfies paragraph (3).
- (3) The person must not be the same person as the appropriate authority and must where—
 - (a) the officer concerned is a member of the police force, be another member of the police force, or a police force outside of the Isle of Man, of at least one rank higher than the officer concerned;
 - (b) the officer concerned is a special constable, be a member of the police force, or a police force outside of the Isle of Man, of the rank of sergeant or above or a senior human resources professional.
- (4) Where the case is referred to a misconduct hearing, that hearing must be conducted by a senior officer.

27 Persons conducting misconduct proceedings: senior officer or the Chief Constable

- (1) Where the officer concerned is a senior officer or the Chief Constable, the misconduct proceedings must be conducted by a panel of persons specified in paragraph (2), appointed by the appropriate authority.
- (2) Those persons are—
 - (a) a chair selected by the appropriate authority who has been qualified as a relevant lawyer for a period of seven or more years;
 - (b) HMCIC or an inspector of constabulary nominated by him or her; and
 - (c) a person selected by the appropriate authority.

28 Documents to be supplied

- (1) Prior to the misconduct proceedings the appropriate authority must supply the person or persons conducting the misconduct proceedings with a copy of—
 - (a) the documents given to the officer concerned under regulation 22(1);
 - (b) the documents provided by the officer concerned under—
 - (i) regulation 23(2) and (3); and

- (ii) where paragraph (2) applies, regulation 46; and
 - (c) where the officer concerned does not accept that the officer's conduct amounts to misconduct or gross misconduct as the case may be or where the officer disputes any part of the case against him or her, any other documents that, in the opinion of the appropriate authority, should be considered at the misconduct proceedings.
- (2) This paragraph applies where the appropriate authority has directed, in accordance with regulation 43(1), that the case be dealt with under this Part.
- (3) Prior to the misconduct proceedings the officer concerned must be supplied with a list of the documents supplied under paragraph (1) and a copy of any such document of which he or she has not already been supplied with a copy.

29 Attendance of officer concerned at misconduct proceedings

- (1) Subject to paragraph (2), the officer concerned must attend the misconduct proceedings.
- (2) Where the officer concerned informs the person conducting or chairing the misconduct proceedings in advance that the officer is unable to attend on grounds which the person conducting or chairing those proceedings considers reasonable, that person may allow the officer concerned to participate in the proceedings by video link or other means.
- (3) Where the officer concerned is allowed to and does so participate in the misconduct proceedings or where the officer concerned does not attend the misconduct proceedings—
 - (a) the officer may nonetheless be represented at those proceedings by the officer's —
 - (i) police friend; or
 - (ii) in the case of a misconduct hearing, the officer's relevant lawyer (in which case the police friend may also attend); and
 - (b) the proceedings may be proceeded with and concluded in the absence of the officer concerned whether or not the officer is so represented.
- (4) Where the officer concerned is represented in accordance with paragraph (3), the person representing the officer concerned or the officer's police friend (if different), or both, may participate using the video link or other means where such means are also used by the officer concerned.

30 Participation of Commissioner and investigator at misconduct proceedings

- (1) In any misconduct proceedings arising from a complaint the Commissioner may make written representations to the person conducting or chairing the misconduct proceedings.
- (2) The investigator or a nominated person must attend the misconduct proceedings on the request of the person conducting or chairing those proceedings to answer questions.
- (3) For the purposes of this regulation, a “**nominated person**” is a person who, in the opinion of the appropriate authority has sufficient knowledge of the investigation of the case to be able to assist the person or persons conducting the misconduct proceedings.
- (4) Where more than one allegation is considered in the same misconduct proceedings in accordance with regulation 7(2), this regulation applies to the whole of the proceedings and accordingly the Commissioner may make written representations in respect of any allegation.

31 Attendance of complainant or interested person at misconduct proceedings

- (1) This regulation must apply in the case of misconduct proceedings arising from a conduct matter or a complaint.
- (2) The appropriate authority must notify the complainant or any interested person of the date, time and place of the misconduct proceedings.
- (3) Subject to the provisions of this regulation, regulation 33 and any conditions imposed under regulation 32(7), the complainant or any interested person may attend the misconduct proceedings as an observer.
- (4) Subject to paragraph (5), regulation 33 and any conditions imposed under regulation 32(7), a complainant or interested person may be accompanied by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.
- (5) Where a complainant or interested person, or any person accompanying him or her, is to give evidence as a witness at the misconduct proceedings, he or she and any person allowed to accompany him or her will not be allowed to attend the proceedings before he or she gives his or her evidence.
- (6) Where the officer concerned objects to the complainant or interested person, or any person accompanying him or her, being present while a submission is made in mitigation on the officer's behalf, the person conducting or chairing the misconduct proceedings may require the complainant or interested person, or any person accompanying him or her, to withdraw while the submission is made.

- (7) The person conducting or chairing the misconduct proceedings may, at his or her discretion, put any questions to the officer concerned that the complainant or interested person may request be put to him or her.
- (8) For the purposes of this regulation, a person has a special need if, in the opinion of the person conducting or chairing the misconduct proceedings, he or she has a disability or learning difficulty, or does not have sufficient knowledge of English, to fully participate in or understand the misconduct proceedings.

