

CHAPTER 3

Guidance on Unsatisfactory Performance and Attendance Procedures (UPPs)

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1. General

Introduction

1.1 The formal procedures to deal with unsatisfactory performance and attendance are set out in the Police (Performance) Regulations 2008 and are referred to in this guidance as UPPs.

1.2 The purpose of this guidance is to help managers to decide how and when to use the formal procedures in the Police (Performance) Regulations 2008 to manage unsatisfactory performance or unsatisfactory attendance on the part of police officers. Guidance focussing specifically on attendance management can be found at Paragraph 3.1.

1.3 The underlying principle of the procedures is to provide a fair, open and proportionate method of dealing with performance and attendance issues and to encourage a culture of learning and development for individuals and the organisation.

1.4 The procedures in the Police (Performance) Regulations 2008 are largely the same whether applied to unsatisfactory performance or attendance. However the issues that arise in attendance cases may be different from those in performance cases. This guidance therefore contains separate sections dealing with performance and attendance before a section on the procedures.

1.5 The primary aim of the procedures is to improve performance and attendance in the police service. It is envisaged that early intervention via management action should achieve the desired effect of improving and maintaining a police officer's performance or attendance to an acceptable level.

1.6 There will, however, be cases where it will be appropriate for managers to take formal action under the procedures. Where performance or attendance does not improve to acceptable levels or, in the case of attendance, where there is no realistic prospect of return to work in a reasonable timeframe, a police officer's service may be terminated.

1.7 The UPPs have been prepared by the Home Office in consultation with the Association of Chief Police Officers (ACPO), the Police Federation of England and Wales (PFEW), the Police Superintendents' Association of England and Wales (PSAEW), the Chief Police Officers Staff Association (CPOSA), the Association of Police Authorities (APA), Her Majesty's Inspectorate of Constabulary (HMIC), the Independent Police Complaints Commission (IPCC) and the National Policing Improvement Agency (NPIA).

Scope

1.8 The procedures apply to police officers up to and including the rank of chief superintendent.

1.9 The procedures apply to all special constables. However, given the nature of special constables as unpaid volunteers, cases where the procedures are initiated for special constables may be limited to those where the special constable either contests that his or her performance or attendance is unsatisfactory or agrees that it is unsatisfactory but expresses a desire to continue with his or her special constable duties. In other cases the special constable may choose to resign from his or her role as a special constable. In setting meeting dates and establishing panels, regard should be had to the nature of special constables as volunteers who may have other work or personal commitments.

1.10 The procedures do not apply to student police officers during their probationary period. The procedures governing performance and attendance issues in respect of police students are determined locally by each force. These procedures are underpinned by regulation 13 of the Police Regulations 2003.

Principles

1.11 Performance and attendance management in the police service are intended to be positive and supportive processes, with the aim being to improve performance or attendance.

1.12 All unsatisfactory performance and attendance matters should be handled in a timely manner while maintaining confidence in the process. UPPs should be applied fairly in both a non-discriminatory and non-adversarial way and matters must be handled in the strictest confidence.

1.13 Where the UPPs are used, line managers in the police service and others involved in the process must act in a way which an objective observer would consider reasonable. Examples include:

- being clear about the grounds for believing that a police officer's performance or attendance is unsatisfactory;
- ensuring that the police officer is aware of his or her right to be accompanied by a police friend at UPP meetings;
- conducting the UPPs in accordance with the Performance Regulations and this guidance;
- ensuring that the level of any outcome imposed and any related remedial action, taking into account all the circumstances (including the nature of the working environment) is proportionate and fair in the circumstances; and,
- timeliness.

1.14 The importance of challenging unsatisfactory performance or attendance of individual police officers in the context of overall unit/ force performance

and the police officer's personal development should not be underestimated. Dealing sensitively and appropriately with unsatisfactory performance or attendance issues does not constitute bullying. If a police officer believes that he or she is being unfairly treated, there are avenues of appeal against both the decision and the outcome at each stage of the UPPs.

1.15 A police officer may seek legal advice at any time although legal representation is confined to third stage meetings where the procedure has been initiated at this stage (see paragraph 7.8 on "gross incompetence"). Police officers other than special constables can seek advice from their staff association and all police officers can be advised and represented by their police friend in accordance with the principles described in section [TBC] of the guidance.

1.16 In deciding matters of fact the person(s) conducting the UPP meeting must apply the standard of proof required in civil cases, that is, the balance of probabilities. Unsatisfactory performance or attendance will be proved on the balance of probabilities if the person(s) conducting the meeting is/are satisfied by the evidence that it is more likely than not that the performance or attendance of the police officer is unsatisfactory. The more serious the allegation of poor performance that is made or the more serious the consequences for the individual which flow from a finding against him or her, the more persuasive (cogent) the evidence will need to be in order to meet that standard.

Ongoing performance assessment and review

1.17 Every police officer should have some form of performance appraisal, or what is commonly referred to as a "performance and development review" (PDR). The PDR should be the principal method by which the police officer's performance and attendance is monitored and assessed. It is the responsibility of the line manager to set objectives for his or her staff and it is the responsibility of all police officers, with appropriate support from management, to ensure that they both understand and meet those objectives. Objectives set by the line manager should be specific, measurable, achievable, relevant and time-related (SMART).

1.18 The activities and behaviours expected of a police officer in order to achieve his or her objectives should be in accordance with the relevant national framework which will form the basis of the police officer's role profile.

1.19 Any shortfall in performance or attendance should be pointed out at the earliest opportunity by the line manager and consideration given as to whether this is due to inadequate instruction, training, supervision or some other reason.

1.20 For national guidance on PDR implementation and improvement see:

<http://www.skillsforjustice.com/websitefiles/PDRguide.pdf>

Sources of information

1.21 Unsatisfactory performance or attendance will often be identified by the immediate line manager of the police officer as part of his or her normal management responsibilities.

1.22 Where the police officer currently works to a manager who has no line management responsibility for him or her, it is the responsibility of that manager to inform the police officer's line manager of any performance or attendance issues he or she has identified.

1.23 Line managers may be police officers or police staff members.

1.24 It is also possible that line managers may be alerted to unsatisfactory performance or attendance on the part of one of their police officers as a result of information from a member of the public. The information from a member of the public may take the form of a formal complaint. Such cases must be dealt with in accordance with the established procedures for the handling of complaints.¹ Appropriate use of the Local Resolution procedure offers an opportunity to deal speedily with a complainant's concerns and to address any performance issues.

1.25 It may be that the outcome of an investigation into a complaint alleging misconduct is that an issue of unsatisfactory performance or attendance has been identified involving one or more police officers. In such cases the outcome of the investigation may be that the appropriate authority will determine that there is no case to answer in respect of misconduct or gross misconduct but it may be appropriate to take action under the UPPs in order that the police officer may learn and improve his or her performance or attendance.

1.26 A single complaint from a member of the public about a police officer's performance will not normally trigger the UPPs, which are designed to deal with a pattern of unsatisfactory performance (except where there is a single incident of gross incompetence). However, where the complaint adds to existing indications of unsatisfactory performance, it may be appropriate to initiate the UPPs or, if the police officer is already subject to these, to continue to the next stage of the process.

1.27 Whilst the unsatisfactory performance and attendance procedures are internal management procedures, it may be necessary at times to inform public complainants of action taken with respect to the police officer to whom the complaint relates. In explaining the outcome of a complaint a force may inform the complainant that the police officer may be subject to the statutory procedures for improving his or her performance.

¹ See link: <http://statguidance.ipcc.gov.uk/docs/Timescale%20for%20handling%20complaints.pdf>

Management action

1.28 Managers are expected to deal with unsatisfactory performance or attendance issues in the light of their knowledge of the individual and the circumstances giving rise to these concerns.

1.29 There are, however, some generally well understood principles which should apply in such circumstances:

(a) the line manager must discuss any shortcoming (s) or concern (s) with the individual at the earliest possible opportunity. It would be quite wrong for the line manager to accumulate a list of concerns about the performance or attendance of an individual and delay telling him or her about them until the occasion of the police officer's annual or mid-term PDR meetings;

(b) the reason for dissatisfaction must be made clear to the individual as soon as possible and there must be a factual basis for discussing the issues i.e. the discussion must relate to specific incidents or omissions that have occurred;

(c) line managers should seek to establish whether there are any underlying reasons for the unsatisfactory performance or attendance . For example, in the context of performance, a failure to perform a task correctly may be because the individual was never told how to do it or was affected by personal circumstances. In that case it may be appropriate for the line manager to arrange further instruction or guidance;

(d) consideration should be given as to whether there is any health or welfare issue that is or may be affecting performance or attendance. If a police officer has or may have a disability within the scope of the Disability Discrimination Act this needs to be taken into account;

(e) in cases where the difficulty appears to stem from a personality clash with a colleague or line manager, or where for other reasons a change of duties might be appropriate, the police officer's line management may, in consultation with the appropriate HR adviser, consider re-deployment if this provides an opportunity for the police officer to improve his or her performance or attendance. Where a police officer is re-deployed in this way, the police officer and his or her new line management should be informed of the reasons for the move and of the assessment of his or her performance or attendance in the previous role;

(f) the line manager must make it clear to the police officer that he or she is available to give further advice and guidance if needed;

(g) depending on the circumstances, it may be appropriate to indicate to the police officer that if there is no, or insufficient, improvement, then the matter will be dealt with under the UPPs;

(h) line managers are expected to gather relevant evidence and keep a contemporaneous note of interactions with the police officer;

(i) challenging unsatisfactory performance or attendance in an appropriate manner does not constitute bullying. In considering whether action constitutes bullying, forces should have regard to their local policy on bullying.

