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STATUTORY RULES OF NORTHERN IRELAND

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**2016 No. 43**

**POLICE**

**The Police Appeals Tribunals  
Regulations (Northern Ireland) 2016**

*Made - - - - 17th February 2016*

*Coming into operation 1st June 2016*

The Department of Justice makes the following Regulations in exercise of the powers conferred by sections 25 and 26 of the Police (Northern Ireland) Act 1998(1).

In accordance with sections 25(8) and 26(6) of that Act the Department has consulted the Northern Ireland Policing Board and the Police Association for Northern Ireland.

**PART 1**

**Preliminary**

**Citation and commencement**

1. These Regulations may be cited as the Police Appeals Tribunals Regulations (Northern Ireland) 2016 and shall come into operation on 1<sup>st</sup> June 2016.

**Revocation and transitional provisions**

2.—(1) Subject to paragraph (2), the Royal Ulster Constabulary (Appeals) Regulations 2000(2) are revoked.

(2) In relation to an appeal against a decision made in accordance with the Royal Ulster Constabulary (Conduct) Regulations 2000(3), the Royal Ulster Constabulary (Conduct) (Senior Officer) Regulations 2000(4) or the Police (Unsatisfactory Performance and Attendance)

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(1) 1998 c.32. Relevant amendments are made by section 78(1) of and paragraph 23 of Schedule 6 to the Police (Northern Ireland) Act 2000.  
(2) S.R. 2000 No. 317 as amended by S.R. 2003 No. 68, S.R. No.399 and S.R. 2004 No. 315.  
(3) S.R. 2000 No. 315 as amended by S.R. 2001 No. 184 and S.R. 2003 No. 68, S.R. 2004 No. 315, S.R. 2008 No. 56 and as modified by S.R. 2005 No. 341.  
(4) S.R. 2000 No. 320, as amended by S.R. 2001 No. 184, S.R. 2003 No. 68 and S.R. 2004 No. 315 and S.R. 2008 No. 56.

Regulations (Northern Ireland) 2010<sup>(5)</sup>, nothing in these Regulations shall have effect and the provisions mentioned in paragraph (1) shall continue to have effect.

### **Interpretation**

**3.—(1)** The Interpretation Act (Northern Ireland) 1954<sup>(6)</sup> applies to these Regulations as it applies to an Act of the Assembly. In these Regulations—

“the 1998 Act” means the Police (Northern Ireland) Act 1998;

“appeals tribunal” means the person or persons appointed under regulation 11;

“appellant” means a member who has given a notice of appeal in accordance with regulation 6 or 7;

“the Board” means the Northern Ireland Policing Board;

“chair” means a chair appointed in accordance with regulation 11(3);

“complainant” means the person by, or on behalf of whom, the complaint is made;

“complaint” means a complaint about the conduct of a member of the police service which is made by, or on behalf of, a member of the public and which the Ombudsman has determined is a complaint to which section 52(4) of the 1998 Act applies;

“the Conduct Regulations” means the Police (Conduct) Regulations (Northern Ireland) 2016<sup>(7)</sup>;

“interested person” means a person whom the appropriate authority considers has a right to be kept informed about the handling of—

- (a) a complaint; or
- (b) a referred matter; or
- (c) a matter being investigated by the Ombudsman of his own motion under section 55(6) of the 1998 Act; or
- (d) an allegation that a member may have—
  - (i) committed a criminal offence; or
  - (ii) behaved in a manner which would justify the bringing of disciplinary proceedings;

“member” means a member of the police service;

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

“the Ombudsman” means the Police Ombudsman for Northern Ireland established by section 51 of the 1998 Act;

“original hearing” means—

- (a) the misconduct meeting, misconduct hearing or special case hearing under the Conduct Regulations; or
- (b) the third stage meeting under the Performance Regulations, at or following which the relevant decision was made;

“panel” includes a person who conducted a special case hearing under the Conduct Regulations;

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<sup>(5)</sup> S.R. 2010 No. 47.

<sup>(6)</sup> 1954 c.33 (N.I.).

<sup>(7)</sup> S.R. 2016 No. 41.

