



<u>Policy Title</u>	PREPERATION & SERVICE OF REGULATION 9 NOTICES IN RESPECT OF INVESTIGATIONS INTO COMPLAINTS AND MISCONDUCT
<u>CCMT Sponsor</u>	Deputy Chief Constable
<u>Department/Area</u>	Professional Standards

1.0 Rationale

Incorrect or late service of a notification to an officer that he/she is subject of an investigation arising from a complaint or report of misconduct can and has caused problems in disciplinary proceedings. It is important that the necessary notification is correctly prepared and served in a timely fashion.

2.0 Intention

The intention of this policy document is to give guidance on the preparation and service of notices required under Regulation 9 of the Police (Conduct) Regulations 2004 (and the Police (Conduct) Regulations 1999 where relevant).

3.0 General Principles

The term 'officer' applies to any police officer or a Special Constable. An officer under investigation, as a result of a complaint from a member of the public or an allegation of misconduct not arising from a complaint, shall, as soon as reasonably practicable (without prejudicing the investigation) be given a notice informing him of the fact.

The notice must be in writing and detail the nature of the complaint or concern that is to be investigated (Regulation 9, Police (Conduct) Regulations 2004). Failure to comply with this requirement could invoke Article 6 (Right to a fair trial) in so much as the officer not being given sufficient information/time to make enquiries in support of his/her defence.

4.0 Challenges/ Representations

Any person directly affected by this policy may make representations in writing in relation to this document and/or any decision taken in consequence of it, to:-

Chief Superintendent, Professional Standards Department
Police Headquarters
Oxford Road
Kidlington OX5 2NX

5.0 Guidance, Procedures and Tactics

The notification is the responsibility of the Investigating Officer who is accountable for the timing of the notification. A notice should not be served until there is some evidence that there has been a possible breach of the Code of Conduct as defined in the Police (Conduct) Regulations 2004.

The notice should be prepared by either the Investigating Officer or a Case Worker having knowledge of the complaint/allegation.

Minor misconduct issues, not arising from a complaint, may be dealt with on Area by way of a 'written warning.' In these instances, a Regulation 9 Notice should not be served. If the conduct relating to the "Written Warning" is not accepted, the matter should be referred to the Professional Standards Department at Headquarters, who will appoint an Investigating Officer. The Investigating Officer will then prepare and arrange service of a Regulation 9 Notice.

Where the Investigating Officer serves a Regulation 9 Notice personally, he/she will forward a copy to the officer's Area/Department Head. This is to ensure the Area/Department Head is aware of officers under their command who are subject of an investigation.

In the majority of cases the Investigating Officer will send a Regulation 9 Notice to the officer's Area/Department Head for them to arrange service. The Area / Department Head may serve the notice personally or nominate another officer to effect service. The officer serving the notice should be of at least Inspector rank to ensure some degree of confidentiality. Additionally, that officer should be able to offer advice on complaint investigation procedures and address any welfare needs of the officer arising from the complaint/allegation.

Where an Area/Department Head nominates another individual to receive and arrange service of Regulation 9 Notices on his/her behalf it is essential that arrangements are in place for someone else to deal when the nominated individual is off sick, annual leave, etc.

When an officer subject of an investigation is off sick, delay is often encountered in serving a Regulation 9 Notice. Where sickness is due to a minor injury/ailment, no delay in serving a notice can be justified. In cases of serious physical or mental illness delay in serving a notice may well be justified. In such cases a management decision based on all the circumstances of the case will need to be made as to how and when service of the notice will be effected. In either case service should not be effected by an officer making a visit on welfare grounds.

Police Federation representatives are prepared to accept notices on behalf of police officers who are off sick, **provided they are consulted first** and have the consent of the officer.

Once served, the signed Regulation 9 notice is to be returned to the Investigating Officer to be attached to the case file. The file will subsequently be forwarded to the Professional Standards Department at Headquarters. It will be retained for 3 years from the date of a decision to take no further action, 3 years from the date of any misconduct hearing resulting in a sanction of a fine of reprimand or 5 years where a greater sanction, i.e. reduction in rank, requirement to resign or dismissal, is imposed.

6.0 Communication

6.1 Links to Police National Legal Database

This policy will be available on the Intranet site and the Professional Standards Site.

6.2 Communications strategy

This policy has been existing practice for many years and is well known by those who will be operating it. BCU Commanders will be reminded of it by the Head of Professional Standards at their annual visits. Key stakeholders were consulted in the drafting of this policy.

7.0 Compliance and Certification

7.1 Human Rights Certification

The legal basis for this policy document is derived from:
Regulation 9 of the police (Conduct) Regulations 1999 and 2004.

This policy has been drafted and audited in accordance with the Human Rights Act 1998.

It is acknowledged that this policy has the potential to engage the following Articles:-

- Article 6 - "Right to a fair trial"
- Article 8 - "Right to respect for private and family life"

In the event that an Article of the Convention is engaged, then the legitimacy for the engagement is provided within the text of the Article:-

Article 6 - will apply to this policy in its entirety.

Article 8 - There shall be no interference by a public authority with the exercise of this right except such as in accordance with the law and is necessary in a democratic society for ... the prevention of ... crime ... or for the protection of the rights and freedoms of others.

By engaging any of the aforementioned Articles, there is the potential to engage Article 14 of the Convention. The enjoyment of the Rights and Freedoms set forth in the European Convention of Human Rights shall be secured without discrimination on any grounds, such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status. Actions taken as a consequence of this policy will be applied fairly and impartially, having due regard for natural justice and human rights.

7.2 Diversity Impact Assessment

This policy has had a Diversity Impact Assessment carried out, it has a LOW impact on the six stands of diversity.

7.3 Data Protection

Data is held for the purpose of complying with this policy and relevant legislation, and will be kept on the relevant complaint file and held within the Professional Standards Department. Information will be held for seven years, to bring it into line with the Professional Standards Department destruction policy.

7.4 Freedom of Information Act

There is nothing contained within this policy that would preclude it from being made available to the public. This policy is available to the general public. Copies can be obtained via the Thames Valley Police website or by writing to:-

Policy management Unit
Corporate Development
Thames Valley Police Headquarters
Oxford Road
Kidlington
Oxon OX5 2NX

7.5 Protective Markings

This document has been assessed for its correct level of corrective marking i.e. not protectively marked.

7.6 Health and Safety at Work

The service of a Reg 9 notice on an officer who is off sick with stress/mental ailment may cause additional stress/problems for that officer. Senior management need to consider all the circumstances of the case and the officer in determining how best to serve the best interest of the organisation as well as the welfare of the officer.

8.0 Monitoring and review

This policy document will be reviewed annually, in January, by the Administration Inspector, Professional Standards Department. The review will take account of the following criteria:-

- *changes in legislation
- *changes in Home Office Guidance
- *human rights challenges in domestic and Human Rights Courts
- *changes to ACPO guidance
- *representations made by the Police Federation
- *representations made by individuals
- *relevant equality data

8.1 Links to Best Value/PPAF/Priorities/Performance Indicators

This policy does not have any direct links with the Best Value 5 Year Review Programme.