



POLICE (PERFORMANCE) REGULATIONS 2015

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Statutory Document No. 2015/0092

*Police Act 1993*

POLICE (PERFORMANCE) REGULATIONS 2015

Laid before Tynwald: 21 April 2015

Coming into Operation: 1 April 2015

The Department of Home Affairs makes the following Regulations under sections 8, 8A, 8D and 8F of, and paragraph 13 of Schedule 1 to, of the Police Act 1993.

1 Title

These Regulations are the Police (Performance) Regulations 2015.

2 Commencement

These Regulations come into operation on 1 April 2015.

3 Application

- (1) These Regulations do not apply in relation to the performance of—
 - (a) a member of the police force of the rank of Deputy Chief Constable or Chief Constable; or
 - (b) an officer of the rank of constable who has not completed his or her period of probation.
- (2) These Regulations apply to officers of the rank of superintendent subject to the modifications set out in the Schedule to these Regulations.

4 Interpretation and delegation

- (1) In these Regulations—
 - “**the Act**” means the *Police Act 1993*;
 - “**adjudicator**” means the person appointed under regulation 34;
 - “**appeals regulations**” means the Police (Appeals Tribunal) Regulations 2015¹;
 - “**appropriate authority**” means the Chief Constable;

¹ SD 2015/0094

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

“**complainant**” means the person referred to in paragraph 1 of Schedule 1 to the Act;

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

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

“**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;

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

“**first stage appeal meeting**” has the meaning assigned to it by regulation 20(8);

“**first stage meeting**” has the meaning assigned to it by regulation 16;

“**gross incompetence**” and cognate expressions mean a serious inability or serious failure of a police officer to perform the duties of his or her rank or the role he or she is currently undertaking to a satisfactory standard or level, to the extent that dismissal would be justified, except that no account must be taken of the attendance of a police officer when considering whether he or she has been grossly incompetent;

“**harm test**” has the meaning assigned to it by paragraph (3);

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

“**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;

“**interested person**” has the meaning assigned to it by regulation 5;

“**investigator**” means a person appointed under regulation 6;

“**line manager**” means the police officer who, in either case, has immediate supervisory responsibility for the officer concerned;

“**nominated person**” means a person appointed by the senior manager in accordance with regulation 11;

“**officer concerned**” means the police officer in respect of whom proceedings under these Regulations are, or are proposed to be, taken;

“**police force**” means the Isle of Man Constabulary or, where the context requires otherwise, a police force other than the Isle of Man Constabulary specified in section 67(1D) of the *Police Powers and Procedures Act 1998*;

“**police friend**” means a person chosen by the officer concerned in accordance with regulation 7;

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

“**Police Regulations**” means the Police Regulations 2015²;

“**proposed witness**” means a witness whose attendance at a third stage meeting the officer concerned or the appropriate authority (as the case may be) wishes to request of the adjudicator;

“**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*; or
- (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 in England and Wales;

“**relevant terms of the final written improvement notice**” has the meaning assigned to it by regulation 27(2)(b);

“**relevant terms of the written improvement notice**” has the meaning assigned to it by regulation 20;

“**second line manager**” means the person appointed by the appropriate authority to act as the second line manager for the purposes of these Regulations in relation to the officer concerned and who is a member of the police force concerned having supervisory responsibility for the line

² SD 2015/0091

manager and who (in a case where the line manager is a member of the force) is senior in rank to the line manager;

“**second stage appeal meeting**” has the meaning assigned to it by regulation 27(8);

“**second stage meeting**” has the meaning assigned to it by regulation 23(2);

“**senior manager**” means—

- (a) the police officer who is for the time being the supervisor of the person who is, in relation to the officer concerned, the second line manager; or
- (b) in the absence of such supervisor, a police officer, from a police force on the Island or outside the Island, who is appointed by the appropriate authority to carry out any of the functions of such supervisor under these Regulations, being of at least the same rank (or equivalent) as the person who is, in relation to the officer concerned, the second line manager;

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

“**specified period**” means a reasonable period for improvement specified by the line manager, or second line manager, that is not greater than 12 months in duration;

“**staff association**” means—

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

“**third stage meeting**” has the meaning assigned to it by regulations 30 and 32(3);

“**unsatisfactory performance procedures**” means the procedures set out in these Regulations;

“**validity period**” has the meaning assigned to it by regulations 19(4), 26(4), 45(7)(d) and (8)(c); and

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

(2) In these Regulations—

- (a) references to—
 - (i) unsatisfactory performance or attendance;

- (ii) the performance or attendance of an officer being unsatisfactory;
- mean an inability or failure of a police officer to perform the duties of the role or rank he or she is currently undertaking to a satisfactory standard or level;
- (b) “**unsatisfactory performance or attendance**” may be construed as a reference to unsatisfactory performance and attendance;
- (c) “**performance or attendance**” may be construed as a reference to performance and attendance; and
- (d) any expression which is also used in the Police Regulations, the Police (Conduct) Regulations 2015³ or the appeals regulations has, unless that expression is given a different meaning in paragraph (1), the same meaning as in those regulations.
- (3) Information in documents which are stated to be subject to the harm test under these Regulations must not be supplied to the officer concerned in so far as the appropriate authority considers that preventing disclosure to the officer concerned is—
- (a) necessary for the purpose of preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, criminal proceedings;
- (b) necessary in the interests of national security;
- (c) necessary for the purposes 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 police officers 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 unsatisfactory performance or attendance in question;
- (f) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
- (g) otherwise in the public interest.
- (4) The appropriate authority may, subject to paragraph (5), delegate any of its functions under these Regulations to a member of the police force, or any police force outside of the Island, of a similar level of seniority to the rank of inspector or above.
- (5) Where the appropriate authority delegates its functions under regulation 32, the decisions must be authorised by a senior officer.

³ SD 2015/0093

- (6) Any proceedings under these Regulations are disciplinary proceedings to consider disciplinary charges.

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 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; or
 - (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 will 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 to 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 commissioner, the complainant or the officer under investigation, or
 - (ii) dealt with in the public interest.
- (7) For the purposes of this regulation “**relative**”, in relation to an interested person, means—
- (a) a spouse or civil partner who is not separated from the interested person;
 - (b) a person living with the interested person as if they were the interested person's spouse or civil partner; or
 - (c) a parent, son, daughter, brother or sister of the interested person; who is included in the interested person's family.

6 Appointment of investigator

- (1) This regulation applies where any complaint or conduct matter is to be investigated for the purposes of these Regulations.
- (2) The appropriate authority must, subject to paragraph (3), appoint a person to investigate the matter in accordance with —
- (a) Schedule 1 to the Police Act 1993 when a complaint is to be investigated;
 - (b) Part 3 of the Police (Conduct) Regulations 2015 when a conduct matter is to be investigated;

as appropriate.

- (3) A person must not be appointed to investigate any complaint or conduct 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 a superintendent, if he or she is—
 - (i) the Chief Constable; or
 - (ii) a member of the same police force as the officer concerned.

PART 2 - GENERAL

7 Police friend

- (1) The officer concerned may choose—
- (a) a police officer;
 - (b) *not used*; or
 - (c) a person nominated by his or her staff association who is not a relevant lawyer;
- who is not otherwise involved in the matter, to act as his or her 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 under regulation 8 and chooses to be so represented, represent the officer concerned at a meeting under these Regulations;
 - (c) make representations to the appropriate authority concerning any aspect of the proceedings under these Regulations; and
 - (d) accompany the officer concerned to any meeting which the officer concerned is required to attend under these Regulations.
- (3) Where a police friend is a police officer, the Chief Constable must permit the officer to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

8 Legal representation

- (1) Where a police officer is required to attend a third stage meeting under regulation 30 or 32 the officer has the right to be legally represented at such meeting by a relevant lawyer of the officer's choice.
- (2) If such an officer chooses not to be legally represented —
 - (a) such meeting may take place and the officer may be dismissed or receive any other outcome under regulation 45(2) or (6) without the officer being legally represented; and
 - (b) the panel conducting such meeting may nevertheless be advised by a relevant lawyer at the meeting in accordance with regulation 41(3).
- (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 a meeting under these Regulations only by a police friend.
- (4) A third stage meeting under regulation 30 or 32 must not take place unless the officer concerned has been notified in writing of the effect of this regulation.

9 Provision of notices or documents

- (1) 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 concerned in person; or
 - (b) left with some person at, or sent by recorded delivery to, the last known address of the officer concerned.