“the Performance Regulations” means the Police (Performance and Attendance) Regulations (Northern Ireland) 2016<sup>(8)</sup>;

“police force” means the police service, a police force within the meaning of section 101 of the 1996 Act<sup>(9)</sup> or the Police Service of Scotland within the meaning of section 6 of the Police and Fire Reform (Scotland) Act 2012<sup>(10)</sup>;

“police fund” means the fund established by regulation 3 of the Royal Ulster Constabulary Fund Regulations 1972<sup>(11)</sup>;

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

“the police service” means the Police Service of Northern Ireland or the Police Service of Northern Ireland Reserve;

“relevant decision” means the finding, disciplinary action or outcome which may be appealed or is being appealed to a tribunal in accordance with regulation 4 or 5, and related expressions shall be construed accordingly;

“respondent” has the meaning given by regulation 8;

“senior officer” means a member above the rank of chief superintendent;

“specified appeal” means an appeal where the relevant decision arose from a case where—

- (a) a recommendation had been made under section 59(2) of the 1998 Act that disciplinary proceedings should be brought; or
- (b) a direction had been made under section 59(5) of that Act;

“transcript” includes a record of proceedings in digital format;

“tribunal” means a police appeals tribunal appointed in accordance with regulation 11.

(2) In these Regulations, any expression which is also used in the Conduct Regulations or the Performance Regulations shall, unless that expression is given a different meaning in paragraph (1), have the same meaning as in those Regulations.

(3) Where any written notice or document is to be given or supplied to the appellant under these Regulations, it shall be—

- (a) given to him in person; or
- (b) if the Board or the tribunal, as the case may be, reasonably believes that the member is avoiding service, left with some person at, or sent by recorded delivery to, his last known address.

#### **Circumstances in which a member may appeal to a tribunal**

4.—(1) Subject to paragraph (3), a member to whom paragraph (2) applies may appeal to a tribunal in reliance on one or more of the grounds of appeal referred to in paragraph (4) against—

- (a) the finding referred to in paragraph (2)(a), (b) or (c) made under the Conduct Regulations; or
- (b) the disciplinary action, if any, imposed under the Conduct Regulations in consequence of that finding,

or both.

(2) This paragraph applies to—

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<sup>(8)</sup> S.R. 2016 No. 42.  
<sup>(9)</sup> 1996 c.16.  
<sup>(10)</sup> 2012 asp 8.  
<sup>(11)</sup> S.R. 1972 No. 103.

- (a) a member other than a senior officer against whom a finding of misconduct or gross misconduct has been made at a misconduct hearing; or
- (b) a senior officer against whom a finding of misconduct or gross misconduct has been made at a misconduct meeting or a misconduct hearing; or
- (c) a member against whom a finding of gross misconduct has been made at a special case hearing.

(3) A member may not appeal to a tribunal against a finding referred to in paragraph (2)(a), (b) or (c) where that finding was made following acceptance by the member that his conduct amounted to misconduct or gross misconduct (as the case may be).

(4) The grounds of appeal under this regulation are—

- (a) that the finding or disciplinary action imposed was unreasonable; or
- (b) that there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision on disciplinary action; or
- (c) that there was a breach of the procedures set out in the Conduct Regulations or other unfairness which could have materially affected the finding or decision on disciplinary action.

5.—(1) Subject to paragraph (3), a member to whom paragraph (2) applies may appeal to a tribunal in reliance on one or more of the grounds of appeal referred to in paragraph (6) against—

- (a) a finding referred to in paragraph (2) made under the Performance Regulations; or
- (b) an outcome which is imposed under the Performance Regulations as a consequence of such a finding and is mentioned in paragraph (4) or (5),

or both.

(2) This paragraph applies to a member against whom a finding of unsatisfactory performance or attendance or gross incompetence has been made at a third stage meeting.

(3) A member may not appeal to a tribunal against a finding referred to in paragraph (2) where that finding was made following acceptance by the member that his performance or attendance has been unsatisfactory or that he has been grossly incompetent (as the case may be).

