STATUTORY INSTRUMENTS

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AGRICULTURE, ENGLAND AND WALES

FOOD, ENGLAND AND WALES

The Food Crime Officers (Complaints and Misconduct) Regulations 2025

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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 26E(1), (2) and (6) and 105(4) and (5) of the Police Reform Act 2002(**a**).

In accordance with section 24 of that Act(**b**), the Secretary of State has consulted with the Independent Office for Police Conduct(**c**), the Director General, such persons as appear to the Secretary of State to represent the views of police and crime commissioners, the Mayor's Office for Policing and Crime, the Common Council, the National Police Chiefs' Council and such other persons as the Secretary of State thinks fit.

In accordance with section 63(3)(b) of the Police Act 1996(**d**), the Secretary of State has supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into account its representations before making these Regulations.

PART 1

Introductory

Citation, commencement and extent

1.—(1) These Regulations may be cited as the Food Crime Officers (Complaints and Misconduct) Regulations 2025 and come into force on 1st May 2025.

(2) These Regulations extend to England and Wales.

Interpretation

2.—(1) In these Regulations—

(**a**) 2002 c. 30. Section 26E was inserted by section 54 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32). The Police Reform Act 2002 was also amended by Schedule 9 to the Policing and Crime Act 2017 (c. 3). Other relevant amendments to the Police Reform Act 2002 are set out in subsequent footnotes.

(**b**) Section 24 was amended by paragraph 12 of Schedule 4 to the Police and Justice Act 2006 (c. 48), paragraph 289 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and paragraphs 6 and 7 of Schedule 14 to the Policing and Crime Act 2017.

(**c**) The Independent Office for Police Conduct is a body corporate by virtue of section 9 of the Police Reform Act 2002, as amended by section 33 of the Policing and Crime Act 2017. There are other amendments to section 9 of the Police Reform Act 2002, but these are not relevant to this instrument.

(**d**) 1996 c. 16. Section 63(3)(b) was substituted by paragraphs 68 and 78 of Schedule 4 to the Serious Organised Crime Act 2005 (c. 15); there are other amendments to section 63, but these are not relevant to this instrument.

"2002 Act" means the Police Reform Act 2002;

"chief executive" means the chief executive of the FSA;

"chief officer" means the chief officer of police of any police force;

"complainant" means—

(a) in the case of a complaint falling within regulation 10(1)(d), the person on whose behalf the complaint was made;

(b) in the case of a complaint not falling within regulation 10(1)(d), the person by whom the complaint was made;

but where any person is acting on another's behalf for the purposes of any complaint, anything that is to be, or that may be, done under these Regulations by, or in relation to, the complainant may be done by, or in relation to, the person acting on the complainant's behalf;

"complaint" has the meaning given by regulation 10(1) and includes a purported complaint;

"conduct" includes acts, omissions, statements and decisions (whether actual, alleged or inferred) by an officer, whilst on duty, and acting or operating under powers in the Police and Criminal Evidence Act 1984(**a**) or the Criminal Justice and Public Order Act 1994(**b**) in their capacity as an officer;

"conduct matter" has the meaning given by regulation 10(2)(a);

"death or serious injury matter" and "DSI matter" have the meaning given by regulation 10(2)(b);

"Director General" means the Director General of the Office;

"disciplinary proceedings" means any proceedings or management process during which the conduct of an officer is considered in order to determine whether a sanction or punitive measure should be imposed against that person in relation to that conduct;

"document" means anything in which information of any description is recorded;

"FSA" means the Food Standards Agency(**c**);

"FSA friend" means a person chosen under regulation 51(2);

"information" includes estimates and projections, and statistical analyses;

"information notice" has the meaning given in regulation 68(1);

"interested person" means a person who has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter in accordance with regulation 60;

"Office" means the Independent Office for Police Conduct;

"officer" means, unless the context otherwise requires, a food crime officer, and for this purpose "food crime officer" has the meaning given in section 114C of the Police and Criminal Evidence Act 2004;

"person complained against", in relation to a complaint, means the person whose conduct is the subject matter of the complaint;

"person concerned" has the meaning given in regulation 49(9);

"person investigating", in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;

"recordable conduct matter" means a conduct matter that is required to be recorded by the chief executive under regulation 18 or 19, or which has been so recorded;

"relevant document" means a document relating to any complaint or matter under investigation (and includes a document containing suggestions as to lines of inquiry to be

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(**a**) 1984 c. 60, amended by section 54 of the Police, Crime, Sentencing and Courts Act 2022 (c. 32). There are other amendments, but these are not relevant to this instrument.

