

Procedure at misconduct proceedings

The person conducting or chairing the misconduct proceedings will determine the procedure, in line with the requirements of the regulations. They will not proceed unless the officer concerned has been notified of his/her rights to legal or other representation. Regulation 33 sets out the role that the representative of the officer concerned may undertake in the proceedings.

Outcome of misconduct proceedings

Regulation 35 sets out the possible outcomes of misconduct proceedings. These are:

- A finding of misconduct recorded but no further action taken
- Imposition of disciplinary action in the form of management advice, a written warning or final written warning
- In the case of a misconduct hearing the outcome may also be dismissal with or without notice

The person considering disciplinary action must give the officer concerned, his/her police friend or relevant lawyer, the opportunity to make written or oral representations before a determination is made.

Within five working days of the conclusion of the proceedings the officer concerned should be informed in writing of the outcome of those proceedings. At that time he/she should also be informed of their right to appeal.

Appeal following misconduct meetings

The regulations set out the right of appeal following a misconduct meeting. They state the only grounds for an appeal and the timescale within which the appeal may be made. They also outline the procedure for any appeal meeting that may take place and the possible outcomes of an appeal.

FastTrack procedure for special case hearings

Special case hearings take place when an investigation of an allegation identifies that special conditions are satisfied.

Special conditions are defined in Annex A of the Home Office Guidance on Police Office Misconduct, Unsatisfactory Performance and Attendance Management Procedures as, *'that there is sufficient evidence, in the form of written statements or other documents, without the need for further evidence, whether written or oral, to*

Equality and diversity

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

Use of force

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

Orders and instructions

Police officers only give and carry out lawful orders and instructions. Police officers abide by police regulations, force policies and lawful orders.

Duties and responsibilities

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

Confidentiality

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

Fitness for duty

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

Discreditable conduct

Police officers behave in a manner which does not discredit the police service or undermine public confidence in it, whether on or off duty.

Police officers report any action taken against them for a criminal offence, any conditions imposed on them by a court or the receipt of any penalty notice.

Challenging and reporting improper conduct

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

however, detailed information in the Home Office Guidance on Police Officer Misconduct, Unsatisfactory Performance and Attendance Management Procedures.

Where there is no sustained improvement following management action it may be appropriate to use the formal Unsatisfactory Performance Procedure (UPP) and the procedures set out in the Police (Performance) Regulations 2012.

Unsatisfactory Performance Procedure

The Unsatisfactory Performance Procedure (UPP) applies to police officers up to and including the rank of chief superintendent. It does not apply to student officers who are governed by locally determined procedures underpinned by Regulation 13, Police Regulations 2003.

There are potentially three stages to the UPP. A meeting is held at each stage. Progress will be made to the next stage in the event that performance issues are not resolved by the previous stage.

At each stage the meeting must consider unsatisfactory performance or attendance which is similar to or connected with the unsatisfactory performance or attendance referred to in any written improvement notice. Where failings relate to a different form of unsatisfactory performance or attendance it will be necessary to commence the UPPs at the first stage.

At each stage the relevant manager must notify the officer in writing that he or she is required to attend a meeting. At the time of notification the manager must provide the officer with details of the procedure, an explanation of the reason for the meeting and details of who will be in attendance. The officer must also be informed of the right to seek advice from a Police Federation representative and of the right to be accompanied by a "police friend". Regulation 5 of the Police (Performance) Regulations 2012 sets out the role that the police friend may undertake in the proceedings. (For further information on the services of a police friend, [contact your Branch Board](#)).

A notification of a meeting must be accompanied by any papers supporting the view that the officer's performance or attendance is unsatisfactory. Any papers to be relied on by the officer at the meeting must be submitted to the relevant manager before the meeting.

At any stage, if the officer or his/her police friend is unavailable on the meeting date proposed by the relevant manager, the officer may propose an alternative date and time. This must be accepted provided it is reasonable and within five working days of the original date.

and one must be an HR professional. None of the panel members should be junior in rank to the police officer concerned. Under regulation 33 the officer concerned has two opportunities to object to the appointment of a panel member. If an objection is upheld the panel member will be replaced.

Where the panel conducting the stage three meeting deems that the officer's performance or attendance has continued to be unsatisfactory the possible outcomes are:

- Redeployment
- Reduction in rank (performance only)
- Dismissal with a minimum of 28 days' notice
- Extension of a final improvement notice (this will occur only in exceptional circumstances and the period cannot be extended more than once)

Gross incompetence

When the appropriate authority:

- considers that the performance of the police officer constitutes gross incompetence;
- accepts a recommendation under the Police Reform Act 2002 relating to the outcome of an investigation of a complaint; or
- has a duty under the 2002 Act to comply with a direction to that effect,

meetings at stage one and two will be omitted and the officer will be required to go straight to a third stage meeting.

This stage will still be referred to as stage three. This is only for instances relating to performance matters and is not applicable for attendance issues, which must follow the full three stage process.

An appropriate authority's consideration of performance as gross incompetence is envisaged to be initiated by a single act. It is not envisaged that it would be in response to a series of acts over a period of time.

Where an officer is required to proceed straight to a stage three meeting, without the inclusion of stage one or two in the procedure, s/he has the right to legal representation. Whilst the officer has the right to seek legal advice at any time in the UPP, this is the only time that the Police (Performance) Regulations 2012 convey the right to legal representation. In all other circumstances under the regulations s/he may only be represented by a police friend.