

## Standard Operating Procedure for Suspending Officer and restricted duties

### 1. Introduction

- 1.1 This Standard Operating Procedure (SOP) supports the Directorate of Professional Standards' Overarching Policy and deals with the suspension or removal from normal duty, Metropolitan police officers where they are subject of a complaint/investigation or have been involved in a violent/traumatic incident.
- 1.2 This is a revised SOP. The relevant legislation is at Annex A.

### 2. Application

- 2.1 This SOP applies to officers up to and including the rank of chief superintendent. It places specific responsibilities on superintendents, OCU commanders, officers appointed as liaison officers and general responsibilities on supervisory officers. All police officers should be aware of the general issues raised.
- 2.2 The decision to suspend will be made by the Director/Deputy Director DPS, who will authorise suspensions, and restrictions from duty whilst any report, allegation or complaint is being investigated. If the Director/Deputy Director DPS is unavailable, the on-call ACPO officer will authorise these. This officer must be a substantive Commander or Deputy Assistant Commissioner. The Director/Deputy Director DPS will review the decisions of the on-call ACPO officer within 36 hours of the original decision. Other than in exceptional circumstances, the officer's OCU commander will be consulted before a decision is made to remove from normal duties or suspend the officer.
- 2.3 Director/Deputy Director DPS may also authorise suspensions, or restrictions where a report has been passed to DPS Misconduct and Civil Actions Command for consideration of starting misconduct proceedings.

### 3. Details of Standard Operating Procedure

- 3.1 Officers may be suspended where it is felt necessary to safeguard the officer, the public or the MPS.

#### Suspension of an officer from the office of constable.

- 3.2 Suspension will occur when the ACPO officer is satisfied that *either* (a) the effective investigation of the matter may be prejudiced unless the officer concerned is so suspended *or* (b) the public interest, having regard to the nature of the report, complaint or allegation, and any other relevant considerations, requires that he/she should be suspended. Retirement should not be a means of avoiding disciplinary action in such cases. However, where the decision to suspend an officer in such circumstances is based on the necessity to maintain public confidence, the officer should be advised in writing of the specific factor(s) relevant to this decision. The Regulations provide for

a presumption against officers being suspended unless these conditions apply. These conditions plainly provide for a wide discretion in the ACPO officer to suspend officers when in his/her view, the circumstances demand such a course. Nor is the ACPO officer obliged to suspend because the allegation is serious or there is a public outcry, if, in all the circumstances, he/she does not think the public interest demands a suspension. This will depend on a multifactorial assessment of all the relevant circumstances, which will very much depend on the individual circumstances of a case.

- 3.3 The investigating officer will, in most cases make the referral to the Director/Deputy Director DPS for consideration of removal from normal duty or suspension. A risk assessment should form part of this report and will contain an assessment of risk associated with other cases the officer concerned is involved in and a risk management plan. This report should be submitted through the Detective Chief Superintendent IIC, who may delegate to an appropriate individual responsibility for quality assurance of its accuracy, proportionality and fairness.
- 3.4 The investigating officer will submit a report to the Director/Deputy Director DPS through the Detective Chief Superintendent IIC when the circumstances surrounding the incident change in a significant way. In addition, the investigating officer will submit a monthly report to the Director of Professional Standards summarising the progress of the investigation. These reports should be submitted through the Detective Chief Inspector, IIC for quality assurance of its accuracy, proportionality and fairness, before forwarding to the AC's Staff Office.
- 3.5 'Suspension of an officer from the office of constable' will be reserved for cases where
  - (a) only that status is sufficient to avoid potential prejudice of the investigation or
  - (b) to satisfy the requirements of the public interest with respect to the more serious of allegations or for cases where, for other reasons, the requirements of the public interest may only be met by the imposition of that state. Where the imposition of lesser restrictions is sufficient to meet the relevant concerns, suspension will not be imposed.'

