

# **The British Transport Police (Complaints and Misconduct) (Scotland) Regulations 2008**

Made

28th November 2008

Coming into force on

1<sup>st</sup> December 2008

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## **Preamble**

The British Transport Police Authority, in exercise of the power, conferred on it by Section 36 (4) of the Railways and Transport Safety Act 2003<sup>1</sup>, hereby makes the following provisions (hereafter called “Regulations”).

Nothing in these regulations is designed to prejudice the agreement made between The Police Complaints Commissioner for Scotland (“the Commissioner”) and the British Transport Police Authority in furtherance of Article 4(1) of the Police, Public Order and Criminal justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007<sup>2</sup>

## **Citation, commencement and interpretation**

1. - (1) These Regulations may be cited as the British Transport Police (Complaints and Misconduct)(Scotland) Regulations 2008 and shall come into force on 1st December 2008.

(2) These Regulations extend to Scotland only

(3) In these Regulations -

“the 2003 Act” means the Railways and Transport Safety Act 2003

“the Conduct Regulations” means the British Transport Police (Conduct) Regulations 2008;

“the” Complaints and Misconduct Regulations” means the British Transport Police (Complaints and Misconduct) Regulations 2008

“the Agreement” means the agreement made between The Police Complaints Commissioner for Scotland (PCCS) and the British Transport Police Authority in furtherance of Article 4(1) of the Police Public Order and Criminal justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007

“appeal hearing” has the same meaning as in the Conduct Regulations;

“appeal meeting” has the same meaning as in the Conduct Regulations;

“appropriate authority” means —

- (a) where the officer concerned is a senior officer of the police force, the authority
- (b) in any other case the chief constable of the police force.

“the chief constable” is the person appointed in accordance with Section 21 of the 2003 Act

“gross misconduct” has the same meaning as in the Conduct Regulations;

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<sup>1</sup> Railways and Transport Safety Act 2003 c. 20

<sup>2</sup> Police, Public Order and Criminal justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007/1098

“investigator” means a person appointed or designated to investigate a complaint or allegation of misconduct;

“member of the police force” means a constable of the police force of any rank, appointed in accordance with section 24 of the 2003 Act;

“misconduct” has the same meaning as in the Conduct Regulations;

“misconduct hearing” has the same meaning as in the Conduct Regulations;

“misconduct meeting” has the same meaning as in the Conduct Regulations;

“misconduct proceedings” means a misconduct meeting or a misconduct hearing;

“the police authority” means the body corporate known as the British Transport Police Authority, established in accordance with Section 18 of the 2003 Act;

“police officer” means a member of the police force or a special constable;

“police force” means the British Transport Police Force as established and maintained in accordance with S20 of the 2003 Act;

“police staff member” means a person employed in the service of the police force in accordance with section 27 of the 2003 Act;

“recordable conduct” means conduct as set out in Regulation 5;

“senior officer” means the chief constable, the deputy chief constable appointed in accordance with section 22 of the 2003 Act or an assistant chief constable appointed under section 23 of the 2003 Act;

“special case hearing” has the same meaning as in the Conduct Regulations;

“Standards of Professional Behaviour” has the same meaning as in the Conduct Regulations 2008

“working day” means any day other than a Saturday or Sunday or a day which is a bank holiday or public holiday in Scotland

### **Reference of complaints to the Procurator Fiscal**

**2.** - Any complaint or recordable conduct that alleges behaviour which has occurred in Scotland and which amounts to a criminal offence shall be reported to the Procurator Fiscal’s office as soon as practicable in order that consideration can be given to the investigation and potential prosecution of the person complained of.