(4) Where there has been a finding of unsatisfactory performance or attendance following a third stage meeting which the member was required to attend under regulation 26 of the Performance Regulations, he may appeal against the following outcomes—

- (a) dismissal with notice,
- (b) reduction in rank.

(5) Where there has been a finding of gross incompetence or unsatisfactory performance following a third stage meeting which the member concerned was required to attend under regulation 28 of the Performance Regulations, he may appeal against the following outcomes—

- (a) dismissal without notice,
- (b) reduction in rank,
- (c) redeployment to alternative duties,
- (d) the issue of a written improvement notice,
- (e) the issue of a final written improvement notice.

(6) The grounds of appeal under this regulation are—

- (a) that the finding or outcome imposed was unreasonable; or
- (b) that there is evidence that could not reasonably have been considered at the original hearing which could have materially affected the finding or decision on the outcome; or

- (c) that there was a breach of the procedures set out in the Performance Regulations or other unfairness which could have materially affected the finding or decision on the outcome; or
- (d) that, where the member concerned was required to attend a third stage meeting under regulation 26 of the Performance Regulations, he should not have been required to attend that meeting as it did not, in accordance with regulation 26(6) or 41(9) of those Regulations, concern unsatisfactory performance or attendance similar to or connected with the unsatisfactory performance or attendance referred to in the final written improvement notice.

### **Notice of appeal**

6.—(1) Subject to regulation 7, a member who wishes to appeal shall give notice of the appeal before the end of 10 working days beginning with the first working day after the day on which he is supplied with a written copy of the relevant decision.

(2) The notice of appeal shall be given in writing to the Board.

(3) The member concerned may request a transcript of the proceedings (or part of the proceedings) at the original hearing in his notice of appeal.

7.—(1) This regulation applies where a member who wishes to appeal to a tribunal wishes to give notice of the appeal after the end of the period mentioned in regulation 6(1).

(2) A member may give notice of the appeal within a reasonable time after the end of such period and the notice shall be accompanied by the reasons why it was not served within the period and the reason for the member's view that it has been served within a reasonable time after such period.

(3) Upon receipt, the Board shall supply a copy of the notice and the reasons to the chair who shall determine—

- (a) whether it was reasonably practicable for the notice to be given within the period mentioned in regulation 6(1); and
- (b) whether the notice has been given within a reasonable time after the end of such period.

(4) If the chair determines either that it was reasonably practicable for the notice to be given within such period or that the notice has not been given within a reasonable time after the end of such period, the appeal shall be dismissed.

(5) Where the appeal is not dismissed under paragraph (4), the appeal shall proceed and the chair shall give directions for the application of regulation 9 to the appeal.

### **The respondent**

8.—(1) Where the appellant is a senior officer, the respondent shall be the Chief Executive Officer of the Board, or in their absence, a person designated by the Board.

(2) Where the appellant is a member who is not a senior officer the respondent shall be the Chief Constable.

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

9.—(1) As soon as reasonably practicable, the Board shall supply a copy of the notice of the appeal—

- (a) to the respondent; and
- (b) where the appeal is a specified appeal, to the Ombudsman.

(2) As soon as reasonably practicable after receipt of a copy of the notice of appeal, and in any event before the end of 15 working days beginning with the first working day after the day of such receipt, the respondent shall supply to the Board—

- (a) a copy of the relevant decision made at or following the original hearing provided under regulation 37 or 55 of the Conduct Regulations or regulation 38(3) of the Performance Regulations;
- (b) any documents which were made available to the panel conducting the original hearing; and
- (c) a copy of the transcript requested under regulation 6(3).

(3) A copy of any such transcript shall at the same time be given to the appellant.

(4) The appellant shall supply the following documents to the Board in accordance with paragraph (6)—

- (a) a statement of the relevant decision and his grounds of appeal;
- (b) any supporting documents;
- (c) where the appellant is permitted to adduce witness evidence—
  - (i) a list of any proposed witnesses;
  - (ii) a witness statement from each proposed witness; and
- (d) if he consents to the appeal being determined without a hearing, notice in writing that he so consents.

