
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Service Police (Complaints etc.) Regulations 2023

PART 2

The Service Police Complaints Commissioner

General functions of the Commissioner

- 3.—(1) The functions of the Commissioner are—
- (a) to secure the maintenance by the Commissioner, the Defence Council, the Boards and the Provost Marshals of suitable arrangements with respect to the matters mentioned in paragraph (2);
 - (b) to keep under review all arrangements maintained with respect to those matters;
 - (c) to secure that arrangements maintained with respect to those matters comply with the requirements of the provisions of Part 3, are efficient and effective and contain and manifest an appropriate degree of independence;
 - (d) to secure that the confidence of persons subject to service law⁽¹⁾ and civilians subject to service discipline⁽²⁾ as well as public confidence, is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters;
 - (e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of service police practice in relation to other matters, as appear, from the carrying out by the Commissioner of the Commissioner's other functions, to be necessary or desirable.
- (2) Those matters are—
- (a) the handling of complaints within the meaning given by regulation 9;
 - (b) the recording of matters from which it appears that there may have been conduct by a member of a service police force which constitutes or involves the commission of a service offence or behaviour that would justify the initiation of administrative action procedures;
 - (c) the recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with a member of a service police force;
 - (d) the manner in which any such complaints or any such matters as are mentioned in subparagraph (b) or (c) are investigated or otherwise handled and dealt with.
- (3) The Commissioner also has functions conferred on the Commissioner by Part 4 in relation to super-complaints.
- (4) The Commissioner must—
- (a) exercise the powers and perform the duties conferred on the Commissioner by this Part and Part 3 in the manner that the Commissioner considers best calculated for the purpose

(1) See section 367 of the 2006 Act for the meaning of "persons subject to service law".

(2) See section 370 of the 2006 Act for the meaning of "civilian subject to service discipline".

of securing the proper carrying out of the Commissioner's functions under paragraph (1) of this regulation; and

- (b) secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by a member of a service police force.

(5) Subject to the other provisions of these Regulations, the Commissioner may do anything which appears to the Commissioner to be calculated to facilitate, or is incidental or conducive to, the carrying out of the Commissioner's functions.

Cooperation between the Commissioner and the Chief Inspector of Constabulary

4. The Commissioner and the Chief Inspector must—

- (a) enter into arrangements with one another for the purpose of securing cooperation, in the carrying out of their respective functions, between the Commissioner and the inspectors of constabulary⁽³⁾; and
- (b) ensure that the inspectors of constabulary provide the Commissioner, and the Commissioner provides the inspectors, with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Commissioner and the Chief Inspector to be appropriate for facilitating the carrying out of their respective functions.

Efficiency etc. in exercise of functions

5. The Commissioner must carry out the Commissioner's functions efficiently and effectively.

Strategy for exercise of functions

6.—(1) The Commissioner must—

- (a) prepare a strategy for the carrying out of the Commissioner's functions; and
- (b) review the strategy (and revise it as appropriate) at least once every 12 months.

(2) The strategy must set out how the Commissioner proposes to carry out those functions in the relevant period.

(3) The strategy must also include a plan for the use, during the relevant period, of resources for the carrying out of the Commissioner's functions.

(4) The Commissioner must give effect to the strategy in carrying out those functions.

(5) The Commissioner must publish a strategy (or revised strategy) prepared under this regulation (stating the time from which it takes effect).

(6) In this regulation "relevant period", in relation to a strategy, means the period of time that is covered by the strategy.

Reports to the Secretary of State

7.—(1) As soon as practicable after the end of each calendar year, the Commissioner must make a report to the Secretary of State on the carrying out of the Commissioner's functions during that year.

(2) The Secretary of State may also, at any time, require the Commissioner to make a report on the carrying out of the Commissioner's functions.

(3) The Commissioner may, from time to time, make such other reports to the Secretary of State as the Commissioner considers appropriate for drawing the Secretary of State's attention to matters which—

(3) Inspectors of constabulary are persons appointed under section 54(1) of the 1996 Act.

- (a) have come to the Commissioner's notice; and
 - (b) are matters which the Commissioner considers should be drawn to the attention of the Secretary of State by reason of their gravity or other exceptional circumstances.
- (4) The Commissioner must prepare such reports containing advice and recommendations as the Commissioner thinks appropriate for the purpose of carrying out the Commissioner's function under regulation 3(1)(e).
- (5) Where the Secretary of State receives any report under this regulation, the Secretary of State must—
- (a) in the case of every annual report under paragraph (1); and
 - (b) in the case of any other report, if and to the extent that the Secretary of State considers it appropriate to do so,
- lay a copy of the report before Parliament and cause the report to be published.
- (6) The Commissioner must send a copy of every annual report under paragraph (1) to the Defence Council and the Boards.
- (7) The Commissioner must send a copy of every report under paragraph (3)—
- (a) to the Defence Council or the Board that appears to the Commissioner to be concerned; and
 - (b) to the Provost Marshal that appears to the Commissioner to be concerned.
- (8) The Commissioner must send a copy of every report under paragraph (4) to—
- (a) the Secretary of State;
 - (b) the Defence Council;
 - (c) the Boards;
 - (d) the Provost Marshals.
- (9) The Commissioner must send a copy of every report made or prepared by the Commissioner under paragraph (3) or (4) to such of the persons (in addition to those specified in the preceding paragraphs) who—
- (a) are referred to in the report; or
 - (b) appear to the Commissioner otherwise to have a particular interest in its contents,
- as the Commissioner thinks fit.