#### **Restricted Police Duty**

- 3.6 The status of **Restricted Police Duty** will be used where there is evidence that the officer has committed less serious offences or where an officer has made a momentary error of judgement resulting in the unintentional commission of a possible offence – including a serious offence. Restricted Police Duty will, in legal terms not amount to suspension (as defined by the regulations) and thus officers will retain both the powers and duties of a constable. Officers will retain their warrant cards. The restriction from duty will be bespoke to reflect the service's concerns re the conduct being investigated, to ensure that the confidence of the public is maintained and the officer employed in a

role suitable to the MPS. The officer's welfare will be a consideration in the decision to restrict and the boundaries to impose. The restriction may specify that such an officer will actually be employed in some other Operational Command Units (OCU), unit or branch rather than their 'home' OCU.

#### **Additional Guidance**

- 3.8 This SOP is only applicable to those officers who have been served with a Regulation 9 (Form 163) notice or where a matter has been referred to DPS-IIC for investigation.
- 3.9 Where an officer is under investigation and an OCU commander considers it necessary to impose restrictions or further restrictions on an officer, this may only be done after having obtained the agreement of the Director/Deputy Director DPS.
- 3.10 Under the Police Reform Act 2002, sections 20(2), (4) & 21, the Appropriate Authority or IPCC in cases managed by them has an obligation to keep the complainant/representative informed of any progress within the investigation, which includes the suspension/restrictions or any variance imposed. It is suggested this is done after the Monthly Suspension Review meetings.

#### **Management of firearms incidents where any member of the MPS has discharged a firearm**

- 3.11 This is the subject of a separate SOP agreed between SO19 & Internal Investigations Command.

#### **Police vehicles involved in fatal incidents (POLCOLS)**

- 3.12 There is a Service Level Agreement between Internal Investigations Command and Traffic Operational Command Unit for the investigation of fatal road traffic incidents involving the police. It may be accessed via the DPS Policy Unit intranet site

#### **Suspended officers - Compensation for loss of overtime**

- 3.13 Officers who are suspended and later reinstated to duty are not entitled to claim compensation for any overtime that they might have been called upon to perform if they had not been suspended.

#### **Suspended officers - Section House Residents**

- 3.14 Where officers who are suspended are resident in police section houses the investigating officer must ensure that this fact is considered in the risk assessment of the case and the views of the section house manager are sought.

#### **Suspended officers - Long term sickness and pay**

- 3.15 Suspended officers are not subject to Regulation 28 of the Police Regulations 2003 and therefore will remain on full pay whilst suspended, unless the officer is in custody following conviction or is absent and their whereabouts are unknown, when the suspension will

normally be without pay.

#### **Suspended officers - Travel expenses**

- 3.16 The circumstances whereby officers can avail themselves of free transport facilities are laid out in Police Notices 23/00, 51/00 and 6/01.
- 3.17 Officers who are suspended are not entitled to take advantage of the free travel facilities laid out in these Notices. Suspended officers who are required by the CPS to attend court or who are required to attend police premises for official reasons, e.g. medical, welfare or misconduct interviews are entitled to reclaim travelling expenses so incurred in the normal way. They are not entitled to reclaim travel expenses for meetings with the solicitors conducting their defence.

#### **Suspended officers - Business Interests**

- 3.18 There is no objection to suspended officers having and being involved with properly registered business interests but they are reminded that the MPS remains their employer and that at any time their suspension may be lifted. For this reason they should avoid giving any commitment, that a return to duty would render them unable to fulfil. They are also advised to make their own enquiries and satisfy themselves as to their tax liability.

#### **Suspended officers - Notice of retirement**

- 3.19 Police Regulations 2003, provide that, while suspended under the Conduct Regulations, a member may not, without the consent of the chief officer of police, give notice for the purposes of this regulation or retire in pursuance of a notice previously given. If the officer is currently suspended then authority should be sought from the Director of DPS (Assistant Commissioner DPS). If the officer has been restricted from duty, to ensure the officer's resignation is in the interests of both the public and Service the Deputy Director (Commander) should be consulted.