(5) For the purposes of paragraph (4)(c)—

- (a) an appellant is only permitted to adduce witness evidence where he is relying on the ground of appeal set out in regulation 4(4)(b) or 5(6)(b);
- (b) a “proposed witness” is a person—
  - (i) whom the appellant wishes to call to give evidence at the hearing;
  - (ii) whose evidence was not and could not reasonably have been considered at the original hearing; and
  - (iii) whose evidence could have materially affected the relevant decision.

(6) The appellant shall supply the documents mentioned in paragraph (4) before the end of—

- (a) 20 working days beginning with the first working day after the day on which he is supplied with a copy of the transcript under paragraph (3); or
- (b) where no transcript has been requested under regulation 6(3), 35 working days beginning with the first working day after the day on which he gave notice of the appeal to the Board.

(7) The Board shall give a copy of the documents supplied under paragraph (4) to the respondent as soon as practicable following receipt.

(8) The respondent shall, before the end of 20 working days beginning with the first working day after the day on which he receives the documents given to him under paragraph (7), supply to the Board—

- (a) a statement of his response to the appeal;
- (b) any supporting documents;
- (c) where the respondent is permitted to adduce witness evidence—
  - (i) a list of any proposed witnesses;
  - (ii) a witness statement from each proposed witness; and
- (d) if he consents to the appeal being determined without a hearing, notice that he so consents.

- (9) For the purposes of paragraph (8)(c)—
- (a) a respondent is only permitted to adduce witness evidence where the appellant is relying on the ground of appeal set out in regulation 4(4)(b) or 5(6)(b);
  - (b) a “proposed witness” is a person—
    - (i) whom the respondent wishes to call to give evidence at the hearing; and
    - (ii) whose evidence is relevant to all or part of the evidence on which the appellant is relying for the purposes of regulation 4(4)(b) or 5(6)(b).
- (10) The respondent shall at the same time as supplying the documents referred to in paragraph (8), give the appellant a copy of those documents.
- (11) On receipt of the documents supplied under paragraph (8), the Board shall give to the chair a copy of the documents supplied under paragraphs (2), (4) and (8).

### **Extensions of time limits**

- 10.**—(1) The appellant or the respondent may apply to the Board for an extension of a relevant period.
- (2) Any such application shall set out the period of the required extension and the reasons for the application.
- (3) As soon as practicable after receipt of an application under paragraph (1), the Board shall—
- (a) give a copy of the application to the other party (being the appellant or the respondent as the case may be); and
  - (b) ask that other party whether he consents to the application.
- (4) If the other party consents to the application, the relevant period shall be extended in accordance with the application and regulation 9 shall have effect as if for that period there were substituted the extended period.
- (5) If the other party does not consent to the application, the application shall be referred to the chair who shall determine whether the relevant period should be extended and if so by how long; and where he extends the relevant period, regulation 9 shall have effect as if for that period there were substituted the extended period.
- (6) In this regulation, “relevant period” means, in relation to an application by the appellant, the period referred to in regulation 9(6)(a) or (b) and, in relation to an application by the respondent, the period referred to in regulation 9(2) or (8).

### **Appeals tribunal**

- 11.**—(1) In the case of an appeal by a senior officer in accordance with regulation 37(2)(b) (notice of right of appeal to a police appeals tribunal) or regulation 55(3) of the Conduct Regulations (notice of right of member to an appeal hearing), the police appeals tribunal shall consist of three members appointed by the Board, of whom—
- (a) one shall be a barrister or solicitor of not less than seven years’ standing and who has been nominated by the Lord Chief Justice for the purposes of this regulation;
  - (b) one shall be a member of an elected local policing body within the meaning of section 102(1) of the Police Reform and Social Responsibility Act 2011(12); and
  - (c) one shall be a person who—
    - (i) is (or has within the previous five years been) an Inspector of Constabulary, or

(ii) is (or has within the previous five years been) the chief officer of police of a force other than the police service.

(2) In the case of an appeal by a member who is not a senior officer, the police appeals tribunal shall consist of three members appointed by the Board, of whom—

- (a) one shall be a person nominated in accordance with paragraph (1)(a);
- (b) one shall be a member of the Board; and
- (c) one shall be a senior officer who is not a member.

