
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Service Police (Complaints etc.) Regulations 2023

PART 4

Super-complaints

CHAPTER 1

Interpretation

Interpretation of this Part

87. In this Part—

“super-complaint” means a complaint made to the Chief Inspector under regulation 88;

“trade union” has the meaning given in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992⁽¹⁾.

CHAPTER 2

Power to make super-complaints

Power to make super-complaints

88.—(1) A body designated by the Secretary of State in accordance with this Part may make a super-complaint to the Chief Inspector that a feature, or combination of features, of policing by one or more than one relevant body⁽²⁾ is, or appears to be, significantly harming the interests of the public.

(2) The Secretary of State may make or revoke such a designation if the Secretary of State considers it appropriate to do so.

(3) The Secretary of State must, in deciding whether to act under paragraph (2), apply the criteria specified in regulation 89, or the criterion specified in regulation 90, as the case may be.

(4) The Secretary of State must publish, in such manner as the Secretary of State considers appropriate, the name of each body designated and the revocation of any such designation.

Criteria for the making of designations

89. The following criteria must be applied by the Secretary of State in deciding whether to make a designation—

(a) that the body is competent in, and has considerable experience of, representing the interests of the public;

(b) that the body would represent the interests of the public effectively in its role as a designated body and, in particular, would work to improve policing;

(1) 1992 c. 52.

(2) See section 340R(2) of the 2006 Act for the meaning of “relevant body”.

- (c) that the composition of the body and the arrangements for its governance and accountability are such that it can be relied upon to act independently and with integrity in its role as a designated body;
- (d) that the body has the capability necessary to carry out its role as a designated body effectively;
- (e) that the body has made arrangements for the appropriate storage and handling of data that it may obtain in its role as a designated body;
- (f) that the body can be relied upon to have regard to any guidance in relation to the making of super-complaints under regulation 88(1) which is given to designated bodies by the Chief Inspector;
- (g) that the body is not—
 - (i) a trade union; or
 - (ii) an association (other than a trade union) which represents the interests of members of a service police force;
- (h) that the body would—
 - (i) collaborate effectively with bodies which are not designated bodies but which are, or may be, aware of matters which could form the basis of a super-complaint; and
 - (ii) where appropriate, make a super-complaint on the basis of matters raised with it by such bodies.

Criterion for the revocation of designations

90. The criterion specified for the revocation of a designation is that one or more of the following sets of circumstances apply in relation to the body—

- (a) it is failing to represent the interests of the public effectively in its role as a designated body;
- (b) it is failing to act independently and with integrity in that role;
- (c) it no longer has the capability necessary to carry out that role;
- (d) it no longer has effective arrangements for the appropriate storage and handling of data that it may obtain in its role as a designated body;
- (e) it is failing to have regard to guidance in relation to the making of super-complaints under regulation 88(1) which is given to designated bodies by the Chief Inspector;
- (f) it has become—
 - (i) a trade union; or
 - (ii) an association (other than a trade union) which represents the interests of members of a service police force;
- (g) it is—
 - (i) failing to collaborate effectively with bodies which are not designated bodies but which are, or may be, aware of matters which could form the basis of a super-complaint; or
 - (ii) failing to make super-complaints in appropriate cases on the basis of matters raised with it by such bodies.

Guidance about super-complaints

91.—(1) The Chief Inspector may give guidance in relation to the making of super-complaints, to bodies designated by the Secretary of State in accordance with this Part.

(2) The Chief Inspector may revise any guidance given under paragraph (1).

Requirements for making super-complaints

92.—(1) A super-complaint must be in writing.

(2) A super-complaint must—

- (a) set out the feature, or combination of features, of policing to which it relates;
- (b) explain why the designated body making the complaint, is of the opinion that the feature, or combination of features, is or appears to be significantly harming the interests of the public; and
- (c) include the evidence relied upon by that designated body to support that opinion.

(3) A super-complaint must give the name of an individual representing the designated body making the complaint, who may be contacted about the super-complaint.

CHAPTER 3

Duties in respect of super-complaints

Duty to acknowledge receipt

93. The Chief Inspector must acknowledge receipt of a super-complaint before the end of the period of 5 working days beginning with the day on which the super-complaint is received or, if that day is not a working day, beginning with the first working day after that day.

Duty to determine eligibility for consideration

94.—(1) Where a super-complaint is received by the Chief Inspector, the Chief Inspector and the Commissioner must decide whether it is eligible for consideration.

(2) Subject to paragraphs (3) and (4), a super-complaint is eligible for consideration if it complies with the requirements of regulation 92.

(3) A super-complaint that merely repeats the substance of a super-complaint that is being investigated is not eligible for consideration.

(4) A super-complaint that merely repeats the substance of a super-complaint that has already been investigated is not eligible for consideration unless there has been a material change of circumstances since the previous super-complaint was made.

(5) If the Chief Inspector and the Commissioner decide that a super-complaint is eligible for consideration, the Chief Inspector must inform the designated body making the super-complaint, in writing that—

- (a) the super-complaint will be investigated; and
- (b) that designated body will be provided with progress reports on the investigation of the super-complaint.

