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DRAFT STATUTORY INSTRUMENTS

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**2011 No.**

**The Elected Local Policing Bodies (Complaints  
and Misconduct) Regulations 2011**

**PART 2**

**Initial Handling of Complaints and Conduct Matters**

**Withdrawn and discontinued complaints**

**16.**—(1) If a police and crime panel receives from a 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 of the complaint,

then the panel shall forthwith record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be, and subject to the following provisions of this regulation, these Regulations shall cease to apply in respect of that complaint.

(2) Where a complainant gives such notification as is mentioned in paragraph (1) to the Commission but, so far as is apparent to the Commission, has not sent that notification to the police and crime panel, then—

- (a) the Commission shall send a copy of that notification to the panel;
- (b) that panel shall record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be; and
- (c) subject to the following provisions of this regulation, the provisions of these Regulations shall cease to apply in respect of that complaint.

(3) Where a complainant gives such notification as is mentioned in paragraph (1) to a police and crime panel, or where the panel receives a copy of a notification under paragraph (2), and it relates to a complaint which was referred to the Commission under regulation 13 and which has not been referred back to the panel under regulation 14(2), then the panel shall notify the Commission that it has recorded the withdrawal of the complaint or the fact that the complainant does not wish any further steps to be taken, as the case may be.

(4) Where a complainant gives such notification as is mentioned in paragraph (1) to a police and crime panel, or where the panel receives a copy of a notification under paragraph (2), and that notification relates to a complaint which does not fall within paragraph (3), then the panel shall determine whether the complaint is one made about conduct which constitutes or involves, or appears to constitute or involve, the commission of a criminal offence and should therefore be treated as a conduct matter.

(5) In a case falling within paragraph (3), the Commission shall determine whether it is in the public interest for the complaint to be treated as a conduct matter, and shall notify the police and crime panel of its determination.

(6) Where a determination is made that a complaint is to be treated as a conduct matter, then it shall be recorded by the police and crime panel as a conduct matter and the provisions of these Regulations shall apply to it accordingly.

(7) Where a complainant indicates that he wishes to withdraw the complaint or that he does not wish any further steps to be taken in consequence of the complaint, but he fails to provide a notification to that effect in writing signed by him or on his behalf, then—

- (a) in the case of an indication received by the police and crime panel, the panel shall take the steps set out in paragraph (8);
- (b) in the case of an indication received by the Commission, the Commission shall refer the matter to the panel which shall take the steps set out in paragraph (8).

(8) Those steps are—

- (a) the police and crime panel shall write to the complainant to ascertain whether he wishes to withdraw his complaint or does not wish any further steps to be taken in consequence of the complaint;
- (b) if the complainant indicates that he wishes to withdraw his complaint or does not wish any further steps to be taken in consequence of the complaint, or if he fails to reply within 21 days, the panel shall treat the indication as though it had been received in writing signed by the complainant;
- (c) if the complainant indicates that he does not wish to withdraw his complaint, or that he does wish further steps to be taken in consequence of the complaint, the panel shall continue to handle the complaint in accordance with these Regulations.

(9) The police and crime panel shall notify the person complained against if—

- (a) it records the withdrawal of a complaint or the fact that the complainant does not wish any further steps to be taken;
- (b) it determines that a complaint should be treated as a conduct matter;
- (c) the Commission determines that a complaint should be treated as a conduct matter; or
- (d) the provisions of these Regulations cease to apply in respect of a complaint.

(10) But nothing in paragraph (9) shall require the police and crime panel to make a notification if it has previously decided under regulation 31(3) not to notify the person complained against of the complaint because it is of the opinion that that might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.