32 Attendance of others at misconduct proceedings

- (1) Subject to regulations 30 and 31 and the provisions of this regulation, the misconduct proceedings must be in private.
- (2) A person nominated by the Commissioner may, as an observer, attend misconduct proceedings arising from a complaint.
- (3) Subject to any contrary decision by the person conducting or chairing the misconduct proceedings, a witness other than a complainant, interested person or the officer concerned, will only attend the misconduct proceedings for the purpose of giving their evidence.
- (4) The person conducting or chairing the misconduct proceedings may, at his or her discretion, permit a witness in the misconduct proceedings to be accompanied at those proceedings by one other person.
- (5) Where a misconduct hearing arises from a complaint and the Commissioner considers that because of the gravity of the case or other exceptional circumstances it would be in the public interest to do so, the person conducting or chairing the misconduct proceedings may, after receiving a request from the Commissioner that the misconduct proceeding be held in public and having consulted with—
 - (a) the appropriate authority;
 - (b) the officer concerned;
 - (c) the complainant or interested person; and
 - (d) any witnesses,direct that the whole or part of the misconduct hearing be held in public.
- (6) A direction under paragraph (5), together with the reasons for it, must be notified as soon as practicable, and in any event before the end of 5 working days beginning with the first working day after the decision was taken, to the persons consulted under that paragraph.
- (7) The persons conducting or chairing the misconduct proceedings may impose such conditions as he or she sees fit relating to the attendance under regulation 31 or this regulation of persons at the misconduct proceedings (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the proceedings.

33 Exclusion from misconduct proceedings

Where it appears to the person conducting or chairing the misconduct proceedings that any person may, in giving evidence, disclose information which, under the harm test, ought not to be disclosed to any person attending the proceedings, he or she must require such attendees to withdraw while the evidence is given.

34 Procedure at misconduct proceedings

- (1) Subject to these Regulations, the person conducting or chairing the misconduct proceedings must determine the procedure at those proceedings.
- (2) The misconduct proceedings must not proceed unless the officer concerned has been notified of the effect of regulation 9(1) to (3) in relation to the form of misconduct proceedings taking place.
- (3) Subject to paragraph (4), the person conducting or chairing the misconduct proceedings may from time to time adjourn the proceedings if it appears to him or her to be necessary or expedient to do so.
- (4) The misconduct proceedings must not, except in exceptional circumstances, be adjourned solely to allow the complainant or any witness or interested person to attend.
- (5) The person representing the officer concerned may —
 - (a) address the proceedings in order to do any or all of the following —
 - (i) put the case of the officer concerned;
 - (ii) sum up that case;
 - (iii) respond on behalf of the officer concerned to any view expressed at the proceedings;
 - (iv) make representations concerning any aspect of proceedings under these Regulations; and
 - (v) subject to paragraph (8), ask questions of any witnesses; and
 - (b) confer with the officer concerned.
- (6) Where (at a misconduct hearing) the person representing the officer concerned is a relevant lawyer, the police friend of the officer concerned may also confer with the officer concerned.
- (7) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer concerned during the misconduct proceedings.

- (8) Whether any question should or should not be put to a witness must be determined by the person conducting or chairing the misconduct proceedings.
- (9) The person conducting or chairing the misconduct proceedings may allow any document to be considered at those proceedings notwithstanding that a copy of it has not been supplied –
- (a) by the officer concerned to the appropriate authority in accordance with regulation 23(3); or
 - (b) to the officer concerned in accordance with regulation 22(1).
- (10) Where evidence is given or considered at the misconduct proceedings that the officer concerned –
- (a) on being questioned by an investigator at any time after he or she was given written notice under regulation 16(1) of these Regulations; or
 - (b) in submitting any information or by not submitting any information at all under regulation 17(1) or 23(2) or (3) (or, where paragraph (11) applies, regulation 46),
- failed to mention any fact relied on in his or her case at the misconduct proceedings, being a fact which in the circumstances existing at the time, the officer concerned could reasonably have been expected to mention when so questioned or when providing such information, paragraph (12) applies.
- (11) This paragraph applies where the appropriate authority has directed, in accordance with regulation 43(1), that the case be dealt with under this Part.
- (12) Where this paragraph applies, the person or persons conducting the misconduct proceedings may draw such inferences from the failure as appear proper.
- (13) The person or persons conducting the misconduct proceedings must review the facts of the case and decide whether the conduct of the officer concerned amounts –
- (a) in the case of a misconduct meeting, to misconduct or not; or
 - (b) in the case of a misconduct hearing, to misconduct, gross misconduct or neither.
- (14) The person or persons conducting the misconduct proceedings must not find that the conduct of the officer concerned amounts to misconduct or gross misconduct unless –
- (a) he or she is or they are satisfied on the balance of probabilities that this is the case; or
 - (b) the officer concerned admits it is the case.

- (15) At misconduct proceedings conducted by a panel, any decision will be based on a majority but must not indicate whether it was taken unanimously or by a majority.
- (16) Where the officer concerned is a senior officer, the persons conducting the misconduct proceedings must, as soon as practicable after the meeting or hearing, submit a report to the appropriate authority, together with a copy to the senior officer concerned, setting out—
 - (a) the finding of the persons conducting the proceedings under paragraph (13);
 - (b) the reasons for that finding;
 - (c) if that finding was that the conduct of the officer concerned amounted to misconduct or gross misconduct, a recommendation as to any disciplinary action which in their opinion should be imposed; and
 - (d) any other matter arising out of the proceedings which they desire to bring to the notice of the appropriate authority.
- (17) In any case in which the Commissioner was entitled to attend to make representations under regulation 30(1), the persons conducting the misconduct proceedings must send a copy of any report under paragraph (16) to the Commissioner.

