

<b>POLICY – SUMMARY</b>		
<b>Please note: This is a summarised version of the Force’s full Student Officers Unsatisfactory Performance Guidance and Procedure. A full copy can be obtained via a Freedom of Information request.</b>		
<b>Title:</b>	Student Police Officers unsatisfactory performance, attendance and conduct. Regulation 12 and 13 Police Regulations 2003	
Practice / Business Area:	Attendance	
Department Responsible:	Learning & Development	
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Version Number:	02(summarised)	Chief Constable
<b>SOUTH WALES POLICE PROCEDURE OBJECTIVE:</b>		
<p>The purpose of this Policy is to ensure when dealing with Student Officers in relation to unsatisfactory performance, attendance and conduct, that they are treated at all times fairly and proportionally, in compliance with Police Regulations 2003 and any additional employment legislation that may have a bearing on their circumstances. For Police Education Qualification Framework (PEQF) students (including Police NOW and Detective NOW Students), unsatisfactory performance can be displayed in one or both of the following:</p> <ul style="list-style-type: none"> <li>• Occupational Competence,</li> <li>• Academic Assessments and Assignments.</li> </ul> <p>In order for South Wales Police to achieve consistency in the Regulation 13 process, it should reflect the way in which it deals with all staff. Although the burden of proof and statutory obligations may differ, the process of arriving at decisions should have consistency in their approach.</p> <p>It should be noted that the underlying purpose of the Probationary period, is to allow each Student Officer the opportunity to demonstrate that they have reached the required standard and can be confirmed in rank. South Wales Police will provide all reasonable means to facilitate that process.</p>		
<b>GUIDANCE:</b>		
<p><b><u>Managing a Student Officer’s unsatisfactory performance,/attendance/conduct (Regulation 13 Police Regulations 2003)</u></b></p> <p><b><u>Low Level Management Action (LLMA)</u></b></p> <p>Student Officers will on occasions under achieve in their operational competence and/or in their Academic work and/or have sickness issues or minor breaches to the Standards of Professional Behaviour. In such instances it is reasonable for the Student Officer to expect and receive support, guidance and/or suitable advice from their Operational Supervisor and/or staff from the Tutor Unit located in their BCU.</p> <p>Supervisory discretion should be applied to such instances without the need to evoke the formal Regulation 13 procedures. All evidence to support under performance, unsatisfactory attendance or misconduct <b>must</b> be recorded by those responsible for the Student Officers at that time.</p> <p>Where a Student Officer has a disability as defined by the Equality Act 2010, support should be given and reasonable adjustments put in place prior to assessing their competency in the work place.</p> <p>If there is no repeat of under-performance or unsatisfactory attendance or misconduct then no further action will be taken.</p>		

If their performance or attendance or conduct does not improve or it is not sustained throughout their probationary period then the formal Regulation 13 process will be instigated as follows:

### **Stage 1 – Formal Meeting**

This meeting will be chaired by the Inspector responsible for the Student PEQF (or designated deputy) who will make their recommendations based on the evidence presented by the relevant person (Class Trainer, Tutor Constable, Area Training Sergeant, Response Team Supervisor or Bronze/Sector Inspector).

During this meeting opportunities to support, develop and educate the individual will be considered and a SMART development plan (if appropriate) will be agreed outlining areas where the officer must improve.

Successful completion of the Stage 1 Regulation 13 Development Plan will result in no further action.

Consideration to move to Stage 2 of the process will be made if the development plan is not achieved or sustained throughout the remainder of the probationary period.

In exceptional cases it may be necessary to progress immediately to Stage 2.

### **Stage 2 – Case Conference**

The purpose of the Case Conference is to review the Student Officer's under performance and/or poor attendance and/or conduct and to discuss with them the reasons why they are still failing to reach the standards expected of them as a Police Officer.

During the Case Conference, consideration will be given as to what further strategies can be put into place to ensure the Student Officer improves their performance and/or attendance and/or conduct. Opportunities to support and develop the Student Officer will once again be considered and a final SMART development plan may be agreed, outlining specifically which areas they must improve on.

A decision may also be made **not** to set an Development Plan if it is apparent at the end of the Case Conference from the evidence presented that the Student Officer is unlikely to become an "efficient and well conducted Constable or that they are not fitted physically or mentally to perform the duties of their office".

If a further Development Plan is not agreed, a recommendation will be made to the Director of People and Organisational Development for the Services of the Student Officer to be dispensed with under Regulation 13 of the Police Regulations 2003.

The Student Officer will be informed that failure to achieve this Stage 2 Development Plan will result in a recommendation being made that their Services should be dispensed with under Regulation 13 of the Police Regulations 2003.

Successful completion of the Stage 2 Development Plan will result in no further action providing their performance or attendance or conduct does not give cause for concern throughout their probationary period – in which case the matter will be referred immediately to the Director of People and Organisational Development recommending that their services be dispensed with under Regulation 13 of the Police Regulations 2003. If this occurs the Police Federation will be notified and full disclosure of the case will be given to the Student Officer and they will be given an opportunity to make verbal and/or written representations before the final decision is made by the Chief Constable.