(**b**) 1994 c. 33. There are amendments, but these are not relevant to this instrument.

(**c**) The Food Standards Agency was established by section 1 of the Food Standards Act 1999 (c. 28).

pursued or witnesses to be interviewed), but this definition does not apply in relation to regulation 72;

"relevant offence" means—

(a) an offence for which the sentence is fixed by law; or

(b) an offence for which a person aged 18 years or over, who has not previously been convicted, may be sentenced to imprisonment for a term of seven years or more (or might be so sentenced but for the restrictions imposed by section 33 of the Magistrates' Courts Act 1980(**a**));

"relevant statement" means an oral or written statement relating to any complaint or matter under investigation;

"serious injury" means a fracture, a deep cut, a deep laceration or an injury causing damage to an internal organ or the impairment of any bodily function;

"severity assessment" means, in relation to conduct, an assessment as to—

(a) whether the conduct, if proved, would amount to misconduct that is so serious as to justify disciplinary action or gross misconduct; and

(b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.

(2) References in these Regulations to a "member of the public", in relation to any conduct or anything purporting to be a complaint about any conduct, do not include references to an officer.

(3) For the purposes of these Regulations, a person is adversely affected if that person suffers any form of loss or damage, distress or inconvenience, if that person is put in danger or if that person is otherwise unduly put at risk of being adversely affected.

(4) References in these Regulations to the investigation of any complaint or matter by the chief executive, under the direction of the Director General, or by the Director General are to be construed as references to the Director General's investigation in accordance with—

(a) regulation 42 (investigations by the chief executive on the chief executive's own behalf);

(b) regulation 43 (investigation by a police force or the National Crime Agency under the direction of the Director General);

(c) regulation 44 (investigations directed by the Director General); or

(d) regulation 45 (investigations by the Director General).

PART 2

Complaints and misconduct: general

Application: general

3. These Regulations apply in relation to the exercise by officers of their functions whilst on duty, and acting or operating under powers in the Police and Criminal Evidence Act 1984 or the Criminal Justice and Public Order Act 1994 in their capacity as officers, and confer functions on the Director General accordingly.

Application of the 2002 Act

4.—(1) The following sections of the 2002 Act apply to the exercise by officers of their functions with the modifications set out in paragraphs (2) and (3)—

(**a**) 1980 c. 43. Section 33 was amended by Schedule 4 to the Criminal Justice Act 1991 (c. 53); section 2 to the Aggravated Vehicle-Taking Act 1992 (c. 11); and Schedule 37 to the Criminal Justice Act 2003 (c. 44).

(a) section 9 (the Independent Office for Police Conduct)(**a**);

(b) section 19 (use of investigatory powers by or on behalf of the Director General)(**b**);

(c) section 22 (power of the Director General to issue guidance)(**c**); and

(d) section 24 (consultation on regulations).

(2) Section 22 of the 2002 Act applies as if—

(a) for subsection (1) there were substituted—

"(1) The Director General may issue guidance to the Food Standards Agency, food crime officers or any person the Director General sees fit concerning the exercise or performance, by the persons to whom the guidance is issued, of any powers or duties specified in subsection (2).";

(b) in subsection (2)(b)(iii) for "persons serving with the police" there were substituted "food crime officers";

(c) for subsection (3) there were substituted—

"(3) Before issuing any guidance under this section, the Director General must consult the Food Standards Agency and any person the Director General sees fit.";

(d) in subsection (5)(b) for "appropriate authority" there were substituted "chief executive of the Food Standards Agency".

(3) Section 24 of the 2002 Act applies as if for paragraphs (b) to (c) there were substituted—

"(b) the Food Standards Agency; and".

