



STATUTORY INSTRUMENTS.

**S.I. No. 115 of 2025**

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POLICING, SECURITY AND COMMUNITY SAFETY ACT 2024  
(SECTION 257) (CONDUCT) REGULATIONS 2025

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(SECTION 257) (CONDUCT) REGULATIONS 2025

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S.I. No. 115 of 2025

POLICING, SECURITY AND COMMUNITY SAFETY ACT 2024  
(SECTION 257) (CONDUCT) REGULATIONS 2025

I, JIM O'CALLAGHAN, Minister for Justice, in exercise of the powers conferred on me by section 257(1) of the Policing, Security and Community Safety Act 2024 (No. 1 of 2024), having consulted with the Garda Commissioner and the Police Ombudsman, and with the approval of the Government, hereby make the following Regulations:

**PART 1**  
**Preliminary and General**

**Citation**

1. These Regulations may be cited as the Policing, Security and Community Safety Act 2024 (Section 257) (Conduct) Regulations 2025.

**Commencement**

2. These Regulations shall come into operation on 2 April 2025.

**Interpretation**

3. (1) In these Regulations –

“Act” means the Policing, Security and Community Safety Act 2024 (No. 1 of 2024);

“alternate external appeals officer” means a person appointed under Regulation 61(1)(b);

“appeal hearing” has the meaning assigned to it by Regulation 63(1);

“appeals officer” has the meaning assigned to it by Regulation 56(1);

“appoint” means appoint in writing;

“assign” means assign in writing;

“assessing officer” has the meaning assigned to it by Regulation 22(1);

“external appeals officer” means a person appointed under Regulation 61(1)(a);

“gross misconduct” means misconduct of such a degree of seriousness as to justify a final written warning or dismissal as the appropriate disciplinary sanction;

“interested party”, in relation to an allegation of misconduct, means a person whose assignment or appointment in relation to, or whose role in, proceedings under these Regulations in respect of such an allegation could reasonably give

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rise to a concern as to whether the person could act impartially in the proceedings;

“investigation report” has the meaning assigned to it by Regulation 32(1);

“investigator” has the meaning assigned to it by Regulation 28(1);

“legal practitioner” means a practising barrister or a practising solicitor;

“misconduct hearing” has the meaning assigned to it by Regulation 44(1);

“misconduct hearing panel” has the meaning assigned to it by Regulation 44(1);

“misconduct hearing presenting officer” has the meaning assigned to it by Regulation 46(1);

“misconduct meeting” has the meaning assigned to it by Regulation 34(1);

“misconduct meeting deciding officer” has the meaning assigned to it by Regulation 34(1);

“misconduct meeting presenting officer” has the meaning assigned to it by Regulation 36(1);

“member concerned” has the meaning assigned to it by Regulation 22(1);

“nominated person”, in relation to a member concerned, means a person nominated by the member concerned for that purpose in accordance with Regulation 5;

“notify” means notify in writing;

“person appointed or assigned under these Regulations” means –

- (a) an assessing officer,
- (b) a Regulation 27 deciding officer,
- (c) an investigator,
- (d) a misconduct meeting deciding officer,
- (e) a misconduct meeting presenting officer,
- (f) a member of a misconduct hearing panel,
- (g) a misconduct hearing presenting officer,
- (h) an appeals officer,
- (i) the external appeals officer, or
- (j) the alternate external appeals officer;

“practising barrister” and “practising solicitor” have the same meaning, respectively, as they have in the Legal Services Regulation Act 2015 (Act No. 65 of 2015);

“Regulation 27 deciding officer” has the meaning assigned to it by Regulation 27(4).

(2) Unless the context otherwise requires, a reference in these Regulations to a section, or a subsection thereof, is a reference to a section, or a subsection thereof, of the Act, as the case may be.

## **Application of Regulations**

4. These Regulations shall apply –
  - (a) in respect of the misconduct, or alleged misconduct, of members of An Garda Síochána of a rank below that of Deputy Garda Commissioner, other than such members who are appointed under section 94, and
  - (b) notwithstanding that –
    - (i) subject to paragraph (2), the member concerned has been convicted or acquitted of an offence in respect of the matter that constitutes the misconduct,
    - (ii) a charge against the member concerned in respect of an offence referred to in clause (i) has been dismissed under section 4E of the Criminal Procedure Act 1967,
    - (iii) proceedings against the member concerned for an offence referred to in clause (i) have been discontinued, or
    - (iv) the Director of Public Prosecutions has decided not to institute a prosecution in relation to the matter that constitutes the misconduct.

## **Nominated person**

5. (1) A member concerned may, subject to paragraph (2), nominate –
  - (a) a member of An Garda Síochána, or
  - (b) a representative of the representative association established for the rank of the member concerned,

to act as his or her nominated person for the purpose of these Regulations.

(2) A member concerned shall not nominate a legal practitioner to act as his or her nominated person.

(3) In this Regulation, “representative association” means an association established in accordance with section 59(1).

## **Standard of proof**

6. In any proceedings under these Regulations, proof of misconduct or gross misconduct is to be established on the balance of probabilities.

## **Suspension of member concerned**

7. (1) The Garda Commissioner may suspend from duty, under section 48(1) or 50(3), a member concerned where, and for so long as, the Garda Commissioner is satisfied that such suspension is –

- (a) in the public interest,

(b) necessary in order to maintain public confidence in An Garda Síochána, or

(c) necessary for the purposes of the effective investigation of the allegation of misconduct concerned.

(2) Where, pursuant to paragraph (1), the Garda Commissioner decides to suspend from duty a member concerned under section 48(1) or 50(3), the Garda Commissioner shall notify the member concerned –

(a) of that decision,

(b) of the reasons for that decision,

(c) of the proposed duration of the suspension from duty,

(d) of the date on which the suspension from duty shall take effect,

(e) of the manner in which this Regulation operates, and

(f) that he or she may make submissions in writing to the Garda Commissioner in relation to the suspension from duty and the proposed duration thereof.

(3) The suspension from duty, pursuant to paragraph (1), of a member concerned under section 48(1) or 50(3), shall take effect on –

(a) the date specified pursuant to paragraph (2)(c), or

(b) such later date as may be notified to the member concerned by the Garda Commissioner.

(4) Where, pursuant to paragraph (1), the Garda Commissioner suspends a member concerned from duty under section 48(1) or 50(3), the Garda Commissioner shall review the suspension –

(a) upon receipt of submissions referred to in paragraph (2)(f), and

(b) in any event, not less than once every 3 months.

(5) Where, pursuant to paragraph (1), a member concerned is suspended from duty under section 48(1) or 50(3) by a person to whom that function of the Garda Commissioner is delegated in accordance with section 39, the Garda Commissioner shall, not later than 10 days after the suspension takes effect –

(a) review the suspension of that member concerned, and

(b) determine whether to so suspend him or her from duty for a further period.

(6) The Garda Commissioner shall, as soon as practicable after conducting a review under paragraph (4) or (5), notify the member concerned of the outcome of the review and the reasons for that outcome.

### **Assignment of member concerned to alternative duties**

8. (1) The Garda Commissioner may assign a member concerned to alternative duties where, and for so long as, the Garda Commissioner is satisfied that –

(a) such assignment is –

- (i) in the public interest, or
- (ii) necessary in order to maintain public confidence in An Garda Síochána, and
- (b) it would be inappropriate in the circumstances for the member concerned to continue to undertake the duties to which the member concerned is, at the time of such assignment, assigned.

(2) Where the Garda Commissioner decides to assign a member concerned to alternative duties under paragraph (1), the Garda Commissioner shall notify the member concerned –

- (a) of that decision,
- (b) of the reasons for that decision,
- (c) of the proposed duration of the assignment to alternative duties,
- (d) of the date on which the assignment to alternative duties shall take effect,
- (e) of the manner in which this Regulation operates, and
- (f) that he or she may make submissions in writing to the Garda Commissioner in relation to the assignment to alternative duties and the proposed duration thereof.

(3) The assignment to alternative duties of a member of An Garda Síochána under paragraph (1) shall take effect on –

- (a) the date specified pursuant to paragraph (2)(c), or
- (b) such later date as may be notified to the member concerned by the Garda Commissioner.

(4) Where the Garda Commissioner assigns a member concerned to alternative duties under paragraph (1), the Garda Commissioner shall review the assignment –

- (a) upon receipt of submissions referred to in paragraph (2)(f), and
- (b) in any event, not less than once every 3 months.

(5) Where a member concerned is assigned to alternative duties under paragraph (1) by a person to whom that function of the Garda Commissioner is delegated in accordance with section 39, the Garda Commissioner shall, not later than 10 days after the member concerned is so assigned –

- (a) review the assignment of that member concerned, and
- (b) determine whether to assign him or her to alternative duties under this Regulation for a further period.

(6) The Garda Commissioner shall, as soon as practicable after conducting a review under paragraph (4) or (5), notify the member concerned of the outcome of the review and the reasons for that outcome.

(7) In this Regulation, a reference to the assignment of a member concerned to alternative duties means the assignment of the member to duties of a nature that the Garda Commissioner considers more appropriate, in the circumstances

of the allegation of misconduct made against the member concerned, than the duties to which the member concerned is, at the time of such assignment, assigned.

### **Postponement or adjournment of proceedings under Regulations**

9. (1) Where he or she considers it appropriate, whether on the request of the member concerned or otherwise –

- (a) a misconduct meeting deciding officer may postpone or adjourn a misconduct meeting,
- (b) the chairperson of a misconduct hearing panel may postpone or adjourn a misconduct hearing, or
- (c) the external appeals officer may postpone or adjourn an appeal hearing,

to a specified date, time and location.

(2) Where a person referred to in paragraph (1) postpones or adjourns a misconduct meeting, misconduct hearing or appeal hearing, as the case may be, the person shall notify the member concerned and any other person notified under Regulation 35(1) or 45(1), as the case may be, of –

- (a) the postponement or adjournment,
- (b) the reasons for that postponement or adjournment, and
- (c) the date, time and location at which the misconduct meeting, the misconduct hearing or the appeal hearing shall be held or resumed, as the case may be.

(3) A notification under paragraph (2) in respect of a misconduct meeting –

- (a) to the member concerned shall be made not less than 7 days, and
- (b) to any other person notified under Regulation 35(1) shall be made not less than 3 days,

before the date on which the misconduct meeting shall be held or resumed, as the case may be.

(4) A notification under paragraph (2) in respect of a misconduct hearing –

- (a) to the member concerned shall be made not less than 7 days, and
- (b) to any other person notified under Regulation 45(1) shall be made not less than 3 days,

before the date on which the misconduct hearing shall be held or resumed, as the case may be.

(5) A notification under paragraph (2) in respect of an appeal hearing to the member concerned shall be made not less than 7 days before the date on which the appeal hearing shall be held or resumed, as the case may be.

### Criminal proceedings

10. (1) Without prejudice to Regulation 9, where –

- (a) criminal proceedings are instituted against a member concerned for an offence in respect of a matter that constitutes an allegation of misconduct the subject of proceedings under these Regulations,
- (b) those proceedings under these Regulations are in being, and
- (c) the Garda Commissioner is of the opinion that to continue the proceedings under these Regulations while those criminal proceedings are ongoing would be unfair or oppressive,

the Garda Commissioner may, whether on request of the member concerned or otherwise, direct that, subject to paragraph (3), no further steps be taken in the proceedings under these Regulations until such time as the criminal proceedings have concluded.

