

1985 No. 520

POLICE

The Police (Complaints) (General) Regulations 1985

Made - - - - - 28th March 1985

Laid before Parliament 2nd April 1985

Coming into Operation 29th April 1985

In exercise of the powers conferred on me by sections 89(10)(c) and 99 of the Police and Criminal Evidence Act 1984(a), and after furnishing a draft thereof to the Police Advisory Board for England and Wales and taking into consideration the representations made by the said Board in accordance with section 100(2) of the said Act of 1984, I hereby make the following Regulations:—

Citation and operation

1.—(1) These Regulations may be cited as the Police (Complaints) (General) Regulations 1985 and shall come into operation on 29th April 1985.

(2) The Police (Complaints) (General) Regulations 1977(b) and the Police (Copies of Complaints) Regulations 1977(c) are hereby revoked.

Interpretation

2.—(1) In these Regulations the following expressions have the meanings respectively assigned to them, that is to say:—

“the Act of 1984” means the Police and Criminal Evidence Act 1984;

“the appropriate authority” has the meaning assigned to it by section 84(4) of the Act of 1984;

“the Authority” means the Police Complaints Authority established under section 83(1) of the Act of 1984;

“complaint” means a complaint to which Part IX of the Act of 1984 applies and “copy of a complaint”, in the case of a complaint made orally, shall include a copy of the record of the complaint;

“complainant” means the person by whom, or on whose behalf, a complaint is submitted.

(2) In these Regulations, unless the context otherwise requires, any reference to a paragraph shall be construed as a reference to a paragraph in the same Regulation.

(a) 1984 c. 60.

(b) S.I. 1977/578; there are no amending instruments.

(c) S.I. 1977/579; there are no amending instruments.

Police Complaints Authority to forward complaints

3.—(1) Subject to paragraph (2), where the Authority have received a complaint against a member of a police force, they shall transmit it to the appropriate authority unless they are satisfied that to do so would be contrary to the complainant's wishes or, in all the circumstances, unnecessary.

(2) Notwithstanding that the complainant may not wish his complaint to be so transmitted, the Authority may, where they are satisfied that the public interest so requires, transmit a complaint received by them to the appropriate authority.

Notification of supervision, etc.

4.—(1) Subject to paragraphs (2) and (3), where under section 89 of the Act of 1984 the Authority determine to supervise an investigation they shall notify their determination to the appropriate authority not later than the end of the seventh day after the day on which the complaint or matter in question is received by them.

(2) Where the Authority have requested further information to assist them in deciding whether to make such a determination the notification referred to in paragraph (1) shall be given not later than the end of the seventh day after the day on which they receive such information.

(3) Where an investigation is delayed pending the outcome of criminal proceedings relating to the complaint or matter to be investigated the notification referred to in paragraph (1) shall be given not later than the end of the seventh day after the day on which the Authority receive notification of the outcome of those proceedings.

Supply of information to Authority—general

5. The appropriate authority shall supply the Authority with such information and documents as they may reasonably require relating to a complaint or matter referred to them under section 87 or 88 of the Act of 1984, whether or not such complaint or matter is the subject of an investigation supervised by the Authority, for the purpose of enabling the Authority to fulfil their functions under the said Act.

Information as to consultation with Director of Public Prosecutions

6. The investigating officer shall keep the Authority informed as to the nature and eventual outcome of any consultation which he proposes to conduct with the Director of Public Prosecutions relating to an investigation which is being supervised by the Authority.

Appropriate statements

7. The appropriate statement submitted to the appropriate authority under section 89(7) of the Act of 1984 may, in addition to the matters required to be dealt with by paragraphs (a) and (b) of subsection (10) of that section, specify any respects in which the Authority consider that their satisfaction with the conduct of the investigation ought to be recorded, and may deal with

any such other matters relating to the investigation or the supervision thereof as the Authority consider should—

- (a) be brought to the attention of the appropriate authority, the complainant or the officer under investigation; or
- (b) dealt with in the public interest.

Functions of Authority as to disciplinary charges

8.—(1) Where a memorandum is sent to the Authority under section 90 of the Act of 1984 the Authority shall deal with the case under section 93 of that Act without undue delay and shall, as soon as practicable, take such decisions as appear to them appropriate for the purposes thereof.

(2) Where the chief officer concerned has not preferred disciplinary charges or does not propose to do so and the Authority accept his decision they shall—

- (a) so inform the chief officer forthwith, and
- (b) subject to paragraph (4), notify the complainant of the decision and of their acceptance thereof,

and may furnish the complainant with such relevant information in explanation thereof, if any, as appears to them appropriate.

(3) Where the chief officer concerned withdraws a disciplinary charge with the leave of the Authority given in pursuance of section 93(6) of the Act of 1984, the Authority shall, subject to paragraph (4), notify the complainant that the charge has been withdrawn with their leave and furnish him with such relevant information in explanation of the withdrawal as appears to them appropriate.

(4) The Authority shall be relieved of the duty of notifying the complainant as mentioned in paragraph (2)(b) or (3) if compliance therewith appears to them to be not reasonably practicable.

(5) Where the chief officer concerned has, under Regulation 15 of the Police (Discipline) Regulations 1985(a), delegated the duty of deciding under Regulation 8 of those Regulations whether a member of a police force should be charged with a disciplinary offence, the references in paragraphs (2) and (3) to the chief officer concerned shall be taken as references to the officer to whom the duty is delegated.