(3) The member of the police appeals tribunal to whom paragraph (1)(a) or (2)(a) applies shall be the chair.

### **Review of appeal**

**12.**—(1) Upon receipt of the documents mentioned in regulation 9(4) and (8), the chair shall determine whether the appeal should be dismissed under paragraph (2).

(2) An appeal shall be dismissed under this paragraph if the chair considers that—

- (a) the appeal has no real prospect of success; and
- (b) there is no other compelling reason why the appeal should proceed.

(3) If the chair considers that the appeal should be dismissed under paragraph (2), before making his determination, he shall give the appellant and the respondent notice in writing of his view together with the reasons for that view.

(4) The appellant and the respondent may make written representations in response to the chair before the end of 10 working days beginning with the first working day after the day of receipt of such notification; and the chair shall consider any such representations before making his determination.

(5) The chair shall give the appellant, the respondent, the Board and, where the appeal is a specified appeal, the Ombudsman notice in writing of his determination.

(6) Where the chair determines that the appeal should be dismissed under paragraph (2)—

- (a) the notification under paragraph (5) shall include the reasons for the determination; and
- (b) the appeal shall be dismissed.

### **Determination of an appeal**

**13.**—(1) Where an appeal has not been dismissed under regulation 12, the chair shall determine whether the appeal should be dealt with at a hearing.

(2) The chair may determine that the appeal shall be dealt with without a hearing, but only if the appellant has so consented.

(3) Where the appeal is to be dealt with at a hearing, regulations 14 to 22 shall apply and the chair shall give the appellant and the respondent his name and contact address.

### **Power to request disclosure of documents**

**14.**—(1) At any time following the provision of the documents mentioned in regulation 9(4) and (8), the appellant or the respondent (the “requesting party”) may apply to the chair for disclosure of any document by the other party which is relevant to the appeal.

(2) The chair may request the disclosure of any such document by the other party and where it is disclosed, a copy shall be given to the chair and to the requesting party.

(3) Where a party does not comply with a request to disclose under paragraph (2), he shall give the chair and the requesting party his reasons for non-disclosure in writing.



### **Notice of the hearing**

15.—(1) The chair shall cause the appellant and the respondent to be given written notice of the date, time and place of the hearing at least 20 working days, or such shorter period as may with the agreement of both parties be determined, before the date of the hearing.

(2) Where—

(a) the appellant is relying on the ground of appeal set out in regulation 4(4)(b) or 5(6)(b); and

(b) either the appellant or the respondent (or both) have proposed witnesses under regulation 9, the chair shall determine which, if any, witnesses shall give evidence at the hearing.

(3) No witness shall give evidence at the hearing unless the chair reasonably believes that it is necessary for the witness to do so, in which case the chair shall—

(a) where the witness is a member, cause that person to be ordered to attend the hearing; and

(b) in any other case, cause the witness to be given notice that his attendance is necessary and of the date, time and place of the hearing.

(4) The appellant or the respondent may object to any person conducting proceedings.

(5) Any such objection must be made in writing to the chair before the end of 3 working days beginning with the first working day after the member concerned is given notice of the person's name and must set out the grounds of objection of the appellant or respondent.

(6) The chair shall notify the appellant and respondent in writing whether he upholds or rejects an objection to any chair or panel member.

(7) If the chair upholds the objection, the person to whom the appellant or respondent objects shall be replaced (in accordance with regulation 11 as appropriate).

(8) As soon as reasonably practicable after any such appointment, the chair shall notify the appellant and the respondent of the new panel member.

### **Legal and other representation**

16.—(1) The appellant has the right to be represented at a hearing by counsel or a solicitor or a police friend.

(2) Where the appellant is represented at the hearing by counsel or a solicitor, he may also be accompanied at the hearing by a police friend.

(3) If an appellant chooses not to be represented, the hearing may take place and the appeal may be determined without him being represented.

(4) Where the appellant, in accordance with paragraph (1), chooses to be legally represented, the respondent has the right to be represented at a hearing by counsel or a solicitor.

(5) If an appellant chooses to be legally represented in accordance with paragraph (1), the case against him may be presented by counsel or a solicitor whether or not he is actually so represented.