35 Senior officers: further meeting or hearing

- (1) On receiving a report under regulation 34(16) the appropriate authority must —
 - (a) in a case where the report was submitted following a misconduct meeting, hold a further meeting; and
 - (b) in a case where the report was submitted following a misconduct hearing, hold a further hearing,for the purpose of considering what disciplinary action (if any) should be imposed.
- (2) The provisions of these Regulations specified in paragraph (3) must apply, with the modifications specified in paragraph (4), to a meeting held under paragraph (1)(a) as if it was a misconduct meeting, and to a hearing under paragraph (1)(b) as if it was a misconduct hearing.
- (3) The provisions are —
 - (a) regulation 8;
 - (b) regulation 9;
 - (c) regulation 10;
 - (d) regulation 11;

- (e) regulation 23(4) and (5);
 - (f) regulation 24;
 - (g) regulation 25;
 - (h) regulation 29;
 - (i) regulation 30;
 - (j) regulation 31;
 - (k) regulation 32;
 - (l) regulation 33;
 - (m) regulation 34(1) to (12); and
 - (n) regulation 38.
- (4) The modifications are that—
- (a) each reference to the person conducting or chairing the misconduct proceedings has effect as a reference to the appropriate authority;
 - (b) in regulation 23(4), the reference to the date on which the officer concerned has complied with paragraph (2) has effect as a reference to the date on which the report is submitted under regulation 34(16); and
 - (c) in regulation 25—
 - (i) the reference in paragraph (1) to the first working day after the documents have been supplied to the officer concerned has effect as a reference to the first working day after the report is submitted under regulation 34(16);
 - (ii) the references in paragraph (3) to the appropriate authority are omitted.

36 Outcome of misconduct proceedings

- (1) Subject to the provisions of this regulation, the person or persons conducting misconduct proceedings in the case of an officer other than a senior officer or the Chief Constable may—
- (a) impose any of the disciplinary action in paragraph (3)(a) or (b) or (7)(b) as appropriate; or
 - (b) where he or she or they find the conduct amounts to misconduct but not gross misconduct following a misconduct meeting or hearing, record a finding of misconduct but take no further action.
- (2) Subject to the provisions of this regulation, at a meeting or hearing held under regulation 35 the appropriate authority may—

- (a) impose any of the disciplinary action in paragraph (3)(a) or (b) or (7)(b) as appropriate; or
 - (b) where the finding set out in the report is that the conduct amounted to misconduct but not gross misconduct, record a finding of misconduct but take no further action.
- (3) The disciplinary action is—
- (a) at a misconduct meeting or a further meeting held under regulation 35(1)(a)—
 - (i) management advice;
 - (ii) written warning; or
 - (iii) final written warning;
 - (b) at a misconduct hearing or a further hearing held under regulation 35(1)(b)—
 - (i) management advice;
 - (ii) written warning;
 - (iii) final written warning;
 - (iv) dismissal with notice; or
 - (v) dismissal without notice.
- (4) The disciplinary action referred to in paragraph (3) must have effect from the date on which it is notified to the officer concerned and in the case of dismissal with notice, the person or persons imposing the disciplinary action must decide the period of notice to be given, subject to a minimum period of 28 days.
- (5) Where there is a finding that the conduct of the officer concerned amounts to misconduct but not gross misconduct, the officer may not be dismissed (whether with or without notice) unless a final written warning was in force on the date of the assessment of the conduct under regulation 13(1).
- (6) Where, on the date of the assessment of the conduct under regulation 13(1) the officer concerned had a written warning in force, a written warning must not be given.
- (7) Where, on the date of the assessment of the conduct under regulation 13(1) the officer concerned had a final written warning in force—
- (a) neither a written warning nor a final written warning must be given; but
 - (b) subject to paragraph (9), in exceptional circumstances, the final written warning may be extended.

- (8) Where a final written warning is extended under paragraph (7)(b), that warning must remain in force for a period of 18 months from the date on which it would otherwise expire.
- (9) A final written warning may be extended on one occasion only.
- (10) Where there is a finding of gross misconduct and the person or persons considering the question of disciplinary action decide that the officer concerned must be dismissed, the dismissal must be without notice.
- (11) Where the question of disciplinary action is being considered, the person or persons considering it—
 - (a) must have regard to the record of police service of the officer concerned as shown on his or her personal record;
 - (b) may receive evidence from any witness whose evidence would, in his or her or their opinion, assist him or her or them in determining the question; and
 - (c) must give—
 - (i) the officer concerned, his or her police friend or, at a misconduct hearing, his or her relevant lawyer; and
 - (ii) in the case of an officer other than a senior officer, the appropriate authority or person appointed to represent the appropriate authority in accordance with regulation 9(4);an opportunity to make oral or written representations before any such question is determined.