(2) Where –

- (a) a member concerned has been acquitted of an offence in respect of the matter that constitutes an allegation of misconduct the subject of proceedings under these Regulations,
- (b) those proceedings under these Regulations are in being, and
- (c) the Garda Commissioner is of the opinion that to continue the proceedings under these Regulations would be unfair or oppressive,

the Garda Commissioner shall direct that, subject to paragraph (3), no further action shall be taken under these Regulations in respect of the allegation of misconduct concerned.

(3) Where the Garda Commissioner issues a direction under paragraph (1) or (2), he or she shall notify the member concerned, and any other person that he or she considers appropriate, of the direction.

(4) Where the District Court, without proceeding to a conviction, finds the facts alleged in a criminal charge to have been proved against a member of An Garda Síochána, a person assigned or appointed under these Regulations may, in proceedings under these Regulations in relation to the member, rely on the finding as conclusive.

(5) Any information, document or other material which a member concerned is required to provide or produce in proceedings under these Regulations, and which is related to and used for the purposes of such proceedings, shall not be admissible in criminal proceedings, unless provided or produced by the member in those proceedings.

**Taking into account of proceedings under Regulations where disciplinary sanction was imposed**

11. Proceedings under these Regulations that resulted in the imposition of a disciplinary sanction on a member concerned may be taken into account for the purposes of Regulations 27(11)(e), 42(e) and 53(e) –

- (a) where the disciplinary sanction concerned was a written warning, for a period of one year from the date on which the warning came into effect,
- (b) where the disciplinary sanction concerned was a temporary reduction in pay, for a period of one year from the date on which the temporary reduction came into effect, and
- (c) where the disciplinary sanction concerned was a final written warning, for a period of 2 years from the date on which the warning came into effect.

**Sharing of information with Garda Commissioner**

12. Where any person appointed or assigned under these Regulations considers it appropriate, he or she may, at any point in proceedings under these Regulations, share with the Garda Commissioner such information in relation to those proceedings as he or she considers appropriate.

**Privilege**

13. A statement made, in any form and without malice, by any person at an interview under Regulation 30 or 31, a misconduct meeting, a misconduct hearing or an appeal hearing is privileged for the purposes of the law of defamation and so is any subsequent publication without malice of the statement made.

**Requirement to be truthful and cooperate with proceedings under Regulations**

14. (1) The member concerned –

- (a) shall answer fully and truthfully any question put to him or her by an investigator at an interview under Regulation 30, a misconduct meeting deciding officer at a misconduct meeting, a member of a misconduct hearing panel at a misconduct hearing or the external appeals officer at an appeal hearing, and
- (b) if so requested by that person, shall sign a declaration of the truth of his or her answer to the question.

(2) Any person required to attend an interview pursuant to Regulation 31, a misconduct meeting pursuant to Regulation 35(1)(c) or 37(2), or a misconduct hearing pursuant to Regulation 45(1)(c) or 47(2) –

- (a) shall answer fully and truthfully any question put to him or her by the investigator at the interview, the misconduct meeting deciding officer at the misconduct meeting or a member of the misconduct hearing panel at the misconduct hearing, and
  - (b) if so requested by that person, shall sign a declaration of the truth of his or her answer to the question.
- (3) Without prejudice to paragraph (1), a member concerned shall cooperate with the conduct of any proceedings under these Regulations.

### **Service of documents**

15. (1) A notification or other document that is required to be given to a person under these Regulations shall be addressed to the person concerned by name, and may be so given to the person in one of the following ways:

- (a) by delivering it to the person;
- (b) by leaving it at the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, at that address;
- (c) by sending it by post in a prepaid registered letter to the address at which the person ordinarily resides or, in a case in which an address for service has been furnished, to that address;
- (d) by electronic means, in a case in which the person has given notice in writing to the person giving the notification or document concerned of his or her consent to the notification or document (or notification or documents of a class to which the notification or document belongs) being given to him or her in that manner.

(2) For the purpose of this Regulation, a company formed and registered under the Companies Act 2014 or an existing company within the meaning of that Act is deemed to be ordinarily resident at its registered office, and every other body corporate and every unincorporated body of persons shall be deemed to be ordinarily resident at its principal office or place of business.

### **More than one allegation of misconduct to be dealt with in proceedings under Regulations**

16. Where more than one allegation of misconduct is made against a member concerned, those allegations may be dealt with jointly in a single set of proceedings under these Regulations.

### **Electronic communications technology**

17. (1) Any meeting, hearing or interview referred to in these Regulations need not be held at a physical venue but may be conducted wholly or partly by the use of electronic communications technology so long as all attendees have the opportunity to participate in the meeting, hearing or interview, as the case may be.

(2) Any temporary failure or disruption of electronic communications technology shall not invalidate any part of the proceedings under these Regulations merely by virtue of that temporary failure or disruption.

(3) In this Regulation “electronic communications technology” means technology that enables real-time transmission and real-time two-way audio or audio-visual communication enabling attendees to participate in any meeting, hearing or interview using such technology from a remote location.

### **Replacement of person appointed or assigned under Regulations**

18. (1) Where –

- (a) a person appointed or assigned under these Regulations, other than the external appeals officer or the alternate external appeals officer, (in this Regulation referred to as an “original appointed person”) is not, or will not be, in a position to continue to carry out the role to which they were so appointed or assigned, or
- (b) the Garda Commissioner makes a decision, under Regulation 22(6), 27(8), 28(7), 34(5), 36(4), 44(6), 46(4) or 56(5), that such a person is an interested party in relation to an allegation of misconduct,

the Garda Commissioner shall, subject to paragraph (6), remove the original appointed person and appoint or assign, as the case may be, a person (in this Regulation referred to as a “replacement appointed person”) in the same manner as the original appointed person to continue to carry out the role to which the original appointed person was appointed or assigned.

(2) The Garda Commissioner shall, prior to appointing or assigning a replacement appointed person under paragraph (1) –

- (a) notify the member concerned of the proposal to do so,
- (b) give the member concerned the opportunity to make submissions in relation to the proposal, and
- (c) have regard to any such submissions made by the member concerned in deciding whether to so appoint or assign.

(3) Where a replacement appointed person is appointed or assigned in accordance with paragraph (1), the Garda Commissioner shall –

- (a) ensure that the person is provided, on appointment or assignment, with a written account of work completed to date, the evidence given, and any submissions made by any person in the proceedings, and
- (b) notify the member concerned and such other persons as the Garda Commissioner considers appropriate of the appointment or assignment.

(4) The appointment, pursuant to paragraph (1), of a replacement appointed person to a misconduct hearing panel shall not affect the appointment of the other members of the panel.

(5) Where a replacement appointed person is appointed or assigned under paragraph (1), the appointment or assignment shall not affect the validity of anything previously done under these Regulations by the original appointed person or a misconduct hearing panel of which he or she was a member.

(6) The Garda Commissioner shall not appoint or assign a replacement appointed person unless he or she is satisfied that to do so would not negatively or unfairly impact on the member concerned, and where the Garda Commissioner is not so satisfied, he or she may direct in writing that the proceedings under these Regulations concerned be re-commenced.

### **Extension of time limits**

19. (1) Subject to paragraph (5), the Garda Commissioner may, on application in writing by a person appointed or assigned under these Regulations or a member concerned, extend any time limit specified in these Regulations for such duration as he or she considers appropriate, where he or she considers that it would be in the interests of justice to do so.

(2) An application to the Garda Commissioner for an extension of a time limit pursuant to paragraph (1) shall set out the reasons for which the extension is sought and the proposed duration of that extension.

(3) Where the Garda Commissioner extends a time limit pursuant to paragraph (1), he or she shall notify the member concerned, and such other persons subject to, or affected by, the time limit or extension concerned as the Garda Commissioner considers appropriate, of the extension and the duration thereof.

(4) The Garda Commissioner may extend a time limit pursuant to paragraph (1) on more than one occasion.

(5) This Regulation shall not apply in respect of a time limit specified in –

- (a) paragraph (4) or (5) of Regulation 7,
- (b) paragraph (4) or (5) of Regulation 8, or
- (c) Regulation 11.

### **Requirement to provide information or documents**

20. (1) For the purposes of –

- (a) an investigation under Regulation 29, the investigator,
- (b) a misconduct meeting, the misconduct meeting deciding officer, or
- (c) a misconduct hearing, the chairperson of the misconduct hearing panel,

may, by notice in writing –

- (i) require any person who, in his or her opinion, possesses information or has a document or thing in his or her power or control that is relevant to, and required for the purposes

of, the investigation, misconduct meeting or misconduct hearing to provide that information, document or thing to the investigator, misconduct meeting deciding officer or misconduct hearing panel, as the case may be, and

- (ii) where appropriate, require that person to attend before the investigator or at the misconduct meeting or misconduct hearing, as the case may be, for that purpose.

#### **Withdrawal of allegation of misconduct**

21. (1) Where a person who has made an allegation of misconduct the subject of proceedings under these Regulations notifies the Garda Commissioner, prior to the appointment of an investigator in the proceedings, that he or she is withdrawing the allegation –

- (a) subject to paragraph (b), no further action shall be taken under these Regulations in respect of the allegation, and
- (b) the Garda Commissioner shall notify the member concerned, the person who made the allegation and any other person that he or she considers appropriate that no such further action shall be taken.

(2) Where a person who has made an allegation of misconduct the subject of proceedings under these Regulations notifies the Garda Commissioner, after the appointment of an investigator in the proceedings, that he or she is withdrawing the allegation, the proceedings shall continue as though the allegation had not been withdrawn.

## **PART 2**

### **Assessment and Investigation**

#### **Appointment of assessing officer**

22. (1) Where an allegation of misconduct is made against a member of An Garda Síochána (in these Regulations referred to as the “member concerned”), the Garda Commissioner shall, subject to paragraphs (2) to (4), assign a member of An Garda Síochána (in these Regulations referred to as an “assessing officer”) in respect of the allegation.

(2) Where a member concerned is of a rank below that of chief superintendent, the Garda Commissioner shall appoint a member of An Garda Síochána of a rank not below that of chief superintendent as assessing officer.

(3) Where a member concerned is of the rank of chief superintendent, or of a rank above that rank, the Garda Commissioner shall appoint a member of An Garda Síochána of a rank above that of the member concerned as assessing officer.

(4) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as an assessing officer in proceedings under these Regulations in respect of such an allegation.

(5) Where a member concerned is of the opinion that an assessing officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the assessing officer is such an interested party.

(6) Where the Garda Commissioner receives a submission pursuant to paragraph (5) –

- (a) he or she shall make a decision as to whether the assessing officer is an interested party in relation to the allegation of misconduct concerned, and
- (b) notify the member concerned of his or her decision.

(7) A decision of the Garda Commissioner under paragraph (6) shall be final.

#### **Notification to member concerned of allegation of misconduct and appointment of assessing officer**

23. (1) An assessing officer shall, as soon as practicable after he or she is appointed under Regulation 22, notify the member concerned –

- (a) that an allegation of misconduct has been made in relation to him or her,
- (b) of the nature of the allegation, and
- (c) that an assessing officer has been appointed.

(2) A notification under paragraph (1) shall be accompanied by a copy of these Regulations and any other relevant procedural documents.

#### **Assessment of allegation of misconduct**

24. (1) Where an assessing officer is appointed under Regulation 22 in relation to an allegation of misconduct, he or she shall, as soon as practicable after such appointment, carry out an assessment of the allegation and determine –

- (a) whether the conduct the subject of the allegation, if proven to have occurred in the manner alleged, would constitute misconduct, and
- (b) where the assessing officer so determines, whether it would constitute notifiable misconduct.

