

Police Service of Northern Ireland Code of Ethics 2008



Police Service of Northern Ireland Code of Ethics 2008

//01

**Police Service of
Northern Ireland
Code of Ethics 2008**

//02 Foreword

//04 Introduction

//06 Preamble

//08 Ethical Standards

Required of Police Officers

Article 1: Professional Duty

Article 2: Police Investigations

Article 3: Privacy and Confidentiality

Article 4: Use of Force

Article 5: Detained Persons

Article 6: Equality

Article 7: Integrity

Article 8: Property

Article 9: Fitness for Duty

Article 10: Duty of Supervisors

//16 Explanatory Notes

**//27 Appendix A - Police Service
of Northern Ireland Discipline
and Complaints Procedures**

//02

**Police Service of
Northern Ireland
Code of Ethics 2008**

Foreword by the Chairman of the Northern Ireland Policing Board

At the time of writing this Foreword it has been nearly five years since the Code of Ethics was introduced to the Police Service of Northern Ireland (the PSNI) as the disciplinary code for all police officers. During that time the Code has been one of the success stories in advancing the Human Rights agenda in the PSNI, as envisaged by the Report of the Independent Commission on Policing for Northern Ireland. I am pleased to have the opportunity to write this Foreword to the revised Code of Ethics 2008.

The Policing Board (the Board) is required by law to revise the Police Service of Northern Ireland (PSNI) Code of Ethics from time to time. The review of the original Code of Ethics, which was published in February 2003, commenced in 2006. The first step was to set up a joint working group comprising PSNI and Board representatives, including each organisation's Human Rights Advisors. Through the work of this joint working group, various consultation exercises were conducted with interested groups, organisations and members of the public. In addition, all PSNI officers, police associations and various statutory bodies were asked to take part. It was important for

the joint working group to have the views of police officers and their representatives, since it is the police officers' disciplinary code. It is they who should be most aware of the articles of the Code and of the far reaching implications for public confidence in policing that adherence to such a code demands.

Police officers are all too aware of the expectations placed on them as they carry out their duties, and this Code of Ethics is designed to assist them in that regard. It is the duty of the Board to secure, for the people of Northern Ireland, an effective, efficient and impartial Police Service. Police officers, when carrying out their duties in

//03

**Police Service of
Northern Ireland
Code of Ethics 2008**

accordance with the provisions of this Code, have the right to expect the full support of the community which they serve; their colleagues and senior officers in the PSNI; other professionals in the criminal justice system, with whom they work closely; and the Board.

This Code of Ethics 2008 sets down standards and behaviours expected from police officers and provides guidance on how they should conduct themselves in this honourable profession. No one underestimates the judgments police officers have to make on a daily basis in providing an effective policing service. The Board believes this Code will help officers as they make those difficult judgments.

The Board has a statutory duty, to monitor the compliance of the Police Service with the Human Rights Act 1998. To help the Board fulfil this statutory duty, the Board appointed two Human Rights Advisors in 2003: Keir Starmer QC and Jane Gordon. Part of their human rights monitoring work has focused on how the Code of Ethics is explained to officers and supervisors; how officers are trained on the implications

of the Code; reviewing quantitative information on breaches of the Code of Ethics; and evaluating qualitative information on how the PSNI both investigates and addresses such breaches, including disciplinary action taken or procedural or policy changes made. The Board's Human Rights Advisors have made a number of recommendations around the effectiveness of the Code of Ethics in their human rights annual reports. This work continues to be developed and monitored by the Board.

**Professor Sir Desmond Rea
Chairman**

Introduction by The Chief Constable of The Police Service of Northern Ireland

The Code of Ethics is central to policing. Officers who conduct themselves in accordance with the Code demonstrate the highest standards of integrity and professionalism as they go about the daily business of delivering a high quality, effective service to the community to whom we are accountable.

The Police (Northern Ireland) Act 2000 provides for periodic reviews of the Code of Ethics. It is in this context that a review of the Code has taken place over the past number of months. As a result of the review, a number of changes have been made to the Code and its explanatory notes. I should like to take this opportunity to thank the many individuals and groups who contributed to this review.

The changes made to the Code of Ethics further enhance its effectiveness, relevance and importance to the Police Service. The Code represents a framework of ethical standards that demands the best from officers and provides the context within which we will continue to devise our policies and plan our operations.

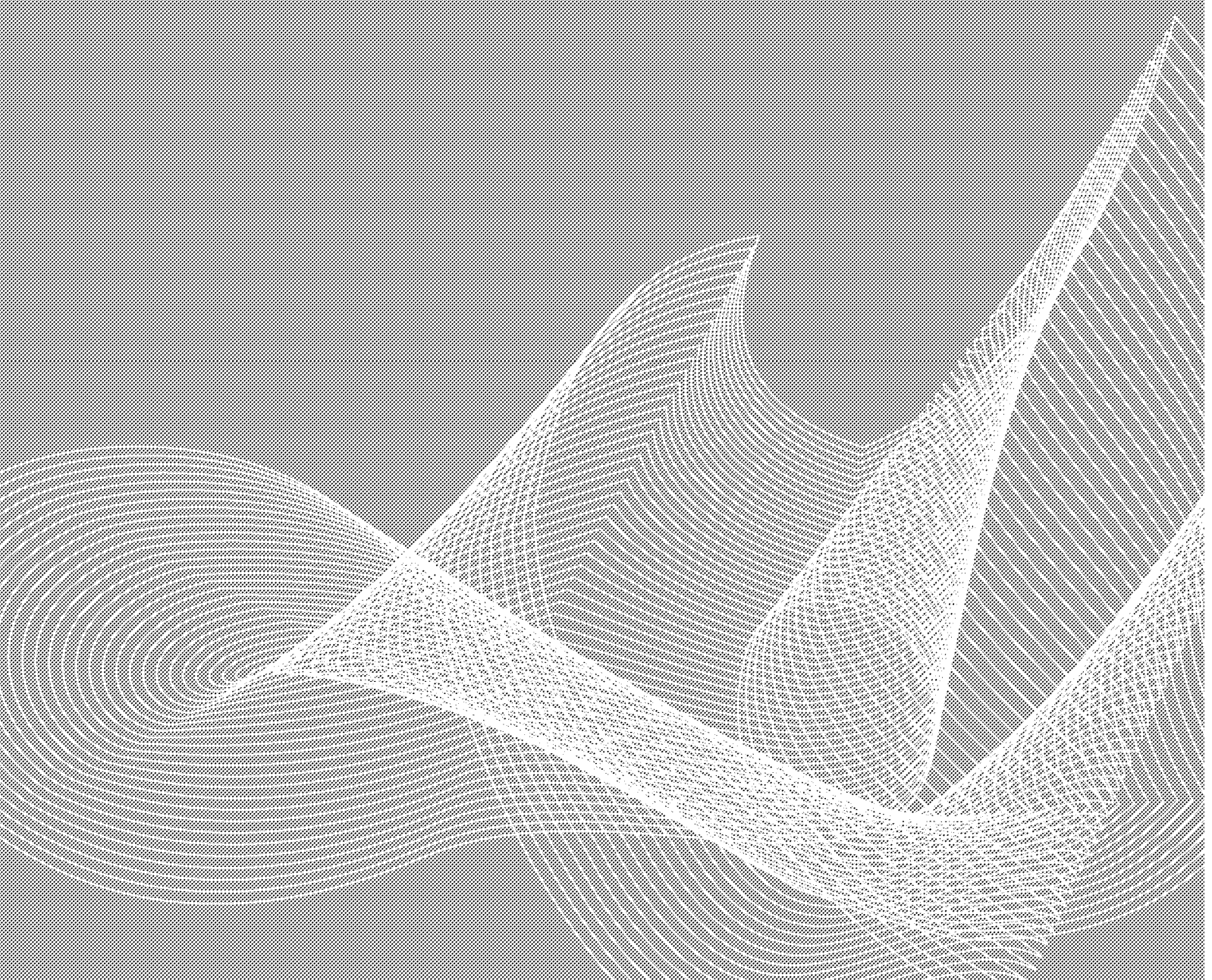
Where officers fall short of the standards in the Code, it provides a mechanism against which they will be judged.

