
STATUTORY INSTRUMENTS

2020 No. 2

The Police (Complaints and Misconduct) Regulations 2020

PART 2

Handling of complaints, conduct matters and DSI matters

Recording of complaints: copies of complaints etc.

3.—(1) Where a local policing body or chief officer records a complaint under paragraph 2(6A) or 4A(4) of Schedule 3 (duties to record complaints)(1), the local policing body or chief officer must provide—

- (a) a copy of the record made of the complaint to the complainant, and
- (b) subject to the following provisions of this regulation, a copy of the complaint to the person complained against (if any).

(2) A copy of a complaint provided under paragraph (1) may be in a form which keeps anonymous the identity of the complainant or any other person.

(3) A local policing body or chief officer may decide not to provide a copy of a complaint under paragraph (1) if it or the chief officer believes that to do so—

- (a) might prejudice any criminal investigation or pending proceedings, or
- (b) would otherwise be contrary to the public interest.

(4) Where a local policing body or chief officer decides not to provide a copy of a complaint under paragraph (1), the local policing body or chief officer must keep that decision under regular review.

Reference of complaints to the Director General

4.—(1) The descriptions of complaint specified for the purposes of paragraph 4(1)(b) of Schedule 3 (complaints which must be referred to the Director General)(2) are—

- (a) any complaint not falling within paragraph 4(1)(a) of Schedule 3 but alleging conduct which constitutes—
 - (i) a serious assault, as determined in guidance issued by the Director General;
 - (ii) a serious sexual offence, as determined in guidance issued by the Director General;
 - (iii) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;
 - (iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the

(1) Paragraph 2(6A) was inserted by paragraphs 1 and 2 of Schedule 5 to the Policing and Crime Act 2017; paragraph 4A(4) was inserted by section 17(1) and (3) of that Act.

(2) Paragraph 4(1) was amended by paragraphs 1 and 7 of Schedule 4, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

grounds of a person's race, sex, religion or other status as determined in guidance issued by the Director General;

- (v) a relevant offence;
 - (b) any complaint arising from the same incident as one in which any conduct falling within sub-paragraph (a) or paragraph 4(1)(a) of Schedule 3 is alleged;
 - (c) any complaint not falling within sub-paragraph (a) or (b) or paragraph 4(1)(a) of Schedule 3—
 - (i) that relates to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis, and
 - (ii) in relation to which the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved) would not justify the bringing of criminal or disciplinary proceedings.
- (2) Where a complaint is required to be referred to the Director General under paragraph 4(1) (a) or (b) of Schedule 3, it must be referred—
- (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 complaint is one to which paragraph 4(1)(a) or (b) of Schedule 3 applies, and
 - (b) in such manner as the Director General determines.
- (3) Where a complaint is required to be referred to the Director General under paragraph 4(1) (c) of Schedule 3, it must be referred—
- (a) without delay and in any event not later than the end of the day following the day on which the Director General notifies the appropriate authority that the complaint is to be referred, and
 - (b) in such manner as the Director General determines.

Complaints relating to the conduct of chief officers etc.

5.—(1) The Director General must determine that it is necessary for complaints referred to the Director General—

- (a) that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis, and
- (b) in respect of which there is an indication that that person may have committed a criminal offence or behaved in a way which would justify the bringing of disciplinary proceedings, to be investigated.

(2) Where the Director General is required by paragraph (1) to determine that it is necessary for a complaint to be investigated, paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation) applies in relation to the complaint as if sub-paragraphs (4) (a), (4A) and (5A)(b)(3) were omitted.

Handling of complaints by the appropriate authority: exception to the duty to investigate

6. The duty imposed by paragraph 6(2C) of Schedule 3 (duty to make arrangements for complaint to be investigated)(4) does not apply where the appropriate authority determines that—

- (a) the complaint concerns substantially the same—

(3) Sub-paragraphs (4A) and (5A) were inserted by paragraphs 9 and 15 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(4) Paragraph 6(2C) was inserted by paragraphs 5 and 6 of Schedule 5 to the Policing and Crime Act 2017.

