
STATUTORY INSTRUMENTS

2020 No. 2

The Police (Complaints and Misconduct) Regulations 2020

PART 5

General

Withdrawn complaints

38.—(1) This regulation applies where an appropriate authority receives a notification signed by the complainant or the complainant’s solicitor or other authorised agent on the complainant’s behalf that the complainant—

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

(2) The appropriate authority must record the withdrawal or the fact that the complainant does not wish any further steps to be taken and, subject to the following provisions of this regulation, the provisions of Part 2 of the 2002 Act cease to apply to the complaint.

(3) Where the notification mentioned in paragraph (1) relates to a complaint which—

- (a) was referred to the Director General under paragraph 4(1) of Schedule 3 (complaints which must be referred to the Director General) or is being treated by the Director General as having been so referred under paragraph 4A(1) of Schedule 3 (power of the Director General to treat complaint as having been referred), and
- (b) has not been referred back to the appropriate authority under paragraph 5(2) of Schedule 3 (referral of complaints back to the appropriate authority)⁽¹⁾,

the appropriate authority must notify the Director General that it has recorded the withdrawal or the fact that the complainant does not wish any further steps to be taken.

(4) Where the notification mentioned in paragraph (1) relates to a complaint which the appropriate authority knows is subject to a review under paragraph 6A or 25 of Schedule 3 (reviews), the appropriate authority must notify the relevant review body that it has recorded the withdrawal or the fact that the complainant does not wish any further steps to be taken.

(5) In a case falling within paragraph (3) or paragraphs (3) and (4), the Director General must—

- (a) determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter, and
- (b) notify the appropriate authority and, in a case falling within paragraphs (3) and (4) in which the relevant review body is a local policing body, the relevant review body of the Director General’s determination.

(6) In a case falling within paragraph (4) (but not also paragraph (3)), the appropriate authority must—

(1) Paragraph 5(2) was amended by paragraphs 9 and 10 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

- (a) determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter, and
- (b) notify the relevant review body of its determination and the reasons for it.

(7) Where the notification mentioned in paragraph (1) relates to a complaint which does not fall within paragraph (3) or (4), the appropriate authority must determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

(8) Where a determination is made under paragraph (5), (6) or (7) that it is in the public interest for the complaint to be treated as a recordable conduct matter, the provisions of Part 2 of Schedule 3 (handling of conduct matters) apply to that matter.

(9) Where—

- (a) a complaint is subject to a review by the Director General under paragraph 25 of Schedule 3, and
- (b) the appropriate authority notifies the Director General (as the relevant review body) under paragraph (6)(b) that it has determined that the complaint is not to be treated as a recordable conduct matter,

the Director General must consider whether it is in the public interest for that determination to be reversed and, if so, the Director General must instruct the appropriate authority to reverse the determination.

(10) Subject to paragraph (11), the appropriate authority must notify the person complained against if—

- (a) it records the withdrawal of the complaint or the fact that the complainant does not wish any further steps to be taken;
- (b) a determination is made under paragraph (5), (6) or (7) that it is in the public interest for the complaint to be treated as a recordable conduct matter;
- (c) the Director General instructs the appropriate authority to reverse a determination not to treat the complaint as a recordable conduct matter;
- (d) the provisions of Part 2 of the 2002 Act cease to apply to the complaint.

(11) Nothing in paragraph (10) requires the appropriate authority to make a notification if it believes that to do so —

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

Commencement Information

II Reg. 38 in force at 1.2.2020, see [reg. 1\(1\)](#)

Changes to legislation:

There are currently no known outstanding effects for the The Police (Complaints and Misconduct) Regulations 2020, Section 38.