#### **4. Responsibilities**

##### **Ownership;**

Professional Standards Strategic Committee

##### **Commissioning agent;**

Professional Standards Strategic Committee (development DPS Policy Unit)

##### **Approving body;**

Professional Standards Strategic Committee

##### **Implementing agents;**

ACPO Officers

OCU Commanders

Director and Deputy Director Directorate of Professional Standards

**Reviewing body;**

Directorate of Professional Standards Strategic Committee

**5. Associated Documents**

Home Office Guidance circular 23/2003

Police Regs 2003 (Pay & Conditions)

Police (Conduct) Regulations 2004

Keep In Touch Policy (Ownership HR)

ESU Local Operating Procedure (Ownership HR)

This policy supports:

Awards and Commendations Policy

Additional Payments for Police Officers

Police (Conduct) Regulations 2004, Reg. 4 (see Annex A)

**6. Communication**

Details of this revised SOP will be brought to the notice of the service through Police Notices. Additionally copies will be sent to the Metropolitan Police Authority and The Independent Police Complaints Commission.

**7. Monitoring**

As outlined through out this SOP the monitoring of any suspension or removal from operational duty of an officer is the core function of this SOP. The impact on minority groups forms part of the monitoring and analysis in the quarterly returns.

**Further Information**

Further information may be obtained from DPS (Policy Unit) 65862

**OCU Commanders involved in suspensions and removal from normal duty**

Attention is drawn to the HR Employment Support Unit (ESU) SOP

## **SOP for superintendents involved in suspensions**

- 1.1 The superintendent carrying out the suspension will not be the investigating officer, nor an officer involved in the matter, which has led to the decision to suspend.
- 1.2 The superintendent will be given all necessary background information relating to the incident that has led to this decision. Where there are operational constraints on what may be divulged to the officer this will be made clear to the superintendent.
- 1.3 The superintendent should explain to the suspended officer as fully as possible the reasons for the decision to suspend the officer but should avoid being drawn into discussions about the possible outcome of the investigation. However, where the decision to suspend an officer in such circumstances is based on the necessity to maintain public confidence, the officer should be advised in writing of the specific factor(s) relevant to this decision.
- 1.4 Once an officer is suspended, they are no longer authorised to perform any of the duties of a constable. The superintendent must make this clear to them and take possession of their warrant card. The warrant card will be retained at the officer's OCU until the matter is resolved.
- 1.5 Once an officer is suspended, they are no longer entitled to free rail travel. It may be appropriate to consider if this is going to cause the officer difficulty following the meeting and make appropriate arrangements to alleviate this.
- 1.6 It will be a matter for the superintendent to decide if they, and or the officer should be in uniform, but they should bear in mind that arrangements will have to be made to secure the officer's uniform at some stage following the meeting. It is not necessary for the officer to return every item of uniform before leaving the station.
- 1.7 Unless operational constraints make it impossible, the officer to be suspended should be given adequate notice of the meeting, in order that arrangements may be made, i.e. transport home, having a 'friend' present. The 'friend' may be a federation representative or other officer not connected with the matter that has led to the suspension.
- 1.8 It is the responsibility of the superintendent to arrange for a representative of the Directorate of Professional Standards (DPS) to be on hand at the meeting, although their presence in the room is a matter for individual decision.
- 1.9 Form 161, (The 'Notice to Suspended Officers') at Appendix B, gives details of the officer's entitlements and allowances whilst suspended and gives details of the welfare and medical services available to them. This must be given to the officer before they leave the meeting. Form

161 can also be found in the 'Forms' library on AWARE.

- 1.10 It is the responsibility of the superintendent to ensure that the MSS, SUSPOFF is sent.
- 1.11 It is the responsibility of the superintendent to ensure that a report is forwarded to Commander, DPS.
- 1.12 It is the responsibility of the OCU commander to arrange for a liaison officer to be appointed to the suspended officer see ESU SOP and for them to be available either at the meeting or immediately afterwards. It is important that there is effective communication between the officer carrying out the suspension and the OCU commander to ensure this process goes smoothly. The liaison officer should be someone who is unconnected with the matter that has led to the suspension. Experience has shown that a supervisory rank officer may be more effective in this role but this is a management decision.
- 1.13 Suspensions can be stressful for all concerned and officers might react to being suspended in a way that is out of character. Those carrying out the suspension should be aware of this.