1.30 The principles outlined above cover the position when a line manager first becomes aware of some unsatisfactory aspect(s) of the police officer's performance or attendance and is dealing with the issue as an integral part of normal line management responsibilities.

1.31 Management action taken as a result of identifying unsatisfactory performance or attendance should be put on record which may be the police officer's PDR. In particular, the line manager should record the nature of the performance or attendance issue; the advice given and steps taken to address the problems identified. Placing matters on record is important to ensure continuity in circumstances where one or more members of the management chain may move on to other duties or the police officer concerned moves to new duties. It is also important to put on record when improvement has been made in his or her performance or attendance.

1.32 Ideally, as a result of management action, performance or attendance will improve and continue to an acceptable level.

1.33 Where there is no improvement, insufficient improvement, or the improvement is not sustained over a reasonable period of time (preferably agreed between the line manager and the police officer), it will then be appropriate to use the UPPs.

1.34 The period of time agreed or determined by the line manager for the police officer concerned to improve his or her performance or attendance prior to using the UPPs must be sufficient to provide a reasonable opportunity for the desired improvement or attendance to take place and must be time limited.

1.35 Throughout these procedures, the period of time in which an improvement in performance or attendance is expected may be extended if, due to some unforeseen circumstance (e.g. certified sickness absence in the context of performance issues) the police officer is unable to demonstrate whether or not the required improvement has been achieved.

2. Performance Issues

Introduction

2.1 The performance of individual police officers is a key element in the delivery of a quality policing service. Police officers should know what

standard of performance is required of them and be given appropriate support to attain that standard.

2.2 Performance management is an integral part of a line manager's responsibilities. Managers should let a police officer know when he or she is doing well or, if the circumstances arise, when there are the first signs that there is a need for improvement in his or her performance. An essential part of effective line management is that managers should be aware of the contribution being made to meeting the aims and objectives of the team by each of the individuals they manage.

"Unsatisfactory performance"

2.3 Unsatisfactory performance is defined in Regulation 4 of the Police (Performance) Regulations 2008 as:

"an inability or failure of a police officer to perform the duties of the role or rank he [or she] is currently undertaking to a satisfactory standard or level."

Framework for action

2.4 There is no single formula for determining the point at which a concern about a police officer's performance should lead to formal procedures under the Police (Performance) Regulations being taken. Each case must be considered on its merits. However the following points need to be emphasised:

- the intention of performance management including formal action under the Police (Performance) Regulations is to improve performance;
- occasional lapses below acceptable standards should be dealt with in the course of normal management activity and should not involve the application of the UPPs, which are designed to cover either repeated failures to meet such standards or more serious cases of unsatisfactory performance ;
- managers should be able to demonstrate that they have considered whether management action is appropriate before using the UPPs.

3. Attendance Issues

Introduction

3.1 This part of the guidance should be read in conjunction with the guidance on developing attendance management policies (see chapter TBC). All forces are required to have an attendance management policy in place. Failure to do so or to adhere to the terms of that policy will be taken into account under these procedures.

3.2 The Police Service is committed to providing, as far as is reasonably practicable, a healthy and safe working environment for its police officers. It recognises that the health and welfare of police officers is a key element in

the delivery of quality services, as well as in maintaining career satisfaction and staff morale.

3.3 The key objective of attendance management policies within forces and the appropriate use of the Police (Performance) Regulations 2008 insofar as they relate to managing unsatisfactory attendance, is to encourage an attendance culture within forces.

3.4 Managing sickness absence is vitally important both in terms of demonstrating a supportive attitude towards police officers and for the efficiency of the organisation. Managing attendance is about creating a culture where all parties take ownership of the policy and act reasonably in the operation of the scheme with managers being proactive in managing sickness.

3.5 The primary aim of the procedures is to improve attendance in the police service. It is envisaged that supportive action will in most cases achieve the desired effect of improving and maintaining a police officer's attendance to an acceptable level.

3.6 There may however be cases where it will be appropriate for managers to take formal action under the Performance Regulations. Where attendance does not improve to acceptable levels or where there is no realistic prospect of a return to work in a reasonable timeframe, then termination of service may be appropriate.

3.7 Where the UPPs are used in relation to attendance matters, such matters will normally relate to periods of sickness absence such that the ability of the police officer to perform his or her duties is compromised.

3.8 Other forms of absence not related to genuine sickness would normally be dealt with under the misconduct procedures e.g. where a police officer's absence is unauthorised.

Framework for action

3.9 Attendance management in the police service is intended to be a positive and supportive process to improve attendance. In all cases, the starting point is supportive action. Except where a police officer fails to co-operate, appropriate supportive action must be taken before formal action is taken under the Performance Regulations. A failure by a police officer to co-operate will not prevent formal action being taken or continued.

3.10 If supportive action is taken, the police officer co-operates and the attendance improves and is maintained at a satisfactory level, then there will be no need to take formal action under the Performance Regulations.

3.11 There is no single formula for determining the point at which concern about a police officer's attendance should lead to formal procedures under the Performance Regulations being invoked. Each case must be considered on its merits. However the following points need to be emphasised:

- The intention of attendance management including formal action under the Police (Performance) Regulations is to improve attendance.

- Where police officers are injured or ill they should be treated fairly and compassionately.
- Managers should be able to demonstrate that they have acted reasonably in all actions taken at all stages of the attendance management process, including any action under the Police (Performance) Regulations.
- In cases where a decision is made at a third stage meeting to impose an outcome, including dismissal from the service, then the police officer will have the right to appeal to a police appeals tribunal.

Monitoring attendance

3.12 All forces must ensure that arrangements are in place for the effective monitoring of sickness absences (and the reasons for them).

3.13 It is the responsibility of line managers, in conjunction with the force's Human Resources (HR) department if necessary, to monitor a police officer's attendance record. A formal record of a police officer's attendance will be kept.

3.14 HR managers should be consulted when line managers are deciding whether it might be appropriate to use the UPPs.

Occupational health

3.15 The force Occupational Health Service is an essential part of effective attendance management and should be involved as soon as any concerns about a police officer's attendance are identified.

3.16 Where action is taken under the UPPs in respect of a police officer's attendance, the police officer may be referred to the Occupational Health Service for up to date information and advice at any stage within the procedure. This should enable the force to make an informed decision about a police officer's attendance. Where police officers do not attend appointments or otherwise fail to co-operate with the force's Occupational Health Service, an assessment will be made on the information available.

3.17 The role of the Force's Occupational Health Service is to advise on medical issues affecting a police officer's performance and attendance. Where the force has concerns about a police officer's health and the effect it has on his or her work and attendance, it may decide to seek medical advice on a range of issues, including but not limited to:

- (i) the nature and extent of the police officer's medical problems;
- (ii) when the medical problem is likely to be resolved;

(iii) whether the police officer will be fit to carry out his/her duties on his or her return to work;

(iv) the duties that the police officer may be fit to undertake;

(v) whether the police officer is a disabled person within the meaning of the Disability Discrimination Act;

(vi) whether there are any adjustments or adaptations to the work, equipment or workplace that might assist in improving attendance;

(vii) the likelihood of the illness recurring or of some other illness emerging;

(viii) any concerns raised by the police officer about their health and/or working environment;

(ix) whether the police officer may be permanently disabled.

Disability Discrimination Act 1995 (as amended) (DDA) and other statutory obligations

3.18 In any unsatisfactory attendance case it is essential that managers and the force ensure compliance with their obligations under the Disability Discrimination Act. (See Home Office circular 063/2003):

<http://www.knowledgenetwork.gov.uk/HO/circular.nsf/1cc4f3413a62d1de80256c5b005101e4/5bab74ebdf5db31880256dff00575887?OpenDocument>

3.19 Compliance with other statutory obligations including the Data Protection Act 1998 must also be ensured.

Action under the Police (Performance) Regulations 2008

3.20 Formal action under the Performance Regulations may be taken in cases of both unacceptable levels of persistent short-term absences and long-term absences due to sickness and/or injury. It should however be noted that it is not possible to be prescriptive about all circumstances where action under the Regulations may be appropriate.

3.21 In deciding whether to take action under the procedures managers must treat each case on its merits and consider all of the pertinent facts available to them, including:

(i) the nature of the illness, injury or condition

(ii) the likelihood of the illness, injury or condition (or some other related illness, injury or condition) recurring;

(iii) the pattern and length of absence(s) and the period of good health between them;

(iv) the need for the work to be done i.e. what impact on the force's performance and workload is the absence having;

(v) the extent to which an police officer has co-operated with supportive management action;

(vi) whether the police officer was made aware, in the earlier supportive action, that unless an improvement was made, action under the Performance Regulations might be used;

(vii) whether the selected medical practitioner (SMP) has been asked by the Police Authority to consider the issue of permanent disablement and/or the Police Authority is considering medical retirement;

(viii) the impact of the Disability Discrimination Act.

