
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Service Police (Complaints etc.) Regulations 2023

PART 3

Complaints etc.

CHAPTER 5

Investigations and Subsequent Proceedings etc.

Power of the Commissioner to determine the form of an investigation

32.—(1) This regulation applies where—

- (a) a complaint, recordable conduct matter or DSI matter is referred to the Commissioner; and
- (b) the Commissioner determines under regulation 16(1), 26(1) or 31(1) that it is necessary for the complaint or matter to be investigated.

(2) This regulation also applies where the Commissioner determines under regulation 18(5)(a) that it is necessary for a complaint to be investigated.

(3) The Commissioner must determine the form which the investigation should take.

(4) The only forms which the investigation may take in accordance with a determination made under this regulation are—

- (a) an investigation by the appropriate authority on its own behalf;
- (b) an investigation by that authority under the direction of the Commissioner;
- (c) an investigation by the Commissioner.

(5) In making a determination under paragraph (3) the Commissioner must first determine whether, having regard to the seriousness of the case and the public interest, it is appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, and if it is, the Commissioner must determine that the investigation is to take that form.

(6) Where, in accordance with paragraph (5), the Commissioner determines that it is not appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, the Commissioner must determine that the investigation is to take the form of an investigation by the Commissioner unless paragraph (7) applies.

(7) This paragraph applies where the Commissioner determines that it would be more appropriate for the investigation to take the form of an investigation by the appropriate authority under the direction of the Commissioner, in which case the Commissioner must determine that the investigation is to take that form.

(8) Where the Commissioner determines under paragraph (7) or (10) that an investigation is to take the form of an investigation by the appropriate authority under the direction of the Commissioner, the Commissioner must keep under review whether that form of investigation continues to be the most appropriate form of investigation.

(9) If, on such a review, the Commissioner determines that—

- (a) it would be more appropriate for the investigation to take the form of an investigation by the Commissioner, the Commissioner must make a further determination under this regulation (to replace the earlier one) that the investigation is instead to take that form;
 - (b) having regard to the seriousness of the case and the public interest, it would be more appropriate for the investigation to take the form of an investigation by the appropriate authority on its own behalf, the Commissioner may make a further determination under this regulation (to replace the earlier one) that the investigation is instead to take that form.
- (10) Subject to paragraph (9), if at any time the Commissioner determines that, were the Commissioner to apply paragraphs (5) to (7) again, the form of the investigation would be different, the Commissioner may make a further determination under this paragraph (to replace the earlier one) such that the investigation takes that different form.
- (11) Where a determination under this regulation replaces an earlier determination under this regulation, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the Commissioner may give—
- (a) the appropriate authority; and
 - (b) any person previously appointed to carry out the investigation,
- such directions as the Commissioner considers appropriate for the purpose of giving effect to the new determination.
- (12) The person to whom a direction is given under paragraph (11) must comply with it.
- (13) The Commissioner must notify the appropriate authority of any determination that the Commissioner makes under this regulation in relation to a particular complaint, recordable conduct matter or DSI matter and of the Commissioner's reasons for making the determination.
- (14) The Commissioner must also notify the following, of any determination that the Commissioner makes under this paragraph in relation to a particular complaint, recordable conduct matter or DSI matter and of the Commissioner's reasons for making the determination—
- (a) every person entitled to be kept properly informed in relation to the complaint or matter under regulation 78;
 - (b) where the determination is made in relation to a complaint, the complainant;
 - (c) the person to whose conduct the investigation will relate.
- (15) The duty imposed by paragraph (14) on the Commissioner in relation to a complaint, recordable conduct matter or DSI matter is subject to regulation 67.