**Legislation**

**Police (Conduct) Regulations 2004 - Regulation 4**

**Suspension**

- (1) (1) Where it appears to the appropriate authority, on receiving a report, complaint or allegation which indicates that the conduct of a police officer does not meet the appropriate standard, that the officer concerned ought to be suspended from his office as constable and (in the case of a member of a force) from membership of the force, the appropriate authority may, subject to the following provisions of this regulation, so suspend him.
- (2) The appropriate authority shall not so suspend a police officer unless it appears to it that either of the following conditions (“the suspension conditions”) is satisfied-
  - (a) that the effective investigation of the matter may be prejudiced unless the officer concerned is so suspended;
  - (b) that the public interest, having regard to the nature of the report, complaint or allegation, and any other relevant considerations, requires that he should be so suspended.
- (3) If the appropriate authority determines that a senior officer ought to be suspended under this regulation, it shall forthwith notify the Commission of its decision and of the suspension condition appearing to it to justify its decision.
- (4) If, upon being so notified of the decision of the appropriate authority, the Commission is satisfied that the suspension condition in question is fulfilled, it shall as soon as practicable notify its approval of the suspension of the senior officer concerned to the appropriate authority; and the suspension of the officer shall not have effect unless the approval of the Commission is so given.
- (5) The appropriate authority concerned may exercise the power to suspend the officer concerned under this regulation at any time, subject to paragraphs (3) and (4), from the time of the receipt of the report, complaint or allegation until-
  - (a) it is decided that the conduct of the officer concerned shall not be the subject of proceedings under regulation 11;
  - (b) the notification of a finding that the conduct of the officer concerned did not fail to meet the appropriate standard;
  - (c) a sanction has been imposed under regulation 35 and, in the case of an officer other than a senior officer, either the officer concerned has not requested a review within the period specified in regulation 40 or any such review has been completed;
  - (d) in the case of a senior officer, the Commission decide otherwise;
  - (e) in the case of a senior officer, a notification that, in spite of a finding

that the conduct of the officer failed to meet the appropriate standard, no sanction should be imposed.

- (6) Where the officer concerned is suspended under this regulation, he shall remain suspended until there occurs any of the events mentioned in paragraph (5)(a) to (e), or until the appropriate authority decides he shall cease to be suspended, whichever first occurs.
- (7) Where the officer concerned who is suspended is required to resign under regulation 35, he shall remain suspended until the requirement to resign takes effect.
- (8) Where the appropriate authority is a chief officer, he may delegate his powers under this regulation-
  - (a) where the officer concerned is a member of the City of London or metropolitan police force or is a special constable appointed for the area of one of those forces, to an officer of at least the rank of commander,
  - (b) in any other case, to an officer of at least the rank of assistant chief constable.

### **Home Office Guidance (Section 3 – Misconduct Procedures)**

#### **Suspension and removal from normal duties**

3.21 In serious cases, it might be decided that the officer concerned should be removed from his or her normal duties or be suspended at the start of or during the course of the formal investigation or pending the outcome of criminal or misconduct proceedings. Consideration should first be given to a temporary transfer to other duties rather than suspension, which should not be used as a matter of routine. The decision to suspend should be taken only where the presence of the officer on duty might be detrimental to or hinder an investigation or proceedings (criminal or disciplinary), or when it is in the public interest to do so. That will normally apply only to cases where the complaint or allegation is of a serious nature, likely to result in criminal conviction or disciplinary conviction which would be likely to lead to dismissal from the service, requirement to resign or reduction in rank. In such serious cases, or in cases where the completion of disciplinary proceedings is necessary for the maintenance of public confidence, the public interest may require that an officer should be required to face disciplinary proceedings, notwithstanding that the officer may wish to retire from the service. Retirement should not be a means of avoiding disciplinary action in such cases. However, where the decision to suspend an officer in such circumstances is based on the necessity to maintain public confidence, the officer should be advised in writing of the specific factor(s) relevant to this decision.

3.22 Where an officer is suspended this will be with pay, except where the officer is in custody following conviction, or is absent without permission or when his or her whereabouts are unknown, in which case the suspension should be without pay. Neither removal from normal duties

nor suspension implies any decision about the misconduct case.