- (i) conduct or other matter as a complaint made previously (“the previous complaint”),
or
- (ii) conduct as a conduct matter recorded previously (“the previous conduct matter”);
- (b) there is no fresh indication in respect of that conduct or other matter that—
 - (i) a person serving with the police may have committed a criminal offence or behaved in a manner that would justify the bringing of disciplinary proceedings, or
 - (ii) there may have been an infringement of a person’s rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998⁽⁵⁾);
- (c) there is no fresh substantive evidence in respect of that conduct or other matter which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded, and
- (d) as respects the previous complaint or previous conduct matter—
 - (i) it has been or is being investigated, or
 - (ii) in the case of a complaint, it has been or is being otherwise handled in accordance with Schedule 3 or the provisions of Part 2 of the 2002 Act ceased to apply to it in accordance with regulation 38 (withdrawn complaints) or regulations 38 and 39 (withdrawn complaints: no written signed notification).

Recording and reference of conduct matters

7.—(1) The descriptions of conduct specified for the purposes of paragraph 11(2)(c) of Schedule 3 (recording etc. of conduct matters in other cases) are—

- (a) a serious assault, as determined in guidance issued by the Director General;
- (b) a serious sexual offence, as determined in guidance issued by the Director General;
- (c) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;
- (d) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person’s race, sex, religion or other status as determined in guidance issued by the Director General;
- (e) a relevant offence;
- (f) conduct whose gravity or other exceptional circumstances make it appropriate to record the matter in which the conduct is involved;
- (g) conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis;
- (h) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraphs (a) to (e) is alleged.

(2) The description of matter specified for the purposes of paragraphs 10(4A) and 11(3B) of Schedule 3 (conduct matters not required to be recorded)⁽⁶⁾ is any matter—

- (a) which concerns substantially the same conduct as—
 - (i) a complaint made previously (“the previous complaint”), or
 - (ii) a conduct matter recorded previously (“the previous conduct matter”);

⁽⁵⁾ 1998 c. 42.

⁽⁶⁾ Paragraphs 10(4A) and 11(3B) were inserted by paragraphs 1, 11 and 12 of Schedule 14 to the Police Reform and Social Responsibility Act 2011.

- (b) in respect of which there is no fresh indication that a person serving with the police may have committed a criminal offence or behaved in a way which would justify the bringing of disciplinary proceedings;
 - (c) in respect of which there is no fresh substantive evidence which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded, and
 - (d) as respects the previous complaint or previous conduct matter, it has been or is being investigated or (in the case of a complaint) otherwise handled in accordance with Schedule 3.
- (3) The description of matter specified for the purposes of paragraph 13(1)(b) of Schedule 3 (recordable conduct matters which must be referred to the Director General)⁽⁷⁾ is any matter which relates to conduct falling within paragraph (1), other than sub-paragraph (f).
- (4) Any conduct matter which is required to be referred to the Director General must be referred in such manner as the Director General determines and—
- (a) if the matter falls within paragraph 13(1)(a) or (b) of Schedule 3, 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 paragraph 13(1)(a) or (b) of Schedule 3 applies;
 - (b) if the matter falls within paragraph 13(1)(c) of Schedule 3, without delay and in any event not later than the end of the day following the day on which the Director General notifies the appropriate authority that the conduct matter is to be referred.

Recordable conduct matters relating to the conduct of chief officers etc.

8.—(1) The Director General must determine that it is necessary for recordable conduct matters referred to the Director General that relate to the conduct of a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.

(2) Where the Director General is required by paragraph (1) to determine that it is necessary for a recordable conduct matter to be investigated, paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation) applies in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.

Reference of DSI Matters

9. Any DSI matter which is required to be referred to the Director General must be referred in such manner as the Director General determines and—

- (a) in a case where the Director General directs that the matter be referred to the Director General, without delay and in any event not later than the end of the day following the day on which the Director General so directs, and
- (b) in any other case, without delay and in any event not later than the end of the day following the day on which the matter first comes to the attention of the appropriate authority.

(7) Paragraph 13(1) was amended by paragraphs 277 and 301 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

DSI matters relating to the conduct of chief officers etc.

10.—(1) The Director General must determine that it is necessary for DSI matters referred to the Director General in relation to which the relevant officer⁽⁸⁾ is a chief officer or the Deputy Commissioner of Police of the Metropolis to be investigated.

(2) Where the Director General is required by paragraph (1) to determine that it is necessary for a DSI matter to be investigated, paragraph 15 of Schedule 3 (power of the Director General to determine the form of an investigation) applies in relation to the matter as if sub-paragraphs (4)(a), (4A) and (5A)(b) were omitted.

⁽⁸⁾ Section 29(1A) of the 2002 Act (which was inserted by paragraphs 1 and 10 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraph 93 of Schedule 11 to the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12)) defines “the relevant officer” in relation to a DSI matter.