STATUTORY RULES OF NORTHERN IRELAND

2007 No. 130

POLICE

Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007

Made - - - -	*22nd January 2007*
Laid before Parliament	*12th March 2007*
Coming into operation	*1st April 2007*

The Secretary of State, in exercise of the powers conferred by sections 25 and 26 of the Police (Northern Ireland) Act 1998(**1**), and after consulting, in accordance with sections 25(8) and 26(6) of the Police (Northern Ireland) Act 1998, the Northern Ireland Policing Board and the Police Association, hereby makes the following Regulations:

PART I

GENERAL

Citation and commencement

1. These regulations may be cited as the Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007 and shall come into operation on 1st April 2007.

Revocations and transitional arrangements

2.—(1) Subject to the following provisions of this regulation, the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000(**2**) are hereby revoked.

(2) Any action commenced under the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000 should continue to be actioned under the Police Service of Northern Ireland (Unsatisfactory Performance and Attendance) Regulations 2007. [without prejudice to sections 28 and 29 of the Interpretation Act (Northern Ireland) 1954 any appointment, application, report, request, decision or any other notice or record kept or other thing done under the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000 or for the purposes thereof shall not be invalidated by the revocation of those regulations but shall insofar as it could have been made,

(**1**) 1998 c.32 (NI)
(**2**) S.R. 2000 No.316

given or done under a provision of these regulations or for the purpose thereof have effect as if it had been made, given or done under or for the purposes of this provision.]

Interpretation

3. In these regulations—

"assistant chief constable" means a member of that rank who is required by the chief constable to exercise any function of the assistant chief constable specified in these regulations in relation to the member concerned and shall include a member acting in place of the assistant chief constable;

"countersigning officer" means—

(a) a member of a rank not lower than that of inspector who has supervisory responsibility for, and is at least one rank above that of, the member concerned, or

(b) a person employed under section 4 of the Police (Northern Ireland) Act 2000 ("the 2000 Act") who has supervisory responsibility for the reporting officer.

"first interview" means an interview arranged in terms of regulation 6;

"interviewing officer" means the member who conducts an interview arranged in terms of regulation 6;

"member" means a member of the Police Service of Northern Ireland; or a member of the Police Service of Northern Ireland Reserve appointed on either a full-time or part-time basis;

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

"police force" means a police force in the United Kingdom;

"police officer" means a member of a police force in the United Kingdom;

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

"reporting officer" means the member of a rank not lower than that of a sergeant or the person employed under section 4 of the 2000 Act(**4**) who in either case has the immediate supervisory responsibility for the member concerned;

"second interview" means an interview arranged in terms of article 10;

"senior officer" means an officer of the rank of chief constable, deputy chief constable or assistant chief constable;

"staff association" means a police officer representative body;

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

"unsatisfactory performance/attendance hearing" means a hearing arranged in terms of regulation 14.

Application

4. These regulations shall not apply to—

(a) senior officers; or

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

(**3**) Police (NI) Order 1997
(**4**) 2000 c.32 (NI)

PART II

FIRST INTERVIEW

Circumstances in which a first interview may be required

5.—(1) Where the reporting officer for a member is a member himself and is of the opinion that the member's performance or attendance or both is unsatisfactory, he may require the member himself to attend an interview (in these regulations referred to as the first interview) to discuss the performance or attendance (or both) of the member concerned.

(2) Where the reporting officer for a member is a person employed under section 4 of the 2000 Act and is of the opinion that the attendance of the member is unsatisfactory, he may require the member concerned to attend an interview (in these regulations referred to as the first interview) to discuss the attendance of the member concerned.

(3) Where the reporting officer for a member is a person employed under section 4 of the 2000 Act, any other member who has supervisory responsibility for the member first mentioned in paragraph (2) may, if he is of the opinion that the performance of the member is unsatisfactory, he may require him to attend an interview (in these regulations referred to as the first interview) to discuss his performance, and in such a case in these regulations to a reporting officer shall be taken to include references to the member with that supervisory responsibility.

Arrangement of the first interview

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

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

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

(ii) stating the reasons why his performance or attendance is considered unsatisfactory; and

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

(b) send a notice to the countersigning officer.

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

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

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

Procedure at first interview

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

(2) The interviewing officer shall—

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

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

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

(a) inform the member in what respect his performance and/or attendance is considered unsatisfactory;

(b) warn him that he is required to improve his performance and/or attendance in any such respect;

(c) inform him of any specific action which he is required to take to achieve such improvement; and

(d) warn him that if sufficient improvement is not made within such period as the interviewing officer shall specify, he may be required to attend a second interview in accordance with regulation 10.

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

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

Procedure following first interview

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

(a) cause to be prepared a written record of the substance of the matters discussed during the interview; and

(b) send a copy of that record to the member concerned together with a notice in writing informing him that he may submit written comments not later than 7 days after the date on which the copy is received.

(2) In a case where a member has been required to attend a first interview to discuss his attendance and he has failed to attend the interview, the interviewing officer shall, if he is satisfied that the attendance of the member concerned is unsatisfactory, not later than 7 days after the date on which the first interview was due to take place—

(a) cause to be prepared a written notice informing and warning the member concerned of matters mentioned in sub-paragraphs (a) to (c) of regulation 7(3); and

(b) send one copy or, where a member of a police force selected by the member concerned attended the interview, two copies of the notice to the member concerned together with a notice in writing informing him that he may submit written comments, or indicate that he has no comments to make, not later than 7 days after the date on which the copy is received.

(3) Subject to paragraph (4), the member concerned shall be entitled to submit written comments in relation to the record of the interview to the interviewing officer not later than 7 days after the date on which it is received.

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

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

(a) the personnel officer; and

(b) if the interview was conducted by the reporting officer, the countersigning officer; or

(c) if the interview was conducted by the countersigning officer; the reporting officer; or

(d) if the interview was conducted by any other officer, to the reporting officer and the countersigning officer.

(6) If the interviewing officer receives any written comments under paragraph (3), he shall ensure that they are retained with the record of the interview.

(7) Where a member has been required to attend a first interview in relation to his performance, attendance or both categories of behaviour, any second interview shall relate only to the category or categories of behaviour that was or were subject of the first interview.

PART III

SECOND INTERVIEW

Circumstances in which a second interview may be required

9.—(1) Where the reporting officer is of the opinion that a member who was warned in terms of regulation 7(3) that he was required to improve his performance and/or attendance has, at the end of the period specified by the interviewing officer in terms of regulation 7(3), failed to make sufficient improvement in his performance and/or attendance, he may refer the case to the countersigning officer.

(2) Where a case is referred under paragraph (1) the countersigning officer may, after consultation with the personnel officer, require the member to attend a further interview (in these regulations referred to as the second interview) to discuss the performance or attendance (or both) of the member concerned.

Arrangement at second interview

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

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

(i) requiring him to attend, at a specified time and place, an interview conducted under Part III of these regulations with the countersigning officer;

(ii) stating the reasons why his performance and/or attendance is considered unsatisfactory; and

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

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

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

Procedure at second interview

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

(2) Subject to regulation 10(2), the interview shall be conducted by the countersigning officer and the personnel officer.

(3) The countersigning officer shall—