37 Notification of outcome

- (1) The officer concerned must be informed of—
 - (a) the finding of the person or persons conducting the misconduct proceedings; and
 - (b) in a case other than one to which regulation 34 (senior officers: further meeting or hearing) applies, any disciplinary action imposed,as soon as practicable and in any event must be provided with written notice of the relevant matter or matters and the reasons before the end of 5 working days beginning with the first working day after the conclusion of the misconduct proceedings.
- (2) In a case to which regulation 35 applies, the officer concerned must be informed of any disciplinary action imposed as soon as practicable, and in any event must be provided with written notice of the action (if any) and the appropriate authority's reasons before the end of 5 working days beginning with the first working day after the conclusion of the meeting or hearing held under regulation 35.

- (3) Where there was a finding of misconduct or gross misconduct a written notice under this regulation must include—
 - (a) where the officer concerned is an officer other than a senior officer—
 - (i) if the case was decided at a misconduct meeting, notice of his or her right of appeal under regulation 39; or
 - (ii) if the case was decided at a misconduct hearing, notice of his or her right of appeal under regulation 39;
 - (b) where the officer concerned is a senior officer, notice of his or her right of appeal to a police appeals tribunal.
- (4) In all cases referred to in paragraph (3) a written notice under this regulation must include the name of the person to whom an appeal should be sent.
- (5) The appropriate authority must send a copy of any written notice under this regulation to—
 - (a) the Commissioner, in any case in which the Commissioner was entitled to attend to make representations under regulation 30(1); and
 - (b) to the complainant and any interested person, in any case to which regulation 31 applies.
- (6) At any time after the actions taken under paragraphs (1) to (5) above the appropriate authority may, subject to the harm test, publish some or all of the information provided in paragraph (1).

38 Record of misconduct proceedings

- (1) A record of the misconduct proceedings must be taken and in the case of a misconduct hearing that record must be verbatim.
- (2) The officer concerned must, on request, be supplied with a copy of the record of the proceedings at the misconduct proceedings.

39 Appeal from misconduct proceedings: officers other than senior officers or the Chief Constable

- (1) Where the officer concerned is an officer, other than a senior officer, whose case was decided at a misconduct meeting or a misconduct hearing, he or she may, subject to the provisions of this regulation, appeal—
 - (a) if he or she admitted his or her conduct amounted to misconduct, against any disciplinary action imposed under regulation 36; or
 - (b) if (after he or she denied misconduct) the person conducting the misconduct meeting found that his or her conduct amounted to

misconduct, against that finding or any disciplinary action imposed under regulation 36.

- (2) The only grounds of appeal under this regulation are that—
 - (a) the finding or disciplinary action imposed was unreasonable;
 - (b) there is evidence that could not reasonably have been considered at the misconduct proceeding which could have materially affected the finding or decision on disciplinary action; or
 - (c) there was a serious breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.
- (3) An appeal under this regulation must be commenced by the officer concerned giving written notice of appeal to the appropriate authority—
 - (a) before the end of 7 working days beginning with the first working day after the written notice and summary of reasons is given under regulation 37 (unless this period is extended by the appropriate authority for exceptional circumstances); and
 - (b) stating the grounds of appeal and whether a meeting is requested.
- (4) An appeal under this regulation must be determined by either—
 - (a) the Chief Constable; or
 - (b) if the Chief Constable has a conflict of interest regarding a case subject to the appeal, an officer from a police force outside of the Island who is appointed by the Department and who holds a rank higher than that of the officer concerned.

40 Appeal proceedings

- (1) This regulation applies where the officer concerned requests a meeting in his or her written notice of appeal under regulation 39(3).
- (2) The person determining the appeal must determine whether the notice of appeal sets out arguable grounds of appeal and—
 - (a) if he or she determines that it does he or she must hold an appeal proceedings with the officer concerned, subject to paragraphs (3) and (5), before the end of 5 working days beginning with the first working day after that determination; and
 - (b) if he or she determines that it does not, he or she must dismiss the appeal.
- (3) The person determining the appeal may extend the time period specified in paragraph (2)(a) where he or she considers that it would be in the interests of justice to do so.
- (4) The person determining the appeal must specify a date and time for the appeal proceedings.

- (5) Where—
- (a) the officer concerned or his or her police friend is not be available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (6), the appeal proceedings must be postponed to the time proposed by the officer concerned.
- (6) An alternative time must—
- (a) be reasonable; and
 - (b) fall before the end of 5 working days beginning with the first working day after the day specified by the person determining the appeal.
- (7) Written notice of the date, time and place of the appeal proceedings must be given to—
- (a) the officer concerned;
 - (b) where the Commissioner was entitled to attend the misconduct meeting to make representations under regulation 30(1), or to nominate a person to attend the meeting as an observer under regulation 32(2), the Commissioner;
 - (c) where the misconduct meeting arose from a complaint, the complainant; and
 - (d) where the misconduct meeting arose from a conduct matter, any interested person.
- (8) Prior to the appeal proceedings the appropriate authority must supply the person determining the appeal with a copy of—
- (a) the documents given to the person who held the misconduct meeting as specified in regulation 28(1);
 - (b) the notice of appeal given by the officer concerned under regulation 39(3);
 - (c) the record of the misconduct meeting taken under regulation 38(1); and
 - (d) any evidence of a kind referred to in regulation 39(2)(b) that the officer concerned wishes to submit in support of his or her appeal.

41 Procedure and finding of the appeal proceedings

- (1) Subject to the provisions of this regulation, the person determining the appeal must determine the procedure at the appeal proceedings.
- (2) Subject to the provisions of this regulation, any interested person or complainant entitled to be given notice of the appeal proceedings under regulation 40(7) may attend the appeal proceedings as an observer.