10 Procedure at meetings under these Regulations

- (1) Where the officer concerned does not attend a meeting under these Regulations or where the officer concerned participates in a third stage meeting by video link or other means under regulation 38(9), the officer may nonetheless be represented at that meeting by the officer's —
 - (a) police friend; or
 - (b) where the officer is required to attend the third stage meeting under regulation 30 or 32, the officer's relevant lawyer.
- (2) Where the officer concerned does not attend a meeting under these Regulations or participate in a third stage meeting by video link or other means under regulation 38(9), the meeting may be proceeded with and concluded in the absence of the officer concerned whether or not the officer is so represented.
- (3) During any meeting under these Regulations, the person representing the officer concerned may —

- (a) address the meeting 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 meeting;
 - (iv) make representations concerning any aspect of proceedings under these Regulations;
 - (v) in the case of a third stage meeting only, subject to paragraph (7), ask questions of any witnesses;
 - (b) confer with the officer concerned.
- (4) 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.
- (5) Where the officer concerned is participating in a third stage meeting by video link or other means in accordance with regulation 38(9), the person representing the officer or (if different) the officer's police friend (or both) may also participate in the third stage meeting by such means together with the officer concerned.
- (6) The police friend or relevant lawyer of the officer concerned may not answer any questions asked of the officer concerned during a meeting.
- (7) Whether any question should or should not be put to a witness at a third stage meeting must be determined by the adjudicator.
- (8) At any meeting under these Regulations, the adjudicator or person conducting the meeting must not make a finding of unsatisfactory performance or attendance or gross incompetence unless—
- (a) he or she is satisfied on the balance of probabilities that there has been unsatisfactory performance or attendance or gross incompetence; or
 - (b) the officer concerned consents to such a finding.
- (9) The adjudicator or person conducting a meeting under these Regulations may allow any document to be considered at that meeting notwithstanding that a copy of it has not been—
- (a) supplied to him or her by the officer concerned in accordance with regulation 17(8), 20(6)(b), 24(8), 27(6)(b) or 36(3);
 - (b) supplied to the officer concerned in accordance with regulation 17(2), 24(2), 31(2) or 33(2); or
 - (c) made available to that person or given to the officer concerned under regulation 34(4).

11 Nominated persons

- (1) A senior manager may appoint another person (a “nominated person”) to carry out any of the functions of the line manager or the second line manager in these Regulations.
- (2) Where a person is appointed to carry out any of the functions of the line manager under paragraph (1) he or she may not also be appointed to carry out any of the functions of the second line manager under that paragraph.
- (3) Where a person is appointed to carry out any of the functions of the second line manager under paragraph (1) he or she may not also be appointed to carry out any of the functions of the line manager under that paragraph.
- (4) A nominated person must be a member of the police force and must be, in the opinion of the senior manager or the appropriate authority, of at least the same or equivalent rank or grade as the person whose functions he or she is carrying out.
- (5) Where a nominated person is appointed by the senior manager, references in these Regulations to a line manager or a second line manager, as the case may be, must be construed as references to the nominated person, in relation to the functions which the nominated person has been appointed to carry out.

12 References to certain periods

- (1) The appropriate authority may, on the application of the officer concerned or otherwise, extend the period specified in accordance with any of the regulations mentioned in paragraph (2) if it is satisfied that it is appropriate to do so.
- (2) The regulations mentioned in this paragraph are—
 - (a) regulation 18(6)(c);
 - (b) regulation 25(6)(c); and
 - (c) regulation 45(7)(c) and (8)(a).
- (3) Unless the appropriate authority is satisfied that there are exceptional circumstances making it appropriate, any such period may not be extended if the extension would result in the total length of that period exceeding 12 months.
- (4) Where an extension is granted under paragraph (1) to a period specified under a regulation mentioned in paragraph (2), any reference in these Regulations to such period must be construed as a reference to that period as so extended.

13 Suspension of certain periods

- (1) Any reference in these Regulations to a period mentioned in paragraph (2) must not include any time the officer concerned is taking a career break under regulation 39(12) of the Police Regulations 2015 (leave) and the determination of the Department made under that regulation.
- (2) The periods mentioned in this paragraph are—
 - (a) a period specified in accordance with regulation 18(6)(c);
 - (b) the validity period of a written improvement notice;
 - (c) a period specified in accordance with regulation 25(6)(c);
 - (d) the validity period of a final written improvement notice;
 - (e) a period specified under regulation 45(7)(c) or (8)(a);
 - (f) the validity period of a final written improvement notice extended under regulation 45.

14 Meeting following the receipt of a report submitted by the investigating officer regarding a complaint

- (1) Subject to regulation 32, if—
 - (a) after receiving a report of a conduct matter or a complaint from the investigator; and
 - (b) after undertaking the steps specified in paragraph 7 of Schedule 1 of the Act where appropriate;

the appropriate authority considers that the performance of a police officer is unsatisfactory then the appropriate authority must direct the line manager for the officer concerned to take the action specified in paragraph (2), (3) or (4), as the case may be.

- (2) In a case where—
 - (a) the officer concerned has received a final written improvement notice under regulation 26 or 45 in relation to unsatisfactory performance which is similar to or connected with the unsatisfactory performance mentioned in the report of the conduct matter or complaint; and
 - (b) the validity period of the final written improvement notice, within the meaning of regulation 26(4) or 45(7)(d) or (8)(c), has not expired,

the specified action is that the line manager must require the officer to attend a third stage meeting.

- (3) In a case where—
 - (a) the officer concerned has received a written improvement notice under regulation 19 or 45 in relation to unsatisfactory

performance which is similar to or connected with the unsatisfactory performance mentioned in the report of the conduct matter or complaint; and

- (b) the validity period of the written improvement notice, within the meaning of regulation 19(4) or 45(7)(d), has not expired,
- the specified action is that the line manager must require the officer concerned to attend a second stage meeting.
- (4) In any other case, the specified action is that the line manager must require the officer concerned to attend a first stage meeting.
 - (5) The line manager must comply with a direction given by the appropriate authority under paragraph (1).
 - (6) Where the officer concerned is required to attend a meeting under this regulation—
 - (a) regulations 17 to 22 apply, if the meeting is a first stage meeting;
 - (b) regulations 24 to 29 apply, if the meeting is a second stage meeting; and
 - (c) regulations 31, 34 to 39 and 41 to 48 apply, if the meeting is a third stage meeting,
 but this is subject to paragraphs (7) and (8).
 - (7) The duty to provide documents in regulation 17(2), 24(2) or 31(2) has effect as a duty to provide the officer concerned with (subject to the harm test in regulation 4(3)) a copy of the investigator's written report.
 - (8) Where the officer concerned is required to attend a third stage meeting under paragraph (2) by reason of the fact that he or she is subject to a final written improvement notice issued or extended under regulation 45—
 - (a) the meeting must be conducted by the same panel as conducted the initial third stage meeting;
 - (b) regulation 47(11) to (14) applies in relation to that panel; and
 - (c) if the officer concerned objects to the adjudicator under regulation 35, he or she may only do so in accordance with regulation 47(13).
 - (9) Where the appropriate authority fails to make the determination referred to in paragraph (1) (in so far as it involves consideration of the performance of a police officer) before the end of 15 working days beginning with the first working day after the receipt of the investigator's written report, it must notify the officer concerned of the reason for this.

15 Provision of information to the commissioner

- (1) This regulation applies in a case where the commissioner—

- (a) made a recommendation under paragraph 9(1) of Schedule 1 to the Act which the appropriate authority accepted; or
 - (b) gave a direction to the appropriate authority under paragraph 9(3) of that Schedule.
- (2) Where this regulation applies, the appropriate authority must send the commissioner a copy of—
- (a) any written record and written improvement notice given to the officer concerned under regulation 19(5);
 - (b) any written notice and written summary given to the officer concerned under regulation 22(9);
 - (c) any notification as to improvement in performance or attendance under regulation 23(1)(b);
 - (d) any written record and final written improvement notice given to the officer concerned under regulation 26(5);
 - (e) any written notice and written summary given to the officer concerned under regulation 29(9);
 - (f) any notification as to improvement in performance or attendance under regulation 30(1)(b);
 - (g) any written decision given to the officer concerned under regulation 44(3);
 - (h) any final written improvement notice issued or extended under regulation 45(3);
 - (i) any written improvement notice issued under regulation 45(6);
and
 - (j) any notification as to improvement in performance or attendance under regulation 47(2)(b).
- (3) Where this regulation applies, the appropriate authority must notify the commissioner if it extends, under regulation 12(1), any period specified in accordance with regulation 18(6)(c), 25(6)(c) or 45(7)(c) or (8)(a).

PART 3 – FIRST STAGE

16 Circumstances in which a first stage meeting may be required

Where the line manager for a police officer considers that the performance or attendance of that officer is unsatisfactory, the line manager may require the officer concerned to attend a meeting (in these Regulations referred to as a first stage meeting) to discuss the performance or attendance of the officer concerned.