3.22 Action under the Police (Performance) Regulations 2008 should not be invoked unless:

(i) earlier supportive action was offered but the police officer either declined it or failed to co-operate and as a result there has not been the necessary improvement in the police officer's performance or attendance; and/or

(ii) the police officer is absent due to long-term sickness and, notwithstanding supportive management action having been taken, there is no realistic prospect of return to work in a reasonable timeframe.

3.23 Whether it is appropriate to take formal action in any particular case will depend on the known merits and facts of that case.

4. The UPP Process

Stages

4.1 There are potentially three stages to the UPPs, each of which involves a different meeting composition and possible outcomes.

4.2 A line manager can ask a HR professional or police officer (with experience of UPPs and who is independent of the line management chain) to attend a UPP meeting to advise him or her on the proceedings. A line manager may also obtain advice from HR prior to a UPP meeting if he or she

is in any doubt about the process. The second line manager may also have an advisor (as above) in respect of the second stage meeting. For stage three meetings, an HR professional, police officer, counsel or solicitor may attend the meeting to advise the panel on the proceedings.

Improvement notices and action plans

4.3 At the first and second stages, if it is found that the police officer's performance or attendance is unsatisfactory, an improvement notice will be issued. Improvement notices require a police officer to improve on his or her performance or attendance and must state:

- in what respect the police officer's performance or attendance is considered unsatisfactory;²
- the improvement in performance or attendance required to bring the police officer to an acceptable standard;
- a "specified period" (see paragraph 4.5, below) within which improvement is expected to be made; and
- the "validity period" (see paragraph 4.6, below) of the written improvement notice;

4.4 The improvement notice should also inform the police officer of the possible consequences if improvement is not made or maintained within the period specified by the appropriate manager or panel (as applicable) or within the 12 month validity period.

4.5 The "specified period" of an improvement notice is a period specified by the line manager (having considered any representations made by or on behalf of the police officer) within which the police officer must improve his or her performance or attendance. It is expected that the specified period for improvement would not normally exceed 3 months. However, depending on the nature and circumstances of the matter, it may be appropriate to specify a longer or shorter period for improvement (but which should not exceed 12 months).

4.6 The "validity period" of an improvement notice describes the period of 12 months from the date of the notice within which performance or attendance must be maintained (assuming improvement is made during the specified period). If the improvement is not maintained within this period then the next stage of the procedures may be used (see also paragraph 4.12).

4.7 Improvement notices must be accompanied by the written record of the meeting and a notice informing the police officer of his or her right to appeal against the finding, outcome or terms of the improvement notice (or all or any of these). Where applicable, that documentation must also inform the police officer of his or her right to appeal against the decision to require him or her to attend the meeting. Any such appeal can only be made on the ground that the meeting did not concern unsatisfactory performance or attendance which was

² Where a panel issues a final written improvement notice after a finding of gross incompetence, this should state in what respect the police officer's performance is considered grossly incompetent.

similar to or connected with that referred to in the last issued improvement notice.

4.8 Written improvement notices must be signed and dated by the person responsible for issuing the notice e.g. in the case of an improvement notice issued following a second stage meeting, by the second line manager.

4.9 An improvement notice would normally be followed by an action plan. An action plan describes what action(s) the police officer should take which should help him or her achieve and maintain the improvement required and would normally be formulated and agreed by both the police officer (and his or her police friend if desired) and his or her line manager. In particular, the action plan should:

- identify any weaknesses which may be the cause of unsatisfactory performance or attendance;
- describe what steps the police officer must take to improve performance and/or attendance and what support is available from the organisation e.g. training and support;
- specify a period within which actions identified should be followed up; and
- set a date (s) for a staged review (s) of the police officer's performance or attendance.

Improvement notice extensions and suspensions

4.10 On the application of the police officer or otherwise (e.g. at the suggestion of his or her line manager), the appropriate authority may extend the improvement period originally specified if it considers it appropriate to do so. This provision is intended to deal with situations that were not foreseen at the time of the issue of the improvement notice. For example, where the police officer has not had sufficient time to improve due to an emergency deployment to other duties.

4.11 In setting an extension to the specified period, consideration should be given to any known periods of extended absence from the police officer's normal role e.g. if the police officer is going to be on long periods of pre-planned holiday leave, study leave, or is due to undergo an operation. The extension should not lead to the improvement period exceeding 12 months unless the appropriate authority is satisfied that there are exceptional circumstances making this appropriate. These circumstances should be recorded.

4.12 The period for improvement under an improvement notice and the validity period of an improvement notice do not include any time that the police officer is taking a career break. For example, if a police officer is issued with an improvement notice with a specified period of 3 months and then takes career leave two months into the notice, whenever the police officer returns, he or she will have one month left of the 3 month specified period and ten months of the validity period of the notice.

Initiation of procedures at stage three

4.13 In very limited circumstances, explained in more detail in paragraph 7.8, it is possible to commence the UPPs at the third stage. This is to allow for cases of a degree of severity such that initiation at this stage is the only appropriate option.

4.14 In these cases only the police officer is entitled to choose to be legally represented by counsel or a solicitor.

Multiple instances of unsatisfactory performance

4.15 An police officer can move to a later stage of the UPPs only in relation to unsatisfactory performance or attendance that is similar to or connected with the unsatisfactory performance or attendance referred to in any previous written improvement notice. Where failings relate to different forms of unsatisfactory performance or attendance it will be necessary to commence the UPPs at the first stage (unless the failing constitutes gross incompetence). If more than one UPP is commenced, then, given that the procedures will relate to different failings and will have been identified at different times, the finding and outcome of each should be without prejudice to the other(s).

4.16 However, there may be circumstances where procedures have been initiated for a particular failing and an additional failing comes to light prior to the first stage meeting. In such circumstances it is possible to consolidate the two issues at the first stage meeting provided that there is sufficient time prior to the meeting to comply with the notification requirements explained in more detail below. If this is not possible, the first stage meeting should either be rearranged to a date which allows the requirements to be met or a separate first stage meeting should be held in relation to the additional matter.

Relationship between UPPs and the Misconduct Procedures

4.17 The misconduct and unsatisfactory performance procedures are separate but complementary. They should ensure that both misconduct and unsatisfactory performance or attendance on the part of police officers are dealt with effectively, having regard to the public interest, the interests of the police service and the interests of individual police officers. (For further details see paragraph 2.131 of chapter 2.)

5. The First Stage

Preparation and purpose

5.1 Having considered the use of management action (see paragraph 1.27), where a line manager considers that an police officer's performance or attendance is unsatisfactory and decides that the UPPs are the most appropriate way of addressing the matter(s), he or she will, as soon as

reasonably practicable, notify the police officer in writing that he or she is required to attend a first stage meeting to discuss these issues and include in that notification the following details:

- details of the procedures for determining the date and time of the meeting (see paragraph 5.7);
- a summary of the reasons why the line manager considers the police officer's performance or attendance unsatisfactory;
- the possible outcomes of a first stage, second stage and third stage meeting;
- that a human resources professional or a police officer (with experience of UPPs and who is independent from the line management chain) may attend the meeting to advise the line manager on the proceedings;
- that if the police officer agrees, any other person specified in the notice may attend the meeting;
- that prior to the meeting the police officer must provide the line manager with any documentation he or she intends to rely on in the meeting; and,
- the police officer's rights i.e. his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force) and to be accompanied and represented at the meeting by a police friend.

5.2 The notice shall be accompanied by copies of related documentation relied upon by the line manager in support of the view that the police officer's performance or attendance is unsatisfactory.

5.3 In advance of the meeting, the police officer shall provide the line manager with any documents on which he or she intends to rely in support of his or her case.

5.4 Any document or other material that was not submitted in advance of the meeting may be considered at the meeting at the discretion of the line manager. The purpose of allowing this discretion is to ensure fairness to all parties. However the presumption should be that such documents or material will not be permitted unless it can be shown that they were not previously available to be submitted in advance. Where such a document or other material is permitted to be considered, a short adjournment may be necessary to enable the line manager or the police officer, as the case may be, to read or consider the document or other material and consider its implications. The length of the adjournment will depend upon the case. A longer adjournment may be necessary if the material in question is complex.

5.5 The purpose of the meeting is to hear the evidence of the unsatisfactory performance or attendance and to give the police officer the opportunity to put forward his or her views. It will also be an opportunity to hear of any factors that are affecting the police officer's performance or attendance and what the police officer considers can be done to address them.

5.6 The line manager will explain that there are potentially three stages to the procedures and that the maximum outcome of a stage one meeting is an improvement notice and the maximum outcome of a stage two meeting is a final improvement notice. The line manager will also explain that if the procedure is followed to the final stage, dismissal, a reduction in rank (in performance cases only) or an extended improvement notice (in exceptional circumstances) are possible outcomes.

5.7 Wherever possible, the meeting date and time should be agreed between the line manager and the police officer. However, where agreement cannot be reached the line manager may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the line manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the line manager, the meeting must be postponed to that time.

5.8 As soon as a date for the meeting is fixed, the line manager should send to the police officer a notice in writing of the date, time and place of the first stage meeting.