- 3.23 Where an officer is suspended, the chief officer will ensure that the continuing need for suspension is subject to, at least, monthly reviews. The purpose of each review will be to determine whether the conditions that required the suspension still apply. The officer concerned should be notified of the outcome of each review.
- 3.24 A police authority may also consult with Her Majesty's Inspectorate of Constabulary for professional advice on the suspension of a senior officer. A police authority must obtain IPCC approval before suspending a senior officer, except in urgent cases, where approval must be obtained within 24 hours of the suspension beginning. When considering the appropriateness of suspending a senior officer, the IPCC must be satisfied that either Regulation 4(2)(a) or (b) of the suspension conditions is met.
- 3.25 An officer ceases to hold the office of constable or to be a member of a police force whilst suspended. Commensurate with this, a senior officer who is suspended should be supplied with such briefing documents as may help to keep his or her knowledge of policing matters up to date. This may, for example, include force orders (including policy changes), police authority minutes, Home Office circulars and other relevant briefing documents to be agreed between the police authority and the officer concerned. The clerk to the police authority should take possession of the warrant card of a senior officer who has been suspended and return it at such time as the senior officer returns to duty.



## **A Guide For Officers Suspended From Duty**

### **Introduction**

This form is designed to assist you during the period you are suspended from duty. It outlines your entitlements and the restrictions to which you are now subject. Not every eventuality is catered for and the advice of your welfare officer should be sought.

### **Welfare**

You are entitled to all the welfare facilities available from Occupational Health. You will normally be allowed unrestricted access to your OCU Commander or their nominee for welfare purposes.

Your Welfare Officer is:

Contact No.:

### **Pay and Allowances**

You will receive full pay and where applicable, transitional rent allowance and housing allowance, compensatory grant and London allowance.

You are not entitled to pay if:

You are in custody as a result of a court sentence.

You have absented yourself from duty and your whereabouts are not known to the Commissioner.

Ask your welfare officer to provide the latest policy on Special Priority Payments, Competency Related Threshold and Bonus Payments.

### **Warrant Card**

You are not entitled to hold a warrant card and are not empowered to carry out the duties of a police officer. This does not restrict any of the powers to which you are entitled as an ordinary member of the public.

### **Absence From Your Registered Address**

You must ask permission through your OCU Commander to be away from your registered address. The Director of Professional Standards will normally be consulted when the request is considered.

### **Annual Leave**

You are not entitled to be shown annual leave. If your suspension is lifted you are entitled to "carry over" five days of annual leave if you have not previously used it. Leave of absence from a registered address can be taken if approval is sought.

### **Sickness**

You must report sick in the normal manner used by your station or branch, to whom you must also submit your certificates. The MPS will be entitled to any sickness benefit in the normal way.

**Retirement**

Only the Director of Professional Standards can approve a request for retirement, even if your request was prior to your suspension. If you have been convicted of a criminal offence you will not normally be allowed to retire prior to a Misconduct Hearing.

**Promoted**

You will not be promoted whilst suspended.

**Police Regulations**

You are still subject to all Police Regulations. This will include the Misconduct Code as well as all lawful orders and instructions.

**Other Employment**

You cannot undertake this without the authority of the Commissioner.

**Contact with MPS Staff**

You will be allowed unrestricted access to your Police Federation representative and to your personal friends.

Other than married quarters you will not be allowed to be unescorted on police premises. You must obtain the authority of your OCU Commander. This will not apply if you are attending police premises at the request of the Investigating Officer.

You are not permitted to be a representative in MPS sport. You may visit MPS Sports Clubs if allowed to do so by the chair of that sports club. If permission is given you must inform your OCU Commander of that fact but not of each attendance.

**Court Cases**

You must report details of all the cases in which you are involved to your OCU Commander who will ensure that an MG6B is completed for those cases. It will be the decision of the CPS whether you will be called as a witness, and if called you must attend.

Before giving your evidence you may be asked the following questions, the answers for which you may wish to consider beforehand:

Are you suspended from duty?

What are the reasons for your suspension?

Do you admit or deny the allegations against you?

The answer to the final question may prove difficult for you to answer if the investigation is at an early stage or you have been charged with a criminal offence and are considering your plea. Advice should be sought from the Police Federation or a solicitor (but not the CPS) before deciding to answer the question.

Retention period: 3 years

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