17 Arrangement of first stage meeting

- (1) Where the line manager requires a police officer to attend a first stage meeting, the line manager must give a notice in writing to the officer concerned—
 - (a) requiring the officer concerned to attend a first stage meeting of the unsatisfactory performance procedures with the line manager;
 - (b) informing the officer concerned of the procedures for determining the date and time of the meeting under paragraphs (3) to (6);
 - (c) summarising the reasons why his or her performance or attendance is considered unsatisfactory;
 - (d) informing the officer concerned of the possible outcomes of a first stage meeting, a second stage meeting and a third stage meeting;
 - (e) informing the officer concerned that a human resources professional or a police officer may attend the meeting to advise the line manager on the proceedings;
 - (f) informing the officer concerned that, if he or she consents, any other person specified in the notice may attend the meeting;
 - (g) where the officer concerned is a member of a police force, informing him or her that the officer concerned may seek advice from a representative of his or her staff association;
 - (h) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend; and
 - (i) informing the officer concerned that he or she must provide to the line manager in advance of the meeting a copy of any document he or she intends to rely on at the meeting.
- (2) Such notice must be accompanied by a copy of any document relied upon by the line manager when coming to his or her view mentioned in regulation 16 that the performance or attendance of the officer concerned is unsatisfactory.
- (3) The line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.
- (4) Where no date and time is agreed under paragraph (3), the line manager must specify a date and time for the meeting.
- (5) Where a date and time is specified under paragraph (4) and—
 - (a) the officer concerned or his or her police friend will not be available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (6),

the meeting 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 five working days beginning with the first working day after the day specified by the line manager under paragraph (4).
- (7) The line manager must give to the officer concerned a notice in writing of the date and time of the first stage meeting determined in accordance with paragraphs (3) to (6) and of the place of the meeting.
- (8) In advance of the first stage meeting, the officer concerned must provide the line manager with a copy of any document he or she intends to rely on at the meeting.

18 Procedure at first stage meeting

- (1) The following provisions of this regulation apply to the procedure to be followed at the first stage meeting.
- (2) The meeting must be conducted by the line manager.
- (3) A human resources professional or a police officer may attend the meeting to advise the line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 17(1) may attend the meeting if the officer concerned consents to such attendance.
- (5) The line manager must—
 - (a) explain to the officer concerned the reasons why the line manager considers that the performance or attendance of the officer concerned is unsatisfactory;
 - (b) provide the officer concerned with an opportunity to make representations in response;
 - (c) provide his or her police friend (if the officer concerned has one) with an opportunity to address the meeting in accordance with regulation 10(3)(a).
- (6) If, after considering any representations made in accordance with paragraph (5)(b) or (c), the line manager finds that the performance or attendance of the officer concerned has been unsatisfactory, the line manager must—
 - (a) inform the officer concerned in what respect his or her performance or attendance is considered unsatisfactory;
 - (b) inform the officer concerned of the improvement that is required in his or her performance or attendance;

- (c) inform the officer concerned that, if a sufficient improvement is not made within a specified period, the officer concerned may be required to attend a second stage meeting in accordance with regulation 23 and the line manager must specify the date on which this period ends;
 - (d) inform the officer concerned that he or she will receive a written improvement notice; and
 - (e) inform the officer concerned that if the sufficient improvement referred to in subparagraph (c) is not maintained during any part of the validity period of such notice remaining after the expiry of the specified period, the officer concerned may be required to attend a second stage meeting in accordance with regulation 23.
- (7) The line manager may, if he or she considers it appropriate, recommend that the officer concerned seeks assistance in relation to any matter affecting his or her health or welfare.
- (8) The line manager may postpone or adjourn the meeting to a specified later time or date if it appears to the line manager necessary or expedient to do so.

19 Procedure following first stage meeting

- (1) The line manager must, as soon as reasonably practicable after the date of the conclusion of the first stage meeting—
- (a) cause to be prepared a written record of the meeting; and
 - (b) where the line manager found at the meeting that the performance or attendance of the officer concerned has been unsatisfactory, cause to be prepared a written improvement notice.
- (2) Where the officer concerned has failed to attend a first stage meeting, if the line manager finds that the performance or attendance of the officer has been unsatisfactory, the line manager must as soon as reasonably practicable—
- (a) cause to be prepared a written improvement notice; and
 - (b) if the police friend of the officer concerned attended the meeting, cause to be prepared a written record of the meeting.
- (3) A written improvement notice must—
- (a) record the matters of which the officer concerned was informed (or would have been informed had the officer concerned attended the meeting) under sub-paragraphs (a) to (c) and (e) of regulation 18(6);
 - (b) state the period for which it is valid; and

- (c) be signed and dated by the line manager.
- (4) A written improvement notice must be valid for a period of twelve months from the date of the notice (the “**validity period**”).
- (5) The line manager must give a copy of any written record and any written improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.
- (6) Where the line manager found that the performance or attendance of the officer concerned has been unsatisfactory and has caused to be prepared a written improvement notice, the line manager must, at the same time as supplying the documents mentioned in paragraph (5), notify the officer concerned in writing of the matters set out in regulation 20, of the name of the person to whom a written notice of appeal must be given under that regulation, of his or her entitlements under paragraphs (7) and (8) and of the effect of paragraph (9).
- (7) Subject to paragraphs (8) and (9), the officer concerned must be entitled to submit written comments on any written record to the line manager before the end of 7 working days beginning with the first working day after the day on which the copy is received by the officer concerned.
- (8) The line manager may, on the application of the officer concerned, extend the period specified in paragraph (7) if he or she is satisfied that it is appropriate to do so.
- (9) The officer concerned is not entitled to submit written comments on the written record if the officer concerned has exercised his or her right to appeal under regulation 20.
- (10) The line manager must ensure that any written record, any written improvement notice and any written comments of the officer concerned on the written record are retained together and filed.

20 Appeal against the finding and outcome of a first stage meeting

- (1) This regulation applies where, at the first stage meeting, the line manager found that the performance or attendance of the officer concerned has been unsatisfactory.
- (2) Where this regulation applies, the officer concerned may appeal against—
- (a) such finding; or
- (b) any of the matters specified in paragraph (3) and recorded in the written improvement notice (in these Regulations referred to as the “**relevant terms of the written improvement notice**”),
- or both.
- (3) The matters specified in this paragraph are—

- (a) the respect in which the performance or attendance of the officer concerned is considered unsatisfactory;
 - (b) the improvement that is required in his or her performance or attendance;
 - (c) the length of the period specified by the line manager in accordance with regulation 18(6)(c).
- (4) The only grounds of appeal under this regulation are—
 - (a) that the finding of unsatisfactory performance or attendance was unreasonable;
 - (b) that any of the relevant terms of the written improvement notice are unreasonable;
 - (c) that there is evidence that could not reasonably have been considered at the first stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the written improvement notice;
 - (d) that there was a breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the written improvement notice.
- (5) Any appeal must be commenced by the officer concerned giving written notice of appeal to the second line manager before the end of 7 working days beginning with the first working day after receipt of the documents referred to in regulation 19(5).
- (6) Such notification must—
 - (a) set out the grounds of appeal of the officer concerned; and
 - (b) be accompanied by any evidence on which the officer concerned relies.
- (7) The second line manager may, on the application of the officer concerned, extend the period specified in paragraph (5) if he or she is satisfied that it is appropriate to do so.
- (8) Subject to paragraph (9), the meeting at which the appeal will be heard (referred to in these Regulations as a “**first stage appeal meeting**”) must take place before the end of 7 working days beginning with the first working day after the day on which the notification under paragraph (5) is received by the second line manager.
- (9) A first stage appeal meeting may take place after the period of 7 working days referred to in paragraph (8) if the second line manager considers it necessary or expedient, in which case he or she must notify the officer concerned of his or her reasons in writing.

21 Arrangement of first stage appeal meeting

- (1) As soon as reasonably practicable after receipt by the second line manager of the notification of appeal referred to in regulation 20(5), the second line manager must give a notice in writing to the officer concerned—
 - (a) informing the officer concerned of the procedures for determining the date and time of the meeting under paragraphs (2) to (5);
 - (b) informing the officer concerned that a human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings;
 - (c) informing the officer concerned that, if he or she consents, any other person specified in the notice may attend the meeting;
 - (d) where the officer concerned is a member of a police force, informing the officer concerned that he or she may seek advice from a representative of his or her staff association; and
 - (e) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend.
- (2) The second line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.
- (3) Where no date and time is agreed under paragraph (2), the second line manager must specify a date and time for the meeting.
- (4) Where a date and time is specified under paragraph (3) and—
 - (a) the officer concerned or his or her police friend will not be available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (5),the meeting must be postponed to the time proposed by the officer concerned.
- (5) An alternative time must—
 - (a) be reasonable; and
 - (b) fall before the end of five working days beginning with the first working day after the day specified by the second line manager under paragraph (3).
- (6) The second line manager must give to the officer concerned a notice in writing of the date and time of the first stage appeal meeting determined in accordance with paragraphs (2) to (5) and of the place of the meeting.

