
STATUTORY INSTRUMENTS

2020 No. 2

The Police (Complaints and Misconduct) Regulations 2020

PART 4

Keeping the complainant and interested person informed

Matters of which the complainant and interested person must be kept properly informed

33.—(1) Paragraph (2) specifies matters of which the complainant and interested person must be kept properly informed, in accordance with sections 20(4)(d) and 21(9)(c) of the 2002 Act (duties to keep the complainant informed and provide information for interested persons)(1).

(2) The matters are—

- (a) in the case of the complainant, in relation to any right to apply for a review conferred on the complainant by paragraph 6A or 25 of Schedule 3 (reviews)—
 - (i) the identity of the relevant review body;
 - (ii) where the appropriate authority has determined that the Director General is the relevant review body, the paragraph of regulation 32 (relevant review body) relied upon in making that determination;
 - (iii) where the appropriate authority has determined that the Director General is not the relevant review body, the fact that there is no right to apply to the Director General for a review;
 - (iv) the time limit for applying for a review, and
 - (v) the effect of regulation 29(5) (applications for a review: requirements);
- (b) the progress of any—
 - (i) criminal proceedings;
 - (ii) disciplinary proceedings;
 - (iii) performance proceedings, or
 - (iv) reflective practice review process,brought in relation to, or arising from, any matter which was the subject of the complaint, recordable conduct matter or DSI matter;
- (c) the outcome of any such proceedings or process;
- (d) where an appeal is brought against the outcome of any such proceedings, the fact and outcome of the appeal.

(1) Sections 20(4)(d) and 21(9)(c) were substituted by section 15(1), (3) and (7) of the Policing and Crime Act 2017.

Manner in which duties to keep the complainant and interested person informed are to be performed

34.—(1) In accordance with sections 20(5) and 21(10) of the 2002 Act (duties to keep the complainant informed and provide information for interested persons)(2), the following provisions of this regulation specify the manner in which the duties imposed on the Director General and appropriate authority by those sections are to be performed.

(2) The Director General or appropriate authority (as the case may be) must inform the complainant or interested person of—

(a) the progress of the handling of the complaint, recordable conduct matter or DSI matter and any of the matters mentioned in regulation 33(2)(b) (progress of criminal proceedings etc.) promptly and in any event—

(i) if there has been no previous notification, within four weeks of the start of the handling of the complaint, proceedings or process, and

(ii) in any other case, within four weeks of the previous notification;

(b) the following matters—

(i) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;

(ii) the matter mentioned in regulation 33(2)(c) (outcome of criminal proceedings etc.), and

(iii) the matters mentioned in regulation 33(2)(d) (fact and outcome of appeal against outcome of criminal proceedings etc.),

promptly and in any event within five working days of the outcome (and, where applicable, the bringing of the appeal).

(3) The information required by paragraph (2) must be given in writing, unless, in the case of a complaint, the complaint—

(a) was made otherwise than in writing, and

(b) is being handled otherwise than in accordance with Schedule 3(3).

(4) The appropriate authority must inform the complainant in writing of—

(a) any right to apply for a review conferred on the complainant by paragraph 6A or 25 Schedule 3 (reviews), and

(b) the matters mentioned in regulation 33(2)(a) (matters relating to right to apply for a review),

promptly and in any event within five working days of the outcome of the handling of the complaint.

(5) In performing the duties imposed by sections 20(1), (2) and (3A) and 21(6), (7) and (8A) of the 2002 Act(4), the Director General or appropriate authority (as the case may be) must determine whether it is appropriate to offer, or grant a request for, a meeting with a complainant or interested person.

(2) Section 20(5) was amended by paragraphs 15 and 26 of Schedule 9 to the Policing and Crime Act 2017; section 21(10) was amended by paragraphs 1 and 7 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 15 and 27 of Schedule 9 to the Policing and Crime Act 2017.

(3) See paragraph 2(6C) of Schedule 3 (which was inserted by paragraphs 1 and 2 of Schedule 5 to the Policing and Crime Act 2017).

(4) Subsections (1) and (2) of section 20 were amended by paragraph 47 of Schedule 5, and paragraphs 15 and 26 of Schedule 9, to the Policing and Crime Act 2017; subsection (3A) of section 20 was inserted by sections 15(1) and (2) of that Act; subsections (6) and (7) of section 21 were amended by paragraphs 1 and 7 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraph 47 of Schedule 5, and paragraphs 15 and 27 of Schedule 9, to the Policing and Crime Act 2017; subsection (8A) of section 21 was inserted by sections 15(1) and (6) of the Policing and Crime Act 2017.

(6) As soon as practicable after any such meeting, the Director General or appropriate authority (as the case may be) must send the complainant or interested person a written record of the meeting and an account of how any concerns of that person will be addressed.

Exceptions to duties to keep the complainant and interested person informed

35.—(1) In accordance with sections 20(5) and 21(10) of the 2002 Act (duties to keep the complainant informed and provide information for interested persons), paragraph (2) specifies the circumstances in which the duties imposed on the Director General and appropriate authority by those sections do not apply.

(2) The circumstances are where in the opinion of the Director General or appropriate authority (as the case may be) the non-disclosure of information is necessary for a purpose mentioned in paragraph (3).

(3) The purposes are—

- (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
- (b) preventing the disclosure of information in any circumstances in which its non-disclosure—
 - (i) is in the interests of national security;
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - (iii) is required on proportionality grounds, or
 - (iv) is otherwise necessary in the public interest.

(4) The Director General or appropriate authority (as the case may be) may only conclude that the non-disclosure of information is necessary under paragraph (2) if satisfied that—

- (a) there is a real risk of the disclosure of that information causing an adverse effect, and
- (b) that adverse effect would be significant.

(5) The Director General or appropriate authority (as the case may be) must consider whether the non-disclosure of information is justified under paragraph (2) in circumstances where—

- (a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings or performance proceedings or appeal against the outcome of such proceedings;
- (b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings or appeal;
- (c) the disclosure of that information might prejudice the welfare or safety of any third party;
- (d) that information constitutes criminal intelligence.

Meaning of “relative”

36. For the purposes of section 21(12) of the 2002 Act (duty to provide information for other persons: meaning of “relative”) the description of person prescribed is any spouse, partner, parent or adult child.

Appropriate authority to notify the Director General of outcome of disciplinary proceedings etc.

37. The appropriate authority must notify the Director General of—

- (a) the outcome of any disciplinary proceedings, performance proceedings or reflective practice review process brought in relation to, or arising from, any matter dealt with in a report submitted or completed under paragraph 22 or 24A of Schedule 3 (final reports on investigations), as soon as practicable after the outcome of the proceedings or process;
- (b) the bringing of any appeal against the outcome of any such proceedings, as soon as practicable after the appropriate authority becomes aware of the appeal;
- (c) the outcome of any such appeal, as soon as practicable after its conclusion.