At the First Stage meeting

5.9 At the first stage meeting the line manager will:

- a. explain to the police officer the reasons why the line manager considers that the performance or attendance of the police officer is unsatisfactory;
- b. provide the police officer with the opportunity to make representations in response;
- c. provide his or her police friend (if he or she has one) with an opportunity to make representations (see Role of Police Friend);
- d. listen to what the police officer (and/or his or her police friend) has to say, ask questions and comment as appropriate.

5.10 The line manager may adjourn the meeting at any time if he or she considers it is appropriate to do so. An adjournment may be appropriate where information which needs to be checked by the line manager emerges during the course of the meeting or the manager decides that he or she wishes to adjourn the meeting whilst he or she makes a decision.

5.11 Where the line manager finds that the performance or attendance of the police officer has been satisfactory during the period in question, he or she will inform the police officer that no further action will be taken.

5.12 Where having considered any representations by either the police officer and/ or his or her police friend, the line manager finds that the performance or attendance of the police officer has been unsatisfactory he or she shall:

- a. inform the police officer in what respect (s) his or her performance or attendance is considered unsatisfactory;

- b. inform him or her of the improvement that is required in his or her performance or attendance;
- c. inform the police officer that, if a sufficient improvement is not made within the period specified by the line manager, he or she may be required to attend a second stage meeting.
- d. inform the police officer that he or she will receive a written improvement notice.
- e. inform the police officer that if a sufficient improvement in his or her performance or attendance is not maintained during the validity period of such notice he or she may be required to attend a second stage meeting.

5.13 It is expected that the specified period for improvement would not normally exceed 3 months. However, depending on the nature and circumstances of the matter, it may be appropriate to specify a longer or shorter period for improvement (but which should not exceed 12 months). In determining the specified period of an improvement notice, consideration should also be given to any periods of known extended absence from the police officer's normal role.

Procedure following the First Stage meeting

5.14 As soon as reasonably practicable, following the meeting, the line manager will send the police officer a written record of the meeting and, where he or she found at the meeting that the performance or attendance of the police officer was unsatisfactory, provide the police officer with a signed and dated (by the line manager) written improvement notice. The written record supplied to the police officer should comprise a summary of the proceedings at that meeting.

5.15 The written improvement notice must set out the information conveyed to the police officer in paragraph 5.12 and be accompanied by a notice informing the police officer of his or her right to appeal, the appeal procedure, and the name of the person to whom the appeal should be sent. The notice must also inform the police officer of his or her right to submit written comments on the written record of the meeting and of the procedure for doing so.

5.16 The police officer may submit written comments on the written record not later than 7 working days after the date that he or she received it (unless an extension has been granted by the line manager following an application by the police officer). Any written comments provided by the police officer should be retained with the note. However, if the police officer has exercised his or her right to appeal against the finding or outcome of the first stage meeting, the police officer may not submit comments on the written record.

5.17 It is the responsibility of the line manager to ensure that the written record, written improvement notice and any written comments of the police officer regarding the written record are retained together and filed in accordance with force policies.

5.18 Normally it will be appropriate to agree an action plan (see paragraph 4.9) setting out the actions which should assist the police officer to perform his or her

duties to an acceptable standard. This may be agreed at the UPP meeting or at a later time specified by the line manager. It is expected that the police officer will co-operate with implementation of the action plan and take responsibility for his or her own development or improvement. Equally, the police officer's managers must ensure that any actions to support the police officer to improve are implemented.

Assessment of Performance or Attendance

5.19 It is expected that the police officer's performance or attendance will be actively monitored against the improvement notice and, where applicable, the action plan by the line manager throughout the specified period of the improvement notice. The line manager should discuss with the police officer any concerns that the line manager has during this period as regards his or her performance or attendance and offer advice and guidance where appropriate.

5.20 As soon as the specified period of the improvement notice comes to an end, the line manager, in consultation with the second line manager or an HR professional (or both), should formally assess the performance or attendance of the police officer during that period.

5.21 If the line manager considers that the police officer's performance or attendance is satisfactory, the line manager should notify the police officer in writing of this. The notification should also inform the police officer that whilst the performance or attendance of the police officer is now satisfactory, the improvement notice is valid for a period of 12 months from the date printed on the notice so that it is possible for the second stage of the procedures to be initiated if the performance or attendance of the police officer falls below an acceptable level within the remaining period.

5.22 If the line manager considers that the police officer's performance or attendance is still unsatisfactory, the line manager should notify the police officer in writing of this. This notification should also inform the police officer that he or she is required to attend a second stage meeting to consider these ongoing performance or attendance issues.

5.23 If the police officer has improved his or her performance or attendance to an acceptable standard within the specified improvement period, but then fails to maintain that standard within the 12 month validity period, it is open to the line manager to initiate stage two of the procedures.

5.24 In such circumstances the line manager should notify the police officer in writing of his or her view that the police officer's performance or attendance is unsatisfactory and that as a consequence the police officer is required to attend a second stage meeting to discuss his or her failure to maintain a satisfactory standard of performance or attendance.

5.25 In cases where the line manager, in consultation with the second line manager and/ or the HR professional, decides that a second stage meeting is

the appropriate course of action, the senior manager should direct that a second stage meeting be arranged.

First Stage appeals

5.26 A police officer has a right of appeal against the finding and the outcome imposed at stage one of the UPPs. However, any finding and outcome of this first stage meeting will continue to apply up to the date that the appeal is determined. Therefore where the police officer contests the finding or outcome, he or she should continue to follow the terms of the improvement notice and any accompanying action plan pending the determination of the appeal.

5.27 Any appeal should be made in writing to the second line manager within 7 working days of the receipt of the improvement notice and written record of the meeting (unless the period is extended by the second line manager following an application by the police officer). The notice of appeal must clearly set out the grounds and evidence for the appeal.

Appeal grounds

5.28 The grounds for appeal are:

- that the finding of unsatisfactory performance or attendance is unreasonable;
- that any of the terms of the improvement notice are unreasonable;
- that there is critical new evidence that could not reasonably have been considered at the first stage meeting;
- that there was a serious breach of the procedures set out in the Police (Performance) Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or the terms of the improvement notice.

5.29 On the basis of the above grounds of appeal, the police officer may appeal against the finding of unsatisfactory performance or attendance or the terms of the written improvement notice, those being:

- the respect in which the police officer's performance or attendance is considered unsatisfactory;
- the improvement which is required of the police officer; and/ or
- the length of the period specified for improvement by the line manager at the first stage meeting.

5.30 The police officer has the right to be accompanied and represented by a police friend at the first stage appeal meeting.

5.31 Wherever possible, the meeting date and time should be agreed between the second line manager and the police officer. However, where agreement cannot be reached the second line manager may specify a time and date without agreement. If the police officer or his or her police friend is

not available at the date or time specified by the second line manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the second line manager, the meeting must be postponed to that time.

5.32 As soon as a date for the meeting is fixed, the second line manager should send to the police officer a notice in writing of the date, time and place of the first stage appeal meeting.

At the first stage appeal meeting

5.33 At this meeting the second line manager will:

- provide the police officer with the opportunity to make representations;
- provide his or her police friend (if he or she has one) with an opportunity to make representations (see Role of Police Friend [TBC]);

5.34 Having considered any representations by either the police officer and/ or his or her police friend, the second line manager may:

- confirm or reverse the finding of unsatisfactory performance or attendance;
- endorse or vary the terms of the improvement notice;

5.35 The second line manager may deal with the police officer in any manner in which the line manager could have dealt with him or her at the first stage meeting.

5.36 Within 3 working days of the conclusion of the appeal meeting, the police officer will be given written notice of the second line manager's decision. If the second line manager is in a position to send a written summary of the reasons for that decision, then this may also accompany the written notice of the decision.

5.37 However, where the second line manager sends only the written notice of the decision to the police officer, as soon as reasonably practicable after the conclusion of the meeting, he or she will send a written summary of reasons for that decision.

5.38 Any decision made that changes the finding or outcome of the first stage meeting will take effect by way of substitution for the finding or terms appealed against and as from the date of the first stage meeting.

6. The second stage

Preparation and purpose

6.1 Initiation of the second stage must be for matters similar to or connected with the unsatisfactory performance or attendance referred to in the improvement notice issued at the first stage.

6.2 Where, at the end of the period specified in an improvement notice, the line manager finds that the police officer's performance or attendance has not improved to an acceptable standard during that period or that the police officer has not maintained an acceptable level of performance or attendance during the validity period of the notice, then the second line manager will notify the police officer in writing that he or she is required to attend a second stage meeting. The notification will state:

- the details of the procedures for determining the date and time of the meeting (see paragraph 6.8);
- a summary of the reasons why the line manager considers the police officer's performance or attendance unsatisfactory;
- the possible outcomes of a second stage and third stage meeting;
- that the line manager may attend the meeting;
- that a human resources professional or a police officer (with experience of UPPs and who is independent from the line management chain) may attend the meeting to advise the second line manager on the proceedings;
- that if the police officer agrees, any other person specified in the notice may attend the meeting;
- that prior to the meeting the police officer must provide the second line manager with any documentation he or she intends to rely on in the meeting; and
- the police officer's rights i.e. his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force) and to be accompanied and represented at the meeting by a police friend.

