

AN GARDA SÍOCHÁNA



POLICY DOCUMENT ON THE SUSPENSION FROM DUTY OF MEMBERS OF AN GARDA SÍOCHÁNA UNDER THE GARDA SÍOCHÁNA (DISCIPLINE) REGULATIONS 2007 AS AMENDED.

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1. Introduction

The purpose of this document is to set out written policy guidelines on the use of Regulation 7 of the Garda Síochána (Discipline) Regulations 2007 as amended by Regulation 2(a) of the Garda Síochána (Discipline) (Amendment) Regulations 2011 which deals with the suspension from duty of members of An Garda Síochána.

2. Statutory Authority

The suspension of a member from duty is currently legislated for at Regulation 7 of the Garda Síochána (Discipline) Regulations 2007 as amended by Regulation 2(a) of the Garda Síochána (Discipline) (Amendment) Regulations 2011 which states:

- (1) Where, in the opinion of the Commissioner, the circumstances render such a course desirable in the interests of the Garda Síochána, he/she may suspend a member from duty.
- (2) A member so suspended remains suspended until the Commissioner decides that the suspension should cease.
- (3) The Commissioner shall review the suspension of a member every 3 months or at such shorter intervals as he/she considers necessary, but any non-compliance with this paragraph does not of itself invalidate a suspension.
- (4) Where the function of suspending a member is delegated by the Commissioner to a member of the rank of Chief Superintendent the member of that rank may not suspend a member for a period exceeding 10 days, but the Commissioner may extend the suspension.
- (5) A member who is suspended and is required by the Commissioner or the Government, as the case may be, to retire or resign as an alternative to dismissal, remains suspended during the period of any notice of retirement or resignation that may be given.

3. Circumstances when a member is suspended

A member of An Garda Síochána will normally be suspended in the following circumstances –

1. Where the Commissioner has signified his/her intention to dismiss the member by way of;
 - (a) Notice of intention to dismiss the member under Regulation 39 Garda Síochána (Discipline) Regulations 2007 as amended,
 - (b) A recommendation of a Board of Inquiry that the member be dismissed or required to resign or retire as an alternative to dismissal,
 - (c) Notice of intention to discharge a Probationer Garda under Regulation 16 Garda Síochána (Admissions and Appointments) Regulations, 1988 as amended,
 - (d) Notice of intention to dismiss the member under Section 14 Garda Síochána Act 2005,

2. Where the Commissioner has signified his/her intention to dispense with the services of a Reserve member by way of a notice of intention to dispense with the services of a Reserve member under Regulation 10 of the Garda Síochána (Reserve Members) Regulations 2006.
3. Prior to arrest, where practicable, or as soon as possible following arrest,
4. A member should be suspended prior to appearing in court in respect of criminal charges that may result in a custodial sentence being imposed,
5. Where there is evidence to show that a member has committed acts of such seriousness as would likely result in his/her dismissal from An Garda Síochána if they are proved true but not until such time as the investigation rules out the possibility of the member being subject of a false or malicious allegation.

4. Short term suspension

The Commissioner has delegated to all members of Chief Superintendent rank the power to suspend a member for a period not exceeding 10 days (Short term suspension).

5. Long term suspension

The Commissioner may suspend a member for a period exceeding 10 days. The Commissioner may also extend the suspension of a member who has been suspended for a period not exceeding 10 days. These functions may be delegated by the Commissioner.

The views of the members Divisional Officer will be sought on the following matters when the issue of a member's long term suspension is being considered:

Primary considerations for suspension:

1. Strength of evidence,
2. Seriousness of allegation,
3. Risk to members of the public,
4. Risk to colleagues,
5. Potential to pervert the course of justice/suborn colleagues,
6. Options of alternatives to Suspension.

Secondary considerations for suspension:

1. Likely outcome,
2. Estimated time to conclude investigation,
3. Relevant complaint history,
4. Current performance,
5. Impact on police/public relations,
6. Impact on service morale,
7. Risk to officer/welfare considerations.

6. Review of Suspension

Regulation 7(3) of the Garda Síochána (Discipline) Regulations 2007 as amended provides that the Commissioner shall review the suspension of a member every 3 months or at such shorter intervals as he or she considers necessary.

In order to fulfil this obligation the Commissioner will review suspensions with a view to renewing the suspensions on the 1st day of every third month (i.e. 1st February, 1st May, 1st August, and 1st November), or as soon as possible thereafter.

7. Alternatives to suspension

In certain cases an alternative to suspension may be considered in consultation with the member's Divisional Officer. Members may be employed on other duties, indoor duties etc. pending determination of the case against them. Transfer in lieu of suspension will only be used where there are sufficient grounds for suspending the member concerned.

