



Policing and Crime Reduction Group
Police Leadership and Powers Unit

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All Chief Officers of Police in
England and Wales
Commissioners of Police for the
Metropolis and City of London,
Clerks to Police Authorities and
Chairpersons of Police Appeals
Tribunals

Our Ref
Your Ref
Date 31 August 2001

Dear Chief Officers, Clerks and Chairs

MISCONDUCT CASES ARISING OUT OF DRINK DRIVING CONVICTIONS

As you know there are no central guidelines at present on how Chief Officers should deal with those in their force convicted of a drink driving offence. Under Paragraph 8 of the Code of Conduct at Schedule 1 of the Police (Conduct) Regulations 1999 police officers must report any proceedings for a criminal offence taken against them and are warned that further action may be taken. Drink driving offences make up well over half the criminal offences with which police officers are charged.

Looking at the drink driving cases, over the last three years, where there was an appeal to the Home Secretary (under the 1985 Regulations) 16 out of a total of 18 were required to resign and the appeal was dismissed. However, we are concerned about the wide discrepancies in the cases which are resolved within forces under both the 1985 and 1999 Regulations.

It has therefore been decided by Ministers that Guidelines should be issued on misconduct cases involving drink driving. This idea has been reinforced partly by the fact that there was a successful Judicial Review, in February of this year, in a case arising from a discipline appeal by a former Metropolitan Police officer, who claimed that he was treated more harshly than others known to him because he was required to resign following conviction. The Home Secretary has been given leave to appeal to the Court of Appeal and the hearing is listed for December. However, this case has highlighted the importance of consistency.

In the recent Thematic Report on Integrity by HM Inspectorate of Constabulary, it is pointed out (at 9.7) that Magistrates have had a tariff system for punishments for many years, with the flexibility of seriousness and mitigation affecting the outcome. HM Inspector was of the view that a tariff for discipline offences in general would benefit at least individual forces and the service as a whole.

I enclose the Guidelines which I have made into Annex N to Section 3 of the Home Office Guidance on Police Unsatisfactory Performance, Complaints and Misconduct Procedures. I also enclose amended pages 3.18 to 3.20 which should replace the existing pp 3.18 to 3.20 of the Guidance since there is now a reference to the Guidelines at para 3.77. The terms of the guidance have been agreed by ACPO.

The Guidelines are to remind officers that they should expect to lose their job if convicted of a drink driving offence. Obviously this would not apply where there were exceptional circumstances but I have not set out the whole range of what could be regarded as exceptional since the presiding officer or chairman is best placed to decide what they are in individual cases. They should be used immediately.

Yours faithfully

Mrs K.I.Elam
Conduct and Complaints Section

POLICE (CONDUCT) REGULATIONS 1999

HOME OFFICE/ACPO JOINT GUIDELINES

POLICE OFFICERS CONVICTED OF DRINK DRIVING OFFENCES

The Home Office and Police Service are committed to reducing incidents of drink driving, both generally and within the Service.

The damage done to the reputation of the Service by officers convicted of these offences cannot be overstated and detracts from the credibility of the Service in this crucial area of law enforcement.

An officer convicted by a Court of a drink driving offence can expect to face a formal disciplinary hearing. The usual sanction to be applied is either dismissal or a requirement to resign to reflect the serious view which is taken, both inside the Service and by society generally.

A Discipline panel will always treat each case on its merits but officers presiding at **such** hearings must apply their judgement to the facts of the case to consider whether an alternative sanction could be justified. Aggravating factors in considering the seriousness of an offence include where:

- the offence was committed on duty;
- there is an attempt to avoid arrest;
- there is an attempt to interfere with due process, particularly by leaving the scene or improperly using his position as a police officer;
- the alcohol reading is particularly high; or
- the offence derives from a traffic accident or other incident involving a member of the public.

Only in cases where none of these circumstances exist and **there are exceptional circumstances** should a lesser sanction be imposed. When this happens the reasons should be clearly set out and recorded.