
DRAFT STATUTORY INSTRUMENTS

2023 No.

The Service Police (Complaints etc.) Regulations 2023

PART 3

Complaints etc.

CHAPTER 5

Investigations and Subsequent Proceedings etc.

Resumption of investigation of complaint after disciplinary or criminal proceedings

41.—(1) This regulation applies where—

- (a) the Commissioner or an appropriate authority has suspended the whole or part of the investigation of a complaint until the conclusion of disciplinary or criminal proceedings under regulation 40; and
- (b) those proceedings have concluded.

(2) Where the complainant has not indicated—

- (a) a wish for the investigation to start or be resumed; or
- (b) a wish that the investigation is not started or resumed,

the Commissioner or appropriate authority (as the case may be) must write to the complainant to determine how the complainant wishes to proceed.

(3) Where the complainant indicates a wish for the investigation to start or be resumed, the Commissioner or appropriate authority (as the case may be) must start or resume the investigation.

(4) Where the complainant—

- (a) indicates a wish that the investigation is not started or resumed; or
- (b) does not reply to a letter under paragraph (2) within a period of 28 days starting with the day after the letter was sent by the Commissioner or appropriate authority in accordance with paragraph (2),

the Commissioner or appropriate authority (as the case may be) must determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

(5) Where the Commissioner or appropriate authority determines that it is not in the public interest for the complaint to be treated as a recordable conduct matter, this Part ceases to apply to the complaint.

(6) Where the Commissioner or appropriate authority determines that it is in the public interest for the complaint to be treated as a recordable conduct matter, Chapter 3 of this Part (handling of conduct matters) applies to the matter.

(7) Subject to paragraph (8), the Commissioner or appropriate authority (as the case may be) must notify the person complained against if paragraph (5) or (6) applies.

(8) Nothing in paragraph (7) requires the Commissioner or appropriate authority to make a notification if the Commissioner or appropriate authority (as the case may be) believes that that might prejudice any investigation relating to a service offence or criminal investigation, any pending disciplinary or criminal proceedings, or would be contrary to the public interest.