
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Service Police (Complaints etc.) Regulations 2023

PART 3

Complaints etc.

CHAPTER 3

Handling of conduct matters

Reference of conduct matters to the Commissioner

24.—(1) An appropriate authority must refer a recordable conduct matter to the Commissioner if—

- (a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury or to conduct falling within regulation 22(2)(c) (i) to (v), (vii) or (viii); or
- (b) the Commissioner notifies the appropriate authority that the matter must be referred to the Commissioner.

(2) In any case where there is no duty under paragraph (1) to make a reference, the appropriate authority may refer a recordable conduct matter to the Commissioner if that authority considers that it would be appropriate to do so by reason of—

- (a) the gravity of the matter; or
- (b) any exceptional circumstances.

(3) Where a Provost Marshal is the appropriate authority and a reference under paragraph (1) or (2) is neither made nor required to be made, the appropriate authority for that Provost Marshal may refer any recordable conduct matter to the Commissioner if it considers that it would be appropriate to do so by reason of—

- (a) the gravity of the matter; or
- (b) any exceptional circumstances.

(4) Any conduct matter which is required to be referred to the Commissioner must be referred in such manner as the Commissioner determines and—

- (a) if the matter falls within paragraph (1)(a), without delay and in any event not later than the end of the day following the day on which it becomes clear to the appropriate authority that the conduct matter is one to which that paragraph applies;
- (b) if the matter falls within paragraph (1)(b), without delay and in any event not later than the end of the day following the day on which the Commissioner notifies the appropriate authority that the conduct matter is to be referred.

(5) Subject to paragraph (7), the power of—

- (a) the Commissioner by virtue of paragraph (1)(b) to require a matter to be referred to the Commissioner;

- (b) the appropriate authority to refer any matter to the Commissioner under paragraph (2); and
- (c) the Defence Council or a Board to refer any matter to the Commissioner under paragraph (3),

are each exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the Commissioner.

(6) Where—

- (a) an appropriate authority refers a matter to the Commissioner under this regulation; and
- (b) that authority does not consider that to do so might prejudice an investigation of that matter (whether an existing investigation or a possible future one),

the authority must give a notification of the making of the reference to the person to whose conduct that matter relates.

(7) A matter that has already been referred to the Commissioner under this regulation on a previous occasion, or that has been treated as having been so referred by virtue of regulation 25—

- (a) is not required to be referred again under this paragraph unless the Commissioner so directs; and
- (b) must not be referred in exercise of any power conferred by this regulation unless the Commissioner consents.