(2) Where an assessing officer determines, pursuant to paragraph (1), that the conduct the subject of the allegation, if proven to have occurred in the manner alleged, would not constitute misconduct –

- (a) he or she shall determine whether the matter should be dealt with under the Performance Regulations pursuant to Regulation 70, and
- (b) subject to Regulations 25(1), 26 and 70, no further action shall be taken under these Regulations in respect of the allegation.

(3) Where an assessing officer, in making a determination under paragraph (1), becomes of the opinion that an allegation of misconduct is frivolous or vexatious, he or she may make a determination that, subject to Regulations 25(1) and 26, no further action shall be taken under these Regulations in respect of the allegation.

(4) An assessing officer may –

- (a) conduct such enquiries,
- (b) request such documents from such persons as he or she considers appropriate, or
- (c) take such other steps,

as he or she considers are reasonably necessary for the purposes of making a determination under this Regulation.

(5) In making a determination under this Regulation, an assessing officer shall have regard to any copy of a report under subsection (10) or (11) of section 208 provided by the Police Ombudsman to the Garda Commissioner pursuant to section 215(1)(a) that relates to the allegation of misconduct concerned.

(6) In this Regulation, “notifiable misconduct” has the same meaning as it has in Part 6 of the Act.

#### **Notification to member concerned of determination under Regulation 24**

25. (1) Where an assessing officer makes a determination under Regulation 24, he or she shall, as soon as practicable thereafter, notify the member concerned –

- (a) of the determination,
- (b) of the reasons for that determination, and
- (c) in the case of a determination that the conduct the subject of an allegation, if proven to have occurred in the manner alleged, would constitute misconduct –
  - (i) that the member concerned may, pursuant to Regulation 27, accept that his or her conduct constitutes misconduct,
  - (ii) of the manner in which Regulation 27 operates, and in particular, that it is not open to the member concerned to withdraw his or her notification under that Regulation once he or she is notified, under Regulation 27(13), of the determination of the Regulation 27 deciding officer under that Regulation, and
  - (iii) of the manner in which Regulation 10(5) operates.

(2) A notification under paragraph (1) shall be accompanied by –

- (a) subject to subparagraph (b), any documentation relied upon by the assessing officer in making the determination under Regulation 24, and
- (b) where the notification relates to a determination under Regulation 24(1) that the conduct the subject of the allegation, if proven to have occurred in the manner alleged, would constitute misconduct –
  - (i) copies of any documentation not already provided in accordance with paragraph (a) that will be considered in the course of any investigation under Regulation 29, and
  - (ii) details of the possible disciplinary sanctions that can be imposed should a determination be made under these Regulations that the conduct of the member concerned the subject of the allegation constitutes misconduct or gross misconduct, as the case may be.

#### **Notification to other persons of determination under Regulation 24**

26. Without prejudice to Regulation 25, where an assessing officer makes a determination under Regulation 24, he or she shall, as soon as practicable thereafter, notify –

- (a) the Garda Commissioner, and
- (b) where the assessing officer considers it appropriate, the person who made the allegation of misconduct concerned,

of the determination.

#### **Admission of misconduct by member of An Garda Síochána**

27. (1) A member concerned, within 7 days of a notification being made under Regulation 25 in relation to a determination that the conduct the subject of an allegation of misconduct, if proven to have occurred in the manner alleged, would constitute misconduct, may notify the assessing officer in writing that he or she –

- (a) accepts that he or she engaged in the conduct the subject of the allegation and that such conduct constitutes misconduct, and
- (b) wishes to have the matter dealt with in accordance with this Regulation.

(2) A member concerned may include with a notification under paragraph (1) –

- (a) such information or evidence as he or she wishes a Regulation 27 deciding officer to take into consideration when making a determination under this Regulation, and

- (b) such submissions in writing as he or she wishes to make in relation to the allegation of misconduct concerned, the proceedings or the imposition of a disciplinary sanction.
- (3) Where an assessing officer receives a notification under paragraph (1), he or she shall, as soon as practicable, provide the Garda Commissioner with a copy of the notification.
- (4) Where the Garda Commissioner receives, pursuant to paragraph (3), a copy of a notification under paragraph (1), the Garda Commissioner shall, subject to paragraphs (5) and (6), appoint a member of An Garda Síochána for the purpose of exercising the functions specified in paragraph (10) in relation to the allegation of misconduct concerned (in these Regulations referred to as a “Regulation 27 deciding officer”).
- (5) A Regulation 27 deciding officer shall be of a rank –
- (a) not below that of chief superintendent, and
  - (b) at least one rank above that of the member concerned.
- (6) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as a Regulation 27 deciding officer in proceedings under these Regulations in respect of such an allegation.
- (7) Where a member concerned is of the opinion that a Regulation 27 deciding officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the Regulation 27 deciding officer is such an interested party.
- (8) Where the Garda Commissioner receives a submission pursuant to paragraph (7) –
- (a) he or she shall make a decision as to whether the Regulation 27 deciding officer is an interested party in relation to the allegation of misconduct concerned, and
  - (b) notify the member concerned of his or her decision.
- (9) A decision of the Garda Commissioner under paragraph (8) shall be final.
- (10) Where a Regulation 27 deciding officer is appointed under paragraph (4) in relation to an allegation of misconduct, he or she shall, as soon as practicable after such appointment –
- (a) determine whether the conduct of the member concerned the subject of the allegation constitutes misconduct, and if so, whether it may constitute gross misconduct, and
  - (b) where the Regulation 27 deciding officer determines that the conduct constitutes misconduct, and does not determine that it may constitute gross misconduct, determine whether –
    - (i) a written warning, or
    - (ii) a temporary reduction in pay not exceeding 2 weeks’ pay,
- is the appropriate disciplinary sanction to be imposed on the member concerned.

(11) A Regulation 27 deciding officer shall, in making a determination under paragraph (10), have regard to –

- (a) the nature and seriousness of the misconduct concerned,
- (b) any information, evidence or submissions of the member concerned under paragraph (2),
- (c) the record of service, previous good conduct and circumstances of the member concerned,
- (d) the need to maintain public confidence in An Garda Síochána, and
- (e) in the case of a determination under paragraph (10)(b), any prior proceedings under these Regulations that resulted in the imposition of a disciplinary sanction on the member concerned that may be taken into account in accordance with Regulation 11.

(12) A Regulation 27 deciding officer shall, as soon as practicable, and in any event not later than 21 days, after his or her appointment under paragraph (4), submit a report in writing to the Garda Commissioner and the assessing officer concerned setting out each determination of the Regulation 27 deciding officer under paragraph (10) and the reasons for each such determination.

(13) A Regulation 27 deciding officer shall, as soon as practicable, and in any event not later than 3 days, after submitting a report under paragraph (12) to the Garda Commissioner –

- (a) notify the member concerned of –
  - (i) each determination of the Regulation 27 deciding officer set out in the report,
  - (ii) the disciplinary sanction, if any, to be imposed, and
  - (iii) the circumstances in, and the procedures by, which the member concerned can appeal, under Part 5, a determination under paragraph (10)(b) of the Regulation 27 deciding officer, and
- (b) provide the member concerned with a copy of the said report.

(14) Where the Regulation 27 deciding officer considers it appropriate, he or she may, no sooner than 14 days after a member is notified under paragraph (13), notify the person who made the allegation of misconduct concerned of the determination of the Regulation 27 deciding officer and provide, with such a notification, a copy of the report submitted under paragraph (12) to the Garda Commissioner.

(15) Where a member concerned is notified of a disciplinary sanction under paragraph (13) and the member does not bring an appeal under Part 5, the disciplinary sanction shall take effect 14 days after the date on which the member concerned is so notified.

(16) Where, prior to a member concerned being notified, pursuant to paragraph (13), of the determination of the Regulation 27 deciding officer under paragraph (10), the member concerned notifies the assessing officer that he or she is withdrawing his or her notification under paragraph (1), the assessing officer shall notify –

- (i) the member concerned that the misconduct in question shall be dealt with as if this Regulation had not been invoked,
- (ii) the Garda Commissioner that the member concerned has so withdrawn the notification.

### **Appointment of investigator**

28. (1) Where –

- (a) an assessing officer makes a determination under Regulation 24(1) that the conduct the subject of an allegation of misconduct, if proven to have occurred, would constitute misconduct, 7 days have elapsed since the member concerned was notified under Regulation 25(1) of that determination, and the member concerned has not made a notification under Regulation 27(1),
- (b) a Regulation 27 deciding officer makes a determination, pursuant to Regulation 27(10)(a) that the misconduct concerned may constitute gross misconduct, or
- (c) a member concerned notifies the assessing officer under Regulation 27(16) that he or she wishes to withdraw his or her notification under paragraph (1) of that Regulation,

the assessing officer shall, subject to paragraphs (2) to (5), appoint a member of An Garda Síochána of a rank not below that of inspector (in these Regulations referred to as an “investigator”) for the purposes of conducting an investigation under Regulation 29 in relation to the allegation of misconduct concerned.

(2) Where paragraph (1)(a) applies, the assessing officer shall appoint an investigator not sooner than 7 days after the member concerned is notified under Regulation 25 but as soon as practicable thereafter.

(3) Where paragraph (1)(b) applies, the assessing officer shall appoint an investigator not sooner than 10 days after the member concerned is notified under Regulation 27(13) but as soon as practicable thereafter.

(4) Where paragraph (1)(c) applies, the assessing officer shall appoint an investigator not sooner than 7 days after the assessing officer receives a notification under Regulation 27(16), but as soon as practicable thereafter.

(5) An assessing officer shall not appoint an interested party in relation to an allegation of misconduct as an investigator in proceedings under these Regulations in respect of such an allegation.

(6) Where the member concerned is of the opinion that an investigator is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the investigator is such an interested party.

(7) Where the Garda Commissioner receives a submission pursuant to paragraph (6) –

- (a) he or she shall make a decision as to whether the investigator is an interested party in relation to the allegation of misconduct concerned, and
  - (b) notify the member concerned of his or her decision.
- (8) A decision of the Garda Commissioner under paragraph (7) shall be final.

### **Conduct of investigation**

29. (1) An investigator shall –

- (a) as soon as practicable after his or her appointment under Regulation 28, notify the member concerned in writing –
  - (i) that he or she has been so appointed to conduct an investigation into the allegation of misconduct concerned,
  - (ii) of the obligations of the member concerned under Regulation 14,
  - (iii) of the possible disciplinary sanctions that can be imposed should a determination be made under these Regulations that the conduct of the member concerned the subject of the allegation constitutes misconduct or gross misconduct, as the case may be,

and

- (b) as soon as practicable after such appointment, and thereafter as soon as practicable after any such documentation comes to the attention of the investigator, provide the member concerned with a copy of all documentation that shall be considered in the course of the investigation.

(2) Written submissions may be made to the investigator by or on behalf of –

- (a) the member concerned,
- (b) the Garda Commissioner, or
- (c) any person interviewed by the investigator under Regulation 31.

(3) Where the investigator considers it necessary, oral submissions, may be made to the investigator by any person present at an interview under Regulation 30 or 31.

### **Interview of member concerned by investigator**

30. (1) An investigator may, where he or she considers it necessary for the purposes of the investigation under Regulation 29, interview the member concerned on one or more than one occasion.

(2) A member concerned may be accompanied by either, or both, a nominated person or a legal practitioner to an interview under this Regulation.