6.3 The notice must also include copies of related documentation relied upon by the line manager in support of the view that the police officer's performance or attendance continues to be unsatisfactory.

6.4 In advance of the meeting, the police officer shall provide the second line manager with any documents on which he or she intends to rely on in support of his or her case.

6.5 Any document or other material that was not submitted in advance of the meeting may be considered at the meeting at the discretion of the second line manager. The purpose of allowing this discretion is to ensure fairness to all parties. However the presumption should be that such documents or other material will not be permitted unless it can be shown that they were not previously available to be submitted in advance. Where such a document or other material is permitted to be considered, a short adjournment may be necessary to enable the second line manager or the police officer, as the case may be, to read or consider the document or other material and consider its

implications. The length of the adjournment will depend upon the case. A longer adjournment may be necessary if the material in question is complex.

6.6 The purpose of the meeting is to hear the evidence of the unsatisfactory performance or attendance and to give the police officer the opportunity to put forward his or her views. It will also be an opportunity to hear of any factors that are continuing to affect the police officer's performance or attendance and what the police officer considers can be done to address them.

6.7 The second line manager will explain that there is potentially a further stage to the procedures and that the maximum outcome of stage two is a final improvement notice. The second line manager will also explain that if the procedure is followed to the final stage, dismissal, a reduction in rank (in performance cases only) or an extended improvement notice (in exceptional circumstances) are possible outcomes.

6.8 Wherever possible, the meeting date and time should be agreed between the second line manager and the police officer. However, where agreement cannot be reached the second line manager may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the second line manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the second line manager, the meeting must be postponed to that time.

6.9 As soon as a date for the meeting is fixed, the second line manager should send to the police officer a notice in writing of the date, time and place of the second stage meeting.

At the second stage meeting

6.10 At the second stage meeting the second line manager will:

- a. explain to the police officer the reasons why he or she has been required to attend a second stage meeting;
- b. provide the police officer with the opportunity to make representations in response;
- c. provide the police officer's police friend (if he or she has one) with an opportunity to make representations (see Role of Police Friend);
- d. listen to what the police officer (and/or his or her police friend) has to say, ask questions and comment as appropriate;

6.11 The second line manager may adjourn the meeting at any time if he or she considers it is appropriate to do so. An adjournment may be appropriate where information which needs to be checked by the line manager emerges during the course of the meeting or the manager decides that he or she wishes to adjourn the meeting whilst he or she makes a decision.

6.12 Where the line manager finds that the performance or attendance of the police officer has been satisfactory during the period in question, he or she will inform the police officer that no further action will be taken.

6.13 Where, having considered any representations by either the police officer and/ or his or her police friend, the second line manager finds that the performance or attendance of the police officer has been unsatisfactory (either during the period specified in the written improvement notice or during the validity period of the written improvement notice) he or she shall:

- a. inform the police officer in what respect (s) his or her performance or attendance is considered unsatisfactory;
- b. inform the police officer of the improvement that is required in his or her performance or attendance;
- c. inform the police officer that, if a sufficient improvement is not made within the period specified by the second line manager, he or she may be required to attend a third stage meeting.
- d. inform the police officer that he or she will receive a final written improvement notice; and
- e. inform the police officer that if a sufficient improvement in his or her performance or attendance is not maintained during the validity period of such notice, he or she may be required to attend a third stage meeting.

6.14 It is expected that the specified period for improvement would not normally exceed 3 months. However, depending on the nature and circumstances of the matter, it may be appropriate to specify a longer or shorter period for improvement (but which should not exceed 12 months). In determining the specified period of an improvement notice, consideration should also be given to any periods of known extended absence from the police officer's normal role.

Procedure following the second stage meeting

6.15 As soon as reasonably practicable following the meeting, the second line manager will send the police officer a written record of the meeting and, where he or she found at the meeting that the performance or attendance of the police officer was unsatisfactory, provide the police officer with a dated and signed (by the second line manager) final written improvement notice. The written record supplied to the police officer should comprise a summary of the proceedings at that meeting.

6.16 The written improvement notice must set out the information conveyed to the police officer in paragraph 6.13 and be accompanied by a notice informing the police officer of his or her right to appeal, the appeal procedure and the name of the person to whom the appeal should be sent. The notice must also inform the police officer of his or her right to submit written comments on the written record of the meeting and of the procedure for doing so.

6.17 The police officer may submit written comments on the written record not later than 7 working days after the date that he or she received it (unless an

extension has been granted by the second line manager following an application by the police officer). Any written comments provided by the police officer should be retained with the note. However, if the police officer has exercised his or her right to appeal against the finding or outcome of the second stage meeting, the police officer may not submit comments on the written record.

6.18 It is the responsibility of the second line manager to ensure that the written record, written improvement notice and any written comments of the police officer on the written record are retained together and filed in accordance with force policies.

6.19 Normally it will also be appropriate to agree an action plan (see paragraph 4.9) setting out the actions which may assist the police officer to perform his or her duties to an acceptable standard e.g. attending training courses or a recommendation that the police officer seek welfare or medical advice. It is expected that the police officer will co-operate with implementation of the action plan and take responsibility for his or her own development or improvement. Equally, the police officer's managers must ensure that any actions to support the police officer to improve are implemented.

Assessment of performance or attendance

6.20 It is expected that the police officer's performance or attendance will be actively monitored against the improvement notice and, where applicable, the action plan by the line manager throughout the specified period of the final improvement notice. The line manager should discuss with the police officer any concerns that the line manager has during this period as regards his or her performance or attendance and offer advice and guidance where appropriate.

6.21 As soon as the specified period of the improvement notice comes to an end, the line manager, in consultation with the second line manager or an HR professional (or both), should formally assess the performance or attendance of the police officer during that period.

6.22 If the line manager considers that the police officer's performance or attendance is satisfactory, the line manager should notify the police officer in writing of this. The notification should also inform the police officer that whilst the performance or attendance of the police officer is now satisfactory, the final improvement notice is valid for a period of 12 months from the date printed on the notice so that it is possible for stage three of the procedures to be initiated if the performance or attendance of the police officer falls below an acceptable level within the remaining period.

6.23 If the line manager considers that the police officer's performance or attendance is still unsatisfactory, the line manager should notify the police officer in writing of this. The notification should also inform the police officer that he or she is required to attend a third stage meeting to consider these ongoing performance or attendance issues.

6.24 If the police officer has improved his or her performance or attendance to an acceptable standard within the specified improvement period, but then fails to maintain that standard within the 12 month validity period, it is open to the line manager to initiate stage three of the procedures.

6.25 In such circumstances the line manager should notify the police officer in writing of his or her view that the police officer's performance or attendance is unsatisfactory and that as a consequence the police officer is required to attend a third stage meeting to discuss this failure to maintain a satisfactory standard of performance or attendance.

6.26 In cases where the line manager, in consultation with the second line manager and/or the HR professional, decides that a third stage meeting is the appropriate course of action, the senior manager shall direct that a third stage meeting be arranged.

Second stage appeals

6.27 A police officer has a right of appeal against the finding and the outcome imposed at stage two of the UPPs and against the decision to require him to attend the meeting. However, any finding and outcome of this second stage meeting will continue to apply up to the date that the appeal is determined. Therefore where the police officer contests the finding or outcome, he or she should continue to follow the terms of the improvement notice and any accompanying action plan pending the determination of the appeal.

6.28 Any appeal should be made in writing to the senior manager within 7 working days of the receipt of the improvement notice (unless the period is extended by the senior manager following an application by the police officer). The notice of appeal must clearly set out the grounds and evidence for the appeal.

Appeal grounds

6.29 The grounds for appeal are as follows:

- that the finding of unsatisfactory performance or attendance is unreasonable;
- that any of the terms of the improvement notice are unreasonable;
- that there is critical new evidence that could not reasonably have been considered at the second stage meeting;
- that there was a serious breach of the procedures set out in the Police (Performance) Regulations or other unfairness which could have materially affected the finding of unsatisfactory performance or attendance or the terms of the written improvement notice.
- that the police officer should not have been required to attend the second stage meeting as the meeting did not concern unsatisfactory

performance or attendance which was similar to or connected with the unsatisfactory performance or attendance referred to in the written improvement notice that followed the first stage meeting.

6.30 On the basis of the above grounds of appeal, the police officer may appeal against the finding of unsatisfactory performance or attendance or the terms of the written improvement notice, those being:

- the respect in which the police officer's performance or attendance is considered unsatisfactory;
- the improvement which is required of the police officer;
- the length of the period specified for improvement by the second line manager at the second stage meeting.

6.31 The police officer has the right to be accompanied and represented by a police friend at the second stage appeal meeting.

6.32 Wherever possible, the meeting date and time should be agreed between the senior manager and the police officer. However, where agreement cannot be reached the senior manager may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the manager, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the senior manager, the meeting must be postponed to that time.

6.33 As soon as a date for the meeting is fixed, the senior manager should send to the police officer a notice in writing of the date, time and place of the second stage appeal meeting.

At the second stage appeal meeting

6.34 At this meeting the senior manager will:

- provide the police officer with the opportunity to make representations;
- provide his or her police friend (if he or she has one) with an opportunity to make representations (See Role of Police Friend).