I believe the approach to duty I recommended in the Foreword to the first Code of Ethics is still a valuable benchmark against which we should each judge our own behaviour. In our daily work we should treat each person in the way in which we would want a police officer to treat us or members of our family. In this way, we can deliver professional and effective policing as well as maintaining the confidence and support of the community.

I commend this review of the Code of Ethics.

**Sir Hugh Orde OBE
Chief Constable**

//05



//06

**Police Service of
Northern Ireland
Code of Ethics 2008**

Preamble

- A** Policing is an honourable profession that plays an important part in the maintenance of a just and fair society. The people of Northern Ireland have the right to expect the Police Service to protect their human rights by safeguarding the rule of law and providing a professional Police Service.
- B** Police officers are required to respect and obey the law at all times and will be held personally responsible and accountable for their own acts or omissions.
- C** Effective policing requires the co-operation of the public. Police officers, when carrying out their duties in accordance with the provisions of this Code, have the right to expect the respect and support of the public and elected representatives.
- D** Public confidence in the Police Service is closely related to the attitude and behaviour of officers towards members of the public, in particular their respect for the human rights and fundamental freedoms of individuals as enshrined in the European Convention on Human Rights.
- E** Police officers have the same right to respect for their human rights and fundamental freedoms and to work in an environment free of harassment or discrimination in any form.
- F** This Code of Ethics is intended:
- 1.** to lay down standards of conduct and practice for police officers; and
 - 2.** to make police officers aware of their rights and obligations under the Human Rights Act 1998 and the European Convention on Human Rights.
- G** The standards in this Code are to be applied to:
- 1.** relationships between police officers and the general public, sections of the public and particular individuals;
 - 2.** relationships between police officers and other professionals in the criminal justice system;
 - 3.** relationships between individual police officers and their colleagues; and
 - 4.** relationships between individual police officers and the Police Service.
- H** The statutory authority for the Code of Ethics can be found in section 52 of the Police (Northern Ireland) Act 2000. The contents of the Code are drawn from a number of sources, including:
- 1.** the Police Service attestation set out in

- section 38(1) of the Police (Northern Ireland) Act 2000;
- 2.** the European Convention on Human Rights;
 - 3.** other relevant human rights instruments, including:
 - a.** the United Nations Code of Conduct for Law Enforcement Officials;
 - b.** the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials; and
 - c.** the European Police Code of Ethics.
- I** Police officers are required, at all times, to carry out their duties in accordance with the provisions of the Code of Ethics. In the event that a Police Service instruction, policy or procedure conflicts with the provisions of the Code of Ethics, officers are required to comply with the provisions of this Code.
- J** Any conduct, whether on or off duty, which brings or is likely to bring discredit on the Police Service may be investigated in order to establish whether or not a breach of the Code has occurred. A breach of the Code may result, in appropriate circumstances, in a criminal or disciplinary investigation, either by the Office of the Police Ombudsman or the Police Service.
- K** Where police officers are investigated for a breach of this Code, whether by the Office of the Police Ombudsman or the Police Service, they have the right to expect that the investigation will be conducted in a prompt, thorough, impartial and careful manner.
- L** This Code shall be applied in any investigation, hearing or decision relating to misconduct in a reasonable and objective manner. Due regard shall be given to the degree of negligence or deliberate fault of an officer and to the nature and circumstances of the officer's misconduct.

//08

**Police Service of
Northern Ireland
Code of Ethics 2008**

Ethical Standards Required of Police Officers

Article 1: Professional Duty

1.1

Police officers have a duty under section 32 of the Police (Northern Ireland) Act 2000:

- a. to protect life and property;
- b. to preserve order;
- c. to prevent the commission of offences; and
- d. where an offence has been committed, to take measures to bring the offender to justice;

When carrying out these duties, police officers shall obey and uphold the law, protect human dignity and uphold the human rights and fundamental freedoms of all persons as enshrined in the Human Rights Act 1998, the European Convention on Human Rights and other relevant international human rights instruments.
(Sourced from: Section 32(1) Police (Northern Ireland) Act 2000; Article 2 United Nations Code of Conduct for Law Enforcement Officials; Article 1 European Code of Police Ethics.)

1.2

Police officers shall, as far as is practicable, carry out their functions in cooperation with, and with the aim of securing the support of, the local community.
(Sourced from: Section 32(5) Police (Northern Ireland) Act 2000.)

1.3

Police officers shall carry out their duties in accordance with the Police Service attestation set out in section 38(1) of the Police (Northern Ireland) Act 2000, which states:

"I hereby do solemnly and sincerely and truly declare and affirm that I will faithfully discharge the duties of the office of constable, with fairness, integrity, diligence and impartiality, upholding fundamental human rights and according equal respect to all individuals and their traditions and beliefs; and that while I continue to hold the said office I will to the best of my skill and knowledge discharge all the duties thereof according to law."

1.4

Police officers shall not subject any person to torture or to cruel, inhuman or degrading treatment or punishment. No circumstances whatsoever may be invoked as a justification for torture or other cruel, inhuman or degrading treatment or punishment.

(Sourced from: Article 5 United Nations Universal Declaration of Human Rights; Article 3 European Convention of Human Rights; Principle 6 United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment.)

1.5

The Police Service is a disciplined body. Unless there is good and sufficient cause to do otherwise, police officers shall obey all lawful orders and abide by the provisions of Police Service policy and procedure. They shall refrain from carrying out any orders they know, or ought to know, are unlawful. No disciplinary action shall be taken against a police officer who refuses to carry out an unlawful order.

(Sourced from: Paragraph A(4) and A(7) Council of Europe Declaration on the Police.)

1.6

Police officers shall not take any active part in politics.

(Sourced from: Schedule 1, regulation 6 Police Service of Northern Ireland Regulations 2005.)

1.7

Police officers shall notify the Chief Constable of their membership of any organisation which might reasonably be regarded as affecting their ability to discharge their duties effectively and impartially in accordance with Police Service policy on registration of notifiable memberships.

(Sourced from: Section 51 Police (Northern Ireland) Act 2000).

1.8

Police officers shall not suffer administrative or other penalties because they have reported that a violation of this Code has occurred or is about to occur unless such a report is shown to be malicious or manifestly ill founded.

(Sourced from: Article 8 United Nations Code of Conduct for Law Enforcement Officials.)

1.9

Police officers shall ensure that accurate records are kept of their duties as required by relevant Codes of Practice and Police Service policy and procedure. Police officers shall not through neglect make any false, misleading or inaccurate oral or written statement or entry in any record or document made, kept or required for police purposes. Nor shall they omit to make any oral or written statement or entry in any such record or document. They shall not, through lack of care, alter, deface, erase, conceal or destroy any record or document, kept or made in connection with any police activity.

1.10

Whether on or off duty, police officers shall not behave in a way that is likely to bring discredit upon the Police Service.

Article 2: Police Investigations

2.1

Police investigations shall, as a minimum, be based upon reasonable suspicion of an actual or possible offence or crime. They shall be conducted in a prompt, thorough, impartial and careful manner so as to ensure accountability and responsibility in accordance with the law.

2.2

Police officers shall follow the principle that everyone who is the subject of a criminal investigation shall be presumed innocent until found guilty by a court.

2.3

Police officers shall treat all victims of crime and disorder with sensitivity and respect their dignity. Police officers shall consider any particular needs, vulnerabilities and concerns which victims may have. Subject to the rules governing confidentiality, victims shall be updated on the progress of any relevant investigations in accordance with Police Service policy and procedure.
(Note: The term 'victims' includes the relatives of a deceased person where the circumstances of the death are being investigated by the police.)

2.4

Police officers shall take account of the particular needs of witnesses and shall be guided by Police Service policy and procedure for their protection and support, in particular, where the intimidation of witnesses is a risk.
(Sourced from: Article 4 United Nations Declaration of Basic Principles of Justice for Victims of Crime and Abuse of Power; Article 1 United Nations Code of Conduct for Law Enforcement Officials; Paragraphs 47, 48 and 51 of The European Code of Police Ethics.)

Article 3: Privacy and Confidentiality

3.1

Police officers shall gather, retain, use and disclose information or data in accordance with the right to respect for private and family life contained in Article 8 of the European Convention on Human Rights and shall comply with all relevant legislation and Police Service policy and procedure governing the gathering, retention, use and disclosure of information or data.
(Note: Relevant legislation includes the Data Protection Act 1998, the Regulation of Investigatory Powers Act 2000 and the Freedom of Information Act 2000 and associated regulations.)