(3) Where an investigator proposes to interview a member concerned under this Regulation, the investigator shall, not less than 7 days before the interview, notify the member concerned of –

- (a) the date, time and location of the interview,
- (b) his or her right to be accompanied at the interview by a nominated person, and
- (c) the consequences of failing, without reasonable excuse, to attend for the interview.

(4) An investigator shall, at the commencement of an interview under this Regulation, explain in ordinary language –

- (a) the manner in which Regulation 10(5) operates, and
- (b) the obligation imposed on the member concerned by Regulation 14.

### **Interview of other person by investigator**

31. (1) Without prejudice to Regulation 30, an investigator may, where he or she considers it necessary for the purposes of the investigation under Regulation 29, interview any person he or she considers appropriate on one or more than one occasion.

(2) Where an investigator proposes to interview a person under this Regulation, the investigator shall notify the person of the date, time and location of the interview.

(3) An investigator shall, at the commencement of an interview under this Regulation, explain in ordinary language –

- (a) the manner in which Regulation 10(5) operates, and
- (b) the obligation imposed on the person being interviewed by Regulation 14.

### **Report of investigator**

32. (1) On completion of an investigation under Regulation 29, an investigator shall submit a report in writing (in these Regulations referred to as “an investigation report”) to the assessing officer.

(2) An investigation report shall set out –

- (a) details of the allegation of misconduct concerned,
- (b) the information, documentation or other material considered by the investigator in the preparation of the report,
- (c) the opinion of the investigator, and the reasons for that opinion, as to whether the evidence accumulated in the course of the investigation under Regulation 29 is sufficient to prove –
  - (i) that the conduct of the member concerned the subject of the allegation constitutes misconduct, and

- (ii) if so, that such misconduct may constitute gross misconduct,

and

- (d) where the investigator is of the opinion that the conduct of the member concerned the subject of the allegation does not constitute misconduct, the opinion of the investigator as to whether the matter should be dealt with under the Performance Regulations pursuant to Regulation 70.

(3) An investigation report shall include a copy of any written submissions and a record of any oral submissions made to the investigator during the course of the investigation under Regulation 29.

**Determination by assessing officer that proceedings under Regulations should or should not be continued**

33. (1) Where an assessing officer receives an investigation report under Regulation 32(1), he or she shall, as soon as practicable, and in any event not later than 14 days, thereafter, consider the investigation report and make a determination as to whether the conduct of the member concerned the subject of the allegation of misconduct –

- (a) may constitute misconduct other than gross misconduct and as such, proceedings under these Regulations are to continue by way of a misconduct meeting,
- (b) may constitute gross misconduct and as such, proceedings under these Regulations are to continue by way of a misconduct hearing, or
- (c) would not constitute misconduct.

(2) Where an assessing officer determines, pursuant to paragraph (1), that the conduct of the member concerned the subject of the allegation would not constitute misconduct –

- (a) he or she shall determine whether the matter should be dealt with under the Performance Regulations pursuant to Regulation 70, and
- (b) subject to paragraphs (5) and (6) and Regulation 70, no further action shall be taken under these Regulations in respect of the allegation.

(3) Where an assessing officer, in making a determination under paragraph (1), becomes of the opinion that an allegation of misconduct is frivolous or vexatious, he or she may make a determination that, subject to paragraph (5), no further action shall be taken under these Regulations in respect of the allegation.

(4) In making a determination under this Regulation, the assessing officer may require the investigator to clarify, or provide further details in respect of, any aspect of the investigation report.

(5) Where an assessing officer makes a determination under this Regulation, he or she shall, as soon as practicable thereafter, notify the member concerned of –

- (a) the determination, and
- (b) the reasons for that determination.

(6) Without prejudice to paragraph (5), where an assessing officer makes a determination under this Regulation, he or she shall, as soon as practicable thereafter notify –

- (a) the Garda Commissioner, and
- (b) where the assessing officer considers it appropriate, the person who made the allegation of misconduct concerned,

of the determination.

(7) A notification under paragraph (5) to a member concerned or paragraph (6) to the Garda Commissioner shall be accompanied by a copy of the investigation report.

### **PART 3**

#### **Misconduct Meeting**

##### **Appointment of misconduct meeting deciding officer**

34. (1) Where –

- (a) an assessing officer makes a determination under Regulation 33(1) that the conduct of the member concerned the subject of the allegation of misconduct may constitute misconduct other than gross misconduct, or
- (b) an appeals officer quashes, pursuant to Regulation 57(1)(b)(ii)(I), a determination of a misconduct meeting deciding officer and remits the matter for the appointment of a further misconduct meeting deciding officer to consider the matter,

the Garda Commissioner shall, as soon as practicable, subject to paragraphs (2) and (3), appoint a member of An Garda Síochána (in these Regulations referred to as a “misconduct meeting deciding officer”) to conduct a meeting in relation to the allegation of misconduct concerned (in these Regulations referred to as a “misconduct meeting”).

(2) A misconduct meeting deciding officer shall be of a rank –

- (a) not below that of superintendent, and
- (b) at least one rank above that of the member concerned.

(3) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as a misconduct meeting deciding officer in proceedings under these Regulations in respect of such an allegation.

(4) Where the member concerned is of the opinion that a misconduct meeting deciding officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the misconduct meeting deciding officer is such an interested party.

(5) Where the Garda Commissioner receives a submission pursuant to paragraph (4) –

- (a) he or she shall make a decision as to whether the misconduct meeting deciding officer is an interested party in relation to the allegation of misconduct concerned, and
- (b) notify the member concerned of his or her decision.

(6) A decision of the Garda Commissioner under paragraph (5) shall be final.

(7) Where a misconduct meeting deciding officer is appointed under paragraph (1), the assessing officer concerned shall, as soon as practicable after such appointment, provide the misconduct meeting deciding officer with –

- (a) a copy of the notification of the assessing officer to the member concerned under Regulation 25,
- (b) a copy of the investigation report,
- (c) any clarifications or further details in respect of any aspect of the investigation report provided by the investigator to the assessing officer pursuant to a requirement under Regulation 33(4),
- (d) a copy of the notification of the assessing officer to the member concerned under Regulation 33(5), and
- (e) on request by the misconduct meeting deciding officer –
  - (i) a copy of all documentation that was provided to the assessing officer under these Regulations, or
  - (ii) details of any prior proceedings under these Regulations that resulted in the imposition of a disciplinary sanction on the member concerned that may be taken into account in accordance with Regulation 11.

### **Preparation in advance of misconduct meeting**

35. (1) A misconduct meeting deciding officer, as soon as practicable after he or she is appointed under Regulation 34, shall notify –

- (a) the member concerned,
- (b) the investigator, where the misconduct meeting deciding officer requires his or her attendance at the misconduct meeting pursuant to Regulation 37(2), and
- (c) any other person who is permitted to attend the misconduct meeting pursuant to Regulation 37(1) and whose attendance at the misconduct meeting the misconduct meeting deciding officer considers necessary,

that he or she is required to attend a misconduct meeting at a specified date, time and location.

(2) A notification under –

- (a) paragraph (1)(a) shall be made not less than 21 days, and
- (b) subparagraph (b) or (c) of paragraph (1) shall be made not less than 5 days,

before the misconduct meeting concerned.

(3) A notification to a member concerned under paragraph (1) shall be accompanied by –

- (a) details of the allegation of misconduct concerned,
- (b) a statement setting out the nature of the evidence in relation to the allegation of misconduct concerned,
- (c) a copy of the determination of the assessing officer under Regulation 24 in relation to the allegation of misconduct concerned,
- (d) a copy of any information, evidence or written submissions submitted or made by the member concerned under Regulation 27(2) or 29(2) in the proceedings concerned,
- (e) a copy of all documentation provided to the misconduct meeting deciding officer in accordance with Regulation 34(7),
- (f) details of the persons who may attend a misconduct meeting, in accordance with Regulation 37,
- (g) details of the matters that the member concerned is required to provide in advance of the misconduct meeting in accordance with paragraph (4),
- (h) a copy of any documentation not otherwise provided in accordance with this paragraph that shall be considered in the course of the misconduct meeting,
- (i) confirmation that the member concerned is entitled to be accompanied to the misconduct meeting by a nominated person,
- (j) details of the possible consequences of failure to attend a misconduct meeting, including that such a failure may constitute misconduct on the part of the member concerned,
- (k) details of the possible disciplinary sanctions that can be imposed should a determination be made following a misconduct meeting that the conduct the subject of the allegation constitutes misconduct other than gross misconduct,
- (l) confirmation that the member concerned shall receive, as soon as practicable following the conclusion of the misconduct meeting, a copy of any determination made by the misconduct meeting deciding officer under Regulation 39, 40 or 41 in relation to the allegation of misconduct concerned,

- (m) a copy of these Regulations and any other relevant procedural documents, and
  - (n) a copy of any other document or other material that the misconduct meeting deciding officer considers appropriate.
- (4) A member concerned shall, not less than 5 days before a misconduct meeting, provide the misconduct meeting deciding officer with –
- (a) notice in writing as to whether or not he or she accepts that he or she engaged in the conduct the subject of the allegation and that such conduct constitutes misconduct,
  - (b) any submissions in writing that he or she wishes to make in relation to the allegation of misconduct concerned, the proceedings or the imposition of a disciplinary sanction,
  - (c) a copy of any document that the member concerned intends to rely on at the misconduct meeting, and
  - (d) confirmation in writing as to whether it is intended that a nominated person shall attend the misconduct meeting with the member concerned.
- (5) A misconduct meeting deciding officer shall, as soon as practicable, and in any event not less than 5 days before a misconduct meeting, notify the member concerned of the proposed attendees at the misconduct meeting.

#### **Appointment of misconduct meeting presenting officer**

36. (1) Subject to paragraph (2), the Garda Commissioner may, where he or she considers it appropriate appoint a member of An Garda Síochána of a rank not below that of sergeant for the purpose of exercising the functions specified in Regulation 38(3) in relation to an allegation of misconduct (in these Regulations referred to as a “misconduct meeting presenting officer”).

(2) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as a misconduct meeting presenting officer in proceedings under these Regulations in respect of such an allegation.

(3) Where the member concerned is of the opinion that a misconduct meeting presenting officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the misconduct meeting presenting officer is such an interested party.

(4) Where the Garda Commissioner receives a submission pursuant to paragraph (3) –

- (a) he or she shall make a decision as to whether the misconduct meeting presenting officer is an interested party in relation to the allegation of misconduct concerned, and
  - (b) notify the member concerned of his or her decision.
- (5) A decision of the Garda Commissioner under paragraph (4) shall be final.

### **Persons to attend misconduct meeting**

37. (1) The following persons may, in addition to the misconduct meeting deciding officer, attend a misconduct meeting:

- (a) the member concerned;
- (b) the nominated person of the member concerned;
- (c) subject to paragraph (2), an investigator;
- (d) a misconduct meeting presenting officer who has been appointed under Regulation 36 in respect of the allegation of misconduct;
- (e) such other persons as the misconduct meeting deciding officer considers necessary.

(2) A misconduct meeting deciding officer –

- (a) shall, where the member concerned has disputed any aspect of an investigation report, and
- (b) may, where he or she otherwise considers it appropriate,

require the investigator to attend the misconduct meeting.

(3) Where –

- (a) a member concerned, having been notified of a misconduct meeting in accordance with Regulation 9(2) or 35(1), does not attend the misconduct meeting at the date, time and location so notified, and
- (b) the nominated person of the member concerned so attends,

the misconduct meeting deciding officer may, where he or she considers it appropriate, proceed with the misconduct meeting in the absence of the member concerned.