Copies of complaints

9.—(1) Subject to paragraph (2), a copy of the complaint shall be supplied to—

- (a) the complainant, or
- (b) the officer against whom the complaint was made,

where either of them so requests in writing.

(a) S.I. 1985/518.

(2) The appropriate authority may, by notice in writing to the person who made the request, refuse to supply a copy of the complaint under paragraph (1) if of the opinion that compliance with the request—

- (a) might prejudice any criminal investigation or proceedings pending at the time the request is made, or
- (b) would be contrary to the public interest and the Secretary of State agrees the request should not be complied with;

and where such notice is given no further request may be made under paragraph (1) within the period of 6 months beginning with the date of the notice, without prejudice, however, to further such requests being made subsequently.

Time limits

10.—(1) Where a complaint is required to be referred to the Authority by the appropriate authority under section 87(1)(a)(i) of the Act of 1984 notification of the complaint shall be given to the Authority not later than the end of the day following the day on which it first becomes clear to the appropriate authority that the complaint is one to which that sub-paragraph applies.

(2) Where, under section 87(2) of the Act of 1984, the Authority require a complaint to be submitted to them by the appropriate authority for consideration, the appropriate authority shall so submit the complaint not later than the end of the day following the day on which they received notification of the requirement.

Withdrawn complaints

11.—(1) The provisions of Part IX of the Act of 1984 shall not apply in respect of a complaint if the appropriate authority receives from the complainant notification in writing signed by him or by his solicitor or other authorised agent on his behalf to the effect either—

- (a) that he withdraws the complaint, or
- (b) that he does not wish any further steps to be taken in consequence thereof.

(2) Where a complainant gives such notification as is mentioned in paragraph (1) and it relates to a complaint—

- (a) which was transmitted to the appropriate authority by the Authority, or
- (b) which was referred or submitted to the Authority under section 87(1) or (2) of the Act of 1984, or
- (c) a copy of which has been sent to the Authority under section 90(9) of that Act,

the appropriate authority shall cause a copy of the notification to be sent to the Authority.

Complaints register

12. Every chief officer of police shall cause a register of complaints against members of his force to be kept in which there shall be recorded the steps taken in dealing with a complaint and their outcome.

Delegation of functions by chief officer

13.—(1) Subject to paragraphs (3) and (4), a chief officer may delegate all or any of the functions or duties conferred on him by sections 84 to 94 of the Act of 1984 (other than his functions or duties under section 94(3) thereof), or by Regulations made under section 99 thereof, to such an officer as is mentioned in paragraph (2).

(2) The said functions or duties may be delegated—

- (a) in the City of London police force, to an assistant commissioner or a commander thereof;
- (b) in the metropolitan police force, to an assistant commissioner or deputy assistant commissioner thereof;
- (c) in any other police force, to a deputy chief constable or an assistant chief constable thereof.

(3) Without prejudice to the foregoing, a chief officer may delegate all or any of his functions or duties in relation to the informal resolution of complaints under Part IX of the Act of 1984 to an officer of his force of at least the rank of chief inspector.

(4) A member of a police force who has acted as investigating officer in a case, or who has acted in relation to it in pursuance of an attempt to resolve it by way of informal resolution, shall not, as respects that case, exercise any function or duty in pursuance of a delegation under paragraph (1).

Home Office.
28th March 1985.

Leon Brittan,
One of Her Majesty's Principal
Secretaries of State.

EXPLANATORY NOTE

(This Note is not part of the Regulations.)

These Regulations replace the Police (Complaints) (General) Regulations 1977 and take account of the establishment of the Police Complaints Authority ("the Authority") by section 83(1) of the Police and Criminal Evidence Act 1984 ("the Act of 1984") (replacing the Police Complaints Board).

By Regulation 3(1) the Authority are required, subject to the wishes of the complainant, to transmit any complaint they receive to the proper recipient. Paragraph (2) allows the Authority to disregard the wishes of the complainant where the public interest requires the complaint to be transmitted.

Regulation 4 provides for notification of a decision by the Authority to supervise the investigation of a complaint or other matter, and Regulation 5 enables the Authority to obtain information where complaints or other matters are referred to them. Regulation 6 requires the investigating officer, where the Authority are supervising an investigation, to keep the Authority informed about any consultation with the Director of Public Prosecutions. Regulation 7 makes provision for the contents of the statement the Authority is required to submit to the chief officer or police authority under section 89(7) of the Act of 1984 following an investigation of a complaint supervised by the Authority. Regulation 8 makes provision as to the functions of the Authority in relation to disciplinary charges.

Regulation 9 replaces the Police (Copies of Complaints) Regulations 1977 and provides for a copy of the complaint to be supplied to the complainant or the officer concerned. Provision is made for refusal where any criminal investigation or proceedings pending at the time of the request might be prejudiced, or the Secretary of State is of opinion that in the public interest a copy should not be supplied.

Regulation 10 sets time limits for the reference of complaints to the Authority under section 87(1)(a)(i) of the Act of 1984. Regulation 11 makes provision for withdrawn complaints. Regulations 12 and 13 provide respectively for a complaints register and for delegation of functions by chief officers.

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