**Police Service of
Northern Ireland
Code of Ethics 2008**

3.2

Police officers shall exercise powers of search and surveillance only when it is lawful, necessary and proportionate to do so.

3.3

Information or data of a personal or confidential nature in the possession or control of police officers shall be kept confidential, unless the performance of duty, compliance with legislation or the needs of justice require otherwise.

(Sourced from: Article 4 United Nations Code of Conduct for Law Enforcement Officials.)

3.4

Police officers shall not gather, retain, use or disclose information or data of a personal or confidential nature for personal benefit. They shall comply with Police Service policy governing contact with the media.

**Article 4:
Use of Force**

4.1

Police officers, in carrying out their duties, shall as far as possible apply non-violent methods before resorting to any use of force. Any use of force shall be the minimum appropriate in the circumstances and shall reflect a graduated and flexible response to the threat. Police officers may use force only if other means remain ineffective or have no realistic chance of achieving the intended result.

(Sourced from: Article 4 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.)

4.2

Police officers responsible for the planning and control of operations where the use of force is a possibility shall so far as possible plan and control them to minimise recourse to the use of force, in particular, potentially lethal force. Consideration shall be given during the planning of an operation to the need for medical assistance to be available.

(Sourced from: European Court of Human Rights: McCann -v- UK (1995) 21 EHRR para. 194.)

4.3

Whenever it is necessary for police officers to resort to the lawful use of force or firearms, they shall:

- a.** exercise restraint in such use and act in proportion to the seriousness of the offence and the legitimate object to be achieved;
- b.** minimise damage and injury, and respect and preserve human life;
- c.** ensure that assistance and medical aid are secured to any injured person at the earliest possible opportunity;
- d.** ensure that relatives or close friends of the injured or affected person are notified at the earliest possible opportunity;
- e.** report the incident promptly to their supervisors;
- f.** comply with Police Service policy, procedure and guidance.

(Sourced from: Article 5(A) - (C), Article 6 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.)

4.4

A police officer shall discharge a firearm only where the officer honestly believes it is absolutely necessary to do so in order to save life or prevent serious injury, unless the discharge is for training purposes or the destruction of animals.

(Sourced from: European Court of Human Rights: Andronicou and Constantinou -v- Cyprus (1997) 25 EHRR; Article 9 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.)

4.5

Before police officers resort to the use of firearms, they shall identify themselves and give a clear warning of their intent to use firearms, with sufficient time for the warnings to be observed, unless to do so:

- a.** would unduly place any person at a risk of death or serious injury; or
- b.** would be clearly inappropriate or pointless in the circumstances of the incident.

(Sourced from: Article 10 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.)

4.6

Police supervisors shall ensure that stress counselling is offered to police officers who have been involved in violent situations or who have discharged a firearm.

(Sourced from: Article 21 United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.)

Article 5: Detained Persons

5.1

Police officers shall ensure that all detained persons for whom they have responsibility are treated in a humane and dignified manner. Arrest and detention shall only be carried out in accordance with the provisions of the European Convention on Human Rights, relevant legislation and associated Codes of Practice. *(Sourced from: Principles 1 and 2 United Nations Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment; Articles 5, 6 and 8 European Convention on Human Rights; Police and Criminal Evidence (Northern Ireland) Order 1989 and its Codes of Practice C-E; Section 99 and Schedule 8 Terrorism Act 2000.)*

5.2

In their dealings with detained persons, police officers shall, as far as possible, apply non-violent methods before resorting to any use of force. Where force is required, such use of force shall be the minimum required in the circumstances and shall be lawful, proportionate and necessary for the maintenance of security and order; to prevent escape, injury, damage to property or the destruction of evidence; or where the detained person resists the taking of items or samples for criminal justice purposes as authorised by law.

(Sourced from: Articles 5 and 8 European Convention on Human Rights; Police and Criminal Evidence (Northern Ireland) Order 1989 and its Codes of Practice C-E.)

5.3

Police officers shall take every reasonable step to protect the health and safety of detained persons and shall take immediate action to secure medical assistance for such persons where required. *(Sourced from: Article 6 United Nations Code of Conduct for Law Enforcement Officials.)*

Article 6: Equality

6.1

Police officers shall act with fairness, self-control, tolerance and impartiality when carrying out their duties. They shall use appropriate language and behaviour in their dealings with members of the public, groups from within the public and their colleagues. They shall give equal respect to all individuals and their traditions, beliefs and lifestyles provided that such are compatible with the rule of law. *(Sourced from: Section 38 Police (Northern Ireland) Act 2000.)*

6.2

In carrying out their duties police officers shall treat all persons or classes of persons equally regardless of race, colour, sex, language, religion, political or other opinion, national or social origin, association with a national minority, disability, age, sexual orientation, marital or family status, property, birth or any other status. Any difference in treatment shall be required to be justified and proportionate. *(Sourced from: Article 14 European Convention on Human Rights, Sections 75 and 76 Northern Ireland Act 1998.)*

Article 7: Integrity

7.1

Police officers shall act with integrity towards members of the public and their colleagues so that confidence in the Police Service is secured and maintained. They shall avoid all forms of behaviour that may reasonably be perceived to be abuse, harassment, bullying or victimisation.

7.2

Police officers shall at all times respect and obey the law and maintain the standards stated in this Code. They shall to the best of their ability respect and support their colleagues in the execution of their lawful duties.

7.3

Police officers shall at all times prevent and oppose any violation of this Code. They shall report all violations or potential violations of the Code, as well as any violations which they reasonably believe are about to occur. *(Sourced from: Article 8 United Nations Code of Conduct for Law Enforcement Officials.)*

7.4

Police officers shall report to the Chief Constable any legal proceedings initiated against them, whether in relation to a criminal or motoring offence or a civil action.

7.5

Police officers shall not commit any act of corruption or dishonesty. They shall oppose and report all such acts coming to their attention and shall be supported by their colleagues and senior officers in doing so. *(Sourced from: Article 7 United Nations Code of Conduct for Law Enforcement Officials.)*

Article 8: Property

8.1

Police officers shall ensure that property, monies or equipment entrusted to them in their role as police officers are handled and maintained as required by law and Police Service policy.

8.2

Police officers shall ensure that any gift or gratuity that they personally accept complies with, and has been authorised according to, Police Service policy.

Article 9: Fitness for Duty

9.1

Police officers shall be fit to carry out their responsibilities when on call, commencing duty or on duty. Police officers shall not be unfit or impaired when reporting for or while on duty as a result of drinking alcohol, using a drug for non-medical purposes, intentionally misusing a prescription drug or solvent or substance abuse.

9.2

Police officers on duty shall not, without proper authority, consume alcohol.

9.3

Police officers shall attend work promptly when rostered for duty. Unless on duties that dictate otherwise, officers shall be clean and tidy when on duty whether in uniform or in plain clothes.

Article 10: Duty of Supervisors

10.1

Supervisors shall be the primary promoters and positive agents of good conduct in relation to accepting and working within the spirit of the Code of Ethics. They shall be role models for delivering a truly professional, impartial and effective Police Service. They shall ensure that the individuals for whom they are responsible are supported, guided on the professional performance of their duties and encouraged to further their professional development.

10.2

Supervisors shall ensure that their staff carry out their professional duties correctly. They shall challenge and address any behaviour that is in violation of this Code, reporting violations where appropriate.

10.3

Supervisors have a particular responsibility to secure, promote and maintain professional standards and integrity through the provision of advice and guidance, or other remedial or appropriate action.

//16

**Police Service of
Northern Ireland
Code of Ethics 2008**

Explanatory Notes

Introduction

"Making police officers aware of the rights and obligations arising out of the European Convention on Human Rights" - Police (Northern Ireland) Act 2000

The revised and updated Code of Ethics 2008 replaces the Code of Ethics introduced in 2003. This Code of Ethics is the Police Service disciplinary code for all police officers (including designated persons exercising police powers or functions). These updated explanatory notes are designed to help officers understand how the Code of Ethics 2008 will affect them on a day-to-day basis. The notes should be read alongside the Code but do not form part of the Code.