8. Reason(s) for suspension

In all cases where a member of An Garda Síochána is suspended they will be informed of the reason(s) for his/her suspension.

9. Role of the Employee Assistance Service

The suspended member will be informed of the availability of the Garda Employee Assistance Service. He/she will be given contact details by his/her Liaison Officer.

10. Suspension Allowance

Allowance:

During the suspended member's period of suspension from duty he/she will be paid a suspension allowance in lieu of pay except in the following circumstances;

- (a) where a member is detained in pursuance of a court sentence,
- (b) where a member is placed in custody (in prison or elsewhere) between conviction by a court and sentence,
- (c) in any other circumstances where a member is refused bail, or
- (d) where a member's whereabouts is unknown to his/her District Officer.

A member who was not in receipt of pay prior to his/her suspension will not be paid suspension allowance. Members who qualify for a suspension allowance will be paid an allowance equivalent to 100% of basic pay, including rent allowance.

Other allowances:

The member will not receive payment in respect of any other allowance for the period of suspension.

11. Review of suspension allowance

The payment of suspension allowance may be reviewed at any time at the discretion of the Commissioner. The payment will automatically be reviewed in the following circumstances:

- (a) where a member is detained in pursuance of a court sentence,
- (b) where a member is placed in custody (in prison or elsewhere) between conviction by a court and sentence,
- (c) in any other circumstances where a member is refused bail, or
- (d) where a member's whereabouts is unknown to his/her District Officer.

Where the payment of suspension allowance is subject to review, the member concerned will be invited to make submissions against the proposed review within a specified timeframe, except in those circumstances as described at (a)-(d) above. The member will be notified of the result of the review.

12. Timely investigation of disciplinary matters

Any discipline investigation will proceed expeditiously in accordance with the provisions of the Garda Síochána (Discipline) Regulations 2007 as amended and relevant case law.

13. Notice to the member upon suspension

A notice will be served upon the member on suspension. The notice will set out the conditions attached to suspension and the entitlements or otherwise of the suspended member - **Appendix 1**.

14. Liaison Officer

A Liaison Officer, selected by the Divisional Officer, will be notified of the member's suspension and will liaise with the suspended member during the period of the suspension and handle matters such as service of papers and any other such matters. The Liaison Officer will ensure that the suspended member is notified of the availability of the Employee Assistance Service.

15. Exercise of powers

During the period of his/her suspension the suspended member will not be entitled to exercise any Garda powers or purport to conduct him/herself as a member of An Garda Síochána. The suspended member will, however, be subject to the provisions of the Garda Síochána Code, relevant H.Q. Directives, the Garda Síochána (Discipline) Regulations 2007 as amended and the Garda Síochána Act 2005 and must therefore still comply with any lawful orders issued to him/her. The suspended member will abide by codes, regulations and relevant legislation normally applicable to all members of An Garda Síochána during the period of his/her suspension.

16. Engaging in other employment while on suspension

While on suspension a suspended member's working week will be considered as 9am to 5pm each day on a Monday to Friday basis.

The list of prohibited spare time activities will apply to suspended members.

A suspended member will not be permitted to take up other employment between 9am to 5pm Monday to Friday.

17. Notification of address/Meeting with District Officer

A suspended member will submit to his/her District Officer, the address at which he/she will be ordinarily resident for the duration of the suspension and will give a written undertaking to notify the District Officer of any change of address while on suspension. The District Officer will then notify the Executive Director, Human Resources and People Development, of details of the said address and/or any change of address.

A suspended member will be required to meet his/her District Officer or another nominated person on a monthly basis at a date, time and location as specified by the District Officer.

In cases where a meeting with the District Officer would involve lengthy travel arrangements, the meeting can be arranged for a location suitable to both parties at the suspended member's own expense.

18. Reporting injury/illness while on suspension

If a suspended member should become sick/injured whilst suspended from duty he/she must report the illness/injury in the same way as if he/she had been on normal duty. In addition, the suspended member should submit sick certificates in the normal manner for the duration of the illness/injury.

Any medical expenses incurred by the suspended member during the period of suspension may be claimed in the normal manner.

19. Visits to Garda premises

A suspended member will not be allowed access to Garda premises (except official Garda accommodation) without prior permission from his/her District Officer. Should the suspended member require access to any Garda premises he/she must contact his/her Liaison Officer who will notify the District Officer.

Any access granted may be subject to whatever conditions specified by the District Officer. The suspended member will be accompanied by the Liaison Officer or other member nominated by the District Officer.