6.35 Having considered any representations by either the police officer and/ or his or her police friend, the senior manager may:

- confirm or reverse the finding of unsatisfactory performance or attendance;
- endorse or vary the terms of the improvement notice.

6.36 The senior manager may deal with the police officer in any manner in which the second line manager could have dealt with him or her at the second stage meeting.

6.37 Within 3 working days of the conclusion of the appeal meeting, the police officer will be given written notice of the senior manager's decision. If the senior manager is in a position to send a written summary of the reasons for that decision, then this may also accompany the written notice of the decision.

6.38 However, where the senior manager sends only the written notice of the decision to the police officer, as soon as reasonably practicable after the conclusion of the meeting, he or she will send a written summary of reasons for that decision.

6.39 Any decision made that changes the finding or outcome of the second stage meeting will take effect by way of substitution for the finding or terms appealed against and as from the date of the second stage meeting.

7. The third stage

Preparation and purpose

7.1 With the exception of gross incompetence cases (see paragraph 7.8), initiation of the third stage must be for matters similar to or connected with the unsatisfactory performance or attendance referred to in the final improvement notice.

7.2 Where, at the end of the period specified in an improvement notice, the line manager finds that the police officer's performance or attendance has not improved to an acceptable standard during that period or that the police officer has not maintained an acceptable level of performance or attendance during the validity period of the notice, then the senior manager must, as soon as reasonably practicable, notify the police officer in writing that he or she is required to attend a third stage meeting to discuss these issues and include in that notification the following details:

- that the meeting will be with a panel appointed by the appropriate authority;
- the procedures for determining the date and time of the meeting (see paragraphs 7.31 and 7.32);
- a summary of the reasons why the police officer's performance or attendance is considered unsatisfactory;
- the possible outcomes of a third stage meeting (see paragraph 7.6)
- that an HR professional or a police officer (with experience of UPPs and who is independent from the line management chain) may attend to advise the panel on the proceedings;
- that counsel or a solicitor may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting;
- where the police officer is a special constable, inform him or her that a member of the special constabulary will attend the meeting to advise the panel (see paragraphs 7.27 to 7.30);

- that if the police officer agrees, any other person specified in the notice may attend e.g. a person attending for development reasons; and
- the police officer's rights i.e. his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force) and to be accompanied and represented at the meeting by a police friend.³

7.3 The notice must also include copies of related documentation relied upon by the line manager in support of the view that the police officer's performance or attendance continues to be unsatisfactory.

7.4 The notice does not at this stage need to give the names of the panel members as these may not be known at the time of issue. However, as soon as the panel has been appointed by the appropriate authority, the appropriate authority should notify the police officer of the members' names. (For details of panel membership and procedures, see paragraphs 7.16 to 7.22).

7.5 The purpose of the meeting is for the panel to hear the evidence of the unsatisfactory performance or attendance and to give the police officer the opportunity to put forward his or her views. It will also be an opportunity to hear of any factors that are continuing to affect the police officer's performance or attendance and what the police officer considers can be done to address them.

7.6 Where the police officer has reached stage three following stages one and two (i.e. not a gross incompetence meeting), the possible outcomes of this stage three meeting are as follows:

- redeployment;
- reduction in rank (in the case of performance only);
- dismissal (with a minimum of 28 days' notice); or
- extension of a final improvement notice (in exceptional circumstances)

7.7 Where the panel grants an extension to the final improvement notice, they will specify a new period within which improvement to performance or attendance must be made. The 12 month validity period of the extended final improvement notice will apply in full from the date of extension.

Gross incompetence third stage meetings

7.8 There may be exceptional circumstances where the appropriate authority⁴ considers the performance (not attendance) of the police officer to be so unsatisfactory as to warrant the procedures being initiated at the third stage.

³ A third stage meeting cannot take place unless the police officer concerned has been notified of his or her right to be represented by a police friend.

⁴ It should be noted that if the decision to initiate the gross incompetence part of the procedures is delegated by the appropriate authority, that decision must be authorised by a senior police officer. See chapter xxx for definition of "senior police officer".

This could be as a result of a single incident of “gross incompetence”. It is not envisaged that an appropriate authority would initiate the procedures at the third stage in respect of a series of acts over a period of time.

7.9 “Gross incompetence” is defined in the Police (Performance) Regulations 2008 as:

“...a serious inability or failure of a police officer to perform the duties of the role or rank he is currently undertaking to a satisfactory standard or level, to the extent that dismissal would be justified, except that no account shall be taken of the attendance of a police officer when considering whether he has been grossly incompetent.”

7.10 Where the appropriate authority determines it is appropriate to initiate the procedures at this stage, then as soon as is reasonably practicable, the police officer must be informed in writing that he or she is required to attend a third stage meeting to discuss his or her performance.

7.11 Where the appropriate authority has informed the police officer that he or she is to attend a third stage only meeting, it must, as soon as reasonably practicable, send the police officer a notice in writing which will include the following details:

- that the meeting will be with a panel appointed by the appropriate authority;
- the procedure for determining the date and time of the meeting;
- a summary of the reasons why the police officer’s performance is considered to constitute gross incompetence;
- the possible outcomes of a third stage only meeting (see paragraph 7.15);
- that an HR professional and a police officer (with experience of UPPs and who is independent from the line management chain) may attend to advise the panel on the proceedings;
- that counsel or a solicitor may attend the meeting to advise the panel on the proceedings and on any question of law that may arise at the meeting;
- where the police officer is a special constable, inform him that a member of the special constabulary will attend the meeting to advise the panel (see paragraphs 7.27 to 7.30);
- if the police officer agrees, any other person specified in the notice may attend e.g. a person attending for development reasons; and
- the police officer’s rights: his or her right to seek advice from a representative of his or her staff association (in the case of a member of the police force), to be accompanied at the meeting by a police friend, and to be legally represented by counsel or a solicitor.

7.12 The notice must be accompanied by the documentation relied upon by the appropriate authority in support of its view that the police officer’s performance constitutes gross incompetence.

7.13 The notice does not have to give the names of the panel members at this stage as these may not be known at the time of issue. However, as soon as reasonably practicable after the panel has been appointed by the appropriate authority, it should notify the police officer of the members' names. (For details of panel membership and procedures, see paragraphs 7.16 – 7.23).

7.14 The purpose of the meeting is for the panel to hear the evidence of the gross incompetence and to give the police officer and his or her representative the opportunity to make representations on the matter.

7.15 The appropriate authority will explain that the police officer is required to attend the third stage meeting and that the possible outcomes of the stage three meeting are:

- redeployment to alternative duties;
- the issue of a final written improvement notice;
- reduction in rank (with immediate effect);
- dismissal (with immediate effect) or.
- the issue of a written improvement notice (if the panel considers that there has been unsatisfactory performance and not gross incompetence)

Panel membership and procedure

7.16 The panel will comprise a panel chair and two other members and be appointed by the appropriate authority of the force in which the police officer is a police officer. At least one of the three panel members must be a police officer and one should be an HR professional. Membership will be as follows:

1st panel member (chair): Senior police officer;⁵ or
Senior HR professional (see paragraph 7.18).

2nd panel member: Police officer of at least the rank of superintendent; or
HR professional who in the opinion of the appropriate authority is at least equivalent to that rank.

3rd panel member: Police officer of at least the rank of superintendent; or
police staff member who in the opinion of the appropriate authority is at least equivalent to that rank.

7.17. None of the panel members should be junior in rank to the police officer concerned i.e. they must be of at least the same rank or equivalent (in the opinion of the appropriate authority).

⁵ "senior police officer" means a police officer holding a rank above that of chief superintendent.

7.18 For the purposes of chairing a third stage meeting, the Police (Performance) Regulations 2008 define a “senior HR professional” as:

“...a human resources professional who, in the opinion of the appropriate authority, has sufficient seniority, skills and experience to be a panel chair”.

In this context ‘sufficient seniority’ should be interpreted to mean that the panel chair is senior in rank (or, in the opinion of the appropriate authority, is senior in rank) to the police officer concerned.

7.19 The appropriate authority may appoint police officers or police staff managers from another police force to be members of a panel.

7.20 No panel member should be an interested party e.g. someone who is related to the police officer or has had prior involvement in the case

7.21 As soon as the appropriate authority has appointed a third stage panel, it should arrange for copies of all relevant documentation to be sent to those members. In particular, any document:

- that was available to the line manager in relation to any first stage meeting;
- which was available to the second line manager in relation to any second stage meeting;
- which was prepared or submitted in advance of those meetings;
- which was prepared or submitted following those meetings i.e. improvement notices, action plans and meeting notes;
- relating to any appeal.

7.22 As soon as the appropriate authority has appointed a third stage panel, it must send the police officer written confirmation of the names of panel members.

Objection to panel members

7.23 The police officer has the right to object to any panel members appointed by the appropriate authority and any such objection must be made in writing to the appropriate authority no later than 3 working days after receipt of the notification of the names of the panel members. The police officer must include the ground of his or her objection to a panel member (s) in that submission.

7.24 The appropriate authority must inform the police officer in writing whether it upholds or rejects an objection to a panel member.

7.25 If the appropriate authority upholds the objection, a new panel member will be appointed as a replacement. As soon as practicable after any such appointment, the police officer will be informed in writing of the name of the new panel member.

