

**Report to:** Police Authority  
**Agenda #:** 8  
**Date:** 13 December 2017  
**Subject:** BTP Amendment Regulations - move to  
the Independent Office for Police Conduct  
**Sponsor:** Len Jackson  
**Author:** Lucy Yasin  
**For:** Approval

The Forum  
5th Floor North  
74-80 Camden Street  
London NW1 0EG

T: 020 7383 0259  
F: 020 7383 2655  
E: general.enquiries  
@btpa.police.uk

[www.btpa.police.uk](http://www.btpa.police.uk)

---

## 1. Purpose of paper

- 1.1 This paper attaches regulations (Annex A) which amend the following:
- BTP (Conduct) Regulations 2008
  - BTP (Police Appeals Tribunals) Regulations 2008
  - BTP (Complaints and Misconduct) Regulations 2015
  - BTP (Conduct) Regulations 2015
  - BTP (Performance) Regulations 2015
  - BTP (Police Appeals Tribunals) Regulations 2015
- 1.2 The amendments reflect the renaming and organisational change from the Independent Police Complaints Commission to the Independent Office for Police Conduct which will occur on 8 January 2018.

## 2. Background

- 2.1 In 2013, the then Home Secretary Theresa May initiated the expansion of the IPCC. In 2015, IPCC made proposals to the Home Office with respect to governance changes required to reflect the expansion. The changes included moving to a clear decision-making structure that would enable IPCC to more effectively manage their expanded workload.
- 2.2 The Policing and Crime Act 2017 was used as the vehicle to bring about the IPCC specific changes, as well as wider changes to simplify and streamline the police complaints system as a whole focused on achieving the right outcomes for complainants. The wider changes are taking place in phases and these will be reported to the Authority separately. This

paper and the amendment regulations attached are solely focused on the renaming and re-organisation of the IPCC.

- 2.3 The key changes to the IPCC are that it will no longer have a Commission structure, becoming the *Independent Office for Police Conduct* on 8 January 2018. At the head of the organisation will be a Director General, supported by Deputies, Regional Directors and a Director for Wales.
- 2.4 The IOPC will also have new powers to help them become more effective and decisive in addressing public concerns. These include:
  - a power to initiate our own investigations without relying on a force to record and refer
  - powers to determine *appeals* and recommend remedies
  - a shortened process for deciding whether a case should go to a disciplinary hearing

### **3. The Proposed Regulations**

- 3.1 The proposed regulations are attached as Annex A. They are made under s36 and s37 of the Railways and Transport Safety Act 2003. The regulations are currently subject to final legal checks and approval in principle is sought to enable the Authority to commence these from 8 January assuming no significant issues are raised.
- 3.2 To apply the powers of the IOPC to BTP the Authority must also enter into an agreement with the IOPC under s26 of the Police Reform Act 2002. The same arrangement has been in place with the IPCC since its establishment. A new s26 Agreement is being prepared and will need to have been signed by the Authority by 22 December to ensure it can be signed on 8 January by the Home Secretary and the new Director General of the IOPC.

### **4. Staff Associations**

- 4.1 A letter has been sent to each of the staff associations advising them of the amendment regulations. A Conference with the Federation is being arranged in accordance with s46 of the 2003 Act. The TSSA have until 20 December to make comment.

### **5. Recommendations**

- 5.1 The Authority approves the regulations and the proposed s26 Agreement in principle assuming no significant issues are raised by staff associations or as a result of the final legal check.

# **The British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017**

Made

xx December 2017

Coming into force

8 January 2018

## **Preamble**

The British Transport Police Authority makes the following Regulations in exercise of the powers conferred by Sections 36 and 37 of the Railways and Transport Safety Act 2003 (the 2003 Act).

In accordance with Section 46 of the 2003 Act, the British Transport Police Authority invited the British Transport Police Federation to nominate individuals to meet with an equal number of individuals nominated by the British Transport Police Authority to discuss these Regulations and had regard to the recommendations made by the group. The Transport Salaried Staff Association (TSSA) was also consulted and regard had to their recommendations.

## **PART 1**

### **Preliminary**

#### **Citation and Commencement**

1. (1) These Regulations may be cited as the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017 and shall come into force on 8 January 2018.

## **PART 2**

### **Amendments to secondary regulations**

#### **Amendment to the British Transport Police (Conduct) Regulations 2008**

2. (1) Where The British Transport Police (Conduct) Regulations 2008 continue to have effect by virtue of regulation 2(2) of the British Transport Police (Conduct) Regulations 2015 they do so with the further modifications in paragraph's (2) and (3) detailed below.

(2) For –

(a) “Commission” in each place where it occurs except in regulation 3(1), substitute “Director General”;

(b) “it” in each place where it occurs and is used as a pronoun in place of “the Commission” substitute “the Director General”.

(3) In regulation 3(1) –

(a) omit the definition of “the Commission”; and

(b) at the appropriate place insert –

“the Director General” means the Director General of the Independent Office for Police Conduct;”.

(4) Where as a result of the coming into force of paragraphs (2) and (3) the Director General replaces the Commission in relation to any matter, the BTP (Conduct) Regulations 2008 shall have effect as if anything done, or treated as done, by or in relation to the Commission had been done by or in relation to the Director General.