- (3) Where the officer concerned objects to the complainant or interested person being present while a submission is made in mitigation on the officer's behalf, the person determining the appeal may require the complainant or interested person to withdraw while the submission is made.
- (4) The person determining the appeal may impose such conditions as he or she sees fit relating to the attendance of persons under paragraph (2) at the appeal proceedings (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the appeal proceedings.
- (5) The person determining the appeal may –
 - (a) confirm or reverse the decision appealed against;
 - (b) deal with the officer concerned in any manner in which the person conducting the misconduct proceedings could have dealt with the officer under regulation 36.
- (6) Before the end of 3 working days beginning with the first working day after the determination of the appeal, the officer concerned must be given written notice of that determination with a summary of the reasons.
- (7) The decision of the person determining the appeal must take effect by way of substitution for the decision of the person conducting the misconduct meeting and as from the date of the written notice of the outcome of that meeting.
- (8) The appropriate authority must give the Commissioner written notice of the determination of the appeal with a summary of the reasons.
- (9) Where the finding of the appeal is to confirm or impose a decision for dismissal with or without notice, the person determining the appeal must notify the officer of his or her or her right to submit an appeal to the police appeals tribunal.

PART 5

FAST TRACK PROCEDURE FOR SPECIAL CASES

42 Referral of case to special case hearing

- (1) On receipt of a statement submitted by the investigator under regulation 19(3), the appropriate authority must determine whether the special conditions are satisfied.
- (2) In a case where special case proceedings have been delayed by virtue of regulation 11(3), as soon as practicable after the appropriate authority considers that such proceedings would no longer prejudice any criminal

proceedings, it must make a further determination as to whether the special conditions are satisfied.

- (3) In a case where disciplinary proceedings have been delayed by virtue of regulation 11(3), the appropriate authority may, as soon as practicable after it considers that such proceedings would no longer prejudice any criminal proceedings, determine whether the special conditions are satisfied.
- (4) Where the appropriate authority determines that the special conditions are satisfied, unless it considers that the circumstances are such as to make it inappropriate to do so, it must certify the case as a special case and, subject to regulation 11(3) and paragraph (2), refer it to a special case hearing.
- (5) Where the appropriate authority determines—
 - (a) that the special conditions are not satisfied; or
 - (b) that, although those conditions are satisfied, the circumstances are such as to make such certification inappropriate,it must, if the investigation was incomplete, return the case to the investigator to complete the investigation or, in any other case, proceed in accordance with Part 4.
- (6) Where the appropriate authority is to proceed in accordance with Part 4, regulation 20(1) must be read as if the following are omitted—
 - (a) the words “regulation 42 and”; and
 - (b) sub-paragraphs (a) and (b).

43 Remission of case

- (1) Subject to paragraph (3), at any time after the case has been referred to a special case hearing but before the beginning of that hearing the appropriate authority may direct that the case be dealt with under Part 4 if it considers that the special conditions are no longer satisfied.
- (2) Where a direction is made under paragraph (1) the officer concerned will be notified before the end of 3 working days beginning with the first working day after that direction is made and the appropriate authority must proceed in accordance with Part 4.
- (3) Where the appropriate authority is to proceed in accordance with Part 4, regulation 20(1) must be read as if the following are omitted—
 - (a) the words “regulation 42 and”; and
 - (b) sub-paragraphs (a) and (b).

44 Notice of referral to special case hearing

- (1) Where a case is certified as a special case and referred to a special case hearing, the appropriate authority must as soon as practicable give the officer concerned written notice of these matters and must supply him or her with a copy of—
 - (a) the certificate issued under regulation 42(4);
 - (b) any statement he or she may have made to the investigator during the course of the investigation; and
 - (c) subject to the harm test—
 - (i) the investigator's report or such parts of that report as relate to him or her (together with any document attached to or referred to in that report as relates to him or her); and
 - (ii) any other relevant document gathered during the course of the investigation.
- (2) The notice given under paragraph (1) must describe the conduct that is the subject matter of the case and how that conduct is alleged to amount to gross misconduct.
- (3) For the purposes of this regulation “**relevant document**” means a document which, in the opinion of the appropriate authority, is relevant to the case of the officer concerned.

45 Notice of special case hearing

- (1) The appropriate authority must specify a date for the special case hearing which must be not less than 10 and not more than 15 working days after the date on which notice is given under regulation 44(1) and must immediately notify the officer concerned of—
 - (a) the date, time and place of that hearing; and
 - (b) the effect of regulation 9(1) to (3) in relation to a special case hearing.
- (2) Where the Commissioner is entitled to attend the special case hearing to make representations under regulation 51(1), or to nominate a person to attend the hearing as an observer under regulation 53(2), the appropriate authority must notify the Commissioner of the date, time and place of the hearing.

46 Procedure on receipt of notice

- (1) Before the end of 7 working days beginning with the first working day after the written notice given to the officer concerned under regulation 44(1), the officer concerned must provide to the appropriate authority—

- (a) written notice of whether or not the officer accepts that the officer's conduct amounts to gross misconduct;
 - (b) where the officer accepts that the officer's conduct amounts to gross misconduct, any written submission he or she wishes to make in mitigation;
 - (c) where the officer does not accept that the officer's conduct amounts to gross misconduct, written notice of—
 - (i) the allegations the officer disputes and the officer's account of the relevant events; and
 - (ii) any arguments on points of law the officer wishes to be considered by the person or persons conducting the special case hearing.
- (2) Within the same time period, the officer concerned must provide the appropriate authority with a copy of any document the officer intends to rely on at the hearing.