7.26 The police officer may object to the newly appointed panel member in the same way as that described in paragraph 7.23 whereupon the appropriate authority must follow the procedure described above.

Special constables and third stage meetings

7.27 In cases where the police officer is a special constable, as indicated above, the force will appoint a member of the special constabulary to attend the meeting to advise the panel. This is for the purpose of fairness so that any significant differences between the role of a regular and special police constable and which may have a bearing on the police officer's performance or attendance can be taken into account.

7.28 The special constable advising the panel must have sufficient seniority and experience of the special constabulary to be able to advise the panel. The special constable advising the panel can be a police officer serving in a different force.

7.29 The special constable advisor will not form part of the panel and will not have a role in determining whether or not the police officer's performance or attendance is unsatisfactory.

7.30 In arranging a third stage meeting involving special constables, due consideration should be given to the fact that special constables are unpaid volunteers and may therefore have full time employment or other personal commitments.

Meeting dates and timeframes

7.31 Subject to paragraph 7.32, any third stage meeting should take place no later than 30 working days after the date that the notification described in paragraphs 7.2 to 7.4 has been sent to the police officer. Within that timeframe, wherever possible, the meeting date and time should be agreed between the panel chair and the police officer. However, where agreement cannot be reached the panel chair may specify a time and date without agreement. If the police officer or his or her police friend is not available at the date or time specified by the panel chair, the police officer may propose an alternative time. Provided that the alternative time is reasonable and falls within a period of 5 working days beginning with the first working day after that proposed by the panel chair, the meeting must be postponed to that time.

7.32 If the panel chair considers it to be in the interests of fairness to do so, he or she may extend the 30 working day period within which the meeting should take place and the reasons for any such extension must be notified in writing to both the appropriate authority and the police officer.

7.33 As soon as a date for the meeting is fixed, the panel chair should send to the police officer a notice in writing of the date, time and place of the third stage meeting.

Procedure on receipt of notice of third stage meeting

7.34 Within 14 working days of the date on which a notice (as set out in paragraphs 7.2. and 7.11) has been sent to the police officer (unless this period is extended by the panel chair for exceptional circumstances), the police officer must provide to the appropriate authority:

- (a) a written notice of whether or not he or she accepts that his or her performance or attendance has been unsatisfactory or that he or she has been grossly incompetent, as the case may be;
- (b) where he or she accepts that his or her performance or attendance has been unsatisfactory or that he or she has been grossly incompetent, any written submission he or she wishes to make in mitigation;
- (c) where the police officer does not accept that his or her performance or attendance has been unsatisfactory or that he or she has been grossly incompetent or where he or she disputes part of the matters referred to in the notice that he or she has received, he or she shall provide (within 14 working days) the appropriate authority with a written notice of:
 - the matters he or she disputes and his or her account of the relevant events; and
 - any arguments on points of law he or she wishes to be considered by the panel.

7.35 The police officer shall provide the appropriate authority and the panel with a copy of any document he or she intends to rely on at the third stage meeting.

Witnesses and evidence

7.36 The police officer may propose witnesses to attend the third stage meeting in support of his or her case. The details of the witnesses that he or she proposes should attend must be submitted to and agreed with the senior manager. Where agreement cannot be reached, the police officer may submit to the appropriate authority his or her list of proposed witnesses (including their addresses) for consideration by the panel chair.

7.37 Where agreement has not been reached as above, the appropriate authority may also propose a list of witnesses.

7.38 As soon as reasonably practicable after any list of witnesses has been agreed or, in the case where no agreement could be reached, compiled by the police officer or the appropriate authority, the appropriate authority must

send the list(s) to the panel chair. The panel chair will consider the list of proposed witnesses and will determine which, if any, witnesses should attend the third stage meeting.

7.39 The panel chair can determine that persons not named in the list should attend as witnesses.

7.40 No witnesses will give evidence at a third stage meeting unless the panel chair reasonably believes that it is necessary for the witness to do so, in which case he or she will:

- a. in the case of a police officer, cause him or her to be ordered to attend the third stage meeting;
- b. in the case of a member of staff, cause him or her to be given notice that his or her attendance at the third stage meeting is required; or
- c. in the case of a member of the public, cause him or her to be given notice that his or her attendance at the third stage meeting is necessary.

Such notices will include the date, time and place of the meeting.

7.41 Where a witness attends to give evidence then any questions to that witness must be made through the panel chair. This does not prevent the panel chair allowing questions to be asked directly if he or she feels that this is appropriate.

7.42 The documents or other material to be relied upon at the meeting are required to be submitted in advance. Any document or other material that was not submitted in advance of the meeting may be considered at the meeting at the discretion of the panel chair. The purpose of allowing this discretion is to ensure fairness to all parties. However, the presumption should be that such documents or other material will not be permitted unless it can be shown that they were not previously available to be submitted in advance or that they relate to mitigation following a finding of unsatisfactory performance or attendance that was contested by the police officer. Where such a document or other material is permitted to be considered, a short adjournment may be necessary to enable those present to read or consider the document or other material and consider its implications. The length of the adjournment will depend upon the case. A longer adjournment may be necessary if the material in question is complex.

At the third stage meeting

7.43 At the third stage meeting the panel chair will conduct the meeting in accordance with the principles of natural justice and fairness and will:

- a. explain to the police officer the reasons why he or she has been required to attend a third stage meeting;

- b. provide the police officer with the opportunity to make representations in response;
- c. where the case is one of gross incompetence and the police officer has opted for legal representation, provide the police officer's legal representative with the opportunity to make representations;
- d. unless the police officer is entitled to be and has chosen to be legally represented, provide the police officer's police friend (if he or she has one) with an opportunity to make representations (see Role of Police Friend);
- e. listen to what the police officer (and/or his or her police friend) has to say and ask questions as appropriate

7.44 Having considered any representations by either the police officer and/ or his or her police friend or (where applicable) the police officer's legal representative, the panel will come to a finding as to whether or not the performance or attendance of the police officer has been unsatisfactory or whether or not his or her behaviour constitutes gross incompetence, as the case may be.

7.45 If there is a difference of view between the three panel members, the finding or decision will be based on a simple majority vote, but it will not be indicated whether it was taken unanimously or by a majority.

7.46 The panel must prepare (or cause to be prepared) their decision in writing which shall also state the finding. Where the panel have found that the police officer's performance or attendance has been unsatisfactory or that he or she has been grossly incompetent, the decision must also state their reasons and any outcome which they order.

7.47 As soon as reasonably practicable after the conclusion of the meeting, the panel chair shall send a copy of the decision to the police officer and the line manager. However, the police officer must be given written notice of the finding of the panel within 3 working days of the conclusion of the meeting.

7.48 The copy of the decision sent to the police officer must also be accompanied by a notice informing him or her of his or her right to appeal to a police appeals tribunal (under regulation 38 of the Police (Performance) Regulations 2008).

Records

7.49 A verbatim record of the meeting should be taken. The police officer must, on request, be supplied with a copy of the record.

Postponement and adjournment of a third stage meeting

7.50 If the panel chair considers it necessary or expedient, he or she may direct that the third stage meeting should take place at a different time to that originally notified to the police officer.

7.51 The panel chair's alternative time may fall after the period of 30 working days specified in paragraph 7.31.

7.52 In the event that the panel chair postpones a third stage meeting he or she should notify the following relevant parties in writing of his or her reasons and the revised time and place for the meeting:

- the police officer;
- other panel members; and
- the appropriate authority.

7.53 If the police officer informs the panel chair in advance that he or she is unable to attend the third stage meeting on grounds which the panel chair considers reasonable, the panel chair may allow the police officer to participate in the meeting by video link or other means.

7.54 In cases where the police officer is absent (for example through illness or injury) a short delay may be reasonable to allow him or her to attend. If this is not possible or any delay is considered not appropriate in the circumstances then the person(s) conducting the meeting/hearing may allow the police officer to participate by telephone or video link. In these circumstances a police friend will always be permitted to attend the meeting/hearing to represent the police officer in the normal way (and, in the case of a gross incompetence meeting, the police officer's legal representative where appointed).

7.55 Where the police officer informs the panel chair that he or she will be unable to attend the third stage meeting, or in the absence of such notification does not attend the meeting, and the panel chair is satisfied that a good reason for such non-attendance is given by (or on behalf of) the police officer, he or she may postpone, or as the case may be, adjourn the meeting in the absence of the police officer.

7.56 The police officer's presence, in person or otherwise, is not necessary for the third stage meeting proceedings to be valid. Where a meeting is postponed or adjourned because of absence, the panel chair may nonetheless decide to hold the meeting or resume the meeting, as the case may be.

Assessment of final and extended-final improvement notices issued at the third stage

7.57 Where the police officer has been issued with a final improvement notice or, in exceptional cases, the panel has extended a final improvement notice period, it is expected that the police officer's performance or attendance will be actively monitored by the line manager throughout the specified period of the final/ extended final improvement notice. The line manager should discuss with the police officer any concerns that the line manager has during this period as regards his or her performance or attendance and offer advice and guidance where appropriate.

7.58 As soon as the specified period of the final/ extended-final improvement notice comes to an end, the panel will assess the performance or attendance of the police officer during that period. The panel chair must then inform the police officer in writing of the panel's conclusion following assessment i.e. whether there has been sufficient improvement in his or her performance or attendance during the specified period.