### **Dispensation by the appropriate authority**

**3.** - (1) The appropriate authority may dispense with the requirement to investigate any complaint, other than a criminal allegation, which falls into the categories specified below–

(2) Those complaints are complaints where the appropriate authority considers that -

(a) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay;

(b) the matter is already the subject of a complaint;

(c) the complaint discloses neither the name and address of the complainant nor that of any other interested person and it is not reasonably practicable to ascertain such a name or address;

(d) the complaint is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints;

(e) the complaint is repetitious; or

(f) it is not reasonably practicable to complete the investigation of the complaint

(3) For the purposes of paragraph (2)(e) a complaint is repetitious if, and only if -

(a) it is substantially the same as a previous complaint (whether made by or on behalf of the same or a different complainant), or it concerns substantially the same conduct as a previous conduct matter;

(b) it contains no fresh allegations which significantly affect the account of the conduct complained of;

(c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and

(d) as respects the previous complaint or conduct matter, either -

(i) the complaint was locally resolved

(ii) the complainant gave such notification that he withdrew the complaint as is mentioned in regulation 20(1)(a)

(4) For the purposes of paragraph (2)(f) it is not reasonably practicable to complete the investigation of a complaint only if -

(a) it is not reasonably practicable to communicate with the complainant or a person acting on his behalf; or

(b) it is not reasonably practicable to complete a satisfactory investigation in consequence of -

(i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation; or

(ii) the lapse of time since the event or events forming the subject-matter of the complaint.

(5) In this regulation any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.

### **Local resolution of complaints**

4. - (1) The procedures that are to be available for dealing with a complaint which is to be subjected to local resolution are, subject to the provisions of this regulation, any procedures which are approved by the appropriate authority.

(2) Where it appears to the appointed person that the complaint had in fact already been satisfactorily dealt with at the time it was brought to his notice, he may, subject to any

representation by the complainant, treat it as having been locally resolved.

(3) The appointed person shall as soon as practicable give the complainant and the person complained against an opportunity to comment on the complaint.

(4) The appointed person shall not, for the purpose of locally resolving a complaint, tender on behalf of the person complained against an apology for his conduct unless the person complained against has admitted the conduct in question and has agreed to the apology.

(5) Where the person complained against chooses not to comment on the complaint, the appointed person shall record this fact in writing.

(6) Where a complaint has been dealt with by way of local resolution a record shall be made as soon as practicable of the outcome of the procedure and the person complained against shall be sent a copy of that record.

(7) A complainant shall be entitled to obtain a copy of that record from the appropriate authority if he applies for such a copy not later than the end of three months from the day on which the complainant was informed in writing that: -

(a) the local resolution of his complaint was achieved; or

(b) for whatever other reason, it was determined that the complaint should no longer be subject to that procedure.

(8) The appropriate authority shall provide a copy of any such record as soon as practicable after it has received such an application.

(9) In this regulation, "the appointed person" means a person appointed to secure the local resolution of a complaint.

### **Recording of complaints and conduct matters**

**5.** – Without prejudice to the Agreement made in accordance with Regulation 26, the appropriate authority shall record:

(1) any complaint about the conduct of a person serving with the police force which is made (whether in writing or otherwise) by—

(a) a member of the public who claims to be the person in relation to whom the conduct took place;

(b) a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;

(c) a member of the public who claims to have witnessed the conduct;

(d) a person acting on behalf of a person falling within any of paragraphs (a) to (c).

(2) Any matter which is not and has not been the subject of a complaint described in (1) above but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have—

(a) committed a criminal offence; or

(b) behaved in a manner which would justify the bringing of disciplinary proceedings.

(3) any complaint as relates to the direction and control of the police force by—

(a) the chief constable; or

(b) a person for the time being carrying out the functions of the chief constable.

### **Power of appropriate authority to impose requirements in relation to an investigation**

6. - Where at any stage of an investigation of a complaint or recordable conduct matter the possibility of criminal proceedings arises, the appropriate authority shall not impose any requirement relating to the obtaining or preservation of evidence of a criminal offence without first obtaining the views of the Procurator Fiscal to the imposition thereof.

### **Power of the appropriate authority to discontinue an investigation**

7. - (1) The appropriate authority may at any time discontinue an investigation, other than that relating to a criminal allegation which is for the time being referred to the Procurator Fiscal, into any complaint or recordable conduct matter described in paragraph (2) of this regulation.

