SCOTTISH POLICE FEDERATION

Established by Act of Parliament

17th November 2026

To all Members
The Criminal Justice Committee
The Scottish Parliament
Edinburgh
EH99 1SP

Dear Convenor and Committee Members

RE: The Police Service of Scotland (Conduct) Amendment Regulations 2026

I am writing on behalf of the Scottish Police Federation, which represents approximately 16,500 police officers across Scotland, to ask for your support to annul the new police conduct regulations, currently due to come into force on 26 November 2026.

The Federation supports a robust, fair and effective system for dealing with police misconduct. Officers who commit serious offences or who are guilty of gross misconduct must be held accountable, and where dismissal is appropriate, it should happen without unnecessary delay. That is in the interests of the public, complainants and the overwhelming majority of officers who serve with integrity.

However, the regulations before the Committee introduce significant changes that, taken together, risk creating a system that is more punitive, less independent and less fair. The Federation has consistently raised these concerns, but we do not believe they have been adequately addressed.

Independent chairs and a two-tier system

Our most fundamental concern is the absence of a requirement for an independent chair at gross misconduct hearings involving federated ranks.

A misconduct hearing can end an officer's career, destroy their professional reputation and have profound consequences for their family and future employment. Decisions of such significance should be made by a chair who is, and is seen to be, independent of Police Scotland.

That concern is particularly acute in accelerated proceedings. The deputy chief constable determines whether the special conditions are met and appoints another police officer to conduct the hearing. Although the regulations prohibit an appointment that could give rise to a reasonable concern about impartiality, the hearing remains within the same organisation that has investigated and brought the case.

We do not suggest that every senior officer appointed to conduct a hearing would act unfairly. The problem is structural: justice must be seen to be done, and independence should not depend on the perceived impartiality of an individual chosen by the service.

Senior officers are to be subject to different arrangements, with greater independent involvement. We can see no principled justification for a system in which the fairness and independence of proceedings depend on the rank of the officer concerned. An independent, legally qualified chair should preside over every gross misconduct hearing.

Presenting officers and equality of arms

New regulation 16C requires the deputy chief constable to appoint a presenting officer to present the case against the officer at a misconduct hearing. That person may be a senior police officer, a member of police staff or a legally qualified person instructed for that purpose.

The Federation recognises that the regulations require an appointee to have appropriate skills, knowledge and expertise and prohibit an appointment that could give rise to a reasonable concern about impartiality. Nevertheless, the presenting officer's function is to present the case against the officer. The process therefore places a dedicated representative on one side of proceedings in which the officer's career and reputation may be at stake.

Where Police Scotland chooses to instruct a solicitor or advocate, the imbalance in resources and expertise may be considerable. An officer has a right to legal representation at a misconduct hearing, but a right to representation is not the same as an assured ability to obtain and fund it.

The Federation provides extensive representation and legal assistance to its members, funded by officers themselves. We ask the Committee to consider why officers facing proceedings brought by a publicly funded organisation should have to depend on their own representative body's resources to secure a fair opportunity to defend themselves.

If the Government intends to make the process more formal and adversarial, it must provide for equality of arms, including proper, independent funding for representation of federated officers and access to the documents and evidence necessary to answer the case.

Presenting officers were present in the the 1996 regulations and removed to make the process less adversarial so serious questions have to asked as to why they are again being reintroduced.

Accelerated misconduct hearings

We understand the desire to deal swiftly with cases where the evidence is clear and the public interest requires urgent action. However, the threshold for an accelerated hearing is not limited to a criminal conviction or an admission of gross misconduct.

Under new regulation 23B, the deputy chief constable may determine that the special conditions are satisfied where there is sufficient evidence in written statements or other documents to establish gross misconduct on the balance of probabilities and where it is considered to be in the public interest for the officer to cease to hold office without delay. A case may be considered for this process before an investigation has been completed.

That is a broad power with potentially serious consequences. Written material may appear clear until it is properly tested, placed in context or considered alongside evidence that supports the officer's account. The fact that a case appears strong to the organisation bringing it should not, of itself, remove the need for a full and fair examination.

The timescales are also demanding. The hearing is ordinarily to be set between 10 and 15 working days after notice, while the officer is required to provide a written response and any documents they intend to rely on within eight working days. Regulation 23A also permits time periods in the accelerated procedure to be reduced by agreement between the deputy chief constable and the person appointed to conduct the hearing.

Those provisions raise obvious questions about the time available to obtain legal advice, examine disclosure, identify witnesses, obtain relevant evidence and prepare a defence. They are especially concerning where an officer is unwell or where the allegations are complex.

We therefore ask the Committee to press for:

● A much more clearly defined and appropriately limited threshold for accelerated proceedings.

● An independent chair to decide whether the case is suitable for that process and to conduct any hearing.

● A meaningful opportunity for the officer to challenge the referral and seek additional time.

● An express safeguard against reducing preparation time without the officer's agreement, unless an independent chair determines that doing so is fair.

● Full disclosure, a proper opportunity to test evidence and effective access to representation.

