

11.6 It is recognised that in certain circumstances the Chief Constable will of necessity have at least some knowledge of a case while it is still under consideration. For example, where the matters raised are *prima facie* serious and would amount to a substantial criticism of the force or where members of higher rank are involved, the Chief Constable should keep himself informed of the progress of the investigation. There may also be other cases where a deputy or assistant chief constable may wish to consider seeking the views of the Chief Constable, for example, where he is considering calling for an investigating officer from another force, or if he is in disagreement with the Commission about the bringing of disciplinary charges, the reference of new material to the Director of Public Prosecutions or the holding of a Tribunal.

11.7 Where the Chief Constable has been involved in a case in any of these circumstances and a disciplinary hearing is thereafter to be held, he should consider availing himself of the provisions of the Discipline Regulations which enable him (where he is not himself a material witness) to refer the case to another chief constable for hearing, for decision on finding and for recommendation as to the punishment where the accused officer is found guilty. In addition, where the Chief Constable is interested in a case otherwise than in his capacity as Chief Constable, or is a material witness, he must refer the case to another chief constable, who will be in every sense the disciplinary authority for that case.

[11.7A Regulation 14(2)(a) of the Discipline Regulations provides for the Chief Constable, where he is interested in the case otherwise than in his capacity as Chief Constable, to remit a case to another chief constable for hearing. In such a case, the officer to whom the case is remitted will impose punishment in the event of a finding of guilt. The Regulations do not define the circumstances that would require remission under this provision. They would, however, typically arise where the Chief Constable has a connection with the accused member or with someone connected with the case which goes so far beyond the purely professional that suspicion of bias might arise. A family or close, out of office, social relationship are examples of such a connection.]

11.8 In the same way, circumstances might arise in which an officer (or a member of a Disciplinary Board) who would normally be expected to hear a discipline charge against a member, has himself had some previous involvement with the case. Where this happens the charge should be heard as otherwise provided in accordance with Regulation 14 and Schedule 4 of the Discipline Regulations.

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11.9 For many disciplinary offences (depending on the terms in which they are framed in the discipline code) the mental element necessary for a finding of guilt is less than that for most criminal offences: for example the offence may, in some cases, be made out if the act in question was committed through lack of due care.

Discreditable conduct (discipline code, paragraph 1)

11.10 Proceedings for the offence of discreditable conduct should be brought sparingly. Wherever possible a more specific charge under one of the other paragraphs of the discipline code should be laid, and a charge of discreditable conduct should not be added to a charge under another paragraph unless it is based on facts distinct from those underlying that other charge. This applies with particular force where the member concerned was off duty when the alleged misconduct took place. Those responsible for bringing charges should bear in mind that certain types of conduct might reasonably be said to bring discredit on the police service when committed by a member on duty, but not otherwise. This is not an area in which it is possible to lay down hard and fast rules: each case must be treated on its merits. The Chief Constable should bear in mind also in such cases the advice contained in paragraph 2.21.

11.11 An illicit or irregular sexual relationship between a member and another person is not of itself discreditable conduct within the meaning of the discipline code. Here again it is necessary to examine carefully the particular circumstances of each case in order to decide whether discredit to the police force or police service is likely.

11.12 The offence of discreditable conduct is committed where a member acts in a manner *likely* to bring discredit on the reputation of the police force or service. If the conduct is known outside the force, it will be necessary to establish only that it is reasonably likely to bring discredit. But the Secretary of State considers that the offence may be proved even if the conduct is *not* known outside the force, provided that it is reasonably likely to become