(2) The descriptions to which paragraph (1) applies are any complaint or conduct matter -

(a) in which the complainant refuses to co-operate to the extent that the appropriate authority considers that it is not reasonably practicable to continue the investigation;

(b) which the complainant has agreed may be subjected to local resolution;

(c) which the appropriate authority considers is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints or recordable conduct matters

(d) which is repetitious, as defined in regulation 3(3); or

(e) which the appropriate authority otherwise considers is such as to make it not reasonably practicable to proceed with the investigation.

(3) –The appropriate authority shall notify the complainant in writing of the decision and shall also send:

(a) a memorandum from the appropriate authority containing a summary of the investigation undertaken so far, and;

(b) an explanation of the reasons for the application to discontinue the investigation.

### **Request to the Appropriate Authority: failures to notify or record a complaint**

8. - (1) A request to the appropriate authority to examine any failure by the police authority or chief constable to determine who is the appropriate authority or to notify or record a complaint or anything relating to a complaint shall be made within 28 days of the date on which notification of that failure is made or sent to the complainant.

(2) Any such request shall be made in writing and shall state -

(a) the grounds for the request;

(b) the date on which the complainant was notified of the determination or of the failure to record the complaint.

### **Requests to the Appropriate Authority: local resolution**

**9.** - (1) Any request to the appropriate authority by a complainant whose complaint has been subjected to local resolution to examine the procedural conduct of the local resolution shall be made within 28 days of the date on which the alleged contravention of the procedural requirements occurred or when the complainant became aware or was notified of the alleged contravention.

(2) Any such request shall be made in writing and shall state -

(a) the grounds for the appeal;

(b) the date on which the complainant was notified of the outcome of that local resolution.

### **Requests to the Commissioner with respect to an investigation**

**10.** - (1) Any such request to the Commissioner made by a complainant in respect of the investigation or outcome of a complaint investigation shall be dealt with in accordance with the terms of the Agreement.

### **Manner in which duties to provide information is to be performed**

**11.** – (1) Without prejudice to the Agreement the appropriate authority shall inform the complainant or the interested person/party (as the case may be) -

(a) of the progress of the investigation promptly and in any event -

(i) if there has been no previous notification, within four weeks of the start of the investigation; and

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

(b) of any provisional findings of the person carrying out the investigation as frequently as the appropriate authority determine to be appropriate in order for the complainant or interested party to be kept properly informed.

(2) When an investigation has been completed, each complainant and interested person shall be notified of the date on which the final report is likely to be submitted.

(3) In performing the above duties imposed the appropriate authority shall determine whether it is appropriate to offer, or to accede to a request for, a meeting with a complainant or, as the case may be, an interested person.

(4) As soon as practicable after any such meeting the appropriate authority shall send to the complainant or interested person a written record of the meeting and an account of how any concerns of that person will be addressed.

(5) As soon as practicable after any misconduct hearing or other action that is taken in respect of the matters dealt with in any investigators report, the appropriate authority shall notify any complainant and interested person of the outcome of that hearing or action, including the fact and outcome of any appeal against the findings of or sanctions imposed by such a hearing.

(6) Subject to paragraph (3) any notification under this regulation shall be made in writing.

## **Exceptions to the duty to keep the complainant informed and to provide information to interested persons**

**12.** - (1) Without prejudice to the Agreement and subject to paragraph (2), the duties mentioned in Regulation 11 shall not apply in circumstances where in the opinion of the appropriate authority, the non-disclosure of information is necessary for the purpose of -

(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;

(iv) is justified on the grounds that providing the information would involve disproportionate effort in comparison to the seriousness of the allegations against the police officer concerned;

(v) is necessary and proportionate for the protection of any informant or witness; or

(vi) is otherwise necessary in the public interest

(2) The appropriate authority shall not conclude that the non-disclosure of information is necessary under paragraph (1) unless it is 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.

(3) Without prejudice to the generality of paragraph (1), the appropriate authority shall consider whether the non-disclosure of information is justified under that paragraph in circumstances where -

(a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings or special case proceedings concerning a police officer other than the officer concerned or a police staff member;

(b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings;

(c) the disclosure of that information may prejudice the welfare or safety of any third party; and

(d) that information constitutes criminal intelligence.