The Code of Ethics 2008 should be regarded as a benchmark of ethical standards for all police officers. The Code sets out standards of behaviour and conduct which the public have a right to expect from you, your colleagues and the Police Service in providing a professional service.

The Code contains important guidelines that you must understand and comply with as you carry out your duties. Police officers who comply with the provisions of the Code of Ethics deserve the respect, support and co-operation of the community which they serve.

Appendix A outlines the discipline and complaints procedures which accompany these disciplinary standards. These procedures will be applied to all alleged breaches of the Code of Ethics.

Why a Code of Ethics?

"...to focus policing in Northern Ireland on a human rights-based approach... It is more a matter of the philosophy of policing, and should inspire everything that a police service does."
- Report of the Independent Commission on Policing 1999 (Patten Report) paragraph 4.6

The introduction of a Code of Ethics for the Police Service was a recommendation of the Patten Report. It was designed to integrate the European Convention on Human Rights into general police practice following the incorporation of the European Convention into domestic law by the Human Rights Act 1998. Policing across Europe is moving towards this human rights approach. In 2001, the Council of Europe adopted a European Code of Police Ethics.

The Code of Ethics 2008 takes into account issues that are unique to Northern Ireland, such as the Police Service attestation and sections 75 and 76 of the Northern Ireland Act 1998.



Police Service of Northern Ireland Code of Ethics 2008

What the Code means to you

“Laying down standards of conduct and practice for police officers” - Police (Northern Ireland) Act 2000

The Code of Ethics 2008 sets down minimum standards of behaviour expected from you and provides guidance on how you should conduct yourself. A breach of the standards contained in the Code is a disciplinary offence and may, in serious cases, result in your dismissal from the Police Service. It is therefore vitally important that you understand and comply with the contents of the Code of Ethics at all times.

The Code also sets personal standards. Like everyone else, you have the right to respect for your private and family life. However, whether on or off duty, police officers must not behave in any manner that is likely to bring discredit upon the Police Service. Allegations of such misconduct will be investigated. The decision as to whether off duty activities bring discredit on the Police Service (and may therefore be subject to disciplinary action) will be determined by the particular circumstances of each case. Discredit is brought on the Police Service when public confidence or the reputation of the Police Service is likely to be damaged by the actions of a police officer or group of officers.

Further explanation of the philosophy behind the Code can be found in the Preamble. However, neither the Preamble nor these explanatory notes form part of the Code of Ethics 2008. They set the Code in context and outline its purpose. The standards required of you are contained in the Articles of the Code of Ethics, which are explained in more detail below.

Article 1: Professional Duty

The public and your colleagues rightly expect basic standards of behaviour from police officers. Article 1 sets out the general professional standards which you should, as a minimum, comply with as you carry out your day-to-day duties.

These standards should act as a benchmark. They are taken from:

- * Section 32 Police (Northern Ireland) Act 2000;
- * Section 38 Police (Northern Ireland) Act 2000;
- * The European Convention on Human Rights; and
- * Police Service policy (used herein to include policy directives, general orders, service procedures, guidance and the Police Service Manual).

The Police Service has a responsibility to keep officers informed of changes to police powers, policies and

procedures. However, you have a duty to keep yourself up to date on the basis of the information provided. It is recognised that the ability of police officers to perform their duties may depend on the provision of appropriate training, equipment and management support.

When carrying out these duties, police officers are reminded that they should seek to co-operate with other agencies and professionals within the criminal justice system.

Policing with the community

The Police Service promotes policing with the community as a core function of all policing activity. Article 1.2 of the Code and Police Service policy on policing with the community require you to carry out your duties in co-operation with the local community. Police officers may have special responsibilities in relation to children and young people and other vulnerable groups.

Treatment of persons

Article 1.4 of the Code restates Article 3 of the European Convention on Human Rights which provides: "No one shall be subjected to torture or to inhuman or degrading treatment or punishment." This is an absolute right - there is no justification for failing to comply with this standard. To do so will result in

disciplinary and/or criminal action.

Responsibility for acts and omissions

Police officers are personally responsible and accountable for their own acts or omissions and for orders to subordinates. Article 1.5 of the Code of Ethics 2008 requires you to obey lawful orders and act in accordance with Police Service policy. It also requires the Police Service to support you in circumstances where you refuse to carry out an unlawful order.

Political activity

In accordance with statutory regulations and Police Service policy on political activity, Article 1.6 contains an important direction about officers taking part in political activities. It is intended to avoid you placing yourself in a position where your impartiality may be questioned. As a police officer, you are here to serve the whole community without favour and irrespective of political circumstance.

You should refer to Police Service policy on political activity for detailed guidance on restrictions on political activity. In summary:

- * You are permitted to be a member of a political party. Public support of a political party or candidate is not however permitted.
- * You are permitted to attend public rallies and/or meetings.

However, attendance must be off duty and no item of uniform or clothing or other article may be worn which is likely to create the impression that the wearer is a police officer.

- * Expressions of support for any political party or cause which promotes or advocates intolerance, hatred or unlawful discrimination will not be tolerated by the Police Service.
- * Subject to certain restrictions, you are permitted to participate in issues conducted independently of mainstream party politics (cause issues), such as environmental or public safety campaigns.
- * You are prohibited from being a member of any illegal organisation or any political party or other organisation that may be subject to prohibition as determined by the Secretary of State.

Notifiable memberships

Article 1.7 of the Code requires officers to register their notifiable memberships with the Chief Constable in accordance with section 51 of the Police (Northern Ireland) Act 2000 and Police Service policy. You have a notifiable membership if you are a member of an organisation which might reasonably be regarded as affecting your ability to discharge your duties effectively and impartially. The test is whether you believe your membership might reasonably

be regarded by some members or sections of the public as affecting your ability to discharge your duties effectively and impartially. Police officers who believe that they have no notifiable memberships must notify this belief to the Chief Constable.

Record keeping

Article 1.9 requires you to keep true and accurate records of your duties. You may be disciplined under this Article of the Code for careless record keeping. Any officer who *knowingly* makes false, misleading or inaccurate statements or entries in any record required for police purposes or alters, defaces, erases, conceals or destroys any such record will be disciplined under Article 7.5 of this Code.

On and off duty conduct

Article 1.10 imposes a general standard of behaviour on all police officers. Certain types of behaviour should be viewed as totally inappropriate, whether on or off duty, and may be the subject of disciplinary sanction under the Code of Ethics. Off-duty conduct of police officers may be subject to the Code of Ethics if such conduct could bring discredit upon the Police Service (as previously defined at page 17).

Any conduct which is in the purported legitimate exercise of formal police powers will not

be regarded as off-duty conduct even if it occurs during off-duty hours. Rather, it will be regarded as conduct in the performance of duty and will be subject to the Code of Ethics. Allegations of abuse of police power during off-duty hours (which do not concern a purported legitimate exercise of formal police powers) will not be considered to be on-duty conduct but to be an off-duty abuse of an officer's position as a police officer. The Code of Ethics is likely also to apply in these instances. If in doubt seek advice from a supervisor.

Article 2: Police Investigations

This Article reminds officers that when conducting investigations, you must apply the familiar concept of 'reasonable suspicion' and the presumption that all persons are presumed innocent until proven guilty. Officers are reminded of the need to consider all reasonable lines of enquiry.

Everyone charged with a criminal offence has certain minimum rights guaranteed under Article 6 of the European Convention, including the right to be informed promptly, in a language which he or she understands, of the nature and cause of the accusation against him or her and to have adequate time and facilities

for the preparation of his or her defence.

A police officer involved in an investigation must immediately report any potential conflict of interest to his or her supervisor, for example, where the investigation concerns a relative, friend, associate or colleague of the police officer.

Article 2 of the Code requires you to treat victims of crime with sensitivity. 'Victim' includes relatives of a deceased person where the circumstances of the death are being investigated by the police. International standards require that victims should be treated with compassion and respect for their dignity. In addition, all dealings with victims should be regarded as in confidence.

It is important for officers to be aware of the special needs of witnesses in different situations and the need to support and protect them.

Article 3: Privacy and Confidentiality

This Article seeks to protect the public from unlawful, intrusive information gathering by the police. This is not only in relation to suspects, but also witnesses and other members of the public with whom officers come into contact.