(6) The Chief Constable shall permit a police friend who is a member of the police service to use a reasonable amount of duty time for the purposes referred to in this regulation.

### **Procedure and oral evidence at hearing**

17.—(1) Subject to these Regulations, the procedure at a hearing shall be determined by the tribunal.

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

(3) Unless the tribunal determines otherwise, the evidence adduced by the appellant shall be given first.

(4) Witnesses giving evidence at the hearing may be subject to questioning and cross-questioning.

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

(6) A verbatim record of evidence given at the hearing shall be taken; and the Board shall keep such record for a period of not less than two years from the date of the end of the hearing.

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

**18.**—(1) Subject to the provisions of this regulation, the tribunal may admit as evidence a witness statement of a proposed witness supplied under regulation 9(4) or (8), notwithstanding that he is not to be called as a witness at the hearing.

(2) Evidence shall not be admissible under this regulation if it would not have been admissible had it been given orally.

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

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

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

**19.**—(1) Subject to paragraph (2) and regulations 20 and 21, the hearing shall be held in private.

(2) The tribunal may allow a person to attend all or part of the hearing as an observer for the purposes of training.

#### **Attendance of complainant or interested person at hearing**

**20.**—(1) This regulation shall apply in relation to a specified appeal where the appeal is not against sanction only.

(2) The chair shall cause notice of the date, time and place of the hearing to be given to the complainant or any interested person at the same time as such notice is given to the appellant and the respondent under regulation 15(1).

(3) Subject to the provisions of this regulation and regulation 22, the complainant or any interested person may attend the hearing as an observer up to but not including the point at which the chair considers the question of disciplinary action.

(4) Subject to the provisions of this regulation and regulation 22, a complainant or any interested person may be accompanied by one other person, and if the complainant or any interested person has a special need, by one further person to accommodate that need.

(5) Where—

(a) a complainant,

(b) an interested person, or

(c) any person accompanying a complainant or any interested person

is a proposed witness (of either party) and is to give evidence at the hearing, they shall not be allowed to attend the hearing before that evidence is given.

(6) The chair may, at his discretion, put any questions to the appellant that the complainant or any interested person may request be put to him.

### **Attendance of Ombudsman at hearing**

21.—(1) This regulation shall apply to a specified appeal.

(2) The chair shall cause notice of the date, time and place of the hearing to be given to the Ombudsman at the same time as such notice is given to the appellant and the respondent under regulation 15(1).

(3) The Ombudsman may attend the hearing as an observer.

(4) Where paragraph (3) applies the chair may, at his discretion, require the Ombudsman to withdraw while any submission is made in mitigation on the member's behalf.

### **Exclusion from hearing**

22.—(1) On the application of the appellant or the respondent or otherwise, the chair may require any observer to withdraw from all or any part of the hearing.

(2) The chair may impose such conditions as he sees fit relating to the attendance of an observer (or any person accompanying a complainant or interested person) at the hearing in order to facilitate the proper conduct of the hearing.

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

23.—(1) The tribunal shall determine whether the ground or grounds of appeal on which the appellant relies have been made out.

(2) The tribunal may impose any sanction available to the original hearing.

(3) Where the tribunal determines that a ground of appeal under regulation 4(4)(b) or (c) or regulation 5(6)(b) or (c) has been made out, the tribunal may set aside the relevant decision and remit the matter to be decided again in accordance with the relevant provisions of the Conduct Regulations or the Performance Regulations (as the case may be).

(4) Where the tribunal remits the matter under paragraph (3) and the relevant decision was the decision of a panel ("the original panel"), the matter shall be decided by a fresh panel which is constituted in accordance with the relevant provisions of the Conduct Regulations or the Performance Regulations (as the case may be) but does not contain any of the members of the original panel.

(5) The determination of the tribunal shall be based on a simple majority but shall not indicate whether it was taken unanimously or by a majority.

(6) The chair shall prepare a written statement of the tribunal's determination of the appeal and of the reasons for the decision.

(7) As soon as reasonably practicable after the determination of the appeal the chair shall cause the appellant, the respondent and the Board to be given a copy of such statement; but, in any event, the appellant shall be given written notice of the decision of the tribunal before the end of 3 working days beginning with the first working day after the day on which the appeal is determined.