22 Procedure at first stage appeal meeting

- (1) The following provisions of this regulation apply to the procedure to be followed at a first stage appeal meeting.
- (2) The meeting must be conducted by the second line manager.
- (3) A human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 21(1) may attend the meeting if the officer concerned consents to such attendance.
- (5) The second line manager must—
 - (a) provide the officer concerned with an opportunity to make representations; and
 - (b) provide his or her police friend (if the officer concerned has one) with an opportunity to address the meeting in accordance with regulation 10(3)(a).
- (6) After considering any representations made in accordance with paragraph (5), the second line manager may—
 - (a) confirm or reverse the finding of unsatisfactory performance or attendance;
 - (b) confirm or vary the relevant terms of the written improvement notice appealed against.
- (7) Where the second line manager has reversed the finding of unsatisfactory performance or attendance, the second line manager must also revoke the written improvement notice.
- (8) The second line manager may postpone or adjourn the meeting to a specified later time or date if it appears to the second line manager necessary or expedient to do so.
- (9) As soon as reasonably practicable after the conclusion of the meeting, the officer concerned must be given written notice of the second line manager's decision and a written summary of the reasons for that decision, but in any event, the officer concerned must be given written notice of the decision before the end of three working days beginning with the first working day after the conclusion of the meeting.
- (10) Where the second line manager has—
 - (a) reversed the finding of unsatisfactory performance or attendance and revoked the written improvement notice; or
 - (b) varied any of the relevant terms of the written improvement notice,

the decision of the second line manager must take effect by way of substitution for the finding, the written improvement notice issued or the relevant terms of the written improvement notice appealed against from the date of the first stage meeting.

PART 4 – SECOND STAGE

23 Circumstances in which a second stage meeting may be required

- (1) Where a police officer has received a written improvement notice, as soon as reasonably practicable after the date on which the period specified in accordance with regulation 18(6)(c) ends—
 - (a) the line manager must assess the performance or attendance of the officer concerned during that period, in consultation with the second line manager or a human resources professional (or both); and
 - (b) the line manager must notify the officer concerned in writing whether the line manager considers that there has been a sufficient improvement in performance or attendance during that period.
- (2) If the line manager considers that there has not been a sufficient improvement, the line manager must, at the same time as the line manager gives notification under paragraph (1)(b), also notify the officer concerned in writing that the officer concerned is required to attend a meeting (in these Regulations referred to as a “**second stage meeting**”) to consider his or her performance or attendance.
- (3) Where—
 - (a) the officer concerned has not been required to attend a second stage meeting under paragraph (2), or
 - (b) the officer concerned has been required to attend a second stage meeting under paragraph (2) but the second line manager did not make a finding of unsatisfactory performance or attendance at that meeting,the officer concerned may be required to attend a second stage meeting under paragraph (4).
- (4) If the line manager considers that the officer concerned has failed to maintain a sufficient improvement in his or her performance or attendance during any part of the validity period of the written improvement notice remaining after the expiry of the period specified in accordance with regulation 18(6)(c), the line manager must notify the officer concerned in writing of the matters set out in paragraph (5).
- (5) Those matters are—

- (a) that the line manager is of the view mentioned in paragraph (4); and
 - (b) that the officer concerned is required to attend a meeting (in these Regulations referred to as a second stage meeting) to consider his or her performance or attendance.
- (6) Any second stage meeting which a police officer is required to attend must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice.

24 Arrangement of second stage meeting

- (1) Where the line manager requires the officer concerned to attend a second stage meeting, the second line manager must as soon as reasonably practicable give a notice in writing to the officer concerned—
- (a) referring to the requirement on the officer concerned to attend a second stage meeting of the unsatisfactory performance procedures with the second line manager;
 - (b) informing the officer concerned of the procedures for determining the date and time of the meeting under paragraphs (3) to (6);
 - (c) summarising the reasons why his or her performance or attendance is considered unsatisfactory;
 - (d) informing the officer concerned of the possible outcomes of a second stage meeting and a third stage meeting;
 - (e) informing the officer concerned that the line manager may attend the meeting;
 - (f) informing the officer concerned that a human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings;
 - (g) informing the officer concerned that, if the officer concerned consents, any other person specified in the notice may attend the meeting;
 - (h) where the officer concerned is a member of the police force, informing him or her that the officer concerned may seek advice from a representative of his or her staff association;
 - (i) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend; and
 - (j) informing the officer concerned that he or she must provide to the second line manager in advance of the meeting a copy of any document the officer concerned intends to rely on at the meeting.

- (2) Such notice must be accompanied by a copy of any document relied upon by the line manager when he or she formed the view referred to in regulation 23(2) or (4), as the case may be.
- (3) The second line manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.
- (4) Where no date and time is agreed under paragraph (3), the second line manager must specify a date and time for the meeting.
- (5) Where a date and time is specified under paragraph (4) and—
 - (a) the officer concerned or his or her police friend will not be available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (6),the meeting 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 five working days beginning with the first working day after the day specified by the second line manager under paragraph (4).
- (7) The second line manager must give to the officer concerned a notice in writing of the date and time of the second stage meeting determined in accordance with paragraphs (3) to (6) and of the place of the meeting.
- (8) In advance of the second stage meeting, the officer concerned must provide the second line manager with a copy of any document the officer concerned intends to rely on at the meeting.

25 Procedure at second stage meeting

- (1) The following provisions of this regulation apply to the procedure to be followed at the second stage meeting.
- (2) The meeting must be conducted by the second line manager and may be attended by the line manager.
- (3) A human resources professional or a police officer may attend the meeting to advise the second line manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 24(1) may attend the meeting if the officer concerned consents to such attendance.
- (5) The second line manager must—
 - (a) explain to the officer concerned the reasons why the officer concerned has been required to attend the meeting;

- (b) provide the officer concerned with an opportunity to make representations in response;
 - (c) provide his or her police friend (if the officer concerned has one) with an opportunity to address the meeting in accordance with regulation 10(3)(a).
- (6) If, after considering any representations made under paragraph (5)(b) or (c), the second line manager finds that the performance or attendance of the officer concerned has been unsatisfactory during the period specified in accordance with regulation 18(6)(c) or during any part of the validity period of the written improvement notice remaining after the expiry of such period, the second line manager must—
 - (a) inform the officer concerned in what respect his or her performance or attendance is considered unsatisfactory;
 - (b) inform the officer concerned of the improvement that is required in his or her performance or attendance;
 - (c) inform the officer concerned that, if a sufficient improvement is not made within the specified period, the officer concerned may be required to attend a third stage meeting in accordance with regulation 30 and the second line manager must specify the date on which the specified period ends;
 - (d) inform the officer concerned that he or she will receive a final written improvement notice; and
 - (e) inform the officer concerned that if the sufficient improvement referred to in subparagraph (c) is not maintained during any part of the validity period of such notice remaining after the expiry of the specified period the officer concerned may be required to attend a third stage meeting in accordance with regulation 30.
- (7) The second line manager may, if the second line manager considers it appropriate, recommend that the officer concerned seeks assistance in relation to any matter affecting his or her health or welfare.
- (8) The second line manager may postpone or adjourn the meeting to a specified later time or date if it appears to the second line manager necessary or expedient to do so.

26 Procedure following second stage meeting

- (1) The second line manager must, as soon as reasonably practicable after the date of the conclusion of the second stage meeting—
 - (a) cause to be prepared a written record of the meeting; and
 - (b) where the second line manager made a finding at the meeting as set out in regulation 25(6), cause to be prepared a final written improvement notice.

- (2) Where the officer concerned has failed to attend a second stage meeting, if the second line manager makes a finding as set out in regulation 25(6), the second line manager must as soon as reasonably practicable—
 - (a) cause to be prepared a final written improvement notice; and
 - (b) if the police friend of the officer concerned attended the meeting, cause to be prepared a written record of the meeting.
- (3) A final written improvement notice must—
 - (a) record the matters of which the officer concerned was informed (or would have been informed had the officer concerned attended the meeting) under sub-paragraphs (a) to (c) and (e) of regulation 25(6);
 - (b) state the period for which it is valid; and
 - (c) be signed and dated by the second line manager.
- (4) A final written improvement notice must be valid for a period of twelve months from the date of the notice (the “**validity period**”).
- (5) The second line manager must give a copy of any written record and any final written improvement notice to the officer concerned as soon as reasonably practicable after they have been prepared.
- (6) Where the second line manager made a finding as set out in regulation 25(6) and has caused to be prepared a final written improvement notice, the second line manager must, at the same time as supplying the documents mentioned in paragraph (5), notify the officer concerned in writing of the matters set out in regulation 27, of the name of the person to whom a written notice of appeal must be given under that regulation, of his or her entitlements under paragraphs (7) and (8) and of the effect of paragraph (9).
- (7) Subject to paragraphs (8) and (9), if the officer concerned wishes to submit written comments on the written record to the second line manager he or she must do so before the end of 7 working days beginning with the first working day after the day on which the copy is received by the officer concerned.
- (8) The second line manager may, on the application of the officer concerned, extend the period specified in paragraph (7) if the second line manager is satisfied that it is appropriate to do so.
- (9) The officer concerned must not be entitled to submit written comments on the written record if the officer concerned has exercised his or her right to appeal under regulation 27.
- (10) The second line manager must ensure that any written record, any final written improvement notice and any written comments of the officer concerned on the written record are retained together and filed.

