STATUTORY RULES OF NORTHERN IRELAND

2000 No. 318

POLICE

Royal Ulster Constabulary (Complaints etc.) Regulations 2000

Made - - - -	*23rd October 2000*
To be laid before Parliament	
Coming into operation	*6th November 2000*

The Secretary of State, in pursuance of Section 64 of the Police (Northern Ireland) Act 1998 and after consulting the Ombudsman, the Police Authority and the Police Association for Northern Ireland, in accordance with Section 64(4) of that Act, hereby makes the following regulations:—

Citation, commencement and revocation

1.—(1) These regulations may be cited as the Royal Ulster Constabulary (Complaints etc) Regulations 2000 and shall come into operation on 6th November 2000.

(2) The Royal Ulster Constabulary (Complaints, etc) Regulations 1988 are hereby revoked.

Interpretation

2. The following expressions have the meanings hereby respectively assigned to them, that is to say:—

"Chief Constable" shall be construed as including a reference to an officer discharging the functions of the Chief Constable, and references to "the appropriate authority" shall be construed accordingly;

"complainant" means the person by or on behalf of whom a complaint is submitted;

"complaint" means a complaint to which Section 50 of the Act of 1998 applies and "copy of a complaint", in the case of a complaint made orally, shall include a copy of the record of the complaint;

"member" means a member of the Royal Ulster Constabulary, or of the Royal Ulster Constabulary Reserve;

"member concerned", in relation to a complaint, means the member about whose conduct the complaint is made;

"Register" includes the holding of information by electronic means

"senior officer" means an officer of the rank of chief constable, deputy chief constable or assistant chief constable.

"the Act of 1998" means the Police (Northern Ireland) Act 1998;

"the appropriate authority" means—

(a) in relation to a senior officer, the Police Authority;

(b) in relation to any other member, the Chief Constable;

"the Director" means the Director of Public Prosecutions for Northern Ireland

"the Ombudsman" means the Police Ombudsman for Northern Ireland established by Section 51 of the Act of 1998;

Application of regulations

3. Subject to regulation 21 these regulations shall apply—

(a) to any complaint made on or after 6 November 1999, under the Act of 1998; and

(b) to any other matter the investigation of which the Ombudsman is required to, or determines to investigate under Section 55 of that Act,

being a complaint or matter where the conduct complained of or to which it relates occurred, or is alleged to have occurred, on or after 6th November 1999.

Making complaints

4.—(1) A complainant may make a complaint to the Ombudsman, the Police Authority or the Chief Constable; or

(2) A complainant may have a complaint registered on his behalf by a third party providing the complainant gives his consent, either in writing or orally, or is incapable of giving consent.

Definition of a complaint

5. It is for the Ombudsman to determine what constitutes a complaint under Section (52)(8) of the Act of 1998, subject to the following exceptions;

(a) a complaint in so far as it relates to the direction and control of the police force by the Chief Constable; or

(b) a complaint about members not on duty, unless the fact of being a member is relevant to the complaint; or

(c) a complaint about a civilian employed at police establishments;

shall not constitute a complaint under Section (52)(8) of the Act of 1998.

Police Ombudsman to notify the appropriate authority, the complainant and the member concerned

6.—(1) Where the Ombudsman has recorded a complaint against a member, the Ombudsman shall, as soon as practicable, send a copy of, or a record of the complaint to the appropriate authority and the complainant.

(2) Where the Ombudsman has received a complaint against a member, or the Ombudsman is to investigate any other matter under Section 55 of the Act of 1998 he shall, as soon as practicable, send a copy of, or a record of the complaint to the member, unless to do so would impede the investigation or any other investigation of the matter.

Procedures for notification of matters relating to suspension

7.—(1) Where the Ombudsman determines during the course of an investigation that the investigation indicates that the conduct of a member did not meet the appropriate standard, the Ombudsman shall immediately notify the appropriate authority, and provide all relevant material, to enable the appropriate authority to consider suspension.

(2) Where the appropriate authority suspends a member, during the course of an investigation under Part VII of the Act of 1998, it shall notify the Ombudsman.

(3) Where a member has been suspended and the Ombudsman is investigating the complaint or any other matter under Section 55 or Section 56 of the Act of 1998 he must keep the appropriate authority informed of the progress of that investigation to allow it to consider whether suspension remains appropriate.

(4) The Ombudsman shall immediately inform the appropriate authority of any matter which indicates that the appropriate authority should reconsider the suspension.

Supply of information to Ombudsman – general

8. The appropriate authority shall supply the Ombudsman with such material as he may require relating to a complaint under Section 52 of the Act of 1998, or investigation under Section 55 of the Act of 1998, whether or not such complaint or matter is the subject of an investigation by the Ombudsman or supervised by the Ombudsman, for the purpose of enabling the Ombudsman to fulfil his functions under the said Act.

Procedures for the Ombudsman to refer complaints to the Chief Constable to investigate

9. Where the Ombudsman decides to forward a complaint to the Chief Constable to investigate under Section 54 of the 1998 Act, he shall do so immediately on making that decision, and forward all relevant material.

Procedures for the Ombudsman to refer complaints to the appropriate authority to resolve by way of informal resolution

10.—(1) Where the Ombudsman decides to forward the complaint to the appropriate authority to resolve by informal resolution under Section 53 of the 1998 Act, he shall do so immediately and forward all relevant material.

(2) Where the appropriate authority determines that it is not possible to resolve the complaint by informal resolution, or, the appropriate authority determines that the evidence uncovered shows that the complaint is not suitable for informal resolution, it shall notify the Ombudsman immediately and shall forward all relevant material and the reasons for that decision.

(3) A complaint is not suitable for informal resolution where the Ombudsman is satisfied that the conduct complained of, if proved, would justify a criminal charge.