### **Right to Appeal**

There is no legal requirement to allow for an appeal beyond the initial decision of the Chief

Constable. Only a Chief Constable can discharge with the services of a Student Officer under Regulation 13 Police Regulations 2003 (**Refer to Austin v Chief Constable of Surrey (2010) and Linton v Chief Constable of Greater Manchester Police (2000) both of which state the decision to discharge with services under Regulation 13 cannot be delegated**).

#### **Specific guidance re unsatisfactory attendance**

Where a Student Officer is absent through illness or injury it is their responsibility to comply with the Force Sickness Policy.

Any mental health related absence must result in an immediate referral to the Force Medical Centre.

Where the Student Officer hits a trigger point, then a referral must be made to the Health Unit for an FMA review and a decision made as to whether to progress via LLMA or through the formal Regulation 13 procedures. The decision making will depend on any previous history of poor performance, attendance (in line with absence management policy) or conduct involving this Officer.

No action should be taken to initiate the termination of the Student Officer's services (whether under Regulation 13 Police Regulations 2003 or on medical retirement) without the full circumstances being referred to the Director of People and Organisational Development and written guidance being received.

Complying with the formal stages of the Regulation 13 procedures as described earlier (Pages 1-2) will ensure that Student Officers who are absent or are unable to perform due to injury are managed appropriately and given support prior to any decision being made to terminate their Services.

#### **Extending a Student Officers probationary period (Regulation 12 Police Regulations 2003)**

There are a number of circumstances where it may be appropriate to extend the probationary period of a Student Officer. However, such a decision can only be made by the Director of People and Organisational Development who will look closely into the individual circumstances of the case before agreeing to such an extension.

#### **Circumstances that could lead to an application under Regulation 12 Police Regulations 2003:**

- Protracted absence through sickness/injury
- Protracted absence through any relevant protected characteristics
- Suspended from duty awaiting the result of a PSD investigation
- To facilitate the Regulation 13 process
- Unable to carry out operational duties through injury/illness

The above list is not exhaustive but provides examples where it may be prudent to apply for an extension of probation to ensure the Student Officer is given every opportunity to prove that they can reach the required standard and be confirmed in rank.

If a decision is made to extend a Student Officer's probationary period then they will be notified in writing of this decision or informed personally by the relevant Area Training Sergeant.

If a decision is made not to extend a Student Officer's probationary period and they have not been able to demonstrate that they have reached the required standard then a Stage 2 Regulation 13 case conference will be held to give the Student Officer and his/her Police Federation Representative an opportunity to make representations. At the conclusion of the case conference a Regulation 13 application together with all the supporting documentation will be referred to the

Chief Constable who will decide whether the Student Officer's services will be dispensed with under Regulation 13 Police Regulations 2003 or whether an extension of probation under Regulation 12 Police Regulations should be given.

**Managing Student Officers who are alleged to have breached the Standards of Professional Behaviour**

The Chief Constable has discretion to deal with Student Officers who have breached the Standards of Professional Behaviour either by way of the Police Conduct Regulations 2008 or the Police Regulations 2003 (Home Office Circular 8.2005 refers).

If a Student Officer is suspected to have breached Standards of Professional Behaviour then the matter must be referred to the L & D Inspector responsible for the Student Police Education Qualification Framework who will arrange for an initial fact finding exercise to be carried out and relevant checks made on the Student Officer at L & D and PSD.

A decision will then be made as to how the matter should be dealt with and a number of options are available such as: No Further Action, Management Action, Stage 1 Regulation 13, Stage 2 Regulation 13 or formal investigation under the Police Conduct Regulations.

**Managing the Student Officer's Occupational Competency Portfolio (OCP) and Student Review Document to support an application under Regulation 13 or 12 Police Regulations 2003.**

Each Student Officer will be given their own personal OCP folder.

During Phase 2, the Tutor Sergeant will explain how the Student Officer's OCP will be managed and the expectations on them and their Tutor Constable to ensure completion of the document including ensuring appropriate storage in accordance with MOPI/GDPR.

The OCP **MUST** be the sole work of the Student Officer or Tutor Constable responsible for completing them.

If at specified review periods the OCP has not been kept up-to-date, completed accurately and legibly, lacks sufficient evidence to support claiming a competency or has evidence which has not been countersigned, Regulation 13 procedures may be instigated. Every competence in the OCP has to be successfully achieved and countersigned for each year of the student's probationary period.

**Storage of Regulation 13 and 12 Files**

All Regulation 12 and 13 files **MUST** be retained in accordance with MOPI/GDPR standards. All relevant files after submission to the Chief Constable/Director of HR will be returned to the appropriate L&D Inspector and stored in a secure cabinet at their office in Bridgend. Access to these files will be restricted for any future Employment Tribunal, claims, appeals or complaints.

**GENERIC RISK ASSESSMENT:**

- No H&S risk assessment required

**LEGISLATION & REGULATION:**

- Police Regulations 2003
- Human Rights Act 1998 Article 6 – Right to a fair trial