### **Meaning of "relative"**

**13.** - For the purposes of these regulations or the interpretation of these regulations a "relative" is the description of a person that is any spouse, partner, parent or adult child of any person referred to in these Regulations.

### **Copies of complaints etc.**

**14.** – (1) Where a complaint is recorded under these regulations the appropriate authority shall –

- (a) supply to the complainant a copy of the record made of that complaint; and
- (b) subject to paragraphs (2) to (4), supply to the person complained against a copy of the complaint.

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

(3) An appropriate authority may decide not to supply such a copy of a complaint if it is of the opinion 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 an appropriate authority decides not to supply such a copy, it shall keep that decision under regular review.

### **Written notices**

**15.** (1) For the purposes of these Regulations a notification given by the investigator to the person concerned must be in writing and state —

- (i) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour;
- (ii) the investigator's assessment of whether that conduct, if proved, would amount to misconduct or gross misconduct;
- (iii) that there is to be an investigation into the matter and the identity of the investigator;
- (iv) whether, if the matter were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing;
- (v) that if the likely form of any misconduct proceedings to be held changes, further notice (with reasons) will be given;
- (vi) that he has the right to seek advice from his staff association or any other body and of the effect of regulation 16;
- (vii) of the effect of Regulations 7 and 16 of the Conduct Regulations; and
- (viii) in respect of police officers only, that whilst he does not have to say anything it may harm his case if he does not mention when interviewed or when providing any information under Regulations 16 (i), 22(2) or (3) of the Conduct Regulations something which he later relies on in any misconduct proceedings, special case hearing, an appeal meeting or appeal hearing.

(2) If following service of the notice under paragraph (1), the investigator revises his assessment of the conduct or his determination of the likely form of any misconduct proceedings to be taken, the investigator shall as soon as practicable, give the person concerned further written notice of—

- (a) the assessment of whether the conduct, if proved, would amount to

misconduct or gross misconduct as the case may be and the reason for that assessment;

(b) whether, if the case were to be referred to misconduct proceedings, those would be likely to be a misconduct meeting or a misconduct hearing and the reasons for this.

(3) The notice whether given in accordance with paragraph (1) or (2) shall be—

(a) given to the person concerned in person; or

(b) left with some person at, or sent by recorded delivery to, the person concerned's last known address; or

(c) given to him in person by his police friend where the police friend has agreed with the appropriate authority to deliver the notice.

### **Police Friend**

**16.** - (1) The person concerned may choose

(a) a police officer;

(b) a police staff member,

(c) where the person concerned is a member of the police force, a person nominated by his staff association,

who is not otherwise involved in the matter, to act as his police friend.

(2) A police friend may—

(a) provide any relevant document to the investigator ;

(b) accompany the officer concerned to any interview conducted under regulation 18 of the

(c) if the case is referred to misconduct proceedings, provide such other assistance as is provided for in regulation 6(2) of the Conduct Regulations.

(3) Where a police friend is a police officer or a police staff member, the chief officer of police of the force of which the police friend is a member shall permit him to use a reasonable amount of duty time for the purposes referred to in paragraph (2).

(4) The reference in paragraph (2) to the force of which the police friend is a member shall include a reference to the force maintained for the police area for which a special constable is appointed and the force in which a police staff member is serving.

### **Representations to the investigator**

**17.** - For the purposes of these Regulations the person concerned or police friend shall have 10 working days from receipt of the notice given under Regulation 14(A) of the Complaints & Misconduct Regulations (unless this period is extended by the investigator) to provide any relevant statement or relevant document as the case may be.

### **Interviews during investigation**

**18.** - (1) Where an investigator wishes to interview the person concerned as part of his investigation, he shall, if reasonably practicable, agree a date and time for the interview with the person concerned.

(2) Where no date and time is agreed under paragraph (1), the investigator shall specify a date and time for the interview.

(3) Where a date and time is specified under paragraph (2) and—

(a) the person concerned or his police friend will not be available at that time; and

(b) the person concerned proposes an alternative time which satisfies paragraph (4),

the interview shall be postponed to the time proposed by the officer concerned.

(4) An alternative time must—

(a) be reasonable; and

(b) fall before the end of the period of 5 working days beginning with the first working day after the day specified by the investigator.