27 Appeal against the finding and outcome of a second stage meeting

- (1) This regulation applies where, at the second stage meeting, the second line manager found that the performance or attendance of the officer concerned has been unsatisfactory as set out in regulation 25(6).
- (2) Where this regulation applies, the officer concerned may appeal against one or more of the following—
 - (a) such finding;
 - (b) any of the matters specified in paragraph (3) and recorded in the final written improvement notice (in these Regulations referred to as the “**relevant terms of the final written improvement notice**”);
 - (c) the decision of the line manager to require the officer concerned to attend the second stage meeting.
- (3) The matters specified in this paragraph are—
 - (a) the respect in which the performance or attendance of the officer concerned is considered unsatisfactory;
 - (b) the improvement that is required in his or her performance or attendance;
 - (c) the length of the period specified by the second line manager in accordance with regulation 25(6)(c).
- (4) The only grounds of appeal under this regulation are—
 - (a) that, in relation to an appeal under paragraph (2)(c), the officer concerned should not have been required to attend the second stage meeting as the meeting did not, in accordance with regulation 23(6), concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice;
 - (b) that the finding of unsatisfactory performance or attendance was unreasonable;
 - (c) that any of the relevant terms of the final written improvement notice are unreasonable;
 - (d) that there is evidence that could not reasonably have been considered at the second stage meeting which could have materially affected the finding of unsatisfactory performance or attendance or any of the relevant terms of the final written improvement notice;
 - (e) that there was a breach of the procedures set out in these Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance

or any of the relevant terms of the final written improvement notice.

- (5) An appeal must be commenced by the officer concerned giving written notice of appeal to the senior manager before the end of 7 working days beginning with the first working day after receipt of the documents referred to in regulation 26(5).
- (6) Such notice must—
 - (a) set out the grounds of appeal of the officer concerned; and
 - (b) be accompanied by any evidence on which the officer concerned relies.
- (7) The senior manager may, on the application of the officer concerned, extend the period specified in paragraph (5) if the senior manager is satisfied that it is appropriate to do so.
- (8) Subject to paragraph (9), the meeting at which the appeal will be heard (referred to in these Regulations as a “**second stage appeal meeting**”) must take place before the end of 7 working days beginning with the first working day after the day on which the notification under paragraph (5) is received by the senior manager.
- (9) A second stage appeal meeting may take place after the period of 7 working days referred to in paragraph (8) if the senior manager considers it necessary or expedient, in which case the senior manager must notify the officer concerned of his or her reasons in writing.

28 Arrangement of second stage appeal meeting

- (1) As soon as reasonably practicable after receipt by the senior manager of the notice of appeal referred to in regulation 27(5), the senior manager must give a notice in writing to the officer concerned—
 - (a) informing the officer concerned of the procedures for determining the date and time of the meeting under paragraphs (2) to (5);
 - (b) informing the officer concerned that a human resources professional or a police officer may attend the meeting to advise the senior manager on the proceedings;
 - (c) informing the officer concerned that, if he or she consents, any other person specified in the notice may attend the meeting;
 - (d) where the officer concerned is a member of a police force, informing the officer concerned that he or she may seek advice from a representative of his or her staff association; and
 - (e) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend.

- (2) The senior manager must, if reasonably practicable, agree a date and time for the meeting with the officer concerned.
- (3) Where no date and time is agreed under paragraph (2), the senior manager must specify a date and time for the meeting.
- (4) Where a date and time is specified under paragraph (3) and—
 - (a) the officer concerned or his or her police friend will not be available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (5),the meeting must be postponed to the time proposed by the officer concerned.
- (5) An alternative time must—
 - (a) be reasonable; and
 - (b) fall before the end of five working days beginning with the first working day after the day specified by the senior manager under paragraph (3).
- (6) The senior manager must give to the officer concerned a notice in writing of the date and time of the second stage appeal meeting determined in accordance with paragraphs (2) to (5) and of the place of the meeting.

29 Procedure at second stage appeal meeting

- (1) The following provisions of this regulation apply to the procedure to be followed at a second stage appeal meeting.
- (2) The meeting must be conducted by the senior manager.
- (3) A human resources professional or a police officer may attend the meeting to advise the senior manager on the proceedings.
- (4) Any other person specified in the notice referred to in regulation 28(1) may attend the meeting if the officer concerned consents to such attendance.
- (5) The senior manager must—
 - (a) provide the officer concerned with an opportunity to make representations; and
 - (b) provide his or her police friend (if the officer concerned has one) with an opportunity to address the meeting in accordance with regulation 10(3)(a).
- (6) After considering any representations made in accordance with paragraph (5), the senior manager may—
 - (a) in an appeal under regulation 27(2)(c), make a finding that the officer concerned should not have been required to attend the

- second stage meeting and reverse the finding made at that meeting;
- (b) confirm or reverse the finding of unsatisfactory performance or attendance made at the second stage meeting;
 - (c) confirm or vary the relevant terms of the final written improvement notice appealed against.
- (7) Where the senior manager has reversed the finding of unsatisfactory performance or attendance made at the second stage meeting, the senior manager must also revoke the final written improvement notice.
- (8) The senior manager may postpone or adjourn the meeting to a specified later time or date if it appears to the senior manager necessary or expedient to do so.
- (9) As soon as reasonably practicable after the conclusion of the meeting, the officer concerned must be given written notice of the senior manager's decision and a written summary of the reasons for that decision but in any event, the officer concerned must be given written notice of the decision before the end of three working days beginning with the first working day after the conclusion of the meeting.
- (10) Where the senior manager has—
- (a) reversed the finding made as set out in regulation 25(6) and revoked the final written improvement notice; or
 - (b) varied any of the relevant terms of the final written improvement notice,

the decision of the senior manager must take effect by way of substitution for the finding, the final written improvement notice issued or the relevant terms of the final written improvement notice appealed against from the date of the second stage meeting.

PART 5 – THIRD STAGE

30 Assessment following second stage meeting

- (1) Where a police officer has received a final written improvement notice, as soon as reasonably practicable after the date on which the period specified in accordance with regulation 25(6)(c) ends—
- (a) the line manager must assess the performance or attendance of the officer concerned during that period, in consultation with the second line manager or a human resources professional (or both); and
 - (b) the line manager must notify the officer concerned in writing whether the line manager considers that there has been a

sufficient improvement in performance or attendance during that period.

- (2) If the line manager considers that there has not been a sufficient improvement, the line manager must, at the same time as he or she gives notification under paragraph (1)(b), also notify the officer concerned in writing that the officer concerned is required to attend a meeting (in these Regulations referred to as a “**third stage meeting**”) to consider his or her performance or attendance.
- (3) Where—
 - (a) the officer concerned has not been required to attend a third stage meeting under paragraph (2), or
 - (b) the officer concerned has been required to attend a third stage meeting under paragraph (2) but the panel did not make a finding of unsatisfactory performance or attendance at that meeting,the officer concerned may be required to attend a third stage meeting under paragraph (4).
- (4) If the line manager considers that the officer concerned has failed to maintain a sufficient improvement in his or her performance or attendance during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 25(6)(c), the line manager must notify the officer concerned in writing of the matters set out in paragraph (5).
- (5) Those matters are—
 - (a) that the line manager is of the view mentioned in paragraph (4); and
 - (b) that the officer concerned is required to attend a meeting (in these Regulations referred to as a third stage meeting) to consider his or her performance or attendance.
- (6) Subject to regulation 32, any third stage meeting which a police officer is required to attend must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.

31 Arrangement of a third stage meeting

- (1) Where the line manager requires the officer concerned to attend a third stage meeting, the senior manager must as soon as reasonably practicable give a notice in writing to the officer concerned—
 - (a) referring to the requirement on the officer concerned to attend a third stage meeting of the unsatisfactory performance procedures with a panel appointed by the appropriate authority;

- (b) informing the officer concerned of the procedures for determining the date and time of the meeting under regulation 38;
 - (c) summarising the reasons why his or her performance or attendance is considered unsatisfactory;
 - (d) informing the officer concerned of the possible outcomes of the meeting;
 - (e) informing the officer concerned that a human resources professional or a police officer may attend the meeting to advise the panel on the proceedings;
 - (f) informing the officer concerned that a relevant lawyer may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting;
 - (g) *not used*;
 - (h) informing the officer concerned that, if he or she consents, any other person specified in the notice may attend the meeting;
 - (i) where the officer concerned is a member of the police force, informing the officer concerned that he or she may seek advice from a representative of his or her staff association; and
 - (j) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend and, subject to regulation 8, a relevant lawyer.
- (2) Such notice must be accompanied by a copy of any document relied upon by the line manager when he or she formed the view referred to in regulation 30(2) or (4), as the case may be.
- (3) A third stage meeting under this regulation must not take place unless the officer concerned has been notified of his or her right to representation under paragraph (1)(j).