Procedures for complaints being formally investigated to be informally resolved

11.—(1) Where the Ombudsman is investigating a complaint under Section 56 of the Act of 1998 and he determines that the evidence uncovered shows that the complaint is suitable for informal resolution, he may refer it to the appropriate authority to informally resolve under Section 53 of the Act.

(2) Where the Chief Constable is investigating a complaint under Section 57 of the Act of 1998 and he determines that the evidence uncovered shows that the complaint is suitable for informal resolution, he may seek permission from the Ombudsman to informally resolve the complaint and if he agrees, informally resolve the complaint under Section 53 of the Act.

Procedures for the Ombudsman to forward complaints to the Chief Constable to initiate unsatisfactory performance procedures

12.—(1) Where the Ombudsman in consultation with the Chief Constable considers the complaint to be a matter of unsatisfactory performance rather than misconduct, the Ombudsman shall notify the Chief Constable and forward all relevant material.

(2) Where the Ombudsman forwards the complaint to the Chief Constable to deal with under the Royal Ulster Constabulary (Unsatisfactory Performance) Regulations 2000, the requirements of Part VII of the Act to the extent that they have not already been satisfied should be dispensed with and he shall notify the member concerned and the complainant accordingly.

Notification of supervision

13.—(1) Where the Ombudsman has referred a complaint to the Chief Constable to investigate under Section 54 of the Act of 1998, if the Ombudsman determines to supervise an investigation he shall notify the Chief Constable when he forwards the complaint for investigation.

(2) If during the course of the investigation the Ombudsman determines to relinquish supervision of the investigation, he shall notify the Chief Constable immediately of that decision.

Power of Ombudsman to impose requirements in relation to investigations

14.—(1) Without prejudice to the Ombudsman's powers in relation to the appointment of an investigating officer under Section 57 of the 1998 Act, the Ombudsman may, where he undertakes the supervision of an investigation of a complaint, issue directions imposing such additional requirements as to the conduct of the investigation as appear to him to be necessary.

(2) The Ombudsman shall not, under paragraph (1) above, impose any requirement relating to the resources to be made available by the Chief Constable for the purposes of an investigation without first consulting him and having regard to any representations he may make.

Procedures for the Ombudsman to continue investigations which have previously been conducted by the Chief Constable

15.—(1) Where the Chief Constable is conducting an investigation under Section 57 of the Act of 1998, and the Ombudsman determines to assume the investigation—

(a) the Ombudsman shall notify the Chief Constable of his decision immediately;

(b) the Chief Constable shall immediately furnish the Ombudsman with all relevant material relating to the investigation.

(2) Where the Chief Constable is conducting an investigation, the Chief Constable shall notify the Ombudsman of any information revealed during an investigation which may suggest that it is in the public interest for the Ombudsman to continue the investigation in accordance with Section 56 of the Act of 1998.

Procedures for the Ombudsman to refer an investigation which he has been conducting to the Chief Constable to continue

16. Where the Ombudsman is conducting an investigation under Section 56 of the Act of 1998 and he determines to refer the complaint to the Chief Constable to investigate under Section 57 of the Act of 1998—

(a) the Ombudsman shall notify the Chief Constable immediately of his decision; and

(b) the Ombudsman shall immediately furnish the Chief Constable with all relevant material.

Conduct of Investigations

17. Investigations under Section 56 or 57 of the Act of 1998 shall be conducted without undue delay.

Functions of Ombudsman as to criminal proceedings

18.—(1) Where the Ombudsman considers any report under Section 58 of the Act of 1998 he shall deal with the report without undue delay and shall, as soon as practicable, take such decisions as appear to him appropriate.

(2) Where the Ombudsman determines that the report indicates that a criminal offence may have been committed by a member he shall:

(a) forward the report to the Director without undue delay; and

(b) notify the appropriate authority without undue delay.

Functions of Ombudsman as to disciplinary charges

19.—(1) Where the Ombudsman considers disciplinary proceedings under Section 59 of the Act of 1998 he shall deal with the case without undue delay and shall, as soon as practicable, and send all relevant material, and a memorandum with such particulars as specified in Section 59(2) of the Act of 1998 concerning such disciplinary proceedings as appear to him appropriate .

(2) Where the appropriate authority agrees to bring disciplinary proceedings, it shall notify the Ombudsman and the member.

(3) Where the appropriate authority agrees to bring disciplinary proceedings the Ombudsman shall notify the complainant.

(4) Where the Chief Constable has not preferred disciplinary charges or does not propose to do so and the Ombudsman accepts his decision he shall—

(a) so inform the Chief Constable forthwith, and

(b) notify the complainant of the decision and of its acceptance thereof,

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

(5) Where the Chief Constable withdraws a disciplinary charge with the leave of the Ombudsman given in pursuance of Section 59 of the Act, the Ombudsman shall notify the complainant that the charge has been withdrawn with its leave and furnish him with such relevant information in explanation of the withdrawal as appears to the Ombudsman appropriate and copy it to the member concerned.

(6) The Ombudsman shall be relieved of the duty of notifying the complainant as mentioned in paragraphs (3), 4(*b*) or (5) if compliance therewith appears to it to be not reasonably practicable.

(7) Where the Chief Constable has, under the Royal Ulster Constabulary (Conduct) Regulations 2000, delegated the duty of deciding whether a member should be charged with a disciplinary offence, the references in paragraphs (2), (4) and (5) to the Chief Constable shall be taken as references to the officer to whom the duty is delegated.

Supply of report on the investigation of matters not the subject of a complaint

20. At the end of an investigation of a matter investigated under Section 55 of the Act of 1998, the Ombudsman shall send a copy of the report on the investigation to:

(i) the Police Authority and the Chief Constable unless they have already received a copy of the report under regulation 18; and