

### Suspension decisions in the MPS in 2015 under regulation 10 of the PCRs

6. Regulation 10 of the PCRs 2012 states that it is the “appropriate authority” who makes suspension decisions. The “appropriate authority” for MPS officers is the Commissioner, but this can be delegated. It is my understanding that at the time of W80’s suspension it was the Deputy Assistant Commissioner (“DAC”) for Professionalism, DAC Fiona Taylor, who made the majority of suspension decisions (although the decision could be made by others).
7. In cases which were either supervised, directed, or conducted by the IPCC Regulation 10 of the PCRs 2012 required consultation with the IPCC if an officer is to be suspended or to bring such a suspension to an end. The decision to suspend, however sits with the MPS as the “appropriate authority”.
8. In terms of the internal practice at the time that was designed to give effect to and supplement regulation 10 of the PCRs 2012, my understanding is that in most cases a DPS officer (who depending on the type of matter being dealt with may also be the appointed investigating officer), would prepare a ‘suspension report’ which would be submitted to the staff office of the DAC for Professionalism. This would include the views of the IPCC as required for the purposes of regulation 10(12) of the PCRs 2012, as applicable.
9. The staff office for the DAC for Professionalism would review the form and present it to the DAC. The DAC would then record the decision and rationale in respect of whether the subject officer should be suspended on the requisite form; form 161 “notice of suspension”.
10. The DAC’s staff office would then send the form 161 notice of suspension back to a DPS officer to arrange for it to be served on the subject officer which, as per regulation 10(6) of the PCRs 2012, is when the suspension would take effect.
11. The service of the form 161 notice of suspension would be carried out by any superintendent who was independent of the investigation of the subject officer
12. In more urgent cases and / or out of normal working hours, the suspension decision could be made either by the DAC for Professionalism or another sufficiently senior officer (formally ACPO now NPCC level i.e. Assistant Chief Constable/Commander or above) and, on the decision-maker’s behalf and if the decision was to suspend, this could then be notified orally to the suspended officer. However, and to accord with the requirements of regulation 10(6) of the PCRs 2012, the suspended officer would then need to be notified in writing of the suspension decision i.e. provided with the form 161 notice of suspension, before the end of three working days beginning with the first working day after the suspension.
13. At the time of providing written or oral notification of the suspension decision, the suspended officer’s warrant card would be taken and retained by the superintendent.
14. I have been asked specifically, for an IPCC/IOPC investigation, whether a suspension could proceed without a ‘Regulation 16 notice’ being provided (notice of investigation under Regulation 16 of the Police Complaints and Misconduct Regulations 2012). The answer is that, yes, a suspension could proceed in line

with Regulation 10 of the PCRs 2012, without a Regulation 16 notice being served as clearly this is not a requirement of Regulation 10.

15. Equally, no paperwork was needed for the purposes of Regulation 10 of the PCRs 2012, as under that regulation a notification of suspension could be given orally and the suspension would have taken effect immediately upon the notification as long as the Appropriate Authority (decision maker) confirms the suspension in writing with a summary of the reasons, as described at paragraph 12 above.
16. However, I have seen what appears to be an MPS guidance document that Superintendent (now Commander) Dobinson had at the time and which he exhibits in his statement as SGD/6 [MPS0000087\_10]. This is titled "Guidance for Superintendents Involved in Suspensions" produced by "DPS Policy Unit". Whilst this is not on headed paper, it appears to be an internal guidance document.
17. This document states that the Superintendent 'must serve form 163' and 'issue form 161' during a suspension. As stated above there is no legal requirement to do so. This document appears to reflect a policy decision adopted by the MPS at that time. I was not in my current role in 2015 and cannot specifically address the adoption of this policy or this document further.
18. I would note, however, that while legally it was and remains the case that a suspension can be given orally and without the simultaneous service of paperwork; it is plainly desirable for that paperwork to be provided at the point of suspension, for the benefit of the officer in question. The legislative framework and regulations for misconduct proceedings are complex. The point of providing internal guidance is to assist in simplifying the requirements of these complex processes for the officer carrying out a suspension, in order to enable that officer in turn to assist the officer being suspended with understanding what to expect. It is of course far better for the officer concerned to understand, at the time, the full reasons for his or her suspension, and to have access to a rationale for the suspension in writing, including appropriate details of any investigation to which he or she is subject.
19. Whilst due to time constraints to make this statement, I have not been able to review all documents relating to previous guidance and policy, it may be helpful to say that I am aware of a more recent version of the guidance document exhibited by then Superintendent Dobinson, dated April 2016. This version retains the emphasis on the provision of relevant paperwork, but clarifies that this is not a mandatory requirement in all circumstances. The 2016 document directs that the superintendent conducting the suspension should:
  - *Serve Form 163 or IPCC Notice of Investigation (NB This is not a mandatory requirement; however it may be desirable and the preferred option for this form to be served at the same time as suspending an officer, if the paperwork is available).*
  - *Issue Form 161, (The 'Notice to Suspended Officers'), to the suspended officer before they leave the meeting. This gives details of the officer's entitlements and allowances whilst suspended and provides details of the welfare and medical services available to them. This will include, subject to*

*the integrity of the investigation, the rationale for suspension. (NB In the event of the DAC providing oral authority, this form would not be available).*

#### The decision to suspend W80

20. In terms of DAC Taylor's decision to suspend W80 on 13th December 2015, DAC Taylor was able to make suspension decisions and this was permitted under the PCRs 2012. To my knowledge the decision was made with IPCC consultation, as required.
21. The evidence of then Superintendent Dobinson outlines the process that was followed in respect of W80's suspension. This was an out of hours decision made on a fast time basis, paperwork was not available as it normally would be.
22. It appears from the evidence of then Superintendent Dobinson that he did not believe he had the power to suspend W80 in the absence of relevant paperwork. It follows from the matters set out above that such a legal power did exist, although this was not reflected in the guidance document available to Superintendent Dobinson. As set out above, more recent internal guidance makes clear that suspension can proceed in the absence of specified paperwork, although the starting point remains that it should be provided where possible.

#### Current law and internal practice regarding suspension of MPS officers

23. For completeness, suspension decisions are now made under regulation 11 of the PCRs 2020, which came into force on 1 February 2020. The provisions of this regulation are in very large part the same as the provisions of regulation 10 of the PCRs 2012. For example, it remains the decision of the appropriate authority to suspend an MPS officer, the same suspension conditions apply, the notification provision is still the same and in an IOPC 'directed' or 'independent' investigations the IOPC should be consulted.
24. All non-urgent suspension decisions are currently made by me to ensure consistency in approach and that the suspension conditions are applied correctly (unless the subject officer is more senior in rank than me or there is some reason that means it would be inappropriate for me to make the decision). Although out of hours urgent decisions can be made by others, such decisions are rarely required. To assist decision-makers, refreshed guidance on suspension decision-making has been sent to all officers above the rank of chief superintendent who perform the on-call function. This guidance is very clear on the responsibilities around who makes decisions and the completion of paperwork.
25. In terms of ease of completion of written decisions and their integrity, a fully electronic and auditable process in respect of suspension reports and decisions is now in place. This is managed by a dedicated police staff member who is very experienced in this field.
26. The form 161 [notice of suspension] has now been amalgamated with suspension guidance for officers. For 'out of hours' authorities, the DPS on-call team now take ownership of the creation of the relevant notices.