(4) Where –

- (a) a member concerned, having been notified of a misconduct meeting in accordance with Regulation 9(2) or 35(1), and
- (b) the nominated person of the member concerned,

do not attend the misconduct meeting at the date, time and location so notified, the misconduct meeting deciding officer may, where he or she considers it appropriate, conduct the misconduct meeting in the absence of the member concerned and a nominated person.

(5) Where –

- (a) an investigator, or
- (b) any other person who is permitted to attend a misconduct meeting pursuant to paragraph (1) and whose attendance at the misconduct meeting the misconduct meeting deciding officer considers necessary,

having been notified of a misconduct meeting in accordance with Regulation 9(2) or 35(1), does not attend the misconduct meeting at the date, time and location so notified, the misconduct meeting deciding officer may, where he or

she considers it appropriate, proceed with the misconduct meeting in the absence of the person.

### **Procedure during misconduct meeting**

38. (1) Subject to this Regulation, a misconduct meeting deciding officer may conduct a misconduct meeting in such manner as he or she considers appropriate.

(2) A misconduct meeting deciding officer shall, at the commencement of a misconduct meeting –

- (a) explain in ordinary language –
  - (i) the allegation of misconduct that has been made in relation to the member concerned, and in particular, why it is alleged that the conduct of the member may constitute misconduct,
  - (ii) the possible consequences of a determination that the conduct of the member concerned constitutes misconduct other than gross misconduct or a determination that such conduct may constitute gross misconduct,
  - (iii) the manner in which Regulation 10(5) operates, and
  - (iv) the obligation imposed on the persons in attendance by Regulation 14.

and

- (b) invite the member concerned, or his or her nominated person, to state whether or not the member concerned accepts that he or she engaged in the conduct the subject of the allegation and that such conduct constitutes misconduct.

(3) Where a misconduct meeting presenting officer is in attendance at a misconduct meeting, he or she shall –

- (a) present the allegation of misconduct and the evidence in support of that allegation, and
- (b) make such submissions in relation to that allegation and evidence as he or she considers appropriate.

(4) Where the member concerned is accompanied by a nominated person, the member may, at any time during the course of the misconduct meeting, confer with the nominated person, in private where he or she so requests.

(5) The member concerned, or his or her nominated person, may, at a misconduct meeting, make such submissions as the member concerned wishes to make in relation to the allegation of misconduct concerned, the proceedings or the imposition of a disciplinary sanction.

(6) Where the member concerned disputes any aspect of the investigation report, the investigator may respond in writing to the misconduct meeting deciding officer in advance of, or orally at, the misconduct meeting to any issues raised by the member concerned in that regard.

(7) On the conclusion of a misconduct meeting, the misconduct meeting deciding officer shall inform the member concerned that the member concerned shall receive, as soon as practicable, a copy of any determination made in accordance with Regulation 39, 40 or 41 in relation to the conduct of the member concerned the subject of the allegation of misconduct.

### **Determination of misconduct meeting deciding officer**

39. As soon as practicable after the conclusion of a misconduct meeting, the misconduct meeting deciding officer shall determine –

- (a) whether the conduct of the member concerned the subject of the allegation constitutes misconduct, and
- (b) where the misconduct meeting deciding officer so determines, whether that conduct may constitute gross misconduct.

### **Where conduct is determined by misconduct meeting deciding officer not to constitute misconduct**

40. Where a misconduct meeting deciding officer makes a determination under Regulation 39 that the conduct of the member concerned the subject of the allegation does not constitute misconduct –

- (a) the misconduct meeting deciding officer shall determine whether the matter should be dealt with under the Performance Regulations pursuant to Regulation 70, and
- (b) subject to Regulations 43 and 70, no further action shall be taken under these Regulations in respect of the allegation.

### **Where conduct is determined by misconduct meeting deciding officer to constitute misconduct other than gross misconduct**

41. (1) Where a misconduct meeting deciding officer makes a determination under Regulation 39 that the conduct of the member concerned the subject of the allegation constitutes misconduct other than gross misconduct, the misconduct meeting deciding officer shall, subject to paragraph (2), determine the appropriate disciplinary sanction to be imposed on the member concerned.

(2) A misconduct meeting deciding officer may determine, pursuant to paragraph (1), any one of the following disciplinary sanctions to be the appropriate disciplinary sanction to be imposed on the member concerned:

- (i) a written warning;
- (ii) a temporary reduction in pay not exceeding 2 weeks' pay.

### **Matters to which misconduct meeting deciding officer shall have regard in making determination under Regulation 39 or 41**

42. A misconduct meeting deciding officer shall, in making a determination under Regulation 39 or 41, have regard to –

- (a) the nature and seriousness of the misconduct concerned,
- (b) the evidence presented and submissions made in the proceedings concerned,
- (c) the record of service, previous good conduct and circumstances of the member concerned,
- (d) the need to maintain public confidence in An Garda Síochána, and
- (e) in the case of a determination under Regulation 41, any prior proceedings under these Regulations that resulted in the imposition of a disciplinary sanction on the member concerned that may be taken into account in accordance with Regulation 11.

**Report to Garda Commissioner, and notification, of determination of misconduct meeting deciding officer**

43. (1) A misconduct meeting deciding officer shall, as soon as practicable, and in any event not later than 21 days, after the conclusion of a misconduct meeting, submit a report in writing to the Garda Commissioner and the assessing officer concerned setting out –

- (a) the determination of the misconduct meeting deciding officer under Regulation 39,
- (b) any determination of the misconduct meeting deciding officer under Regulation 40 or 41, and
- (c) the reasons for each such determination.

(2) A misconduct meeting deciding officer shall, as soon as practicable, and in any event not later than 3 days, after submitting a report under paragraph (1) to the Garda Commissioner –

- (a) notify the member concerned of –
  - (i) each determination of the misconduct meeting deciding officer set out in the report,
  - (ii) the disciplinary sanction, if any, to be imposed, and
  - (iii) the circumstances in, and the procedures by, which the member concerned can appeal, under Part 5, a determination of the misconduct meeting deciding officer, and
- (b) provide the member concerned with a copy of the said report.

(3) Where a misconduct meeting deciding officer considers it appropriate, he or she may, no sooner than 14 days after a member is notified under paragraph (2), notify the person who made the allegation of misconduct concerned of the determination of the misconduct meeting deciding officer and provide, with such a notification, a copy of the report submitted under paragraph (1) to the Garda Commissioner.

(4) Where a member concerned is notified of a disciplinary sanction under paragraph (2) and the member does not bring an appeal under Part 5, the disciplinary sanction shall take effect 14 days after the date on which the member is so notified.

## PART 4

### Misconduct Hearing

#### **Appointment of misconduct hearing panel**

44. (1) Where paragraph (2) applies, the Garda Commissioner shall appoint a panel of three persons (in these Regulations referred to as “a misconduct hearing panel”) to conduct a hearing into the allegation of misconduct concerned (in these Regulations referred to as a “misconduct hearing”).

(2) This paragraph applies where –

- (a) an assessing officer makes a determination pursuant to Regulation 33(1)(b) that the conduct of a member concerned the subject of an allegation of misconduct may constitute gross misconduct,
- (b) a misconduct meeting deciding officer makes a determination under Regulation 39 that the conduct of a member concerned the subject of an allegation of misconduct may constitute gross misconduct,
- (c) an appeals officer, under Regulation 57(1)(b)(ii)(II), quashes a determination by a misconduct hearing panel and remits the matter for the appointment of a further misconduct hearing panel to consider the matter, or
- (d) the external appeals officer, under Regulation 67(1)(b)(iii), quashes a determination by a misconduct hearing panel and remits the matter for the appointment of a further misconduct hearing panel to consider the matter.

(3) Subject to paragraph (4), a misconduct hearing panel shall consist of –

- (a) a chairperson, being a member of An Garda Síochána who is of a rank –
  - (i) not below that of Assistant Commissioner, and
  - (ii) at least one rank above that of the member concerned,
- (b) a member of An Garda Síochána who is of a rank –
  - (i) not below that of Chief Superintendent, and
  - (ii) at least one rank above that of the member concerned,

and

(c) a person selected by the Garda Commissioner from a panel of suitably qualified or experienced persons, other than members of garda personnel, nominated by the Minister for that purpose.

(4) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as a member of a misconduct hearing panel in proceedings under these Regulations in respect of such an allegation.

(5) Where the member concerned is of the opinion that a member of a misconduct hearing panel is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the member is such an interested party.

(6) Where the Garda Commissioner receives a submission pursuant to paragraph (5) –

(a) he or she shall make a decision as to whether the member of a misconduct hearing panel is an interested party in relation to the allegation of misconduct concerned, and

(b) notify the member concerned of his or her decision.

(7) A decision of the Garda Commissioner under paragraph (6) shall be final.

(8) Where a misconduct hearing panel is appointed under paragraph (1), the assessing officer concerned shall, as soon as practicable after such appointment, provide the misconduct hearing panel with –

(a) a copy of the notification of the assessing officer to the member concerned under Regulation 25,

(b) a copy of the investigation report,

(c) any clarifications or further details in respect of any aspect of the investigation report provided by the investigator to the assessing officer pursuant to a requirement under Regulation 33(4),

(d) a copy of the notification of the assessing officer to the member concerned under Regulation 33(5), and

(e) on request by the misconduct hearing panel –

(i) a copy of all documentation that was provided to the assessing officer under these Regulations, or

(ii) details of any prior proceedings under these Regulations that resulted in the imposition of a disciplinary sanction on the member concerned that may be taken into account in accordance with Regulation 11.

### **Preparation in advance of misconduct hearing**

45. (1) The chairperson of a misconduct hearing panel shall, as soon as practicable after his or her appointment under Regulation 44, notify –

- (a) the member concerned,
- (b) the investigator, where the misconduct hearing panel requires his or her attendance at the misconduct meeting pursuant to Regulation 47(2), and
- (c) any other person who is permitted to attend a misconduct hearing pursuant to Regulation 47(1) and whose attendance at the misconduct hearing the misconduct hearing panel considers necessary,

that he or she is required to attend a misconduct hearing at a specified date, time and location.

(2) A notification under –

- (a) paragraph (1)(a) shall be made not less than 35 days, and
- (b) subparagraph (b) or (c) of paragraph (1) shall be made not less than 10 days,

before the misconduct hearing concerned.