(5) The person concerned shall be given written notice of the date, time and place of the interview.

(6) The investigator shall, in advance of the interview, provide the person concerned with such information as the investigator considers appropriate in the circumstances of the case to enable the officer concerned to prepare for the interview.

(7) The person concerned shall attend the interview although where the person concerned fails to attend the interview the misconduct proceedings may be proceeded with and concluded in the absence of the person concerned whether or not he or his police friend attends.

(8) A police friend may not answer any questions asked of the person concerned during the interview.

### **Report of investigation**

**19.** (1) On completion of an investigation the investigator's report shall —

(a) provide an accurate summary of the evidence;

(b) attach or refer to any relevant documents; and

(c) indicate the investigator's opinion as to whether there is a case to answer in respect of misconduct or gross misconduct or whether there is no case to answer.

### **Withdrawn and discontinued complaints**

**20.** - (1) If the appropriate authority 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 appropriate authority 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, subject to the following provisions of this regulation.

(2) In a case falling within paragraph (1),

- (a) the appropriate authority shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter;
- (b) if the complaint is to be treated as a recordable conduct matter, the provisions of these Regulations shall apply to that matter;
- (c) if the complaint is not to be treated as a recordable conduct matter, the provisions of these Regulations shall cease to apply in respect of that complaint.

(3) 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 the appropriate authority shall take the steps set out below -

- (a) the appropriate authority 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 appropriate authority 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 appropriate authority shall start or resume the investigation as the case may be.

(4) The appropriate authority 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 shall be treated as a recordable conduct matter;

(5) Nothing in paragraph (4) shall require the appropriate authority to make a notification if it has previously decided under regulation 14(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.

### **Circumstances in which an investigation or other procedure may be suspended**

**21.** - The appropriate authority may suspend any investigation or other procedure which would, if it were to continue, prejudice any criminal investigation or proceedings.

### **Resumption of investigation after criminal proceedings**

**22.** (1) Where the whole or part of the investigation of a complaint has been suspended until the conclusion of criminal proceedings, and the complainant has failed to indicate after the conclusion of those proceedings that he wishes the investigation to start or be resumed, the appropriate authority shall take the steps set out in paragraph (2).

(2) The appropriate authority shall take all reasonable steps to contact the complainant to ascertain whether he wants the investigation to start or be resumed as the case may be.

(3) If the complainant indicates that he does wish the investigation to start or be resumed, the appropriate authority shall start or resume the investigation as the case

may be.

(4) If the complainant indicates that he does not want the investigation to start or be resumed, or if he fails to reply within 21 days to a letter sent to him by the appropriate authority, the appropriate authority shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

(5) If the appropriate authority determines that it is not in the public interest for the complaint to be treated as a recordable conduct matter, the provisions of these Regulations shall cease to apply to the complaint.

(6) If the appropriate authority determines that it is in the public interest for the complaint to be treated as a recordable conduct matter, the provisions of these Regulations shall apply to the matter.

(7) The appropriate authority shall notify the person complained against if paragraph (5) or (6) applies.

(8) But nothing in paragraph (7) shall require the appropriate authority to make a notification if it is of the opinion that that might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.

### **Appointment of persons to carry out investigations**

**23.** (1) No person shall be appointed to carry out an investigation -

(a) unless he has an appropriate level of knowledge, skills and experience to plan and manage the investigation;

(b) if he is a person whose involvement in the role could reasonably give rise to a concern as to whether he could act impartially under these Regulations;

(c) if he works, directly or indirectly, under the management of the person whose conduct is being investigated;

(d) in a case where the officer concerned is a senior officer, if he is a member of the police force

### **Combining and splitting investigations**

**24.** - (1) The appropriate authority carrying out an investigation may -

(a) combine that investigation with another such investigation; or

(b) split that investigation into two or more such separate investigations

if it considers that it is more efficient and effective, or is otherwise in the public interest, to do so.