As police officers, you obtain information and data that may relate to the private lives of individuals and/or cause harm to the interests and/or reputations of others. This also applies to confidential information and data obtained about other police officers. Great care should be exercised in obtaining, recording, using and disclosing such information and data. Officers may be subject to disciplinary action or criminal proceedings in the event of unlawful procurement or disclosure of personal data. All such information is subject to the provisions of the Data Protection Act 1998, the Human Rights Act 1998, the Regulation of Investigatory Powers Act 2000 and its Codes of Practice and the Freedom of Information Act 2000 and associated regulations.

Information or data of a personal or confidential nature which is in the possession or control of the Police Service should be kept secure and confidential. However, police officers may have a duty to disclose such information or data in the performance of duty, in compliance with data protection, freedom of information or other legislation or in connection with legal investigations or proceedings.

Police officers are reminded that they must comply with Police Service policy regarding the surrender of official, personal

or confidential information or data on retirement, resignation or dismissal.

All police officers and support staff must comply with Police Service media policy in their dealings with the media.

Article 4: Use of Force

There are situations where police officers may be required to use force, and the law recognises this. However, in order to be able to justify any use of force, you must be familiar with the law governing the use of force.

This Code of Ethics and Police Service policy on public order and the use of force are the primary sources of guidance for officers. Police Service policy reflects the standards of domestic law, including the Human Rights Act 1998, as well as appropriate international standards such as the United Nations Basic Principles on the Use of Force and Firearms by Law Enforcement Officials.

Any use of force must be the minimum appropriate in the circumstances. Section 3 of the Criminal Law Act (Northern Ireland) 1967 makes clear that you may only use force when it is reasonable in the circumstances. Article 2 of the European Convention on Human Rights provides

//22

Police Service of Northern Ireland Code of Ethics 2008

a stricter test for the use of lethal force which may only be used when absolutely necessary.

You should remember that your obligations regarding the use of force extend to the planning of operations. All personnel involved in operational planning must be aware of this strict requirement.

For the purposes of Article 4 of this Code, a firearm is defined as a handgun, carbine, long barrelled weapon, shot gun or AEP launcher.

Article 5: Detained Persons

Strict adherence to domestic law is required when dealing with detained persons. The relevant standards are found in the Police and Criminal Evidence (Northern Ireland) Order 1989 and its Codes of Practice, the Human Rights Act 1998, the Terrorism Act 2000 and ACPO guidance on the detention and handling of persons in police custody.

It is important to remember that even though an individual is held in police detention, that person remains innocent until proven guilty by a court of law. All detained persons must be treated with courtesy and respect. Police officers are again reminded of their obligations under Article 1.4 of this Code and Article 3 of the European Convention on Human Rights.

You are under a legal obligation to protect members of the public, including those arrested or in detention, and to provide or obtain medical assistance where required. Higher levels of supervision and/or special measures may be required to manage vulnerable persons held in detention.

These requirements apply equally to persons detained following joint operations with other law enforcement agencies, such as the Borders and Immigration Agency. Any persons held in police custody facilities, including immigration detainees, should be afforded the same treatment and conditions.

Article 6: Equality

This Article reflects the Police Service attestation which requires police officers to act with fairness, self-control, tolerance and impartiality when carrying out their duties. In carrying out your duties, you must treat all persons or classes of persons equally, giving equal respect to all individuals and their traditions, beliefs and lifestyles so long as those are compatible with the law. The Police Service Policing a Shared Future Strategy provides guidance in this area.

Article 14 of the European Convention provides protection

from discrimination in the exercise and enjoyment of all the other rights guaranteed under the Convention on any ground 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. Discrimination means making an unjustified distinction between people on the basis of their status, such as sex, race, colour, religion, political opinion etc. You can only treat people differently in the way they exercise and enjoy their Convention rights where you can show that you are pursuing a legitimate aim and the difference in treatment is proportionate to that aim. Only good reasons will be acceptable to justify a distinction in treatment. If the distinction cannot be justified, it will be unfair and will constitute discrimination. You should not discriminate, or aid or incite another person to discriminate, against any person or group of persons when carrying out any of your duties.

Section 75 of the Northern Ireland Act 1998 imposes obligations on the Police Service to have regard to:

- * the need to promote equality of opportunity between persons of different groups, such as persons of different sex, religious belief, political opinion, racial group, sexual orientation, age, disability or marital status; and
- * the desirability of promoting good relations between persons of different religious belief, political opinion or racial group.

As an officer of the Police Service, you have an important role to play in ensuring that the Police Service meets these obligations.

Article 7: Integrity

Article 7 of the Code reinforces Articles 1.1 and 1.5, requiring officers to respect and obey the law at all times. This Article requires you to:

- * Act with integrity towards the public and your colleagues, in order to secure confidence in the Police Service;
- * Support your colleagues in the execution of their duties;
- * Report any violation of the Code of Ethics.

Article 7 places a duty on officers to report suspected wrongdoing or misconduct of fellow officers. There are different requirements for reporting criminal misconduct and reporting other types of misconduct.

Reporting criminal misconduct

Article 7 places a duty on officers to report crime.

Officers are reminded of their responsibilities under section 5 of the Criminal Law Act (Northern Ireland) 1967. An officer who reports a crime anonymously will not have discharged his/her duties under this Code.

Reporting non-criminal misconduct

Article 7 also places a duty on officers to report suspected non-criminal misconduct of fellow officers. All reported allegations of misconduct will be investigated. The independent confidential reporting line ('Safecall') allows officers to report suspected acts of wrongdoing or misconduct of fellow officers confidentially.

Article 7.3 specifically requires officers to report all violations of the Code of Ethics. Breaches of the Code of Ethics which are not criminal in nature may be reported anonymously using the independent confidential reporting line. Every effort will be made to maintain confidentiality, although the rules of disclosure and the need, in certain cases, to obtain identification evidence may limit this. However, anonymous reporting of serious cases of misconduct or wrongdoing may not satisfy the reporting obligations placed on officers under Article 7. Officers are encouraged to report suspected cases of serious misconduct or wrongdoing in person. In particular, incidents

of discrimination, bullying or harassment should be reported to a supervisor, in line with Police Service policy.

Article 7.4 requires you to report to the Chief Constable any legal proceedings initiated against you. Fixed penalty notices do not constitute legal proceedings for the purposes of this Article. Civil proceedings include debt issues and non molestation orders, but not divorce proceedings. Misconduct proceedings may follow where an officer has been convicted of a criminal or motoring offence, been bound over to keep the peace, received an informal warning or adult caution or received a sanction resulting from a civil action.

Corruption or dishonesty

Under Article 7.5, officers must not commit any act of corruption or dishonesty. Such acts include:

- * knowingly making false or malicious oral or written statements regarding the behaviour of members of the public or colleagues;
- * knowingly making false, misleading or inaccurate oral or written statements or entries in any record or document required for police purposes; and
- * knowingly omitting to make oral or written statements or entries in any record or document required for police purposes.

Officers are reminded that it is an offence to alter, deface, erase, destroy or conceal any record with the intention of preventing the disclosure of information which the Police Service may be under a duty to disclose as part of a legal investigation or under data protection or freedom of information legislation.

Any acts of corruption or dishonesty committed by other police officers that come to your attention should be opposed and reported.

A police officer will not commit a breach of Article 7.5 if the officer's action, omission or conduct, as the case may be, is necessary in the proper performance of authorised police work.

Article 8: Property

Police officers must ensure that property entrusted to them is handled and maintained as required by law and in accordance with Police Service policy. You may commit a disciplinary offence under this Article if you lose, destroy or cause damage to police property or to any property which has been entrusted to you in the course of your duties, or you fail to report the loss, destruction or damage to any such property, however caused.

Acceptance of gifts or gratuities should be in accordance with Police Service policy.

Article 9: Fitness for Duty

This article requires you to be fit for duty and not impaired as a result of drinking alcohol, using a drug for non-medical purposes, intentionally misusing a prescription drug or solvent or substance abuse. You must also be clean and tidy when on duty.

Article 10: Duties of Supervisors

This is an important part of the Code of Ethics. It requires supervisors to be role models promoting good conduct and working within the spirit of the Code.