7.59 If, at the end of the validity period of the final/ extended-final improvement notice, the panel considers that sufficient improvement to the police officer's performance or attendance has not been made or maintained during this period, the panel chair will similarly inform the police officer of the panel's assessment.

7.60 Any notification to the police officer that, in the opinion of the panel, there has been insufficient improvement in his or her performance or attendance must also include notification that he or she is required to attend a further third stage meeting.

7.61 As with the initiation of stages one and two for unsatisfactory performance or attendance, a further third stage meeting must relate to matters similar to or connected with the unsatisfactory performance or attendance or gross incompetence referred to in the final improvement notice extended or issued by the panel.

7.62 The panel should (where possible) be composed of the same persons who conducted the previous third stage meeting. However, there may be cases where re-constitution of the panel is either inappropriate or not possible. For example, original panel members may be on a career break or have left the force. In such circumstances the appropriate authority may substitute members as it sees fit subject to the requirements in the regulations described in paragraph 7.16. As soon as practicable after the appointment of any new panel member (s), the police officer should be notified in writing of the changes in panel membership. The police officer will have the opportunity to object to any new panel member (s) subject to the restrictions set out in paragraphs 7.23 – 7.26.

7.63 A police officer may only be given an extension to a final improvement notice on one occasion. Therefore where the police officer is required to attend a reconvened third stage meeting and the panel find that the police officer's performance or attendance continues to be unsatisfactory, the only outcomes available to the panel are:

- Re-deployment;
- Reduction in rank (only in performance cases)⁶; or
- Dismissal (with notice).

Assessment of improvement notices issued at the third stage

⁶ A reduction in rank may also involve re-deployment to alternative duties.

7.64 In cases where an police officer was issued with an improvement notice (as opposed to a final improvement notice) for unsatisfactory performance at a gross incompetence third stage meeting, that written improvement notice will be equivalent to a written improvement notice issued at a first stage meeting. In that case the procedure for assessing the performance of the police officer will be the same as that following the first stage. See paragraphs 5.19 to 5.25.

Third stage appeals

7.65 A police officer who has been dismissed or reduced in rank at a third stage meeting has a right of appeal against the finding and/or outcome imposed at that meeting. In addition, a police officer who has gone straight to a third stage meeting in accordance with the procedure for dealing with an issue of alleged gross incompetence (see paragraph 7.9) will have a right of appeal against the finding and any outcome from the third stage meeting. The appeal in either case is made to the Police Appeals Tribunal.

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7.66 However, any finding and outcome of the third stage meeting will continue to apply up to the date that the appeal is determined.

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8. Other Matters

Management action and medical and attendance issues

8.1 Where absence is due to genuine cases of illness, either self certified or medically certified, the issue is one of capability and thus falls under the UPPs rather than the procedures relating to misconduct. In such cases management may need to take a sympathetic and considerate approach, particularly if the absence is disability related and where reasonable adjustments in the workplace also need to be made which might enable the police officer to return to work.

8.2 On the basis of the occupational health advice, management should consider whether alternative work is available. If there is some doubt about the nature of the police officer's illness or injury, the police officer will be informed that he or she will be examined by a force medical adviser (FMA). If the police officer refuses, he or she will be told in writing that a decision on whether he or she is subject to UPPs will be taken on the basis of the information available. The above will be applied in accordance with forces' own managing attendance procedures.

8.3 In accordance with local force attendance management procedures, the line manager and the police officer should keep in regular contact. If management wish to contact the police officer's doctor, normal force arrangements will be followed.

8.4 The police officer should be made aware at the start of the UPPs that if he or she remains unwell and if necessary adjustments cannot be made dismissal from the force is a possible outcome at stage three.

8.5 For further guidance on sickness and absence matters, see separate guidance on attendance management (Chapter 4).

Attendance at each stage of the procedures and ill-health

8.6 Attendance at any stage meeting is not subject to the same considerations as reporting for duty and the provisions of Regulation 33 (sick leave) of the Police Regulations 2003 do not apply. An illness or disability may render an police officer unfit for duty without affecting his or her ability to attend a meeting. However, if the police officer is incapacitated, the meeting may be deferred until he or she is sufficiently improved to attend.

8.7 A meeting will not be deferred indefinitely because the police officer is unable to attend, although every effort should be made to make it possible for the police officer to attend if he or she wishes to be present. For example:

- the acute phase of a serious physical illness is usually fairly short-lived, and the meeting may be deferred until the police officer is well enough to attend;
- if the police officer suffers from a physical injury – a broken leg - for instance, it may be possible to hold the meeting at a location convenient to him or her.

8.8 Where such circumstances apply at a stage three meeting, the force may wish to consider the use of video, telephone or other conferencing technology.

8.9 Where, despite such efforts having been made and/or the meeting having been deferred, the police officer either persists in failing to attend the meeting or maintains his or her inability to attend, the person conducting the meeting will need to decide whether to continue to defer the meeting or whether to proceed with it, if necessary in the absence of the police officer. The person conducting the meeting must judge the most appropriate course of action. Nothing in this paragraph should be taken to suggest that, where an police officer's medical condition is found to be such that he or she would normally be retired on medical grounds the UPPs should prevent or delay retirement.

Medical retirement under police pension legislation

8.10 The Police Pensions Regulations 1987 in relation to the Police Pension Scheme and the Police Pensions Regulations 2006 in relation to the New Police Pension Scheme provide that where a police authority is considering whether an police officer is permanently disabled it shall refer the issue to the selected medical practitioner (SMP) for a decision.

8.11 Some cases of unsatisfactory attendance may raise the need to consider whether the police officer is permanently disabled within the meaning of the Police Pension Regulations 1987 or 2006. In such cases, this guidance should be read in conjunction with the PNB Joint Guidance on Improving the Management of Ill-Health.

8.12 Where an police officer is referred to the SMP for consideration of permanent disablement under the Police Pensions Regulations, no action shall be commenced or continued under the Police (Performance) Regulations 2008 with regard to the unsatisfactory attendance of an police officer until the issue of permanent disablement has been considered and the report of the SMP has been received by the Police Authority.

8.13 Where an police officer appeals to a Medical Appeal Board against a decision of the SMP that he or she is not permanently disabled or to a Crown Court against a decision of the Police Authority not to refer the permanent disablement questions to an SMP, no action shall be commenced or continued under the Police (Performance) Regulations 2008 with regard to the unsatisfactory attendance of the police officer until the appeal has been resolved.

8.14 Action can, however, be taken under the UPPs where a case has been referred or is the subject of appeal if the unsatisfactory attendance is unrelated to the condition forming the basis of the referral or appeal. However, forces must be confident that there is no connection as a decision to proceed in such circumstances may be challenged in the courts or tribunals. If the appropriate manager is unsure whether any condition forming the basis of a referral to the SMP or an appeal to either a Medical Appeal Board or Crown Court is related to the unsatisfactory attendance of an police officer, then advice should be sought from the HR professional acting on behalf of the Police Authority before any decision is taken to commence or continue the UPPs. Medical advice from the force medical advisor (FMA) may also be necessary.

For further guidance on medical retirement procedures, see:

<http://www.ome.uk.com/downloads/0319%20III%20Health%20Retirementfinal.doc>

<http://www.lge.gov.uk/lge/aio/53547>

<http://police.homeoffice.gov.uk/human-resources/police-pensions/IHR/>

Retirement under A19 of the Police Pensions Regulations 1987 and Regulation 20 of the Police Pensions Regulations 2006 and the 30+ Scheme

8.15 A19 of the Police Pensions Regulations 1987 provides for the compulsory retirement of police officers who have built up 30 years of pensionable service (and are entitled to an immediate full pension) where the police officer is not fully effective *and* his or her retention would not be in the general interests of the wider force efficiency. Similarly, regulation 20 of the Police Pensions Regulations 2006 provides for the compulsory retirement of those police officers who are members of the new 2006 Police Pension Scheme, and can be retired immediately with a full pension, on the same grounds.

8.16 These regulations should not be used to remove a police officer in situations of unsatisfactory performance or attendance where there is no issue of wider force efficiency. The UPPs should be used in such cases.

8.17 UPPs can also be used where police officers have resumed service under the 30+ Scheme and where a termination of office under A19 or regulation 20 is not appropriate (as above).

8.18 For detailed guidance on the Police Pension Regulations and 30+ Scheme, see:

<http://www.npia.police.uk/en/8395.htm>

<http://police.homeoffice.gov.uk/human-resources/police-pensions/>

Special Priority Payments and Competency Related Threshold Payments

8.18 A finding or admission of unsatisfactory performance or attendance or gross incompetence at a UPP meeting will not automatically result in the removal of an police officer's competency related threshold payment or special priority payment. However, where an police officer has received an improvement notice or final improvement notice, this may trigger a review of the appropriateness of that police officer continuing to receive such payments. Any such review should take into account the qualifying criteria for payments under these schemes.

The use of records under UPPs

8.19 Records of any part of the UPPs should not be taken into account after an improvement notice has ceased to be valid. Equally, where a police officer appeals and that appeal is successful, the record of that procedure should not be taken into consideration in any future proceedings or for any other purpose.