
STATUTORY INSTRUMENTS

2017 No. 521

**The Gangmasters and Labour Abuse Authority
(Complaints and Misconduct) Regulations 2017**

PART 3

HANDLING OF COMPLAINTS

Disapplication of the requirements of these Regulations

- 24.**—(1) If, in a case in which regulation 23 applies, the Chief Executive considers—
- (a) that the complaint should be handled otherwise than in accordance with these Regulations or that no action should be taken in relation to it; and
 - (b) that the complaint falls within the description of complaints specified in paragraph (7),
- the Chief Executive may handle the complaint in whatever manner (if any) that the Chief Executive thinks fit.
- (2) But, in a case where regulation 23 applies by virtue of regulation 23(2)(a) or (b), the Chief Executive may not handle the complaint in whatever manner (if any) the Chief Executive thinks fit unless—
- (a) the Chief Executive applies to the Commission, in accordance with these Regulations, for permission to so handle the complaint; and
 - (b) the Commission gives permission.
- (3) An application under paragraph (2) must be in writing and must be accompanied by—
- (a) a copy of the complaint;
 - (b) an explanation of the Chief Executive’s reasons for making the application; and
 - (c) copies of any other documents or material in the Chief Executive’s possession which are relevant to the complaint.
- (4) The Chief Executive must supply any further information requested by the Commission for the purpose of considering an application made under paragraph (2).
- (5) Where such an application is made to the Commission, it must—
- (a) consider the application and determine whether to grant the permission applied for; and
 - (b) notify its decision to the Chief Executive and the complainant.
- (6) Where an application is made under paragraph (2) in respect of any complaint, the Chief Executive must not, while the application is being considered by the Commission, take any action in accordance with the provisions of these Regulations (other than under regulation 17 (duties to preserve evidence relating to complaints)) in relation to that complaint.
- (7) For the purposes of paragraph (1)(b), the description of complaints specified are those in relation to which the Chief Executive considers that—

- (a) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay;
 - (b) the matter is already the subject of a complaint made by or on behalf of the same complainant;
 - (c) the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name and address;
 - (d) the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;
 - (e) the complaint is repetitious; or
 - (f) it is not reasonably practicable to complete the investigation of the complaint or any other procedures under these Regulations.
- (8) For the purposes of paragraph (7)(e), a complaint is repetitious if, and only if—
- (a) it concerns substantially the same conduct as a previous conduct matter or it is substantially the same as a previous complaint made by or on behalf of the same complainant;
 - (b) it contains no fresh allegations which significantly affect the account of the conduct complained of;
 - (c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is provided in support of it;
 - (d) as respects the previous complaint or conduct matter, either—
 - (i) the complaint was resolved by local resolution in accordance with regulation 26;
 - (ii) the complaint was handled otherwise than in accordance with these Regulations or no action was taken in relation to it, in accordance with this regulation and regulation 25;
 - (iii) the Commission gave the Chief Executive a direction under regulation 65 (power to discontinue an investigation);
 - (iv) the Chief Executive disapplied the requirements of these Regulations in accordance with regulation 66(8)(b);
 - (v) the complainant gave such notification as is mentioned in regulation 40(1) (withdrawn complaints); or
 - (vi) the requirements of regulation 69(9) or 70(11) (determination by the Chief Executive of what action to take) were complied with.
- (9) For the purposes of paragraph (7)(f), it is not reasonably practicable to complete the investigation of a complaint or any other procedures under these Regulations if, and only if—
- (a) it is not reasonably practicable to communicate with the complainant or a person acting on the complainant's behalf; or
 - (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of—
 - (i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation; or
 - (ii) the lapse of time since the event or events forming the subject matter of the complaint.
- (10) In this regulation any reference to action not being reasonably practicable includes a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.