32 Circumstances in which a third stage meeting may be required without a prior first or second stage meeting

- (1) This regulation applies where the appropriate authority considers that the performance of a police officer constitutes gross incompetence.
- (2) Where this regulation applies, the appropriate authority must inform the officer concerned in writing that the officer concerned is required to attend a meeting to consider his or her performance.
- (3) Such meeting must be referred to in these Regulations as a “**third stage meeting**”, notwithstanding that the officer concerned has not attended a first stage meeting or a second stage meeting in respect of such performance.

33 Arrangement of a third stage meeting without a prior first or second stage meeting

- (1) Where the appropriate authority has informed the officer concerned under regulation 32(2) that the officer concerned is required to attend a third stage meeting, the appropriate authority must as soon as reasonably practicable give to the officer concerned a notice in writing—
 - (a) referring to the requirement on the officer concerned to attend a third stage meeting of the unsatisfactory performance procedures with a panel appointed by the appropriate authority;
 - (b) informing the officer concerned of the procedures for determining the date and time of the meeting under regulation 38;
 - (c) summarising the reasons why his or her performance is considered to constitute gross incompetence;
 - (d) informing the officer concerned of the possible outcomes of the meeting;
 - (e) informing the officer concerned that a human resources professional or a police officer may attend the meeting to advise the panel on the proceedings;
 - (f) informing the officer concerned that a relevant lawyer may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting;
 - (g) *not used*;
 - (h) in a case to which regulation 40 applies, informing the officer concerned that the complainant or any interested person may attend the meeting as an observer;
 - (i) in a case to which regulation 41(5) applies, informing the officer concerned that a person nominated by the commissioner may attend the meeting as an observer;
 - (j) informing the officer concerned that, if he or she consents, any other person specified in the notice may attend the meeting;
 - (k) where the officer concerned is a member of the police force, informing the officer concerned that he or she may seek advice from a representative of his or her staff association;
 - (l) informing the officer concerned of the effect of regulation 6; and
 - (m) informing the officer concerned that he or she may be accompanied at the meeting by a police friend and, subject to regulation 8, a relevant lawyer.
- (2) Such notice must be accompanied by a copy of any document relied upon by the appropriate authority when it formed the view referred to in regulation 32(1).

34 Appointment of adjudicator

- (1) The third stage meeting must be conducted by an adjudicator being either—
 - (a) a senior officer appointed by the senior manager; or
 - (b) a police officer from a police force outside of the Island who is of a rank higher than that of the officer concerned and appointed by the appropriate authority.
- (2) The adjudicator must not be an interested party.
- (3) As soon as reasonably practicable after the adjudicator has been appointed, the senior manager or appropriate authority must notify in writing the officer concerned of the name of the adjudicator.
- (4) As soon as the appropriate authority has appointed the adjudicator, the appropriate authority must arrange for a copy of any document—
 - (a) which was available to the line manager in relation to any first stage meeting;
 - (b) which was available to the second line manager in relation to any second stage meeting; or
 - (c) which was prepared or submitted under regulation 19, 22, 26, 29, 30, 31, 32 or 33 as the case may be,to be made available to the adjudicator; and a copy of any such document must be given to the officer concerned.

35 Right of officer concerned to object to adjudicator

- (1) The officer concerned may object to the appointment of the adjudicator on the grounds that the person is an interested party.
- (2) 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 receipt of the notification referred to in regulation 34(3) and must set out the grounds of objection of the officer concerned.
- (3) The appropriate authority must notify the officer concerned in writing whether it upholds or rejects an objection to the adjudicator.
- (4) If the appropriate authority upholds an objection, the appropriate authority must appoint a new adjudicator.
- (5) 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 adjudicator.
- (6) The officer concerned may object to the appointment of the person appointed under paragraph (4) on the grounds that the person in question is an interested party.

- (7) Any such objection must be made in accordance with paragraph (2), provided that it is made before the end of 3 working days beginning with the first working day after receipt of the notification referred to in paragraph (5); and the appropriate authority must comply with paragraphs (3) to (5) in relation to the objection, but paragraph (6) does not apply.

36 Procedure on receipt of notice of third stage meeting

- (1) Before the end of—
- (a) 14 working days beginning with the first working day after the date on which a notice has been given to the officer concerned under regulation 31 or 33; or
 - (b) where that period is extended by the adjudicator 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 concerned accepts that his or her performance or attendance has been unsatisfactory or that the officer concerned has been grossly incompetent, as the case may be;
 - (b) where the officer concerned accepts that his or her performance or attendance has been unsatisfactory or that the officer concerned has been grossly incompetent, any written submission the officer concerned wishes to make in mitigation;
 - (c) where the officer concerned does not accept that his or her performance or attendance has been unsatisfactory or that the officer concerned has been grossly incompetent, or where the officer concerned disputes all or part of the matters referred to in the notice given under regulation 31 or 33, written notice of—
 - (i) the matters the officer concerned disputes and his or her account of the relevant events; and
 - (ii) any arguments on points of law the officer concerned wishes to be considered.
- (3) The officer concerned must provide the appropriate authority and the adjudicator with a copy of any document the officer concerned intends to rely on at the third stage meeting.
- (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 senior manager 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 senior manager.
- (6) Where no list of proposed witnesses is agreed under paragraph (4), the officer concerned must supply to the appropriate authority his or her list of proposed witnesses.

37 Witnesses

- (1) As soon as reasonably practicable after any list of proposed witnesses has been—
 - (a) agreed under regulation 36(5); or
 - (b) supplied under regulation 36(6),the appropriate authority must supply that list to the adjudicator together, in the latter case, with a list of its proposed witnesses.
- (2) The adjudicator must—
 - (a) consider the list or lists of proposed witnesses; and
 - (b) subject to paragraph (3), determine which, if any, witnesses should attend the third stage meeting.
- (3) The adjudicator may determine that witnesses not named in any list of proposed witnesses should attend the third stage meeting.
- (4) No witness must give evidence at a third stage meeting unless the adjudicator reasonably believes that it is necessary in the interests of fairness for the witness to do so, in which case he or she must—
 - (a) where the witness is a police officer, cause that person to be ordered to attend the third stage meeting; 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 meeting.

38 Timing and notice of third stage meeting

- (1) Subject to paragraphs (2) and (6) and regulation 39, the third stage meeting must take place before the end of 30 working days beginning with the first working day after the day on which a notice has been given to the officer concerned under regulation 31 or 33.
- (2) The adjudicator may extend the time period specified in paragraph (1) where the adjudicator considers that it would be in the interests of fairness to do so.

- (3) Where the adjudicator extends the time period under paragraph (2), the adjudicator must provide written notification of his or her reasons for so doing to the appropriate authority and the officer concerned.
- (4) The adjudicator must, if reasonably practicable, agree a date and time for the third stage meeting with the officer concerned.
- (5) Where no date and time is agreed under paragraph (4), the adjudicator must specify a date and time for the third stage meeting.
- (6) Where a date and time is specified under paragraph (5) and—
 - (a) the officer concerned or his or her police friend will not be available at that time; and
 - (b) the officer concerned proposes an alternative time which satisfies paragraph (7),the third stage meeting 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 adjudicator.
- (8) The adjudicator must give to the officer concerned a notice in writing of the date and time of the third stage meeting determined in accordance with this regulation and of the place of the meeting.
- (9) Where the officer concerned informs the adjudicator in advance that the officer concerned is unable to attend the third stage meeting on grounds which the adjudicator considers reasonable, the adjudicator may allow the officer concerned to participate in the meeting by video link or other means.

39 Postponement and adjournment of a third stage meeting

- (1) If the adjudicator considers it necessary or expedient, the adjudicator may direct that the third stage meeting take place at a different time to that specified in the notice given under regulation 38.
- (2) Such direction may specify a time which falls after the period of 30 working days referred to in regulation 38(1).
- (3) Where the adjudicator makes a direction under paragraph (1) the adjudicator must notify in writing the officer concerned and the appropriate authority of his or her reasons and the revised time and place for the meeting.

40 Attendance of complainant or interested person at a third stage meeting

- (1) This regulation applies in a case falling within regulation 32 where the third stage meeting arises from—
 - (a) a conduct matter; or
 - (b) the investigation of a complaint.
- (2) The appropriate authority must notify the complainant or any interested person of the date, time and place of the third stage meeting.
- (3) Subject to the provisions of this regulation and any conditions imposed under regulation 41(8)—
 - (a) the complainant may attend as an observer any part of the third stage meeting relating to the subject matter of his or her complaint; and
 - (b) an interested person may attend as an observer any part of the third stage meeting relating to the subject matter of the complaint or conduct matter in respect of which he or she is an interested person.
- (4) Subject to paragraph (5) and any conditions imposed under regulation 41(8), 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 third stage meeting, the complainant or interested person and any person allowed to accompany him or her must not be allowed to attend the meeting before the complainant or interested person gives his or her evidence.
- (6) Where the officer concerned objects to the complainant or interested person, or any person accompanying the officer concerned, being present while a submission is made in mitigation on the officer's behalf, the adjudicator may require the complainant or interested person, or any person accompanying the officer concerned, to withdraw while the submission is made.
- (7) The adjudicator 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 adjudicator, he or she has a disability or learning difficulty, or does not have sufficient knowledge of English, to fully participate in or understand the third stage meeting.