### **Role of the Police Complaints Commissioner for Scotland**

**25.** – (1) In furtherance of Article 4(1) of the Police Public Order and Criminal Justice (Scotland) Act 2006 (Consequential Provisions and Modifications) Order 2007, the police authority has entered into the Agreement with the Police Complaints Commissioner for Scotland (“the Commissioner”) to establish and maintain procedures which correspond to or are similar to those contained in Chapter 2 of Part one of the Act in relation to complaints made about the acts or omissions of the police force, a constable of the police force and any other person specified in the agreement who serve with the police

force or who are employed by the police authority.

(2) The Agreement includes the procedures in relation to:

(a) disclosure of information to and by the Commissioner

(b) the power of the Commissioner to examine the manner in which a complaint has been dealt with.

(c) the duty not to proceed with certain complaint handling reviews

(d) the appointment of persons to reconsider the complaint

(e) the duty to keep persons informed

(f) the power of the Commissioner to discontinue a reconsideration

(g) the final reports on a reconsideration

### **Complaints against a person who has subsequently ceased to serve with the police**

**26.** Without prejudice to the Agreement, where a complaint or recordable conduct matter relates to the conduct of a person who has ceased to be a person serving with the police force since the time of the conduct, these Regulations shall apply in relation to such a person as if it did not include any requirement for an appropriate authority to determine whether disciplinary proceedings should be brought against a person whose conduct is the subject-matter of a report.

### **Complaints against a person whose identity is unascertained**

**27.** - (1) Without prejudice to the Agreement, where a complaint or recordable conduct matter relates to the conduct of a person whose identity is unascertained at the time at which the complaint is made or the recordable conduct matter is recorded, or whose identity is not ascertained during or subsequent to, the investigation of the complaint or recordable conduct matter, then these Regulations shall apply in relation to such a person as if it did not include -

(a) any requirement for the person complained against to be given a notification or an opportunity to make representations;

(b) any requirement for the appropriate authority to determine whether a criminal offence may have been committed by the person whose conduct has been the subject-matter of an investigation, or to take any action in relation to such a determination;

(c) any requirement for an appropriate authority to determine whether disciplinary proceedings should be brought against a person whose conduct is the subject-matter of a report.

(2) Where the identity of such a person is subsequently ascertained, the appropriate authority shall take such action in accordance with these Regulations as they see fit, regardless of any previous action taken under paragraph (1).

### **Keeping of records**

**28.** The police authority and chief constable shall keep records of -

(a) every complaint and purported complaint that is made to it or him;

- (b) every conduct matter recorded by it or him
- (c) every exercise of a power or performance of a duty under these Regulations.

### **Delegation of powers and duties by chief constable**

**29.** - (1) Subject to paragraphs (2) and (3), the chief constable may delegate all or any of the powers or duties conferred or imposed on him by these Regulations to the deputy chief constable or an assistant chief constable.

(2) The chief constable may delegate all or any of his powers or duties in relation to the local resolution of complaints to any person serving with the police.

(3) The chief constable shall not, in any particular case, delegate any power or duty under paragraphs (1) or (2) to a police officer who has acted as investigating officer in that case, or who has acted in relation to it in pursuance of an attempt to resolve it by way of local resolution.

### **Manner and time limits of notifications**

**30.** - (1) Any notification to be given under these Regulations shall -

(a) unless otherwise specified in these Regulations be given in writing;

(b) unless otherwise specified in these Regulations, be made within such period as the appropriate authority may determine.

(2) No time limit mentioned in these Regulations or determined by the appropriate authority shall apply in any case where exceptional circumstances prevent that time limit being complied with.

### **Disciplinary proceedings for police staff**

**31.** In relation to a person serving with the police force who is not a member of the police force or a special constable, "disciplinary proceedings" means any proceedings or management process during which the conduct of such a person is considered in order to determine whether a sanction or punitive measure is to be imposed against him in relation to that conduct.

### **32. Persons serving with the police force**

(1) These Regulations shall apply to all persons serving with the police force

(2) A person is serving with the police force if:

(a) he is a member of the police force;

(b) he is an employee of the police authority under the direction or control of the chief constable

(c) he is a special constable who is under the direction and control of the chief constable

### **Made by Order of the British Transport Police Authority**