47 Person conducting special case hearing: officers other than senior officers or the Chief Constable

- (1) This regulation applies where the officer concerned is an officer other than a senior officer or the Chief Constable.
- (2) The special case hearing must be conducted by a senior officer or the Deputy Chief Constable.

48 Persons conducting special case hearing: senior officers and the Chief Constable.

Where the officer concerned is a senior officer or the Chief Constable, the special case hearing must be conducted by a panel of persons appointed by the Department in the same manner as under regulation 27.

49 Documents to be supplied

- (1) Prior to the hearing the appropriate authority must supply the person or persons conducting the special case hearing with a copy of—
 - (a) the notice given to the officer concerned under regulation 44(1);
 - (b) the other documents given to the officer concerned under regulation 44(1);
 - (c) the documents provided by the officer concerned under—
 - (i) regulation 46; and
 - (ii) where paragraph (2) applies, regulation 23(2) and (3);

- (d) where the officer concerned does not accept that the officer's conduct amounts to gross misconduct, any other documents that, in the opinion of the appropriate authority, should be considered at the hearing.
- (2) This paragraph applies where the case was certified as a special case following a determination made under regulation 42(3).
- (3) Prior to the hearing the officer concerned must be supplied with a list of the documents supplied under paragraph (1) and a copy of any of such document of which the officer has not already been supplied with a copy.

50 Attendance of officer concerned at special case hearing

- (1) Subject to paragraph (2), the officer concerned must attend the special case hearing.
- (2) Where the officer concerned informs the person conducting or chairing the special case hearing in advance that the officer is unable to attend on grounds which the person conducting or chairing the hearing considers reasonable, that person may allow the officer concerned to participate in the hearing by video link or other means.
- (3) Where the officer concerned is allowed to and does so participate in the special case hearing, or where the officer concerned does not attend the special case hearing—
 - (a) the officer may nonetheless be represented at that hearing by the officer's—
 - (i) police friend; or
 - (ii) relevant lawyer (in which case the police friend may also attend); and
 - (b) the hearing may be proceeded with and concluded in the absence of the officer concerned whether or not the officer is so represented.
- (4) Where the officer concerned is represented in accordance with paragraph (3), the person representing the officer concerned or the officer's police friend (if different), or both, may participate using the video link or other means where such means are also used by the officer concerned.

51 Participation of Commissioner and investigator at special case hearing

- (1) In a case arising from a complaint the Commissioner may make written representations to the person conducting or chairing the special case hearing.

- (2) The investigator or a nominated person must attend the special case hearing on the request of the person conducting or chairing the hearing to answer questions.
- (3) For the purposes of this regulation, a “**nominated person**” is a person who, in the opinion of the appropriate authority has sufficient knowledge of the investigation of the case to be able to assist the person or persons conducting the special case hearing.

52 Attendance of complainant and interested persons at special case hearing

- (1) This regulation must apply in the case of a special case hearing arising from a—
 - (a) conduct matter; or
 - (b) complaint.
- (2) The appropriate authority must notify the complainant or any interested person of the date, time and place of the special case hearing.
- (3) Subject to the provisions of this regulation and any conditions imposed under regulation 53(3), the complainant or any interested person may—
 - (a) attend the special case hearing as an observer; and
 - (b) be accompanied by one other person, and if the complainant or interested person has a special need, by one further person to accommodate that need.
- (4) Where the officer concerned objects to the complainant or interested person, or any person accompanying him or her, being present while a submission is made in mitigation on the officer’s behalf, the person conducting or chairing the special case hearing may require the complainant or interested person, or any person accompanying him or her, to withdraw while the submission is made.
- (5) For the purposes of this regulation, a person has a special need if, in the opinion of the person conducting or chairing the special case hearing, he or she has a disability or learning difficulty, or does not have sufficient knowledge of English, to participate in or understand the special case hearing.

53 Attendance of others at special case hearing

- (1) Subject to regulations 51 and 52 and this regulation, the special case hearing must be in private.
- (2) A person nominated by the Commissioner may attend a special case hearing which arises from a case to which the Commissioner made a recommendation or direction which the appropriate authority accepted.

- (3) The person conducting or chairing the special case hearing may impose such conditions as he or she sees fit relating to the attendance of persons under regulation 52 or this regulation at the special case hearing (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the hearing.

54 Procedure at special case hearing

- (1) Subject to these Regulations, the person conducting or chairing the special case hearing will determine the procedure.
- (2) The special case hearing must not proceed unless the officer concerned has been notified of the effect of regulation 9(1) to (3) in relation to a special case hearing.
- (3) Subject to paragraph (4), the person conducting or chairing the special case hearing may from time to time adjourn the hearing if it appears to him or her to be necessary or expedient to do so.
- (4) The special case hearing must not, except in exceptional circumstances, be adjourned solely to allow the complainant or any interested person to attend.
- (5) No witnesses, other than the officer concerned, must give evidence at the special case hearing.
- (6) The person representing the officer concerned may —
 - (a) address the hearing in order to do any or all of the following —
 - (i) put the case of the officer concerned;
 - (ii) sum up that case;
 - (iii) respond on behalf of the officer concerned to any view expressed at the proceedings; and
 - (iv) make representations concerning any aspect of proceedings under these Regulations; and
 - (v) if the officer concerned is present at the proceedings or is participating in them by video link or other means in accordance with regulation 50(2), confer with the officer concerned.
 - (b) if the officer concerned is present at the proceedings or is participating in them by video link or other means in accordance with regulation 50(2), confer with the officer concerned.
- (7) Where the person representing the officer concerned is a relevant lawyer, the police friend of the officer concerned may also confer with the officer concerned in the circumstances mentioned at paragraph (6)(b).