20. Uniform and Equipment

Upon his/her suspension the member will be required to surrender his/her identification card with immediate effect for the duration of the suspension. In addition, the suspended member will be required to surrender any firearm, official mobile phone, access control card and any official item deemed appropriate by his/her District Officer. Arrangements will be made by the District Officer for the collection of the aforementioned items. The suspended member will not wear his/her Garda uniform or any part of the Garda uniform during the period of his/her suspension.

21. Court

A suspended member may be required to attend court either as a witness or to prosecute cases during the period of suspension. In such cases it is not the practice to reinstate the suspended member for the court case; rather he/she will appear in plain clothes and give his/her evidence. If the suspended member is prosecuting a case, a member of higher rank will be directed to take over the prosecution and the suspended member will be called as a witness.

The suspended member will notify his/her District Officer of any prosecutions or outstanding investigations which were being conducted by him/her prior to his/her suspension.

Should the suspended member be required to attend court he/she will notify the Liaison Officer as soon as he/she becomes aware of any requirement to attend. When attending court the suspended member is entitled to claim any expenses incurred in the normal manner.

22. Promotional Exam/Interview

If a suspended member wishes to sit a promotional examination he/she will make a written application through the normal channels.

If a suspended member wishes to apply to undergo interview for promotion and is eligible to do so he/she will make a written application through the normal channels.

23. Vacancies

Arrangements will be made to keep a suspended member informed, through his/her Liaison Officer, of all vacancies arising during the period of the suspension. This is for the purpose of facilitating any applications he/she wishes to make.

24. C.P.D.

A suspended member will not undergo C.P.D. training during the course of his/her suspension. Should a suspended member resume duty following suspension, he/she will be given the appropriate C.P.D. training.

25. Witnesses

A suspended member will not interfere or attempt to interfere with any witnesses involved in any criminal or disciplinary proceedings under investigation.

26. Access to Information

During the period of his/her suspension a suspended member will not be allowed use of or access to any official Garda I.T. or communications system. A suspended member will not be allowed access to any official information or records. However, should a suspended member require access to official information he/she should forward an application to his/her District Officer via the Liaison Officer setting out the reasons for the access. The District Officer will decide if access will be granted.

Any access granted may be subject to whatever conditions are specified by the District Officer. Access will be supervised by the Liaison Officer or other member nominated by the District Officer.

27. Representing An Garda Síochána

During the period of suspension a suspended member is not permitted to engage in any official activity in which he/she purports to represent An Garda Síochána.

28. Failure to adhere to conditions of Suspension

A suspended member who fails to observe the conditions of suspension as notified to them in the document entitled "*NOTICE TO MEMBERS ON SUSPENSION*" may be the subject of discipline proceedings in accordance with the relevant Garda Síochána (Discipline) Regulations.

APPENDIX 1 NOTICE TO MEMBERS ON SUSPENSION

Note: A member who is suspended is presumed innocent of any wrongdoing until the case is proved. Suspension does not imply otherwise.

The purpose of this document is to answer some of the questions that you may have, and to remind you of the entitlements and conditions that apply to you while you are suspended from duty.

REASON FOR SUSPENSION

The reason for your suspension is attached.

STATUS

You will not exercise any Garda powers during your period of suspension or purport to conduct yourself as a member of An Garda Síochána. You will, however, be subject to the provisions of the Garda Síochána Code, relevant H.Q. Directives, the Garda Síochána (Discipline) Regulations 2007 as amended and the Garda Síochána Act 2005 and you will therefore still comply with any lawful orders issued to you. You will abide by codes, regulations and relevant legislation normally applicable to all members of An Garda Síochána during the period of your suspension.

UNIFORM AND EQUIPMENT

On suspension you will be required to surrender your identification card with immediate effect for the duration of your suspension. In addition, you will be required to surrender any firearm, official mobile phone, access control card and any official item deemed appropriate by your District Officer. Arrangements will be made by your District Officer for collection of the aforementioned items. You will not, while under suspension, wear the Garda uniform or any part of the Garda uniform.

SUSPENSION ALLOWANCE

During your period of suspension from duty you will be paid a suspension allowance in lieu of pay except in the following circumstances;

- (a) where a member is detained in pursuance of a court sentence,
- (b) where a member is placed in custody (in prison or elsewhere) between conviction by a court and sentence,
- (c) in any other circumstances where a member is refused bail, or
- (d) where a member's whereabouts is unknown to his/her District Officer.