If you are a supervisor, it is your responsibility to ensure your officers are supported and given guidance on their professional performance and encouraged to further their professional development. A key example of this duty is ensuring officers keep proper and accurate notebooks and records, which are vital in a court of law.

Supervisors have a duty to deal with alleged breaches of the Code of Ethics 2008 by officers for whom they are responsible, directly challenging

//26

**Police Service of
Northern Ireland
Code of Ethics 2008**

and addressing any behaviour that is, or may, violate the Code. Supervisors may be failing in their duties under Article 10 if they report such breaches of the Code anonymously without taking any further direct action.

Conclusion

The Code of Ethics lays down the minimum standards required of you as a police officer. You must be familiar with the Code and ensure that you fully understand and comply with the duties and responsibilities contained in it.

//27

**Police Service of
Northern Ireland
Code of Ethics 2008**

Appendix A

Police Service of Northern Ireland Discipline and Complaints Procedures

This appendix sets out the procedures and mechanisms that will be used to deal with alleged breaches of the Code of Ethics 2008.

Until the 6th November 2000, Police service standards of behaviour were governed by the 'Discipline Code'. On the 6th November 2000 the Discipline Code was replaced by the 'Code of Conduct'. The Code of Conduct stands as the disciplinary code for all misconduct matters which it is alleged occurred or were committed on or after that date until the 14th March 2003.

On 14th March 2003, the Code of Conduct was replaced by the 'Code of Ethics'. The Code of Ethics 2003 stands as the disciplinary code for all misconduct matters which it is alleged occurred or were committed on or after that date until the introduction of this Code of Ethics 2008.

This Code of Ethics 2008 replaces the Code of Ethics 2003 and stands as the disciplinary code for all misconduct matters which it is alleged occurred or were committed on or after 10th March 2008.

More information on the Discipline and Complaints Procedures is available on the Professional Standards Department web pages of the Police Service intranet.

The following information relates to the Code of Ethics 2008

The Code of Ethics 2008 sets out the principles, which guide police officers' conduct. It does not seek to restrict officers' discretion. Rather, it aims to define the parameters of conduct within which that discretion should be exercised. However, it is important to note that any breach of the principles in this Code may result in disciplinary action being taken, which, in serious cases, could involve dismissal.

The Code of Ethics 2008 applies to all police officers (including designated persons exercising police powers or functions) regardless of rank, and all members of the PSNI Reserve, whether part-time or full-time. It will be applied in a reasonable and objective manner. Due regard will be paid to the degree of negligence or deliberate fault and to the nature and circumstances of an officer's conduct.

In addition, the Police Ombudsman has powers in relation to disciplinary proceedings. For example, the Ombudsman can direct that charges be brought and invoke a special procedure known as a Directed Tribunal.

Different procedures exist according to the type of misconduct alleged and the origins of the allegation. For example, minor cases identified by someone within the Police Service may be dealt with by a supervisor by way of advice and guidance, or, if persistent, by invoking the Unsatisfactory Performance Procedures. In contrast, cases resulting from a complaint by a member of the public about an officer's conduct, if not made to the Police Ombudsman, must be referred immediately to the Police Ombudsman.

Officers are obliged under the Code of Ethics to report suspected wrongdoing or misconduct of fellow officers. All reported allegations will be investigated.

The following sections will examine the different methods of reporting, investigating and disposing of cases under the following broad headings:

- I.** Non-Complaint (Internal) Matters
- II.** Complaint Cases
- III.** Misconduct Hearings
- IV.** Appeals

NB. Although the Code of Ethics 2008 applies to all police officers, separate conduct regulations and appeals mechanisms apply to senior

officers (i.e. officers above the rank of Superintendent/ Chief Superintendent).

I. Misconduct Procedure: Non-Complaint (Internal) Matters

An officer of the rank of Sergeant or above, or a civilian of appropriate status, can act as line manager with responsibility for day-to-day management of any police officers working for him or her. Within this role, the manager/supervisor can take informal steps to give words of advice about conduct within the normal managerial framework. This may subsequently be supported by further guidance and/or training, if appropriate.

If, after preliminary enquiries the supervisor/manager believes that the matter justifies action greater than advice and warning at his/her level, the case may be referred to a more senior police officer. The senior officer may also decide, again after appropriate enquiries, to take no action, or to arrange for the officer to receive advice and guidance. However, depending on the seriousness of the matter, the senior officer may decide to recommend that a written warning be given to the officer.

A written warning is administered, normally by a Superintendent (in certain circumstances, an Assistant Chief Constable) in cases where

the level of misconduct does not merit a full disciplinary hearing. Written warnings are recorded on an officer's personal record and expunged after 12 months. Where two written warnings are currently in force, any further cases must be directed to Professional Standards (regardless of admissions) and will be subject to a formal hearing. Where an officer does not admit his/her failure to meet standards set out in the Code of Ethics 2008, and the case cannot be dealt with locally, a formal investigation may be conducted.

Where an apparent failure to meet standards is considered too serious to be dealt with by means of a written warning, the Superintendent with line management responsibility (or in certain cases an Assistant Chief Constable) should refer the case to Professional Standards for formal investigation.

Formal Investigation

Where it has been decided that a non-complaint matter should be formally investigated, responsibility for the investigation will normally be assumed by Professional Standards investigators. The investigating officer should be of a rank no lower than Inspector, and of at least the same rank as the officer concerned.

As soon as practicable, a notice will be served on the officer (unless special circumstances prevail). This is the Regulation 9 Notice. This Notice will:

- * Explain that there is to be an investigation into the case;
- * Outline the nature of the report or allegation;
- * Inform the officer that he/she is under caution; and
- * Inform the officer that he/she may make a written or oral statement concerning the matter to the investigating officer or to the Chief Constable.

The officer is also informed that if such a statement is made, it may be used in any subsequent proceedings under the regulations. The officer under investigation may also seek advice from the relevant staff association and has the right to be accompanied to any meeting or misconduct interview by a serving member of a police force from Great Britain or Northern Ireland.

The Northern Ireland Office guidance to the Chief Constable states that such interviews should be taped. The dispensation not to tape record interviews under PACE Codes of Practice E 4.10 does not extend to misconduct cases, but if the officer being interviewed objects to the tape recording of the misconduct interview, recording will stop in the spirit of PACE Code of Practice E 4.10. At the end of the investigation, the investigating officer will submit a report to the 'Supervising Member' of Professional Standards.

The investigating officer may recommend any of the following:

- * Criminal Action
- * Formal Hearing
- * Formal Written Warning
- * Words of Advice/Training
- * No Further Action

II. Misconduct

Procedure: Complaint Cases

Information about an officer may come in the form of a statutory 'complaint' i.e. any complaint made about the conduct of a police officer which is submitted either by a member of the public or on behalf of a member of the public with his or her consent. (A complaint does not extend to complaints relating to the direction or control of the service). The police officer's conduct will be measured against the Code of Ethics 2008.

Under the terms of Part VII of the Police (Northern Ireland) Act 1998, complaints about the conduct of police officers may be made directly to the Police Ombudsman. Complaints may also be made to a member of the Police Service, Policing Board or to the Secretary of State, who shall immediately refer the complaint to the Police Ombudsman.

Where a complaint is made to the Chief Constable, the Police Service has a duty to take such steps as appear necessary for the purpose of preserving evidence relating to the incident which is the subject of the complaint.

The initial action of recording a complaint and taking steps to preserve evidence will normally be taken by the Duty Inspector or Sergeant, in accordance with agreed procedures and in consultation with the Duty Ombudsman Senior Investigating Officer, as appropriate.

It is for the Ombudsman to decide whether a complaint is to be investigated or not, as follows:

- * If the complaint is not serious and the complainant gives his/her consent, the Ombudsman shall first give consideration to the use of informal resolution. If this is appropriate the complaint shall be referred back to the police for resolution;
- * In some cases requiring investigation, the Ombudsman may refer the case to the Chief Constable for investigation (lease-back). This investigation may be supervised by a member of the Ombudsman's staff; however

- * In most cases, the Ombudsman will appoint a member of his/her staff to conduct a formal investigation. This investigation will encompass both criminal and conduct matters.