- (8) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer concerned during the special case hearing.
- (9) The person conducting or chairing the special case hearing may allow any document to be considered at the hearing notwithstanding that a copy of it has not been supplied—
- (a) by the officer concerned to the appropriate authority in accordance with regulation 46(2); or
 - (b) to the officer concerned in accordance with regulation 44(1).
- (10) Where evidence is given or considered at the special case hearing that the officer concerned—
- (a) on being questioned by an investigator, at any time after he or she was given written notice under regulation 16(1) of these Regulations; or
 - (b) in submitting any information or by not submitting any information at all under regulation 46 (or, where paragraph (12) applies, or regulation 17(1) or 23(2) or (3)),
- failed to mention any fact relied on in the officer's case at the special case hearing, being a fact which in the circumstances existing at the time, the officer concerned could reasonably have been expected to mention when so questioned or when providing such information, paragraph (11) applies.
- (11) Where this paragraph applies, the person or persons conducting the special case hearing may draw such inferences from the failure as appear proper.
- (12) This paragraph applies where the case was certified as a special case following a determination made under regulation 42(3).
- (13) The person or persons conducting the special case hearing must review the facts of the case and decide whether or not the conduct of the officer concerned amounts to gross misconduct.
- (14) The person or persons conducting the special case hearing must not find that the conduct of the officer concerned amounts to gross misconduct unless—
- (a) he or she is or they are satisfied on the balance of probabilities that this is the case; or
 - (b) the officer concerned admits it is the case.
- (15) At a special case hearing conducted by a panel, any decision must be based on a majority (with the chair having the casting vote if necessary), but must not indicate whether it was taken unanimously or by a majority.

- (16) Where the officer concerned is a senior officer, the persons conducting the special case hearing must, as soon as practicable after the hearing, submit a report to the appropriate authority, together with a copy to the senior officer concerned, setting out—
- (a) the finding of the persons conducting the hearing under paragraph (13);
 - (b) the reasons for that finding;
 - (c) if the finding was that the conduct of the officer concerned amounted to gross misconduct, a recommendation as to any disciplinary action which in their opinion should be imposed; and
 - (d) any other matter arising out of the hearing which they desire to bring to the notice of the appropriate authority.
- (17) In any case in which the Commissioner was entitled to attend to make representations under regulation 51(1), the persons conducting the special case hearing must send a copy of any report to the Commissioner.

55 Senior officers: further hearing

- (1) On receiving a report under regulation 54(16) the appropriate authority must hold a further hearing for the purpose of considering what disciplinary action (if any) should be imposed.
- (2) The provisions of these Regulations specified in paragraph (3) must apply, with the modifications specified in paragraph (4), to a hearing held under paragraph (1) as if it was a special case hearing.
- (3) The provisions are—
- (a) regulation 8;
 - (b) regulation 9;
 - (c) regulation 10;
 - (d) regulation 11;
 - (e) regulation 45;
 - (f) regulation 50;
 - (g) regulation 51;
 - (h) regulation 52;
 - (i) regulation 53;
 - (j) regulation 54(1) to (12); and
 - (k) regulation 58.
- (4) The modifications are that—

- (a) each reference to the person conducting or chairing the special case hearing has effect as a reference to the appropriate authority; and
- (b) in regulation 45 the reference to the date on which notice is given under regulation 44(1) has effect as a reference to the date on which the report is submitted under regulation 54(16).

56 Outcome of special case hearing

- (1) Where the person or persons conducting the special case hearing in the case of an officer other than a senior officer find that the conduct of the officer concerned amounts to gross misconduct, he or she or they must impose disciplinary action, which may be—
 - (a) subject to paragraphs (3) and (4), a final written warning;
 - (b) extension of a final written warning in accordance with paragraph (3); or
 - (c) dismissal without notice.
- (2) On receiving a report under regulation 54(16) containing a finding that the conduct of the officer concerned amounts to gross misconduct, the appropriate authority must impose disciplinary action, which may be—
 - (a) subject to paragraphs (3) and (4), a final written warning; .
 - (b) extension of a final written warning in accordance with paragraph (3); or
 - (c) dismissal without notice.
- (3) Where, on the date of the assessment of the conduct under regulation 13(1) of these Regulations, the officer concerned had a final written warning in force—
 - (a) a final written warning must not be given; but
 - (b) subject to paragraph (5), in exceptional circumstances, the final written warning may be extended.
- (4) Where a final written warning is extended under paragraph (3), that warning must remain in force for a period of 18 months from the date on which it would otherwise expire.
- (5) A final written warning may be extended on one occasion only.
- (6) Where the person or persons conducting the special case hearing in the case of an officer other than a senior officer find that the conduct of the officer concerned does not amount to gross misconduct, he or she or they may—
 - (a) dismiss the case; or