Demotion as a disciplinary sanction

The regulations again introduce demotion in rank as a possible outcome following an accelerated gross misconduct hearing.

We oppose demotion as a disciplinary sanction. If an officer's conduct is so serious that they cannot continue to serve, dismissal is available. If dismissal is not appropriate, reducing an officer's rank raises difficult questions about proportionality, the basis on which they will continue to serve, the effect on their pay and career, and the impact on colleagues and the organisation.

Demotion also risks creating an inconsistent and potentially punitive outcome that has not been sufficiently explained or justified. We ask the Committee to seek its removal from the regulations.

Extended warnings and removal of verbal warnings

The regulations remove verbal warnings from the available disciplinary actions and allow a final written warning, ordinarily in effect for two years, to be extended in subsequent proceedings to a maximum of five years.

We are concerned that removing the verbal warning reduces flexibility to deal proportionately with less serious misconduct. Extending final written warnings for up to five years also leaves officers facing a prolonged period in which a further finding may have severe consequences.

The regulations provide that, where an officer is already subject to a final written warning at the relevant time, a further final written warning cannot be given in the specified circumstances. The practical effect of a lengthy warning can therefore be particularly serious.

A fair conduct system must allow decision-makers to distinguish between conduct that calls for dismissal and matters that can be addressed through proportionate disciplinary action, learning or support. We ask the Committee to challenge both the removal of verbal warnings and the extension of final written warnings.

Disclosure, witnesses and the ability to answer a case

The regulations change the disclosure framework, remove the requirement to provide summaries of witness evidence and permit the use of written witness statements in certain circumstances.

We recognise the importance of supporting complainants and witnesses, including through trauma-informed practice and appropriate special measures. Their ability to participate effectively must be protected. Equally, an officer must have a meaningful opportunity to understand and challenge the evidence against them.

The Committee should seek clear assurances about how officers and their representatives will receive relevant material in sufficient time, how potentially helpful material will be identified and disclosed, and how disputed evidence can be tested fairly. These safeguards are particularly important in any accelerated process.

Publication and lasting reputational damage

The regulations require publication of misconduct outcome reports on Police Scotland's website, subject to specified grounds for withholding information, redaction or non-publication.

Public confidence requires transparency, but publication can have serious and lasting consequences for an officer and their family. The Committee should examine whether the safeguards are sufficiently clear and proportionate, including where allegations are not proved, where sensitive personal information is involved, and where publication could expose an officer or their family to risk.

Appeals and effective independent oversight

The regulations provide for appeals following accelerated hearings. That is important, but the availability of an appeal does not remove the need for independence and fairness at the original hearing.

An officer should not have to lose their career or reputation before being able to seek effective scrutiny of a process that should have been fair from the outset. The Committee should examine whether the appeal arrangements provide accessible, independent and effective remedies, including where there has been a dispute about the suitability of accelerated proceedings, disclosure or the fairness of the hearing.

Delay and the existing regulations

The Scottish Police Federation firmly believes that the current conduct regulations already provide a route by which an officer's career can be ended within 35 days following a criminal conviction, where dismissal is justified.

The suggestion that the regulations themselves prevent Police Scotland from dealing swiftly with convicted officers is therefore misleading. The issue is how the existing regulations are being interpreted, instructed and implemented in

practice, including the speed with which court documentation is obtained, decisions are made, paperwork is prepared and hearings are arranged.

Where there are unnecessary delays, the appropriate response is to examine and improve those processes, establish where responsibility lies and ensure that cases are properly resourced and progressed. Removing important safeguards from the regulations will not address delays caused by how the process is managed.

The Federation recognises that not every case will follow the same timetable and that individual circumstances may affect how quickly a hearing can take place. However, the fact remains that the current framework provides a route to a prompt outcome, including dismissal, in an appropriate case.

We ask the Committee to require Police Scotland and the Scottish Government to provide a detailed, evidenced breakdown of the reasons for delays in cases involving convicted officers before concluding that these regulations are necessary. The Committee should also establish what steps Police Scotland has taken to make full and effective use of the powers that already exist.

Consultation and statutory guidance

The Federation has engaged throughout this process and has repeatedly identified concerns about independence, representation, accelerated hearings and proportionality. These are substantive matters that should be resolved in the regulations themselves.

Statutory guidance which government have now stated that they won't provide may have helped explain how a power should be exercised, but it cannot amend the regulations or substitute for safeguards that are absent from them.

Request to the Committee

We ask the Committee to recommend the annulment of SSI 2026/276 and call on the Scottish Government to rethink the implementation of these changes, undertake meaningful further consultation with the Federation and other interested parties, and bring forward a revised framework.

That framework should provide for independent chairs at all gross misconduct hearings, properly funded representation and equality of arms, a defined and fair procedure, proportionate sanctions, effective disclosure and meaningful independent appeal.

The Scottish Police Federation stands ready to work constructively with the Government, Police Scotland and the Committee to achieve a conduct system that is timely, transparent and trusted. The public and police officers are entitled to a process that is both effective and fair.

Yours sincerely

DAVID KENNEDY
General Secretary