(6) Where the Chief Inspector and the Commissioner are unable to agree on whether a super-complaint is eligible for consideration, the decision whether the super-complaint is eligible for consideration is to be made by the Chief Inspector.

(7) If the Chief Inspector and the Commissioner decide that the super-complaint is not eligible for consideration, the Chief Inspector must inform the designated body making the complaint in writing of that decision and the reasons for it.

Duty to provide progress reports

95.—(1) Where the designated body making the complaint has been informed that a super-complaint will be investigated, the Chief Inspector must, before the end of each relevant period, send that designated body a written progress report.

(2) Subject to paragraph (3), the progress report must include the following information—

- (a) an explanation of the steps the Chief Inspector and the Commissioner have taken in relation to the investigation (so far as they have not been explained in a previous written progress report sent to that designated body);
- (b) an explanation of the steps they propose to take in relation to the investigation before the end of the next relevant period in relation to the investigation.

(3) The Chief Inspector may exclude information from the progress report if the Chief Inspector considers that its inclusion—

- (a) would be contrary to the interests of national security; or
- (b) might jeopardise the safety of any person.

(4) For the purposes of this regulation, each of the following is a “relevant period”—

- (a) the period of 56 working days beginning with the day on which the Chief Inspector informs the designated body making the complaint that the super-complaint will be investigated;
- (b) each subsequent period of 56 working days beginning with the first working day after the end of the preceding relevant period.

Duty to report on outcome of investigation

96.—(1) When the Chief Inspector and the Commissioner have concluded an investigation of a super-complaint, they must make a report—

- (a) describing the steps they have taken to investigate the super-complaint;
- (b) setting out their conclusions and the reasons for them;
- (c) describing any further action they (or one of them) propose to take; and
- (d) making such recommendations to any other person as they consider appropriate.

(2) The Chief Inspector must—

- (a) send the report to the designated body making the complaint; and
- (b) publish it in such form and manner as the Chief Inspector considers appropriate.

(3) The Chief Inspector may exclude information from the report sent to that designated body and published under paragraph (2) if the Chief Inspector considers that its inclusion—

- (a) would be contrary to the interests of national security; or
- (b) might jeopardise the safety of any person.

(4) Where the Chief Inspector and the Commissioner are unable to agree on the contents of a report, the Chief Inspector and the Commissioner must each include in the report their opinion on the matters on which there is disagreement.

CHAPTER 4

Further provision about super-complaints

Powers in relation to investigations

97.—(1) The Chief Inspector and the Commissioner may request any person to provide advice on, or assistance with, the investigation of a super-complaint or the preparation of a report under regulation 96.

(2) Subject to the modification in paragraph (3), paragraphs 6A and 6B of Schedule 4A to the 1996 Act (further provision about His Majesty’s inspectors of constabulary: powers of inspectors to obtain information and access to premises) apply in relation to an investigation of a super-complaint under this Part as they apply in relation to an inspection under section 54 of that Act (appointment and functions of inspectors of constabulary).

(3) The modification mentioned in paragraph (2) is that in paragraph 6B of Schedule 4A to the 1996 Act, for sub-paragraph (1)(a) there were substituted—

“premises that are occupied (wholly or partly) for the purposes of the tri-service serious crime unit or a service police force, and”.

(4) Subject to the modification in paragraph (5), where a notice is, by virtue of paragraph (2), served under paragraph 6A of Schedule 4A to the 1996 Act, paragraphs 6C and 6D of that Schedule (further provision about His Majesty’s inspectors of constabulary: failure to comply with notices and appeals) apply in relation to the notice.

(5) The modification mentioned in paragraph (4) is that in paragraph 6D(2) of Schedule 4A to the 1996 Act, after paragraph (g) there were inserted—

“(h) the Defence Council, the Admiralty Board, the Army Board, the Royal Air Force Board, a member of the tri-service serious crime unit or a member of a service police force”.

(6) Where a notice is, by virtue of paragraph (2), served under paragraph 6B of Schedule 4A to the 1996 Act, paragraph 6C of that Schedule applies in relation to the notice.

(7) For the purpose of investigating a super-complaint under this regulation, regulation 43 (power to serve information notice) and regulation 75 (inspection of service police premises on behalf of the Commissioner) apply as they apply in relation to an investigation under Part 3, and any reference to a complaint in regulation 36 (as mentioned in regulation 43(1)) and regulation 75 is to be read as including a reference to a super-complaint.

(8) Where a notice is, by virtue of paragraph (7), served under regulation 43, regulations 44 (failure to comply with information notice) and 45 (appeals against information notices) apply in relation to the notice.

Information sharing etc.

98.—(1) For the purpose of investigating a super-complaint, the Chief Inspector and the Commissioner may use any information held by them and share that information with each other.

(2) The use or sharing of information by the Chief Inspector and the Commissioner under paragraph (1) does not breach any obligation of confidence owed by them.