No suspension allowance will be paid to you if you have not been in receipt of pay prior to suspension. Suspension allowance equivalent to 100% of basic pay, including rent allowance, will be paid to you while you are subject of suspension.

The payment of suspension allowance may be reviewed at any time at the discretion of the Commissioner. However, the payment of suspension allowance will automatically be reviewed in the following circumstances:

- 1) if you are detained in pursuance of a court sentence,
- 2) if you are placed in custody (in prison or elsewhere) between conviction by a court and sentence,

- 3) in any other circumstances if you are refused bail, or
- 4) if your whereabouts is unknown to your District Officer.

Where the payment of suspension allowance is subject to review, (except in those circumstances as described at 1-4 above), you will be invited to make submissions against the proposed review within a specified timeframe. You will be notified of the result of the review.

DISTRICT OFFICER

You will be required to meet your District Officer or another nominated person on a monthly basis at a date, time and location as specified by your District Officer.

You are required to submit to your District Officer, the address at which you will be ordinarily resident for the duration of the suspension and will give a written undertaking to notify your District Officer of any change of address while on suspension.

Where meeting with your District Officer would involve lengthy travel arrangements you may agree with the District Officer to meet at a location suitable to you both at your own expense.

LIAISON OFFICER

A Liaison Officer, selected by the Divisional Officer, will be notified of your suspension and will liaise with you during the period of your suspension and handle matters such as service of papers and any other such matters.

EMPLOYEE ASSISTANCE SERVICE

The Garda Employee Assistance Service provides a confidential, professional support and referral service to all members and their families. While on suspension you may avail of this service. You will be given contact details by your Liaison Officer. Engagement with the service is voluntary.

SICKNESS

If you should become sick whilst suspended from duty you will report your illness/injury in the same way as if you had been on normal duty. In addition, you will submit sick certificates in the normal manner for the duration of the illness/injury.

MEDICAL EXPENSES

Any medical expenses incurred by you during the period of suspension may be claimed in the normal manner.

COURT

During your suspension you may be required to attend court either as a witness or to prosecute cases. In such cases you will not be reinstated for the court case. You will appear in plain clothes and give your evidence. If you are the prosecuting member in a case, a member of higher rank will be directed to take over the prosecution and you will be called as a witness.

Accordingly, you shall notify your District Officer of any prosecutions or outstanding investigations which were being conducted by you prior to your suspension.

Should you be required to attend court you will notify your Liaison Officer as soon as you become aware of your requirement to attend. When attending court you are entitled to claim any expenses incurred in the normal manner.

VISITS TO GARDA PREMISES

You will not be allowed access to Garda premises (except official Garda accommodation) without prior permission from your District Officer. Should you require access to any Garda premises you will contact your Liaison Officer who will seek permission on your behalf from the District Officer. The District Officer will decide if access will be granted.

Any access granted may be subject to whatever conditions specified by your District Officer. Access will be supervised by the Liaison Officer or other member nominated by your District Officer.

PROMOTIONAL EXAM/INTERVIEW

If you wish to sit a promotion examination you will make a written application through the normal channels.

If you wish to apply to undergo interview for promotion and are eligible to do so you will make a written application through the normal channels.

VACANCIES

During the period of your suspension arrangements will be made to keep you informed of all vacancies arising during the period of your suspension. This is for the purpose of facilitating any applications you wish to make.

C.P.D.

You will not undergo C.P.D. training during your suspension. Should you resume duty following your suspension, you will be given the appropriate C.P.D. training.

WITNESSES

You will not interfere or attempt to interfere with any witnesses involved in any criminal or disciplinary proceedings under investigation.

ACCESS TO INFORMATION

During the period of your suspension you will not be allowed use of or access to any official Garda I.T. or communications system. You will not be allowed access to any official information or records. However, should you require access to official information you will forward an application to your District Officer via the Liaison Officer setting out the reasons for the access. The District Officer will decide if access will be granted.

Any access granted may be subject to whatever conditions are specified by your District Officer. Access will be supervised by the Liaison Officer or other member nominated by your District Officer.

REPRESENTING AN GARDA SÍOCHÁNA

During the period of your suspension you are not permitted to engage in any official activity in which you purport to represent An Garda Síochána.

OTHER EMPLOYMENT

While on suspension your working week will be considered as 9am to 5pm each day on a Monday to Friday basis.

The list of prohibited spare time activities will apply.

You will not be permitted to take up other employment between 9am to 5pm Monday to Friday.

NOTE:

A failure by a suspended member to observe any of the conditions as set out above may become the subject of discipline proceedings in accordance with the relevant Garda Síochána (Discipline) Regulations.