
STATUTORY INSTRUMENTS

2017 No. 521

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

PART 6

INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

Special procedure: assessment of seriousness of conduct under investigation

53.—(1) If, during the course of an investigation of a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have—

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the person investigating must certify the investigation as one subject to special requirements.

(2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.

(3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—

- (a) as soon as is reasonably practicable after that person's appointment or designation; or
- (b) in the case of a matter recorded in accordance with regulations 67(5) or 72(2), as soon as is reasonably practicable after it is so recorded.

(4) For the purposes of this regulation a "severity assessment", in relation to conduct, means an assessment as to whether the conduct, if proved, would amount to misconduct or gross misconduct.

(5) An assessment under this regulation may only be made after consultation with the Chief Executive.

(6) On completing an assessment under this regulation, the person investigating the complaint or matter must give a notification to the person concerned that complies with paragraph (7).

(7) The notification must be in writing and state—

- (a) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Authority's standards;
- (b) that there is an investigation into the matter and the identity of the person investigating;
- (c) the assessment of the person investigating as to whether that conduct, if proved, would amount to misconduct or gross misconduct;
- (d) that the person concerned has the right to seek advice from the trade union or any other body representing the interests of the person concerned and of the effect of regulation 57 (LAPO friend); and

(e) the effect of paragraph (8) and regulation 54 (duty to consider submissions from person whose conduct is being investigated).

(8) The person concerned or the person's LAPO friend has such a period as determined by the Chief Executive, starting with the day after which the notice is given under paragraph (7) (unless this period is extended by the person investigating), to provide any relevant statement or relevant document as the case may be.

(9) Paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—

(a) the investigation; or

(b) any other investigation (including, in particular, a criminal investigation).

(10) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.

(11) On revising a severity assessment, the person investigating the complaint or matter must, as soon as practicable, give the person concerned further written notice of the assessment of whether the conduct, if proved, would amount to misconduct or gross misconduct, as the case may be, and the reason for that assessment.

(12) The notice, whether given in accordance with paragraph (6) or (11), must be—

(a) given to the person concerned in person;

(b) left with some person at, or sent by recorded delivery to, the last known address of the person concerned; or

(c) given to the person concerned in person by that person's LAPO friend where the LAPO friend has agreed with the Chief Executive to deliver the notice.

(13) In this regulation and regulations 54 to 57—

“the person concerned” means—

(a) in relation to an investigation of a complaint, the LAPO in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph (1);

(b) in relation to an investigation of a recordable conduct matter, the LAPO to whose conduct the investigation relates;

“relevant document” means a document relating to a complaint or matter under investigation and includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;

“relevant statement” means an oral or written statement relating to a complaint or matter under investigation.