(3) A notification to a member concerned under paragraph (1) shall be accompanied by –

- (a) details of the allegation of misconduct concerned,
- (b) a statement setting out the nature of the evidence in relation to the allegation of misconduct concerned,
- (c) a copy of the determination of the assessing officer under Regulation 24 in relation to the allegation of misconduct concerned,
- (d) a copy of any information, evidence or written submissions submitted or made by the member concerned under Regulation 27(2) or 29(2) in the proceedings concerned,
- (e) a copy of all documentation provided to the misconduct hearing panel in accordance with Regulation 44(8),
- (f) details of the persons who may attend a misconduct hearing, in accordance with Regulation 47,
- (g) details of the matters that the member concerned is required to provide in advance of the misconduct hearing in accordance with paragraph (5),
- (h) a copy of any documentation not otherwise provided in accordance with this paragraph that shall be considered in the course of the misconduct hearing,
- (i) confirmation that the member concerned is entitled to be accompanied to the misconduct hearing by either, or both, a nominated person or a legal practitioner,

- (j) details of the possible consequences of failure to attend a misconduct hearing panel, including that such a failure may constitute misconduct on the part of the member concerned,
  - (k) details of the possible disciplinary sanctions that can be imposed should a determination be made following a misconduct hearing that the conduct of the member concerned the subject of the allegation constitutes misconduct or gross misconduct, as the case may be,
  - (l) confirmation that the member concerned shall receive, as soon as practicable following the conclusion of the misconduct hearing, a copy of any determination made by the misconduct hearing panel in accordance with Regulation 49, 50, 51 or 52 in relation to the allegation of misconduct concerned,
  - (m) a copy of these Regulations and any other relevant procedural documents, and
  - (n) a copy of any other document or other material that the misconduct hearing panel considers appropriate.
- (4) A chairperson of a misconduct hearing panel shall, as soon as practicable, provide to the other members of the panel copies of all documents provided to, or by, the member concerned under paragraph (3).
- (5) A member concerned shall, not less than 5 days before a misconduct hearing, provide the misconduct hearing panel with –
- (a) notice in writing as to whether or not he or she accepts that he or she engaged in the conduct the subject of the allegation and that such conduct constitutes misconduct,
  - (b) any submissions in writing that he or she wishes to make in relation to the allegation of misconduct concerned, the proceedings or the imposition of a disciplinary sanction,
  - (c) a copy of any document that the member concerned intends to rely on at the misconduct hearing, and
  - (d) confirmation in writing as to whether it is intended that a nominated person or a legal practitioner shall attend the misconduct hearing with the member concerned.
- (6) The chairperson of a misconduct hearing panel shall, as soon as practicable, and in any event not less than 10 days before a misconduct hearing, notify the member concerned of the proposed attendees at the misconduct hearing.

#### **Appointment of misconduct hearing presenting officer**

46. (1) Subject to paragraph (2), the Garda Commissioner may, where he or she considers it appropriate appoint –

- (a) a member of An Garda Síochána who is of a rank not below that of sergeant, or

- (b) a legal practitioner,

for the purpose of exercising the functions specified in Regulation 48(3) in relation to an allegation of misconduct (in these Regulations referred to as a “misconduct hearing presenting officer”).

(2) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as a misconduct hearing presenting officer in proceedings under these Regulations in respect of such an allegation.

(3) Where the member concerned is of the opinion that a misconduct hearing presenting officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the misconduct hearing presenting officer is such an interested party.

(4) Where the Garda Commissioner receives a submission pursuant to paragraph (3) –

- (a) he or she shall make a decision as to whether the misconduct hearing presenting officer is an interested party in relation to the allegation of misconduct concerned, and
- (b) notify the member concerned of his or her decision.

(5) A decision of the Garda Commissioner under paragraph (4) shall be final.

### **Persons to attend misconduct hearing**

47. (1) The following persons may, in addition to the members of the misconduct hearing panel, attend a misconduct hearing:

- (a) the member concerned;
- (b) the nominated person of the member concerned;
- (c) a legal practitioner nominated by the member concerned;
- (d) subject to paragraph (2), an investigator;
- (e) a misconduct hearing presenting officer who has been appointed under Regulation 46 in respect of the allegation of misconduct;
- (f) such other persons as the misconduct hearing panel considers necessary.

(2) A misconduct hearing panel –

- (a) shall, where the member concerned has disputed any aspect of an investigation report, and
- (b) may, where it otherwise considers it appropriate,

require the investigator to attend the misconduct meeting.

(3) Where –

- (a) a member concerned, having been notified of a misconduct hearing in accordance with Regulation 9(2) or 45(1), does not attend the misconduct hearing at the date, time and location so notified, and

- (b) the nominated person of the member concerned or a legal practitioner nominated by the member concerned so attends,

the misconduct hearing panel may, where it considers it appropriate, proceed with the misconduct hearing in the absence of the member concerned.

(4) Where –

- (a) a member concerned, having been notified of a misconduct hearing in accordance with Regulation 9(2) or 45(1),
- (b) the nominated person of the member concerned, and
- (c) a legal practitioner nominated by the member concerned,

do not attend the misconduct hearing at the date, time and location so notified, the misconduct hearing panel may, where it considers it appropriate, proceed with the misconduct hearing in the absence of the member concerned, the nominated person and a legal practitioner.

(5) Where –

- (a) an investigator, or
- (b) any other person who is permitted to attend a misconduct hearing pursuant to paragraph (1) and whose attendance at the misconduct hearing the misconduct hearing panel considers necessary,

having been notified of a misconduct hearing in accordance with Regulation 9(2) or 45(1), does not attend the misconduct hearing at the date, time and location so notified, the misconduct hearing panel may, where it considers it appropriate, proceed with the misconduct hearing in the absence of the person.

### **Procedure during misconduct hearing**

48. (1) Subject to this Regulation, a misconduct hearing panel may conduct a misconduct hearing in such manner as it considers appropriate.

(2) A misconduct hearing panel shall, at the commencement of a misconduct hearing –

- (a) explain in ordinary language –
  - (i) the allegation of misconduct that has been made in relation to the member concerned, and in particular, why it is alleged that the conduct of the member may constitute misconduct,
  - (ii) the possible consequences of a determination that the conduct of the member concerned constitutes misconduct other than gross misconduct or a determination that such conduct constitutes gross misconduct,
  - (iii) the manner in which Regulation 10(5) operates, and
  - (iv) the obligations imposed on the persons in attendance by Regulation 14.

and

- (b) invite the member concerned, his or her nominated person, or a legal practitioner nominated by him or her, to state whether or not the member concerned accepts that he or she engaged in the conduct the subject of the allegation and that such conduct constitutes misconduct.
- (3) Where a misconduct hearing presenting officer is in attendance at a misconduct hearing, he or she shall –
- (a) present the allegation of misconduct and the evidence in support of that allegation, and
  - (b) make such submissions in relation to that allegation and evidence as he or she considers appropriate.
- (4) Where the member concerned is accompanied by a nominated person or a legal practitioner, the member may, at any time during the course of the misconduct hearing, confer with the nominated person or legal practitioner, in private where he or she so requests.
- (5) The member concerned, his or her nominated person or a legal practitioner nominated by the member concerned, may, at a misconduct hearing, make such submissions as the member concerned wishes to make in relation to the allegation of misconduct concerned, the proceedings or the imposition of a disciplinary sanction.
- (6) Where the member concerned disputes any aspect of the investigation report, the investigator may respond in writing to the misconduct hearing panel in advance of, or orally at, the misconduct hearing to any issues raised by the member concerned in that regard.
- (7) A verbatim record of a misconduct hearing shall be made by a stenographer or by electronic or other means.
- (8) On the conclusion of a misconduct hearing, the chairperson shall inform the member concerned that the member concerned shall receive, as soon as practicable, and in any event not later than 21 days, after such conclusion, a copy of any determination made in accordance with Regulation 49, 50, 51 or 52 in relation to the alleged misconduct of the member concerned.

### **Determination of misconduct hearing panel**

49. As soon as practicable after the conclusion of a misconduct hearing, the misconduct hearing panel shall determine –
- (a) whether the conduct of the member concerned the subject of the allegation concerned constitutes misconduct, and
  - (b) where it so determines, whether that conduct constitutes gross misconduct.

### **Where conduct is determined by misconduct hearing panel not to constitute misconduct**

50. Where a misconduct hearing panel makes a determination under Regulation 49 that the conduct of the member concerned the subject of the allegation does not constitute misconduct –

- (a) the panel shall consider and determine whether the matter should be dealt with under the Performance Regulations pursuant to Regulation 70, and
- (b) subject to Regulations 54 and 70, no further action shall be taken under these Regulations in respect of the allegation.

**Where conduct is determined by misconduct hearing panel to constitute misconduct other than gross misconduct**

51. (1) Where a misconduct hearing panel makes a determination under Regulation 49 that the conduct of the member concerned the subject of the allegation constitutes misconduct other than gross misconduct, the panel shall, subject to paragraph (2), determine the appropriate disciplinary sanction to be imposed on the member concerned.

(2) A misconduct hearing panel may determine, pursuant to paragraph (1), any one of the following disciplinary sanctions to be the appropriate disciplinary sanction to be imposed on the member concerned:

- (a) a written warning;
- (b) a temporary reduction in pay not exceeding 2 weeks' pay.

**Where conduct is determined by misconduct hearing panel to constitute gross misconduct**

52. (1) Where a misconduct hearing panel makes a determination under Regulation 49 that the conduct of the member concerned the subject of the allegation constitutes gross misconduct, the panel shall, subject to paragraph (2), determine the appropriate disciplinary sanction to be imposed on the member concerned.

(2) A misconduct hearing panel may determine, pursuant to paragraph (1), any one of the following disciplinary sanctions to be the appropriate disciplinary sanction to be imposed on the member concerned:

- (a) a final written warning;
- (b) dismissal.

**Matters to which misconduct hearing panel shall have regard in making determination under Regulation 49, 51 or 52**

53. A misconduct hearing panel shall, in making a determination under Regulation 49, 51 or 52, have regard to –

- (a) the nature and seriousness of the misconduct concerned,
- (b) the evidence presented and submissions made in the proceedings concerned,

- (c) the record of service, previous good conduct and circumstances of the member concerned,
- (d) the need to maintain public confidence in An Garda Síochána,
- (e) the protection of the public, and
- (f) in the case of a determination under Regulation 51 or 52, any prior proceedings under these Regulations that resulted in the imposition of a disciplinary sanction on the member concerned that may be taken into account in accordance with Regulation 11.

**Report to Garda Commissioner, and notification, of determination of misconduct hearing panel**

54. (1) The chairperson of a misconduct hearing panel shall, as soon as practicable, and in any event not later than 35 days, after the conclusion of a misconduct hearing, submit a report in writing prepared by the panel to the Garda Commissioner and the assessing officer concerned –

- (a) setting out the determination of the panel, and the reasons for that determination, under –
  - (i) Regulation 49, and
  - (ii) Regulation 50, 51 or 52, as the case may be, and
- (b) including the verbatim record of the misconduct hearing made in accordance with Regulation 48(7).

(2) The chairperson of a misconduct hearing panel shall, as soon as practicable, and in any event not later than 3 days, after submitting a report under paragraph (1) to the Garda Commissioner –

- (a) notify the member concerned of –
  - (i) each determination of the misconduct hearing panel set out in the report,
  - (ii) the disciplinary sanction, if any, to be imposed, and
  - (iii) the circumstances in, and the procedures by, which the member concerned can appeal, under Part 5, a determination of the misconduct hearing panel, and
- (b) provide the member concerned with a copy of the said report.

(3) Where the chairperson of a misconduct hearing panel considers it appropriate, he or she may, no sooner than 14 days after a member is notified under paragraph (2), notify the person who made the allegation of misconduct concerned of the determination of the misconduct hearing panel and provide, with such a notification, a copy of the report submitted under paragraph (1) to the Garda Commissioner.

(4) Where a member concerned is notified of a disciplinary sanction under paragraph (2) and the member does not bring an appeal under Part 5, the disciplinary sanction shall take effect 14 days after the date on which the member is so notified.

## PART 5

### Appeals

#### **Appeal in relation to determination of misconduct other than gross misconduct**

55. (1) This Regulation applies where a member concerned receives a notification –

- (a) under Regulation 27(13) of a determination under paragraph (10)(a) of that regulation,
- (b) under Regulation 43(2)(a) of a determination under Regulation 39,
- (c) under Regulation 54(2)(a) of a determination under Regulation 49.

that the conduct the subject of the allegation concerned constituted misconduct other than gross misconduct.