(8) Where the appeal is a specified appeal, the Board shall notify the Ombudsman of the decision of the tribunal.

### **Variation or revocation of tribunal's decision**

24.—(1) Before the end of 10 working days beginning with the first working day after receipt by the appellant of the written notice of the decision under regulation 23(7) the appellant or the respondent may make written application to the chair to have that decision reviewed by the tribunal which reached that decision.

(2) A decision may be reviewed on the following grounds only—

- (a) that there is evidence that could not reasonably have been considered by the tribunal at the original hearing which could have materially affected the decision of the tribunal; or
- (b) that the interests of justice require such a review;
- (c) that the decision was wrongly made as a result of an administrative error;
- (d) that the decision was made in the absence of the appellant or the respondent.

(3) The chair shall cause the appellant or the respondent (as the case may be) and the Board to be given written notice of the application for a review before the end of 5 working days of receipt of that application beginning with the first working day after that receipt and give each party the opportunity to make written representations before the review is determined.

(4) Upon receipt of the written notice and any representations made in accordance with paragraph (3) the tribunal shall review its decision on the papers, and cause the appellant, the respondent and the Board to be given written notice of its decision before the end of 5 working days beginning with the first working day after the review.

(5) If the tribunal varies or revokes its decision, or upholds its original decision it must give the reasons for its decision to the appellant, the respondent and the Board within 5 working days of its decision beginning with the first working day after that decision.

(6) Where the appeal was a specified appeal, the Board shall notify the Ombudsman of the tribunal's decision under paragraph (5).

#### **Costs and expenses of appeal**

**25.—**(1) An appellant shall pay the whole of his own costs unless the tribunal directs that the whole or any part of his costs are to be defrayed out of the police fund.

(2) Subject to paragraph (1), all the costs and expenses of an appeal in pursuance of these Regulations, including the costs of the respondent, and as the Department of Justice determines, any remuneration paid to members of a tribunal, shall be defrayed out of the police fund.

Sealed with the Official Seal of the Department of Justice on 17th February 2016

*David Ford*  
Minister of Justice

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## EXPLANATORY NOTE

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

These Regulations set out the circumstances in which a member of the Police Service of Northern Ireland (PSNI) may appeal to a police appeals tribunal. They also set out the procedures governing such an appeal.

Regulation 2 deals with revocations and transitional provisions. Regulation 3 deals with interpretation and provides that any expression which is also used in the Police (Conduct) Regulations (Northern Ireland) 2016 or the Police (Performance and Attendance) Regulations (Northern Ireland) 2016 shall have the same meaning as in those Regulations, unless it is given a different meaning in regulation 3(1).

A member may appeal to a police appeals tribunal following proceedings under the Police (Conduct) Regulations (Northern Ireland) 2016 or the Police (Performance and Attendance) Regulations (Northern Ireland) 2016 in the circumstances set out in regulations 4 and 5. Those Regulations set out the matters that may be appealed and the grounds of appeal.

Regulations 6 and 7 make provision for the giving of a notice of appeal. Regulation 9 sets out the procedure on receipt of this notice, including the provision of documents. Under regulation 10, time periods under regulation 9 may be extended on application.

Under regulation 12, the chair must review each appeal that is brought and consider whether it should be dismissed in accordance with regulation 12(2). If he is of the view that it should be dismissed, he must give the parties an opportunity to make written representations, before making his final decision.

Under regulation 13, an appeal may be determined with or without a hearing. However, it can only be determined without a hearing if the appellant has consented to this.

Regulations 14 to 22 apply where an appeal is to be dealt with at a hearing and sets out a power for the chair to request the disclosure of documents, the procedure and entitlement to legal representation, provide for evidence and for the hearing to be in private, subject to regulations 19 to 22.

Regulation 23 deals with the determination of the appeal by the tribunal and the provision of a written statement of the determination. Regulation 24 makes provision for the tribunal to review its decision and sets out the grounds under which a decision may be reviewed.

Regulation 25 deals with the costs and expenses of an appeal.