
STATUTORY INSTRUMENTS

2017 No. 521

**The Gangmasters and Labour Abuse Authority
(Complaints and Misconduct) Regulations 2017**

PART 8

GENERAL

Complaints or conduct matters concerning a person who has subsequently ceased to be an officer of the Authority

78.—(1) Where a complaint or conduct matter relates to the conduct of a person who has ceased to be an officer of the Authority since the time of the conduct, these Regulations apply in relation to such a person as if they did not include any requirement for the Chief Executive to determine whether disciplinary proceedings should be brought against that person.

Complaints or conduct matters concerning a person whose identity is unknown

79.—(1) Where a complaint or conduct matter relates to the conduct of a person whose identity is unknown at the time at which the complaint is made or the conduct matter is recorded, and whose identity is not known during or subsequent to the investigation of the complaint or recordable conduct matter, these Regulations apply in relation to such a person as if they did not include—

- (a) any requirement for the person complained against to be given a notification or an opportunity to make representations;
- (b) any requirement for the Commission or the Chief Executive to determine whether a criminal offence may have been committed by the person whose conduct has been the subject matter of an investigation, or to take any action in relation to such a determination;
- (c) any requirement for the Chief Executive to determine whether disciplinary proceedings should be brought against a person whose conduct is the subject matter of a report.

(2) Where the identity of such a person is subsequently ascertained, the Commission and the Chief Executive must take such action in accordance with these Regulations as they see fit, regardless of any previous action taken under these Regulations as modified above.

Notification of actions and decisions

80.—(1) So far as not covered by regulations 69(11) and (12) and 73(14) and (15) (notifications by the Commission in relation to recommending disciplinary proceedings), where the Commission takes any action or decisions in consequence of it having received a memorandum under regulation 69(9) or regulation 73(5), it must notify such action or decisions, together with an explanation of its reasons for having taken them, to—

- (a) the Chief Executive;
- (b) the complainant and any other interested person within the meaning of regulation 14 (duty to provide information for other persons);

(c) subject to paragraph (2), the person complained against.

(2) The Commission may decide not to give such a notification and explanation to the person complained against if it is of the opinion that that notification might prejudice any criminal investigation or proceedings or review of the complaint.

Records to be kept by the Chief Executive

81.—(1) The Chief Executive must keep records, in such form as the Commission must determine, of—

- (a) every complaint and purported complaint that is made to the Chief Executive;
- (b) every conduct matter recorded under regulation 28 or 29;
- (c) every DSI matter recorded under regulation 34;
- (d) every exercise of a power or performance of a duty under these Regulations.

Register to be kept by the Commission

82.—(1) The Commission must establish and maintain a register of all information supplied to it by the Chief Executive under these Regulations.

(2) Subject to paragraph (3), the Commission may publish or otherwise disclose to any person any information held on the register, provided that the publication or disclosure is necessary for or conducive to the purpose of—

- (a) learning lessons from the handling of, or demonstrating the thoroughness and effectiveness of, local resolutions or investigations;
- (b) raising public awareness of the complaints system; or
- (c) improving the complaints system.

(3) Information may not be published or disclosed in circumstances where in the opinion of the Commission the non-disclosure of information is necessary for a purpose mentioned in regulation 16(1)(a) or (b) (exceptions to the duty to keep the complainant informed and to provide information for other persons).

Delegation of powers and duties by the Chief Executive

83.—(1) Subject to paragraph (2), the Chief Executive may delegate all or any of the powers or duties conferred or imposed on the Chief Executive by or under these Regulations to another officer of the Authority.

(2) The Chief Executive may not, in any particular case, delegate any power or duty under paragraph (1) to a person—

- (a) unless that person has an appropriate level of knowledge, skills and experience to exercise the power or perform the duty;
- (b) if that person works, directly or indirectly, under the management of the person whose conduct is being investigated;
- (c) if that person's involvement in the role could reasonably give rise to a concern as to whether that person could act impartially under these Regulations.

Manner and time limits of notifications

84.—(1) Any notification to be given under these Regulations must—

- (a) unless otherwise specified in these Regulations or determined in guidance issued by the Commission, be given in writing;
 - (b) unless otherwise specified in these Regulations, be made within such period as the Commission may determine in guidance.
- (2) No time limit mentioned in these Regulations or determined by the Commission applies in any case where exceptional circumstances prevent that time limit being complied with.

Appeals

85.—(1) This regulation applies to an appeal under any of the following provisions of these Regulations—

- (a) regulation 20(3) (appeal against a failure to record a complaint);
- (b) regulation 25(6) (appeal against a decision to handle a complaint otherwise than in accordance with these Regulations or take no action in relation to it);
- (c) regulation 27(1) (appeal against the outcome of a complaint subjected to local resolution or handled otherwise than in accordance with these Regulations);
- (d) regulation 66(9) (appeal against a decision to discontinue an investigation); and
- (e) regulation 73(2) (appeal in relation to an investigation).

(2) Where the Chief Executive notifies the complainant of a decision which is or may be capable of appeal under any of the provisions in paragraph (1), the Chief Executive must at the same time notify the complainant in writing of—

- (a) the existence of the right of appeal;
- (b) the fact that the appeal is to the Commission; and
- (c) the time limit for making an appeal mentioned in paragraph (3).

(3) Subject to paragraph (4), an appeal must be made within a period of 28 days commencing on the day after the date of the letter giving notification under paragraph (2).

(4) The Commission may extend the time period mentioned in paragraph (3) in any case where it is satisfied that by reason of the special circumstances of the case it is just to do so.

(5) Subject to paragraph (6), an appeal must be made in writing and must state—

- (a) details of the complaint;
- (b) the date on which the complaint was made;
- (c) the decision which is the subject of the appeal;
- (d) the grounds for the appeal; and
- (e) the date on which notification was given under paragraph (2).

(6) Where the Commission receives an appeal which fails to comply with one or more of the requirements mentioned in paragraph (5), it may decide to proceed as if that requirement or those requirements had been complied with.

(7) Where the Commission receives an appeal it must—

- (a) notify the Chief Executive of the appeal as soon as reasonably practicable; and
- (b) request any information from any person which it considers necessary to dispose of the appeal.

(8) Any person receiving a request under paragraph (7)(b) must supply to the Commission the information requested.

(9) The Commission must determine the outcome of the appeal as soon as practicable.

(10) The Commission must notify the complainant and the Chief Executive of the reasons for its determination.

(11) In the case of an appeal other than one under regulation 20(3)—

(a) the Commission must notify the complainant of any direction it gives to the Chief Executive as to the future handling of the complaint; and

(b) subject to paragraph (12), the Chief Executive must notify the person complained against of any such direction.

(12) The Chief Executive may decide not to make a notification under paragraph (11)(b) if the Chief Executive is of the opinion that to do so might prejudice any criminal investigation or proceedings or would otherwise be contrary to the public interest.