The Secretary of State, Policing Board and the Chief Constable may each refer to the Police Ombudsman any matter which appears to indicate that a criminal or disciplinary offence has been committed by a police officer, whether or not such matters are already the subject of a complaint. The Director of Public Prosecutions must refer all such matters which are not the subject of a complaint unless it appears to the Director that the Ombudsman is already aware of the matter.

The Chief Constable must refer to the Ombudsman instances where it appears to the Chief Constable that the conduct of the member of the Police Service may have resulted in the death of some other person. The Ombudsman must independently investigate such a matter. Such an investigation will encompass both criminal and disciplinary matters. Police Service policies provide more detailed information in this area.

By virtue of Section 55(6) of the Police (Northern Ireland) Act 1998, the Ombudsman can investigate possible criminal or misconduct offences, not

the subject of a complaint, if it appears to the Ombudsman that it is desirable to do so in the public interest.

Where it has been decided that a complaint case should be formally investigated, overall responsibility for the investigation will rest with the Ombudsman, but, may be carried out by an investigating officer of the Ombudsman or a police investigator (lease-back).

As soon as practicable, a notice will be served on the officer (unless special circumstances prevail). This is the OMB3 Notice. This Notice will:

- * explain that there is to be an investigation into the case;
- * outline the nature of the report or allegation;
- * inform the officer that he/she is under caution;
- * inform the officer that he/she may make a written or oral statement concerning the matter to the investigating officer or to the Chief Constable; and
- * inform the officer that he/she may make a written or oral statement to the Police Ombudsman but that such a statement, if made, may be used in any subsequent proceedings under the Regulations.

The officer under investigation may seek advice from his/her relevant staff association and has the right to be accompanied to any meeting or interview by a

...serving police officer from Great Britain or Northern Ireland.

The dispensation not to tape record interviews under PACE Codes of Practice E 4.10 applies in indictable/hybrid cases and, in practice, is extended to all misconduct cases. Separate guidance on tape recording has been issued by Police Service Professional Standards department to Investigating Officers.

At the end of the investigation, the investigating officer will submit a report to the Police Ombudsman.

The investigating officer may recommend any of the following:

- * Criminal Action
- * Formal Hearing
- * Formal Written Warning
- * Words of Advice/Training
- * No Further Action

When an officer is interviewed regarding criminal matters (as opposed to disciplinary matters), there is no right for a 'friend' to be present. Whether one is permitted to be present is a matter for the investigating officer. However, a police officer being interviewed by an investigating officer in relation to criminal allegations has the same rights as any other citizen under investigation. This includes the right to legal advice and for the legal adviser to be present.

III. Misconduct Hearings

Misconduct Hearings directed by the Chief Constable

Hearings will be heard by three police officers appointed by the Chief Constable. The presiding officer will be of at least the rank of Assistant Chief Constable (or a Metropolitan Police Commander) with two officers of at least the rank of Superintendent acting as assessors. Where the officer who is the subject of the hearing is a Superintendent, the two assessors will be at least of the rank of Assistant Chief Constable (or Metropolitan Police Commander).

Standard of Proof

In deciding whether the alleged conduct of the police officer breaches the appropriate standard (as defined in the Code of Ethics 2008), the panel must apply the standard of proof required in civil cases, i.e. the balance of probabilities. Case law makes clear that the degree of proof required increases with the gravity of the allegation and its potential consequences. It therefore follows that, where an allegation is likely to destroy an officer's reputation, deprive the officer of his/her livelihood or seriously damage the officer's career prospects, a tribunal should be satisfied to a high degree of probability that what is alleged has been proved.

Attendance at Hearing

A hearing will not be deferred indefinitely because an officer is unable to attend through sickness, although every effort will be made to enable the officer to attend if he/she wishes to be present. Where, despite such efforts having been made, the officer persists in failing to attend the hearing or maintains his/her inability to attend, the presiding officer will decide whether to continue to defer the hearing or whether to proceed with it, if necessary in the absence of the officer concerned. Following consultation with the Chief Medical Adviser, the presiding officer must judge what is the most appropriate course of action in all the circumstances of the case. If the Chief Medical Adviser and the officer's own doctor disagree, the presiding officer may seek a second opinion from a medical practitioner specialising in the particular field of medicine concerned.

Sanctions

If the panel decides that an officer has failed to meet the appropriate standards of behaviour required by the Code of Ethics 2008, it may impose any of the following sanctions:

- * Dismissal
- * Requirement to resign, as an alternative to dismissal: or
- * Reduction in rank
- * Reduction in pay
- * Fine of up to 13 days pay

- * Reprimand
- * Caution

Misconduct Hearings directed by the Police Ombudsman

The Police Ombudsman has the power to direct the Chief Constable to direct misconduct charges leading to a tribunal. In such cases, the tribunal will consist of a barrister or solicitor (who shall be chairman), a police officer of appropriate rank and another panel member who is not a serving police officer. The Ombudsman will present the case. The decision as to whether there is a breach of conduct by the officer is made by majority decision.

Fast Track Proceedings

In exceptional circumstances, misconduct proceedings can take place whilst criminal proceedings are pending. This is to make it possible to dismiss an officer who is deemed to be unfit to continue in the Police Service. The use of this exceptional provision will require careful consideration of the balance between the public interest and the rights of the accused officer.

IV. Appeals

Officers have the right to appeal against both the findings of a hearing and any sanctions imposed. There are two methods by which an officer can appeal against the decisions

of a hearing. The method of appeal is dependent on the seriousness of the case. The different procedures are outlined in the following paragraphs.

Chief Constable's Review

An officer has the right to ask the Chief Constable to review any decision of a misconduct hearing, in relation to either the finding and/or the sanction. This request must be made by the officer within 14 days of receiving the written notification of the decision of the misconduct hearing. The officer has the right to a personal interview with the Chief Constable, although in most cases the review will be conducted by the Chief Constable through an examination of the account of the presiding officer and the representations made by the officer in his request for review. Whether or not there is a personal hearing, the aim is that the review should be conducted and the result notified to the officer concerned no later than 60 days after the date of the original hearing. The Chief Constable may confirm the decision, impose a different sanction or vary the degree of a fine. However, he may not impose a sanction greater than that imposed at the original hearing.

Police Appeals Tribunal

In misconduct cases resulting in a serious sanction (i.e. where an officer has been dismissed, required to resign or reduced in rank following a misconduct hearing) and the decision has been upheld following a subsequent Chief Constable's Review, an appeal may be lodged to a Police Appeals Tribunal in respect of the findings of the hearing and/or the sanction imposed. A Police Appeals Tribunal has the power to:

- * Overturn a finding of a breach of the Code of Ethics 2008
- * Reinstale an officer in his or her force and/or former rank; or
- * Impose a less severe sanction than that being appealed against, provided that such a sanction was available at the original hearing.

If the officer concerned wishes to exercise this right of appeal, the officer must give notice in writing to the Policing Board (who appoint the Police Appeals Tribunal), copied to the Chief Constable. This notice must be submitted within 21 days of the officer's notification in writing of the decision of the Chief Constable's Review.

In the case of a police officer who is not of ACPO rank, the Police Appeals Tribunal will contain a legally qualified Chairperson, a member of the Policing Board, a serving or

//35

**Police Service of
Northern Ireland
Code of Ethics 2008**

retired chief officer of police other than the Chief Constable and a retired officer of appropriate rank. As with misconduct hearings, the Police Appeals Tribunal is not bound by strict rules of criminal procedure, but must be conducted fairly. A Police Appeals Tribunal may decide to determine a case without a hearing, provided that all parties to the appeal have been given an opportunity to make written or oral representations for the holding of a hearing.