### **Amendment to the British Transport Police (Police Appeals Tribunals) Regulations 2008**

3. (1) Where The British Transport Police (Police Appeal Tribunals) Regulations 2008 continue to have effect by virtue of regulation 2(2) of The British Transport Police (Police Appeals Tribunals) Regulations 2015 they do so with the further modifications in paragraph’s (2), (3) and (4) detailed below.

(2) In regulation 3(1) after “Police Appeals Tribunals Rules 2008” insert “as amended by The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”.

(3) At the end of regulation 3(1)(d) insert “as amended by The British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

(4) In regulation 3(2) after “provisions of Schedule 6 to the Police Act 1996” insert “as amended by the Criminal Justice and Immigration Act 2008, the Police Reform and Social Responsibility Act 2011 and the Policing and Crime Act 2017”.

### **Amendment to the British Transport Police (Complaints and Misconduct) Regulations 2015**

4. (1) The British Transport Police (Complaints and Misconduct) Regulations 2015 are amended as follows.

(2)

(a) Part 1 paragraph 1(2) “the 2012 Regulations as amended” at the end insert “and The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”.

(b) Part 1 paragraph 4(1)(b)(iv) at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

(c) Part 1 paragraph 4(1)(b)(v) at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

## **Amendment to the British Transport Police (Conduct) Regulations 2015**

5. (1) The British Transport Police (Conduct) Regulations 2015 are amended as follows.

(2) For -

- (a) “Commission” in each place where it occurs, except in regulation 3, substitute “Director General”
- (b) “it” in each place where it occurs and is used as a pronoun in place of “the Commission” substitute “the Director General”.

(3) In regulation 3 –

- (a) omit the definition of “the Commission”;
- (b) at the appropriate place insert –  
  
““Director General” means the Director General of the Independent Office for Police Conduct”;
- (c) “Complaints Regulations” at the end insert “as amended by The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”;
- (d) “the Performance Regulations” at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”;
- (e) “appeal hearing” at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”;
- (f) “disciplinary proceedings” at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”; and
- (g) “personal record” at the end of sub-paragraph (e) insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

(4) In regulation 19(1) –

- (a) at the end of sub-paragraph (a) omit “and”;
- (b) in sub-paragraph (b)
  - (i) after “submitted” insert “or, in the case of an investigation under paragraph 19 of Schedule 3 to the 2002 Act by the Director General acting personally, completed”,

(ii) "in making a determination" to "dealt with in that report" moves to the beginning of the full-out words of the paragraph.

(c) sub-paragraph (c) to become sub-paragraph (d) and at the start of the paragraph insert "Or alternatively in Scotland where sub-paragraphs 19(1)(a),(b) and (c) do not apply ; and

(d) at the end of sub-paragraph (b) delete the word "or" and insert in its place:

"and –

(c) where the investigation was carried out under paragraph 18 or 19 of Schedule 3 to the 2002 Act, on receipt of the Director General'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 given under regulation 20 of the Police (Complaints and Misconduct) Regulations 2012."

as the new sub-paragraph (c).

(5) In regulation 21(1)(c) –

(a) in paragraph (i) omit "and"; and

(b) after paragraph (ii) insert –

"and

(iii) a copy of the opinion given under regulation 20 of the Complaints Regulations,".

(6) In regulation 27(1)(a) after "21(1)" insert "except any given under regulation 21(1)(c)(iii)".

### **Amendment to the British Transport Police (Performance) Regulations 2015**

6. (1) The British Transport Police (Performance) Regulations 2015 are amended as follows.

(2) For -

(a) "Commission" in each place where it occurs, except in regulation 4(1), substitute "Director General"

(b) "it" in each place where it occurs and is used as a pronoun in place of "the Commission" substitute "the Director General".

(3) The amendments made by virtue of paragraph 2(a) above do not apply to occurrences of "Commission" amended by another provision within this regulation.

(4) In regulation 4(1) –

(a) Omit the definition of “the Commission”; and

(b) at the appropriate place insert –

““Director General” means the Director General of the Independent Office for Police Conduct”

(5) In regulation 43(4) at the end insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

## **Amendment to the British Transport Police Appeals Tribunals Regulations 2015**

7. (1) The British Transport Police Appeals Tribunals Regulations 2015 are amended as follows.

(2) In regulation 3(1) after “Police Appeal Tribunals Rules 2012” insert “as amended by The Independent Office for Police Conduct (Transitional and Consequential) Regulations 2017”.

(3) In regulation 4(1)

(a) at the end of sub-paragraph (e) insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”; and

(b) at the end of sub-paragraph (f) insert “as amended by the British Transport Police (Complaints & Misconduct, Conduct, Performance and Police Appeal Tribunal) (Amendment) Regulations 2017”.

**Made by Order of the Police Authority**

## **EXPLANATORY NOTE**

*(This note is not part of the Regulations)*

These Regulations make amendments to the British Transport Police Regulations made under S36 and s37 of the Railways and Transport Safety Act, mainly consequential to amendments to the Police Reform Act 2002<sup>(1)</sup> made by the Policing and Crime Act 2017. These amendments are to reflect the change from the Independent Police Complaints to the Independent Office for Police Conduct.

---

<sup>(1)</sup> 2002 c. 30.