

POLICE (CONDUCT) REGULATIONS 2008

This card contains general advice. The Police Federation has many trained and experienced ‘Police Friends’ who can advise you throughout any misconduct proceedings.

Misconduct – means a breach of the Standards of Professional Behaviour

Gross Misconduct - means a breach of the Standards of Professional Behaviour so serious that dismissal would be justified

Regulation 15 – Written Notice

The investigator shall as soon as reasonably practicable (without prejudicing this or another investigation) cause the officer concerned to be given written notice;

- describing in **unambiguous language** the particulars of the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour
- outlining whether that conduct if proved would amount to misconduct or gross misconduct
- informing officer of right to seek advice from the Police Federation

Regulation 16 – Representations to the Investigator

The Regulation 15 Notices include on the back under Explanatory Notes a warning that under Regulation 16 failure to provide a response within **10 working days** may lead to an adverse inference being drawn in any subsequent misconduct proceedings.

Officers and Police Friends should be aware that whilst the Regulations encourage officers under investigation to give an early response to service of a Notice, **it is not mandatory and careful thought should be given before any written response is given.**

Legal advice confirms that if the member is to be interviewed there is no need to consider providing a written response within 10 days. The only circumstances in which it would be advisable to consider making a written response within this time limit is if the investigating officer has indicated that the matter does not merit an interview, which is likely to be on rare occasions, **or after advice from the Police Friend it is thought that a response may negate an interview or further investigation.**

Police Friends should contact the investigating officer by e-mail or other documentary trail after service of a Regulation 15 Notice to confirm whether it is intended to interview the member and to confirm that should an interview be proposed the officer will reserve his position until that interview.

Regulation 21 – Notice of Referral to Misconduct Proceedings

Where a case is referred to misconduct proceedings an officer shall as soon as practicable be given a written notice of;

- the referral
- the conduct and how that is alleged to amount to misconduct or gross misconduct
- the name(s) of person(s) conducting the misconduct proceedings
- whether legal representation is allowed

Regulation 22 – Procedure on Receipt of Referral Notice

Regulation 22 requires the response to a Regulation 21 Notice to be served within **14 working days**. A failure to respond may lead to an adverse inference being drawn in any subsequent misconduct proceedings.

Officers and Police Friends should be aware that for the adverse inference to arise evidence would need to be given or considered at misconduct proceedings that the member concerned:-

- failed to mention any fact relied on in his case at the meeting or hearing **AND**
- at the time of responding to the Regulation 15 Notice or Regulation 21 Notice, the officer could reasonably have expected to mention the fact subsequently relied on.

Should the officer intend to admit the failure to meet the appropriate standard then a very brief response may suffice. Should the officer intend to contest the allegation then it is a tactical decision as to how much detail should be included in the officer's *...account of the relevant events...* under Regulation 22 (2)(c). Whilst there needs to be sufficient detail to avoid an adverse inference being drawn from a failure to mention a fact later relied on, too much detail is likely to increase the risk of the officer being inconsistent should they give evidence at the meeting or hearing.

DON'T WAIT TO SEEK ADVICE