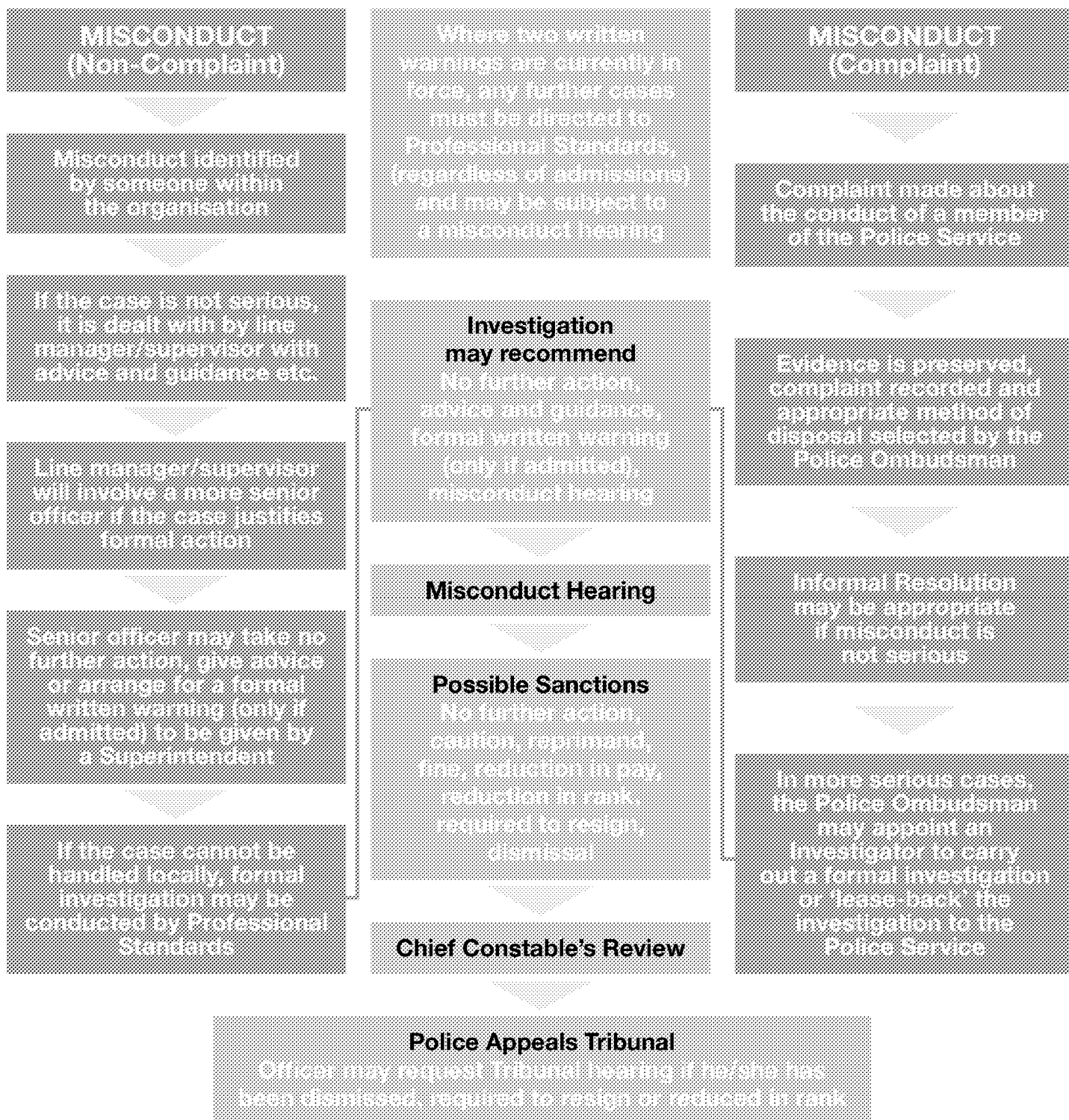
A Police Appeals Tribunal need not be unanimous in its determination and may reach a decision based on a majority verdict. Where a Tribunal finds itself divided equally, the Chairman will have a second or casting vote. The Chairman of a Police Appeals Tribunal is required to prepare a written statement of the Tribunal's determination of the appeal and the reasons for its decision. This statement will be sent, normally within four weeks of the conclusion of the appeal, to the Policing Board, who will copy it to the officer concerned and the Chief Constable.

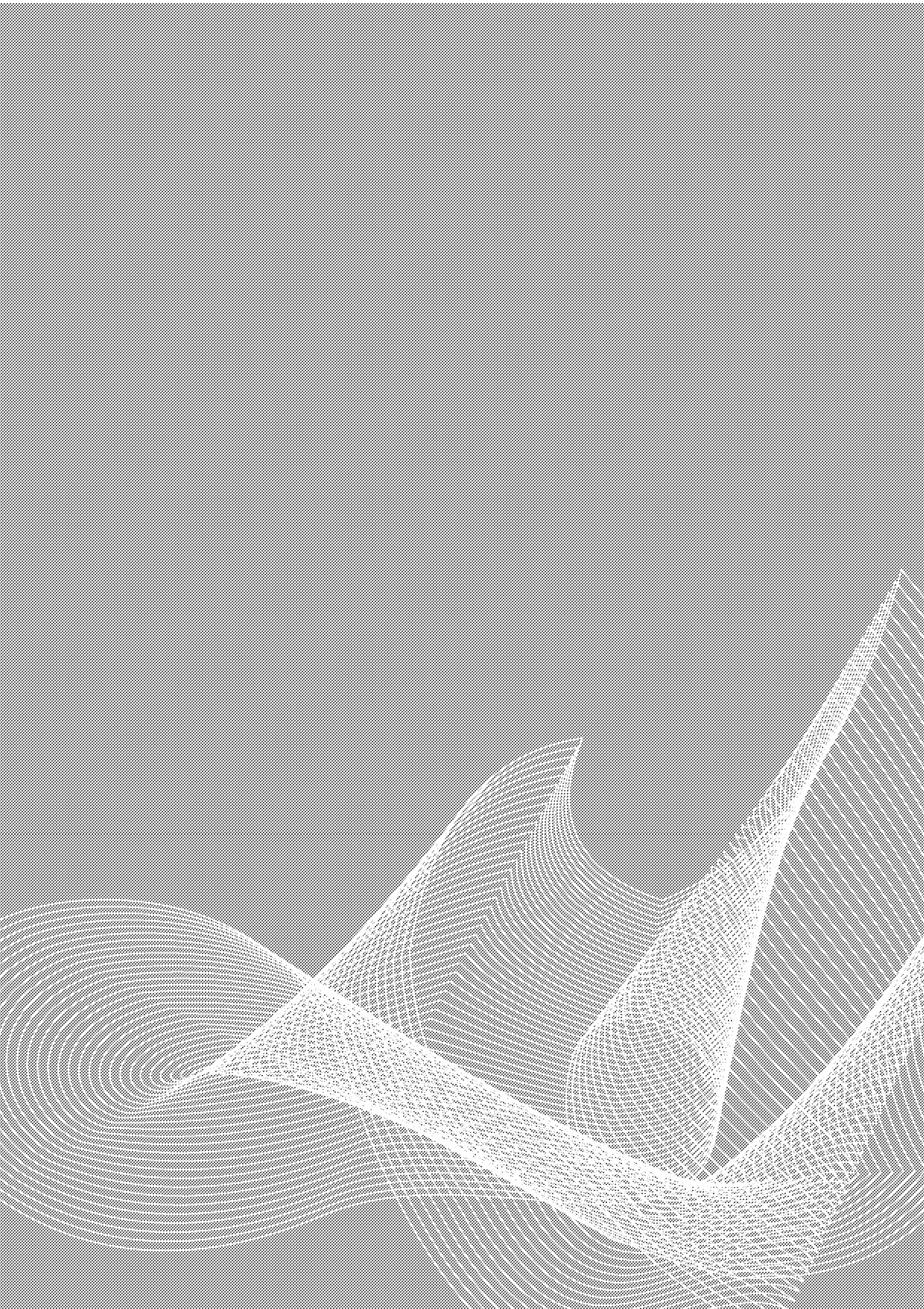
//36

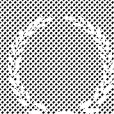
**Police Service of Northern Ireland
Code of Ethics 2008**

Misconduct Procedures

This chart summarises the Police Service Misconduct Procedures







INVESTOR IN TRUST

NORTHERN IRELAND POLICING BOARD

Waterfalls Tower, 21 Clarendon Road
Clarendon Dock, Belfast BT1 3BG

Tel: 028 9040 8500 **Fax:** 028 9040 8540

Textphone: 028 9052 7000

Email: information@nipol.org.uk

Website: www.nipol.org.uk

This document is also available upon request in alternative formats including CD and large print. It can also be made available in minority languages or on audio cassette. Requests for alternative formats should be made to the Northern Ireland Policing Board.

Design: www.whitenoistudios.com