41 Attendance of others at a third stage meeting

- (1) Subject to regulation 40 and the provisions of this regulation, the third stage meeting must be in private.
- (2) A human resources professional or a police officer may attend the meeting to advise the adjudicator on the proceedings.
- (3) A relevant lawyer also may attend the meeting to advise the adjudicator on the proceedings and on any question of law that may arise at the meeting.
- (4) Not used.
- (5) Any other person specified in the notice to the officer concerned in accordance with regulation 31(1)(h) or 33(1)(k) may attend the meeting if the officer consents to such attendance.
- (6) Subject to any contrary decision by the adjudicator, a witness other than a complainant, interested person or the officer concerned must only attend the third stage meeting for the purposes of giving their evidence.
- (7) The adjudicator may, at his or her discretion, permit a witness in the third stage meeting to be accompanied at that meeting by one other person.
- (8) The adjudicator may impose such conditions as he or she sees fit relating to the attendance under this regulation, or regulation 40, of persons at the third stage meeting (including circumstances in which they may be excluded) in order to facilitate the proper conduct of the meeting.

42 Exclusion from a third stage meeting

- (1) Where it appears to the adjudicator that any person may, in giving evidence, disclose information which ought not to be disclosed to any person attending the meeting because it is information to which paragraph (2) applies, the adjudicator must require such attendees to withdraw while the evidence is given.
- (2) This paragraph applies to information in so far as the adjudicator considers that preventing disclosure of it 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 purposes of the prevention or detection of misconduct by other police officers or their apprehension for such matters;

- (e) necessary and proportionate for the protection of the welfare and safety of any informant or witness; or
- (f) otherwise in the public interest.

43 Procedure at a third stage meeting

- (1) Subject to the provisions of these Regulations, the procedure at the third stage meeting must be such as the adjudicator may determine.
- (2) Where the officer concerned is required to attend a third stage meeting under regulation 30, the adjudicator must—
 - (a) provide the officer concerned with an opportunity to make representations in relation to the matters referred to in the notice given under regulation 31;
 - (b) provide his or her police friend and relevant lawyer (if the officer concerned has one) with an opportunity to address the meeting in relation to such matters in accordance with regulation 10(3)(a).
- (3) Where the officer concerned is required to attend a third stage meeting under regulation 32, the adjudicator must—
 - (a) provide the officer concerned with an opportunity to make representations in relation to the matters referred to in the notice given under regulation 33;
 - (b) provide the person representing the officer with an opportunity to address the meeting in relation to such matters in accordance with regulation 10(3)(a).
- (4) The adjudicator may adjourn the meeting to a specified later time or date if it appears to the adjudicator necessary or expedient to do so.
- (5) A verbatim record of the meeting must be taken and the officer concerned must, on request, be supplied with a copy.

44 Finding

- (1) Following the third stage meeting, the adjudicator must make a finding whether—
 - (a) in a case falling within regulation 30(2), the performance or attendance of the officer concerned during the period specified in accordance with regulation 25(6)(c) has been satisfactory or not;
 - (b) in a case falling within regulation 30(4), the performance or attendance of the officer concerned during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 25(6)(c) has been satisfactory or not; or

- (c) in a case falling within regulation 32, the performance of the officer concerned constitutes gross incompetence, unsatisfactory performance or neither.
- (2) The adjudicator must prepare (or must cause to be prepared) the decision in writing which must state the finding and the reasons, as well as any outcome which the adjudicator may order under regulation 45.
- (3) As soon as reasonably practicable after the conclusion of the meeting, the adjudicator must give a written copy of the decision to—
 - (a) the officer concerned; and
 - (b) the line manager,but in any event, the officer concerned must be given written notice of the finding before the end of three working days beginning with the first working day after the conclusion of the meeting.
- (4) Where the adjudicator has made a finding of unsatisfactory performance or attendance or gross incompetence and the outcome is dismissal with or without notice, the copy of the decision given to the officer concerned must be accompanied by a notice in writing setting out the circumstances in which and the time within which a police officer may appeal to a police appeals tribunal under the appeals regulations.

45 Outcomes

- (1) If the adjudicator makes a finding that, in a case falling within regulation 30(2) or (4), the performance or attendance of the officer concerned has been unsatisfactory the adjudicator may, subject to paragraph (4), order—
 - (a) one of the outcomes mentioned in paragraph (3)(a), (c) or (f); or
 - (b) where the adjudicator is satisfied that there are exceptional circumstances which justify it, the outcome mentioned in paragraph (3)(d).
- (2) If the adjudicator makes a finding that, in a case falling within regulation 32, the performance of the officer concerned constitutes gross incompetence, the adjudicator may order one of the outcomes mentioned in paragraph (3)(b), (c), (e) or (f).
- (3) The outcomes mentioned in this paragraph are:
 - (a) dismissal of the officer concerned with notice, the period of such notice to be decided by the adjudicator, subject to a minimum period of 28 days;
 - (b) dismissal of the officer concerned with immediate effect;
 - (c) reduction in rank of the officer concerned with immediate effect;
 - (d) an extension of the final written improvement notice;

- (e) the issue of a final written improvement notice;
 - (f) redeployment to alternative duties (which may involve a reduction of rank) within the police force.
- (4) The adjudicator may not order the outcome mentioned in paragraph (3)(c) where—
- (a) not used; or
 - (b) the third stage meeting relates to the attendance of the officer concerned.
- (5) Where the question of ordering any of the outcomes mentioned in paragraph (3) is being considered, the adjudicator—
- (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 their opinion, assist them in determining the question; and
 - (c) must give—
 - (i) the officer concerned, his or her police friend or, in a case falling within regulation 32, his or her relevant lawyer; and
 - (ii) the appropriate authority;an opportunity to make oral or written representations before any such question is determined.
- (6) If the adjudicator makes a finding, in a case falling within regulation 32, of unsatisfactory performance, the adjudicator must order the issue of a written improvement notice.
- (7) A written improvement notice or a final written improvement notice issued under this regulation must—
- (a) state in what respect the performance or attendance of the officer concerned (as the case may be) is considered unsatisfactory or grossly incompetent;
 - (b) state the improvement that is required in his or her performance or attendance;
 - (c) state that, if a sufficient improvement is not made within the specified period, the officer concerned may be required to attend a second stage meeting (in the case of a written improvement notice) or another third stage meeting (in the case of a final written improvement notice) and state the date on which this period ends;
 - (d) state that it must be valid for a period of twelve months from the date of the notice (the “**validity period**”);

- (e) state that, if the sufficient improvement referred to in sub-paragraph (c) is not maintained during any part of the validity period remaining after the expiry of the period specified in accordance with sub-paragraph (c), the officer concerned may be required to attend a second stage meeting (in the case of a written improvement notice) or another third stage meeting (in the case of a final written improvement notice); and
 - (f) be signed and dated by the adjudicator.
- (8) Where the adjudicator orders an extension of the final written improvement notice—
- (a) the notice must be amended—
 - (i) to state that if the officer concerned does not make a sufficient improvement within such reasonable period as the panel specifies (being a period not greater than 12 months) he or she may be required to attend another third stage meeting; and
 - (ii) to state the date on which this period ends;
 - (b) the adjudicator may vary any of the other matters recorded in the notice;
 - (c) the notice must be valid for a further period of twelve months from the date of the extension (the “**validity period**”) and must state the date on which it expires.

46 Assessment of performance or attendance following third stage meeting

- (1) This regulation applies where a written improvement notice has been issued under regulation 45.
- (2) Where this regulation applies, the performance of the officer concerned must be assessed under regulation 23 as if he or she had received a written improvement notice under regulation 19.
- (3) Where, as a result of such assessment, the officer concerned is required to attend a second stage meeting, these Regulations have effect as if he or she had been required to attend that meeting under regulation 23; and—
 - (a) references to the period specified in accordance with regulation 18(6)(c) must be construed as references to the period specified under regulation 45(7)(c); and
 - (b) references to the validity period of the written improvement notice must be construed as references to the validity period of the written improvement notice issued under regulation 45.
- (4) Where a police officer is required to attend such a second stage meeting, that meeting must concern unsatisfactory performance which is similar

to or connected with the unsatisfactory performance referred to in the written improvement notice.