- (b) return the case to the appropriate authority to deal with in accordance with Part 4 at a misconduct meeting or, if the officer concerned had a final written warning in force at the date of the assessment of conduct under regulation 13(1) at a misconduct hearing.
- (7) On receiving a report under regulation 54(16) containing a finding that the conduct of the officer concerned does not amount to gross misconduct, the appropriate authority may—
 - (a) dismiss the case; or
 - (b) deal with the case in accordance with Part 4 at a misconduct meeting or, if the officer concerned had a final written warning in force at the date of the assessment of conduct under regulation 13(1) at a misconduct hearing.
- (8) Where the case is returned to the appropriate authority under paragraph (6)(b) or dealt with by the appropriate authority under paragraph (7)(b), the appropriate authority must proceed in accordance with Part 4, subject to regulation 20(1) being read as if the following are omitted—
 - (a) the words “regulation 42 and”; and
 - (b) sub-paragraphs (a) and (b).
- (9) Except in the case of extending a final written warning, the disciplinary action must have effect from the date on which it is notified to the officer concerned.
- (10) Where the question of disciplinary action is being considered, the person or persons considering it—
 - (a) must have regard to the record of police service of the officer concerned as shown on his or her personal record;
 - (b) may consider such documentary evidence as would, in his or her or their opinion, assist him or her or them in determining the question; and
 - (c) must give—
 - (i) the officer concerned; and
 - (ii) his or her police friend or his or her relevant lawyer, an opportunity to make oral or written representations.

57 Notification of outcome

- (1) The officer concerned must be informed of—
 - (a) the finding of the person or persons conducting the special case hearing; and

- (b) in a case other than one to which regulation 55 (senior officers: further hearing) applies, any disciplinary action imposed under regulation 56(1) or any action taken under regulation 56(6) as the case may be,

as soon as practicable and in any event must be provided with written notice of the relevant matters and the reasons before the end of 5 working days beginning with the first working day after the conclusion of the special case hearing.

- (2) In a case to which regulation 55 applies, the officer concerned must be informed of any disciplinary action imposed under regulation 56(2) or any action taken under regulation 56(7), as the case may be, as soon as practicable, and in any event must be provided with written notice of the action (if any) and the appropriate authority's reasons before the end of 5 working days beginning with the first working day after the conclusion of the hearing held under regulation 55.
- (3) A written notice under this regulation must include notice of the right of the –
 - (a) officer concerned, who is not a senior officer, to appeal proceedings under the process as set out in regulation 39; or
 - (b) senior officer concerned or the Chief Constable concerned to an appeal hearing before a police appeals tribunal.
- (4) The appropriate authority must send a copy of any written notice under this regulation to –
 - (a) the Commissioner, in any case in which the Commissioner was entitled to attend the special case hearing to make representations under regulation 51(1); and
 - (b) to the complainant and any interested person, in any case to which regulation 52 applies.
- (5) At any time after the actions taken under paragraphs (1) to (4) above the appropriate authority may, subject to the harm test, publish any information relating to the matters detailed in paragraph (1).

58 Record of special case hearing

- (1) A verbatim record of the proceedings at the special case hearing must be taken.
- (2) The officer concerned will, on request, be supplied with a copy of the record of the proceedings at the special case hearing.

PART 6

RECORD KEEPING

59 Record of disciplinary proceedings

- (1) Subject to paragraph (2), the Chief Constable must cause a record to be kept of disciplinary proceedings and special case proceedings brought against every officer concerned, together with the finding and decision on disciplinary action and the decision in any appeal by the officer concerned.
- (2) Where the officer concerned is a senior officer or the Chief Constable the Department must cause such a record to be kept.

MADE**JUAN WATTERSON**
Minister for Home Affairs

SCHEDULE

[regulation 4]

STANDARDS OF PROFESSIONAL BEHAVIOUR

1 Honesty and Integrity

Police officers are honest, act with integrity and do not compromise or abuse their position.

2 Authority, Respect and Courtesy

(1) Police officers act with self-control and tolerance, treating members of the public and colleagues with respect and courtesy.

(2) Police officers do not abuse their powers or authority and respect the rights of all individuals.

3 Equality and Diversity

Police officers act with fairness and impartiality. They do not discriminate unlawfully or unfairly.

4 Use of Force

Police officers only use force to the extent that it is necessary, proportionate and reasonable in all the circumstances.

5 Orders and Instructions

(1) Police officers only give and carry out lawful orders and instructions.

(2) Police officers abide by police regulations, police codes of practice, force policies and lawful orders.

6 Duties and Responsibilities

Police officers are diligent in the exercise of their duties and responsibilities.

7 Confidentiality

Police officers treat information with respect and access or disclose it only in the proper course of police duties.

8 Fitness for Duty

Police officers when on duty or presenting themselves for duty are fit to carry out their responsibilities.

9 Discreditable Conduct

- (1) Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.
- (2) Police officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice.

10 Challenging and Reporting Improper Conduct

Police officers report, challenge or take action against the conduct of colleagues which has fallen below the Standards of Professional Behaviour.

Consultation draft

*EXPLANATORY NOTE**(This note is not part of the Regulations)*

These Regulations set out the procedures to be followed for investigating, disciplining and dismissing police officers in relation to conduct matters.

Consultation draft