(2) Where this Regulation applies, the member concerned may, within 10 days of the notification referred in paragraph (1) being made to him or her, by notification to the Garda Commissioner, appeal, on a ground specified in paragraph (3) –

- (a) the determination under Regulation 39 or 49, or
  - (b) the determination under Regulation 27(10)(b), 41 or 51 of the appropriate disciplinary sanction to be imposed.
- (3) The following grounds are specified for the purposes of paragraph (2):
- (a) a specified provision of these Regulations was not complied with in reaching the determination;
  - (b) the determination is not justified having regard to the evidence presented, and submissions made, in the proceedings;
  - (c) all the relevant facts –
    - (i) were not ascertained or disclosed,
    - (ii) were not considered, or
    - (iii) were not considered in a reasonable manner;
  - (d) in the case of a determination under Regulation 27(10)(b), 41 or 51, the disciplinary sanction imposed is disproportionate in relation to the misconduct concerned.
- (4) A notification to the Garda Commissioner under paragraph (2) –
- (a) shall specify –
    - (i) each determination being appealed, and
    - (ii) the ground, in relation to each such determination, on which the appeal is being brought,

and

- (b) may be accompanied by any submissions that the member concerned wishes to make in relation to the appeal.

(5) Where the Garda Commissioner receives notification of an appeal under paragraph (2), he or she shall, within 7 days of receiving the notification of the appeal, confirm in writing to the member concerned that –

- (a) the appeal has been received,
- (b) the Garda Commissioner shall appoint an appeals officer to conduct the appeal, and
- (c) the imposition of the proposed disciplinary sanction shall not take effect pending completion of the appeal.

(6) The member concerned may withdraw an appeal under paragraph (2) at any time before the appointment of an appeals officer by notifying the Garda Commissioner to that effect.

(7) Where a member concerned withdraws an appeal in accordance with paragraph (6), any disciplinary sanction that did not take effect pending completion of the appeal shall take effect 7 days after the date on which the member submits the notification under that paragraph.

### **Appointment of appeals officer**

56. (1) Subject to paragraph (3), the Garda Commissioner shall, as soon as practicable after receipt of a notification of an appeal under Regulation 55(2), appoint a member of An Garda Síochána (in these Regulations referred to as an “appeals officer”) for the purposes of conducting the appeal, who –

- (a) in the case of an appeal of a determination under Regulation 27(10)(b), shall be a member of An Garda Síochána who is of a rank at least one rank above that of the Regulation 27 deciding officer concerned,
- (b) in the case of an appeal of a determination under Regulation 39 or 41, shall be a member of An Garda Síochána who is of a rank at least one rank above that of the misconduct meeting deciding officer concerned, and
- (c) in the case of an appeal of a determination under Regulation 49 or 51, shall be a member of An Garda Síochána who is of a rank at least one rank above that of the chairperson of the misconduct hearing panel concerned.

(2) Where an appeals officer is appointed in respect of an appeal, the Garda Commissioner shall, as soon as practicable after such appointment, provide the appeals officer with –

- (a) a copy of the notification of the member concerned under Regulation 55(2),
- (b) a copy of any submissions made by the member concerned under Regulation 55(4),

- (c) in the case of an appeal of a determination under Regulation 27(10)(b), a copy of –
  - (i) the notification of the member concerned under Regulation 27(1),
  - (ii) the report of the Regulation 27 deciding officer submitted to the Garda Commissioner in accordance with Regulation 27(12), and
  - (iii) any other documentation considered by the Regulation 27 deciding officer,
- (d) in the case of an appeal of a determination under Regulation 39 or 41, a copy of –
  - (i) the report of the misconduct meeting deciding officer submitted to the Garda Commissioner in accordance with Regulation 43(1), and
  - (ii) any other documentation considered by the misconduct meeting deciding officer,

and

- (e) in the case of an appeal of a determination under Regulation 49 or 51, a copy of –
  - (i) the report of the misconduct meeting panel submitted to the Garda Commissioner in accordance with Regulation 54(1), and
  - (ii) any other documentation considered by the misconduct hearing panel.

(3) The Garda Commissioner shall not appoint an interested party in relation to an allegation of misconduct as an appeals officer in proceedings under these Regulations in respect of such an allegation.

(4) Where the member concerned is of the opinion that an appeals officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the Garda Commissioner, request the Garda Commissioner to make a decision as to whether the appeals officer is such an interested party.

(5) Where the Garda Commissioner receives a submission pursuant to paragraph (4) –

- (a) he or she shall make a decision as to whether the appeals officer is an interested party in relation to the allegation of misconduct concerned, and
- (b) notify the member concerned of his or her decision.

(6) A decision of the Garda Commissioner under paragraph (5) shall be final.

### **Determination of appeals officer**

57. (1) Where a member concerned, under Regulation 55, appeals a determination under Regulation 39 or 49, the appeals officer shall, as soon as practicable after being appointed, determine whether to –

- (a) affirm the determination, or
- (b) quash the determination and determine –
  - (i) that the conduct of the member concerned the subject of the allegation concerned does not constitute misconduct, or
  - (ii) that the matter be remitted for –
    - (I) in the case of an appeal of a determination under Regulation 39, the appointment, under Regulation 34, of a further misconduct meeting deciding officer to consider the matter, and
    - (II) in the case of an appeal of a determination under Regulation 49, the appointment, under Regulation 44, of a further misconduct hearing panel to consider the matter.

(2) Where an appeals officer quashes, pursuant to paragraph (1), a determination under Regulation 39 or 49 –

- (a) the associated determination under Regulation 41 or 51 of the appropriate disciplinary sanction to be imposed shall also stand quashed, regardless of whether that determination was also appealed under Regulation 55, and
- (b) where the appeals officer further determines, pursuant to paragraph (1), that the conduct of the member concerned the subject of the allegation concerned does not constitute misconduct, subject to Regulation 59, no further action shall be taken under these Regulations.

(3) Where a member concerned, under Regulation 55, appeals a determination under Regulation 27(10)(b), 41 or 51, and paragraph (2) does not apply, the appeals officer shall, as soon as practicable after being appointed, determine whether to –

- (a) affirm the disciplinary sanction, or
- (b) subject to paragraph (4), vary the disciplinary sanction.

(4) Where an appeals officer varies a disciplinary sanction under paragraph (3)(b), the appeals officer shall not impose a disciplinary sanction that could not have been imposed on the member concerned at first instance.

(5) A determination of an appeals officer under this Regulation shall be final.

(6) Where a member concerned is notified, under Regulation 59, of a determination under paragraph (3) affirming or varying a disciplinary sanction, the disciplinary sanction, as so affirmed or varied, shall take effect 7 days after the date on which the member is so notified.

**Matters to which appeals officer shall have regard in making determination under Regulation 57**

58. An appeals officer shall, in making a determination under Regulation 57, have regard to the matters provided to him or her under Regulation 56(2).

**Report to Garda Commissioner, and notification, of determination under Regulation 57**

59. (1) An appeals officer shall, as soon as practicable, and in any event not later than 28 days, after his or her appointment under Regulation 56(1), submit a report in writing to the Garda Commissioner and the assessing officer concerned setting out each determination of the appeals officer under Regulation 57 and the reasons for each such determination.

(2) An appeals officer shall, as soon as practicable, and in any event not later than 3 days, after submitting a report under paragraph (1) to the Garda Commissioner –

- (a) notify the member concerned of –
  - (i) each determination of the appeals officer set out in the report, and
  - (ii) the disciplinary sanction, if any, to be imposed, affirmed or varied, as the case may be,
- (b) provide the member concerned with a copy of the said report, and
- (c) where the appeals officer considers it appropriate, notify the person who made the allegation of misconduct concerned of each determination of the appeals officer and provide, with such a notification, a copy of the said report.

**Appeal in relation to determination of gross misconduct**

60. (1) This Regulation applies where a member concerned receives a notification under Regulation 54(2)(a) of a determination under Regulation 49 that the conduct the subject of the allegation concerned constituted gross misconduct.

(2) Where this Regulation applies, the member concerned may, within 10 days of the notification referred to in paragraph (1) being made, by notification to the Garda Commissioner, appeal, on a ground specified in paragraph (3) –

- (a) the determination under Regulation 49, or
  - (b) the determination under Regulation 52 of the appropriate disciplinary sanction to be imposed.
- (3) The following grounds are specified for the purposes of paragraph (2):
- (a) a specified provision of these Regulations was not complied with in reaching the determination;
  - (b) the determination is not justified having regard to the evidence presented, and submissions made, in the proceedings;

- (c) all the relevant facts –
    - (i) were not ascertained or disclosed,
    - (ii) were not considered, or
    - (iii) were not considered in a reasonable manner;
  - (d) in the case of a determination under Regulation 52, the disciplinary sanction imposed is disproportionate in relation to the gross misconduct concerned.
- (4) A notification under paragraph (2) –
- (a) shall specify –
    - (i) each determination being appealed, and
    - (ii) the ground, in relation to each such determination, on which the appeal is being brought,
- and
- (b) may be accompanied by any submissions that the member concerned wishes to make in relation to the appeal.
- (5) Where the Garda Commissioner receives notification of an appeal under paragraph (2), he or she shall, within 7 days of receiving the notification of the appeal, confirm in writing to the member concerned that –
- (a) the appeal has been received,
  - (b) the Garda Commissioner shall refer the appeal to the external appeals officer to conduct the appeal, and
  - (c) the imposition of the proposed disciplinary sanction shall not take effect pending completion of the appeal.
- (6) The member concerned may withdraw an appeal under paragraph (2) at any time before the holding of the appeal hearing by notifying the Garda Commissioner to that effect.
- (7) Where a member concerned withdraws an appeal in accordance with paragraph (6), any disciplinary sanction that did not take effect pending completion of the appeal shall take effect 7 days after the date on which the member submits the notification under that paragraph.
- Appointment of external appeals officer and alternate external appeals officer**
61. (1) The Minister shall appoint –
- (a) a retired judge nominated for such appointment by the Chief Justice as the external appeals officer, and
  - (b) a retired judge so nominated as the alternate external appeals officer.
- (2) An external appeals officer or an alternate external appeals officer shall hold office, unless he or she sooner dies or resigns, for a period of 3 years.

(3) Subject to paragraphs (4) and (5), the Minister may reappoint an external appeals officer as the external appeals officer, or an alternate external appeals officer as the alternate external appeals officer, as the case may be, for a period of 2 years.

(4) A person who has served 2 terms of office as the external appeals officer shall not be eligible for reappointment as the external appeals officer under paragraph (3).

(5) A person who has served 2 terms of office as the alternate external appeals officer shall not be eligible for reappointment as the alternate external appeals officer under paragraph (3).

(6) In this Regulation, “retired judge” means a person who held, and retired from, the office of judge of the Supreme Court, the Court of Appeal, the High Court, or the Circuit Court.

### **Referral by Garda Commissioner of appeal to external appeals officer**

62. (1) The Garda Commissioner shall, as soon as practicable after receipt of notification of an appeal under Regulation 60(2), refer the appeal to the external appeals officer for the purposes of conducting the appeal.

(2) Where an appeal is referred to the external appeals officer, the Garda Commissioner shall, as soon as practicable after such referral, provide the external appeals officer with a copy of –

- (a) the notification of the member concerned under Regulation 60(2),
- (b) any submissions made by the member concerned under Regulation 60(4)(b),
- (c) a copy of the report of the misconduct hearing panel submitted to the Garda Commissioner in accordance with Regulation 54(1), and
- (d) a copy any other documentation considered by the misconduct hearing panel.

