
STATUTORY INSTRUMENTS

2012 No. 1204

The Police (Complaints and Misconduct) Regulations 2012

Power to discontinue an investigation

10.—(1) For the purposes of paragraph 21(1) and (1A) of Schedule 3 to the 2002 Act (discontinuance of investigations) the descriptions of complaint or matter set out in paragraph (2) of this regulation are hereby specified.

(2) Those descriptions are any complaint or matter—

- (a) in which the complainant refuses to co-operate to the extent that the relevant body considers that it is not reasonably practicable to continue the investigation;
- (b) which the appropriate authority has determined is suitable for local resolution;
- (c) which the relevant body considers is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints, conduct matters or DSI matters;
- (d) which is repetitious, as defined in regulation 3(3); or
- (e) which the relevant body otherwise considers is such as to make it not reasonably practicable to proceed with the investigation.

(3) For the purposes of paragraph (2) “relevant body” means—

- (a) the Commission, in a case where discontinuance is within the Commission’s power in accordance with paragraph 21(1B) of Schedule 3 to the 2002 Act; and
- (b) the appropriate authority, in any other case.

(4) For the purposes of paragraph 21(2) of Schedule 3 to the 2002 Act the cases in which the Commission is authorised to discontinue an investigation that is being carried out in accordance with paragraph 19 of that Schedule are any cases where the complaint, conduct matter or DSI matter under investigation falls within paragraph (2) of this regulation.

(5) Before discontinuing an investigation or applying to the Commission for an order requiring the discontinuance of an investigation, an appropriate authority shall—

- (a) write to the complainant at his last known address—
 - (i) inviting him to make representations in relation to the matter, and
 - (ii) allowing him a period of 28 days, commencing on the day after the date of the letter, to do so; and
- (b) have regard to any representations made by the complainant.

(6) Any application by an appropriate authority to the Commission for an order that it discontinue an investigation shall be in writing and shall be accompanied by—

- (a) a copy of the complaint, and
- (b) a memorandum from the appropriate authority containing a summary of the investigation undertaken so far and explaining the reasons for the application to discontinue the investigation.

(7) The appropriate authority shall—

- (a) send the complainant a copy of any such application on the same day as the day on which the application is sent to the Commission; and
 - (b) supply any further information requested by the Commission for the purpose of considering that application.
- (8) The Commission shall not require the discontinuance of an investigation in a case where there has been no application to do so by the appropriate authority unless it has consulted with that authority.
- (9) Before requiring the discontinuance of an investigation under paragraph 21(1) of Schedule 3 to the 2002 Act in a case where there has been no application to do so by the appropriate authority, or discontinuing an investigation itself under paragraph 21(2) of that Schedule, the Commission shall—
- (a) write to the complainant at his last known address—
 - (i) inviting him to make representations in relation to the matter, and
 - (ii) allowing him a period of 28 days, commencing on the day after the date of the letter, to do so; and
 - (b) have regard to any representations made by the complainant.
- (10) A direction given to an appropriate authority by the Commission under paragraph 21(4)(a) of Schedule 3 to the 2002 Act may—
- (a) require the appropriate authority to produce an investigation report on the discontinued investigation under paragraph 22 of that Schedule and to take any subsequent steps under that Schedule;
 - (b) where the investigation concerned a complaint, require the appropriate authority to disapply the requirements of Schedule 3 to the 2002 Act as respects that complaint;
 - (c) in a case within paragraph (2)(b) of this regulation, require the appropriate authority to subject the complaint to local resolution;
 - (d) direct the appropriate authority to handle the matter in whatever manner (if any) that authority thinks fit.
- (11) The steps set out in paragraph (12) are hereby specified for the purposes of paragraph 21(6)(a) of Schedule 3 to the 2002 Act (steps that may be taken by the appropriate authority when an investigation is discontinued) and, with the exception of the step set out in paragraph (12)(c), are also specified for the purposes of paragraph 21(4)(b) of that Schedule (steps that may be taken by the Commission when an investigation is discontinued).
- (12) Those steps are—
- (a) to produce an investigation report on the discontinued investigation and take any subsequent steps under that Schedule;
 - (b) where the investigation concerned a complaint, to disapply the requirements of Schedule 3 to the 2002 Act as respects that complaint;
 - (c) to subject the complaint to local resolution;
 - (d) to handle the matter in whatever manner the appropriate authority or (as the case may be) the Commission thinks fit.