47 Assessment of performance or attendance at the conclusion of a final written improvement notice period

- (1) This regulation applies where a final written improvement notice has been issued or extended under regulation 45.
- (2) Where this regulation applies, as soon as reasonably practicable after the reasonable period specified by the adjudicator under regulation 45(7)(c) or (8)(a) ends—
 - (a) the adjudicator must assess the performance or attendance of the officer concerned (as the case may be) during that period; and
 - (b) the adjudicator must notify the officer concerned in writing whether the panel considers that there has been a sufficient improvement in performance or attendance during that period.
- (3) If the adjudicator considers that there has not been a sufficient improvement, the adjudicator must, at the same time as he or she gives notification under paragraph (2)(b), also notify the officer concerned in writing that he or she is required to attend another third stage meeting to consider his or her performance or attendance.
- (4) Where—
 - (a) the officer concerned has not been required to attend a third stage meeting under paragraph (3), or
 - (b) the officer concerned has been required to attend a third stage meeting under paragraph (3) but the adjudicator did not make a finding of unsatisfactory performance or attendance at that meeting;the officer concerned may be required to attend a third stage meeting under paragraph (5).
- (5) If the adjudicator considers that the officer concerned has failed to maintain a sufficient improvement in his or her performance or attendance during any part of the validity period of the final written improvement notice remaining after the expiry of the period specified in accordance with regulation 45(7)(c) or (8)(a), the adjudicator must notify the officer concerned in writing of the matters set out in paragraph (6).
- (6) Those matters are—
 - (a) that the adjudicator is of the view mentioned in paragraph (5); and
 - (b) that the officer concerned is required to attend another third stage meeting to consider his or her performance or attendance.

- (7) In a case falling within paragraph (3) or (5), the appropriate authority must give the officer concerned the notice referred to in regulation 31.
- (8) Where the officer concerned is required to attend a third stage meeting under this regulation, these Regulations have effect as if the case fell within regulation 30(2) or (4) as the case may be and—
 - (a) references to the period specified in accordance with regulation 25(6)(c) must be construed as references to the period specified under regulation 45(7)(c) or (8)(a), as the case may be; and
 - (b) references to the validity period of the final written improvement notice must be construed as references to the validity period mentioned in regulation 45(7)(d) or (8)(c), as the case may be.
- (9) Any third stage meeting which a police officer is required to attend under this regulation must concern unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice issued or extended under regulation 45.
- (10) References in this regulation to the adjudicator are references to the adjudicator that conducted the initial third stage meeting, subject to paragraph (11).
- (11) Where the adjudicator is not able to continue to act as such, the appropriate authority must appoint a new adjudicator.
- (12) 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 adjudicator.
- (13) The officer concerned may object to the appointment of an adjudicator appointed under paragraph (11).
- (14) Any such objection made in accordance with regulation 35(2) 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 (13); and the appropriate authority must comply with regulation 35(3) to (6) in relation to the objection but paragraph (7) of that regulation does not apply.

48 Conduct of a third stage meeting under regulation 47

- (1) Where an officer is required to attend another third stage meeting under regulation 47—
 - (a) that meeting must be conducted by the same panel as conducted the initial third stage meeting (subject to any change in the adjudicator under regulation 47);

- (b) the officer concerned must not have the right to object to the adjudicator under regulation 35, except in accordance with regulation 47;
 - (c) subject to paragraph (2), regulations 36 to 45 apply to, or in relation to, that meeting.
- (2) Following that third stage meeting, the adjudicator may not order the outcome mentioned in regulation 45(3)(d).

MADE 13 MARCH 2015

JUAN WATTERSON
Minister for Home Affairs

SCHEDULE

[regulation 3]

APPLICATION OF THESE REGULATIONS TO SUPERINTENDENTS

- (1) For the purposes of Regulation 3(2), the application of these Regulations to superintendents is as follows—
- (a) Parts 1 and 2 of the Regulations apply without modification;
- (b) Part 3 of the Regulations applies subject to the following modifications—
- (i) in regulation 17—
- (A) in paragraph (1)(d), delete “, a second stage meeting”;
- (B) for paragraph (1)(h) substitute—
- █(h) informing the officer concerned that he or she may be accompanied and represented at the meeting by a police friend and, subject to regulation 8, a relevant lawyer. █;
- (C) in paragraph (5)(a), after “police friend” insert █or relevant lawyer █;
- (ii) in regulation 19—
- (A) in paragraph (2)(b), after “police friend” insert █or relevant lawyer █;
- (B) paragraphs (6) and (9) do not apply; and
- (C) in paragraph (10), in the first line of the paragraph, after “any written record”, for “,” substitute █“and █ and in the second line omit “and any written comments”;
- (iii) regulations 20, 21 and 22 do not apply;
- (c) Part 4 of the Regulations does not apply;
- (d) Part 5 of the Regulations applies subject to the following modifications—
- (i) In regulation 30—
- (A) in the heading to regulation 30, for “second” substitute █first █;
- (B) in paragraph (1), for “regulation 25(6)(c)” substitute █regulation 18(6)(c) █;

- (C) in paragraph (1)(a) for “the second line manager or a human resources professional (or both)” substitute **“the Department”**;
 - (D) in paragraph (4), substitute **“regulation 18(6)(c)”** for “regulation 25(6)(c)”;
 - (ii) in regulation 32(3), delete “or a second stage meeting”;
 - (iii) in regulation 34(1)—
 - (A) delete “either”; and
 - (B) subparagraph (a) does not apply;
 - (iv) in regulation 34(4)(c), delete “26, 29,”;
 - (v) in regulation 35(3) for “The appropriate authority”, substitute **“After consulting with the Department the appropriate authority”**;
 - (vi) in regulation 38(6), after “police friend” insert **“or relevant lawyer”**;
 - (vii) in regulation 45—
 - (A) in paragraph (7)(c), delete “a second stage meeting (in the case of a written improvement notice) or”;
 - (B) in paragraph (7)(e), delete “a second stage meeting (in the case of a written improvement notice) or”;
 - (viii) regulation 46 does not apply; and
 - (ix) in regulation 47(8)(a), for “regulation 25(6)(c)” substitute **“regulation 18(6)(c)”**.
- (2) In addition—
- (a) for “line manager” substitute **“appropriate authority”**;
 - (b) for “second line manager” substitute **“appropriate authority”**;
 - (c) for “senior manager” substitute **“appropriate authority”**; and
 - (d) for “second stage meeting” substitute **“third stage meeting”**, except for the purposes of regulations 17(1)(d), 32(3) and 45(7);
- wherever these terms occur in the Regulations.

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations apply to all officers of superintendent rank or below and set out the procedures to be followed for managing and improving the performance of police officers along with procedures for the discipline and dismissal of police officers for unsatisfactory performance, unsatisfactory attendance or gross incompetence.

Part 1 deals with preliminary matters. Regulation 3 sets out who the regulations apply to. Regulation 4 defines terms used in these Regulations.

Part 2 deals with general matters. Regulations 7 and 8 make provision about the role of a police friend under these Regulations and the right to legal representation. Regulation 9 provides for the manner in which a written notice or document is to be given to or supplied to a police officer. Regulation 10 contains general provision about the procedure for meetings held in accordance with the Regulations. Regulation 11 makes provision for a senior manager to appoint someone to carry out functions of a line manager or a second line manager under the Regulations. Regulations 12 and 13 make provision about extensions and suspensions of certain periods specified in the Regulations. Regulation 15 is about the provision of information to the commissioner.

Part 3, 4 and 5 set out the three stages of the procedure involved in addressing issues relating to the performance of a police officer.

Part 3 deals with the first stage procedure. It makes provision about the circumstances in which a first stage meeting may be required, the arrangement of such a meeting and the procedures to be followed at and subsequent to the meeting. If the outcome of the meeting is a finding of unsatisfactory performance or attendance, the police officer will be issued with a written improvement notice under regulation 18. Regulations 20 to 22 make provision for appeal.

Part 4 makes similar provision in respect of the second stage of the procedures. A police officer can be required to attend a second stage meeting following a first stage meeting if, during specified periods, the officer has failed to improve his or her performance or attendance, or if he or she has failed to maintain such an improvement. If the outcome of the second stage meeting is a finding of unsatisfactory performance or attendance, the police officer will be issued with a final written improvement notice under regulation 26. Regulations 27 to 29 make provision for the officer to appeal.

Part 5 makes provision in respect of the third stage of the procedures. A police officer can be required to attend a third stage meeting following a second stage meeting if, during specified periods, the officer has failed to improve his or her performance or attendance, or if the officer has failed to maintain such an improvement. A police officer can also be required to attend a third stage meeting, even where the officer has not attended a first or second stage meeting, if the appropriate authority considers the performance of the officer constitutes gross incompetence. A third stage meeting is

conducted by an adjudicator appointed by the appropriate authority in accordance with regulation 34. Regulation 35 gives the police officer the right to object to the person appointed as an adjudicator. Regulations 36 to 43 deal with procedural matters relating to the third stage meeting, witnesses and the timing of the meeting. Regulation 44 makes provision for the decision of the adjudicator following the third stage meeting, which must set out the panel's finding, its reasons and any outcome ordered under regulation 45. Regulations 46 to 48 make provision for the performance or attendance of the officer to be assessed following the third stage meeting where the adjudicator has ordered the issue of a written improvement notice, or the issue or extension of a final written improvement notice.