### **Preparation in advance of appeal hearing**

63. (1) The external appeals officer shall, as soon as practicable after an appeal is referred to him or her under Regulation 62 and, in any event, not less than 21 days before the appeal hearing, notify the member concerned that he or she is required to attend a hearing in relation to the appeal (in these Regulations referred to as an “appeal hearing”) at a specified date, time and location.

(2) A notification to a member concerned under paragraph (1) shall be accompanied by –

- (a) a copy of all documentation provided to the external appeals officer in accordance with Regulation 62(2),
- (b) confirmation that the member concerned is entitled to be accompanied to the appeal hearing by either, or both, a nominated person or a legal practitioner, and

- (c) confirmation that the member concerned shall receive, as soon as practicable following the conclusion of the appeal hearing, a copy of any determination made by the external appeals officer in accordance with Regulation 67 in relation to the appeal.

(3) A member concerned shall, not less than 5 days before an appeal hearing, provide the external appeals officer with confirmation in writing as to whether it is intended that a nominated person or a legal practitioner shall attend the appeal hearing with the member concerned.

### **Referral of appeal to alternate external appeals officer**

64. (1) Where an appeal is referred to the external appeals officer under Regulation 62 and the external appeals officer considers it appropriate that the appeal be conducted by the alternate external appeals officer rather than by the external appeals officer, the external appeals officer may refer the appeal to the alternate external appeals officer for the alternate external appeals officer to conduct the appeal.

(2) Where the member concerned is of the opinion that the external appeals officer is an interested party in relation to the allegation of misconduct concerned, the member concerned may, by submission in writing to the external appeals officer, request the referral, under paragraph (1), of the appeal to the alternate external appeals officer.

(3) Where the external appeals officer refers, under paragraph (1), an appeal to the alternate external appeals officer –

- (a) the external appeals officer shall –
  - (i) notify the member concerned and the Garda Commissioner of such referral, and
  - (ii) provide the alternate external appeals officer with everything provided to the external appeals officer under Regulation 62(2) and any confirmation provided by the member concerned to the external appeals officer under Regulation 63(3),

and

- (b) a reference in these Regulations to the external appeals officer shall be construed as a reference to the alternate external appeals officer.

### **Persons to attend appeal hearing**

65. (1) The following persons may, in addition to the external appeals officer, attend an appeal hearing:

- (a) the member concerned;
- (b) the nominated person of the member concerned;
- (c) a legal practitioner nominated by the member concerned;

(d) a legal practitioner nominated by the Garda Commissioner.

(2) Where –

(a) a member concerned, having been notified of an appeal hearing in accordance with Regulation 9(2) or 63(1) does not attend the appeal hearing at the date, time and location so notified, and

(b) the nominated person of the member concerned or a legal practitioner nominated by the member concerned so attends,

the external appeals officer may, where he or she considers it appropriate, proceed with the appeal hearing in the absence of the member concerned.

(3) Where –

(a) a member concerned, having been notified of an appeal hearing in accordance with Regulation 9(2) or 63(1),

(b) the nominated person of the member concerned, and

(c) a legal practitioner nominated by the member concerned,

do not attend the appeal hearing at the date, time and location so notified, the external appeals officer may, where he or she considers it appropriate, conduct the appeal hearing in the absence of the member concerned, the nominated person and a legal practitioner.

### **Procedure during appeal hearing**

66. (1) Subject to this Regulation, an external appeals officer may conduct an appeal hearing in such manner as he or she considers appropriate.

(2) The external appeals officer shall, at the commencement of an appeal hearing, explain in ordinary language –

(a) the manner in which Regulation 10(5) operates, and

(b) the obligation imposed on the persons in attendance by Regulation 14.

(3) Where the member concerned is accompanied to an appeal hearing by a nominated person or a legal practitioner, the member may, at any time during the course of the appeal hearing, confer with the nominated person or legal practitioner, in private where he or she so requests.

(4) The member concerned, his or her nominated person or a legal practitioner nominated by the member concerned, may, at an appeal hearing, make such submissions as the member concerned wishes to make in relation to the appeal.

(5) A legal practitioner nominated by the Garda Commissioner may, at an appeal hearing, make such submissions as the Garda Commissioner wishes to make in relation to the appeal.

(6) A verbatim record of an appeal hearing shall be made by a stenographer or by electronic or other means.

(7) On the conclusion of an appeal hearing, the external appeals officer shall inform the member concerned that the member concerned shall receive, as soon as practicable, and in any event not later than 28 days, after such conclusion, a copy of any determination made in accordance with Regulation 67 in relation to the appeal.

### **Determination of external appeals officer**

67. (1) Where a member concerned, under Regulation 60, appeals a determination under Regulation 49, the external appeals officer shall, as soon as practicable after the appeal is referred to him or her, determine whether to –

- (a) affirm the determination, or
- (b) quash the determination and determine that –
  - (i) the conduct of the member concerned the subject of the allegation concerned did not constitute misconduct,
  - (ii) the conduct of the member concerned constitutes misconduct other than gross misconduct, or
  - (iii) the matter be remitted for the appointment, under Regulation 44, of a further misconduct hearing panel to consider the matter.

(2) Where the external appeals officer quashes, pursuant to paragraph (1), a determination under Regulation 49 –

- (a) the associated determination under Regulation 52 of the appropriate disciplinary sanction to be imposed shall also stand quashed, regardless of whether that determination was also appealed under Regulation 60,
- (b) where the external appeals officer further determines, pursuant to paragraph (1), that the conduct of the member concerned the subject of the allegation concerned does not constitute misconduct, subject to Regulation 69, no further action shall be taken under these Regulations, and
- (c) where the external appeals officer determines, pursuant to paragraph (1), that the conduct of the member concerned constitutes misconduct other than gross misconduct, the external appeals officer shall determine whether –
  - (i) a written warning, or
  - (ii) a temporary reduction in pay not exceeding 2 weeks' pay,

is the appropriate disciplinary sanction to be imposed on the member concerned.

(3) Where a member concerned, under Regulation 60, appeals a determination under Regulation 52, and paragraph (2) does not apply, the external appeals officer shall, as soon as practicable after the appeal is referred to him or her, determine whether to –

- (a) affirm the disciplinary sanction, or

(b) subject to paragraph (4), vary the disciplinary sanction.

(4) Where an external appeals officer varies a disciplinary sanction under paragraph (3)(b), the external appeals officer shall not impose a disciplinary sanction that could not have been imposed on the member concerned at first instance.

(5) A determination of the external appeals officer under this Regulation shall be final.

(6) Where a member concerned is notified, under Regulation 69, of a determination under –

- (a) paragraph (2)(c) imposing a disciplinary sanction, or
- (b) paragraph (3) affirming or varying a disciplinary sanction,

the disciplinary sanction, as so imposed, affirmed or varied, shall take effect 7 days after the date on which the member is so notified.

#### **Matters to which external appeals officer shall have regard in making determination under Regulation 67**

68. (1) An external appeals officer shall, in making a determination under Regulation 67, have regard to –

- (a) the matters provided to the external appeals officer under Regulation 62(2),
- (b) any submissions made by, or on behalf of, the member concerned under Regulation 60(4) or 66(4), and
- (c) any submissions made on behalf of the Garda Commissioner under Regulation 66(5).

#### **Report to Garda Commissioner, and notification, of determination under Regulation 67**

69. (1) The external appeals officer shall, as soon as practicable, and in any event not later than 35 days, after the conclusion of an appeal hearing, submit a report in writing to the Garda Commissioner and the assessing officer concerned –

- (a) setting out each determination made under Regulation 67 and the reasons for each such determination, and
- (b) including the verbatim record of the appeal hearing made in accordance with Regulation 66(6).

(2) The external appeals officer shall, as soon as practicable, and in any event not later than 3 days, after submitting a report under paragraph (1) to the Garda Commissioner –

- (a) notify the member concerned of –
  - (i) each determination set out in the report,

- (ii) the disciplinary sanction, if any, to be imposed, affirmed or varied, as the case may be,
- (b) provide the member concerned with a copy of the said report, and
- (c) where the external appeals officer considers it appropriate, notify the person who made the allegation of misconduct concerned of the determination and provide, with such a notification, a copy of the said report.

## PART 6

### Performance Regulations

#### **Referral of matter to be dealt with under Performance Regulations**

70. (1) Where –

- (a) an assessing officer makes a determination under Regulation 24(2) or 33(2),
- (b) a misconduct meeting deciding officer makes a determination under Regulation 40, or
- (c) a misconduct hearing panel makes a determination under Regulation 50,

that a matter should be dealt with under the Performance Regulations, the Garda Commissioner shall, as soon as practicable after being notified of such a determination, notify the first line manager of the member concerned of the matter.

(2) The Garda Commissioner shall include with a notification under paragraph (1) –

- (a) details of the allegation of misconduct concerned,
- (b) a copy of the investigation report and the report of the misconduct meeting or the misconduct hearing, as the case may be.

(3) In this Regulation, and in Regulation 71, “first line manager” has the same meaning as it has in the Performance Regulations.

#### **Referral, under Performance Regulations, of matter to be dealt with under Regulations**

71. Where the Garda Commissioner receives pursuant to Regulation 13 of the Performance Regulations, notification of a determination under those Regulations that any matter relating to any aspect of the performance or attendance of a member of An Garda Síochána may constitute misconduct, such that the matter should be dealt with by way of proceedings under these Regulations –

- (a) the notification shall be treated as an allegation of misconduct, and

- (b) the first line manager of the member concerned shall, for the purposes of these Regulations, be treated as the person who made the allegation.

## PART 7

### Reports referred to Garda Commissioner by Police Ombudsman

#### **Report under subsection (10) or (11) of section 208 disclosing matter to be dealt with by way of proceedings under Regulations**

72. (1) Subject to Regulation 73, where –

- (a) the Police Ombudsman provides a copy of a report under subsection (10) or (11) of section 208 to the Garda Commissioner pursuant to section 215(1)(a), and
- (b) the Garda Commissioner is of the opinion that the report discloses a matter that should be dealt with by proceedings under these Regulations,

the Garda Commissioner may direct that the report shall be treated as an allegation of misconduct.

(2) Where the Garda Commissioner issues a direction under paragraph (1), the Police Ombudsman shall, for the purposes of these Regulations, be treated as the person who made the allegation of misconduct concerned.

#### **Report under subsection (10) or (11) of section 208 concerning member of An Garda Síochána who is no longer such member**

73. Where –

- (a) the Police Ombudsman provides a copy of a report under subsection (10) or (11) of section 208 to the Garda Commissioner pursuant to section 215(1)(a), and
- (b) the Garda Commissioner is of the opinion that the report discloses a matter that should, if the matter related to a person who was the time of the provision of the copy of the report a member of An Garda Síochána, be dealt with by proceedings under these Regulations, and
- (c) the matter relates to a person who was, but, at the time of the provision of the copy of the report, no longer is, such a member,

the Garda Commissioner may, where he or she considers it appropriate, direct that –

- (i) any finding in the report and any recommendation of the Police Ombudsman be recorded in the employment record of the former member of An Garda Síochána for so long as the Garda Commissioner considers appropriate, having regard to the circumstances concerned, and

- (ii) such information may be shared with such persons as the Garda Commissioner considers appropriate, having regard to the circumstances concerned.

The Government approves of the making of the foregoing Regulations.



L.S.

GIVEN under the Official Seal of the Government,  
2 April, 2025.

MICHEÁL MARTIN,  
Taoiseach.



L.S.

GIVEN under my Official Seal,  
2 April, 2025.

JIM O'CALLAGHAN,  
Minister for Justice.

BAILE ÁTHA CLIATH  
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR  
Le ceannach díreach ó  
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