(4) Where a provision listed in paragraph (1) (as modified by paragraphs (2) and (3)) contains a term that is defined in these Regulations, the definition given in these Regulations, rather than any definition contained in a provision of, or another provision made under, the 2002 Act, applies for the purposes of the application of the relevant provision in relation to the exercise by officers of their functions.

Temporary service

5. The Director General may make arrangements with the chief executive under which officers are engaged on temporary service with the Office.

General functions of the Director General in relation to officers

6.—(1) The functions of the Director General in relation to officers are to—

(a) secure the maintenance by the Director General, and by the FSA, of suitable arrangements with respect to the matters mentioned in paragraph (2);

(b) keep under review all arrangements maintained with respect to those matters;

(c) secure that arrangements maintained with respect to those matters—

(i) comply with the requirements of these Regulations;

(ii) are efficient and effective; and

(iii) contain and manifest an appropriate degree of independence;

(**a**) Section 9 was amended by Schedules 2 and 17 to the Serious Organised Crime and Police Act 2005 (c. 15); Schedule 14 to the Police and Justice Act 2006 (c. 48); Schedule 8 to the Crime and Courts Act 2013 (c. 22); and section 33 of the Policing and Crime Act 2017.

(**b**) Section 19 was amended by Schedule 9 to the Policing and Crime Act 2017 and Schedule 1 to the Covert Human Intelligence Sources (Criminal Conduct) Act 2021 (c. 4).

(**c**) Section 22 was amended by Schedule 12 to the Serious Organised Crime and Police Act 2005; Schedule 4 to the Police and Justice Act 2006 (c. 48); Schedule 16 to the Police Reform and Social Responsibility Act 2011; and Schedules 5, 9 and 14 to the Policing and Crime Act 2017.

(d) secure that public confidence is established and maintained in the existence of suitable arrangements with respect to those matters and with the operation of the arrangements that are in fact maintained with respect to those matters; and

(e) make such recommendations, and give such advice, for the modification of the arrangements maintained with respect to those matters, as appear, from the carrying out by the Director General of the Director General's other functions, to be necessary or desirable.

(2) The matters are—

(a) the handling of complaints made about conduct;

(b) the recording of matters from which it appears that there may have been conduct which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings which must be referred to the Office or which will be voluntarily referred to the Office;

(c) the recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with an officer; and

(d) the manner in which any such complaints or any such matters as are mentioned in sub-paragraph (b) or (c) are investigated or otherwise handled and dealt with.

(3) The Director General—

(a) must exercise the powers and perform the duties conferred on the Director General by these Regulations in the manner that the Director General considers best calculated for the purpose of securing the proper carrying out of the Director General's functions under paragraph (1);

(b) must secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by officers;

(c) may enter into arrangements with the chief inspector of constabulary for the purpose of securing cooperation, in the carrying out of their respective functions in relation to officers, between the Director General and the inspectors of constabulary; and

(d) may provide the inspectors referred to in sub-paragraph (c) with all such assistance and co-operation as may be required by the arrangements mentioned in that sub-paragraph, or as otherwise appears to the Director General to be appropriate, for facilitating the carrying out by those inspectors of their functions.

(4) In carrying out functions under these Regulations the Director General must have regard to any advice provided to the Director General by the Office (see regulation 7(1)(a)).

(5) Subject to the other provisions of these Regulations, the Director General may do anything which appears to the Director General to be calculated to facilitate, or is incidental or conducive to, the carrying out of the Director General's functions.

(6) The Office may, in connection with the making of any recommendation or the giving of any advice to any person for the purpose of carrying out the Director General's function under paragraph (1)(e), impose any such charge on that person for anything done by the Director General for the purposes of, or in connection with, the carrying out of that function as the Director General thinks fit.

General functions of the Office under these Regulations

7.—(1) The functions of the Office are—

(a) to provide support and advice to the Director General in the carrying out of the Director General's functions; and

(b) to monitor and review the carrying out of such functions.

(2) The Office is to perform its functions under these Regulations for the general purpose of improving the way in which the Director General's functions under these Regulations are carried out, including by encouraging the efficient and effective use of resources in the carrying out of those functions.

(3) In carrying out its functions under these Regulations the Office must, in particular, have regard to public confidence in the existence of suitable arrangements with respect to the matters mentioned in regulation 6(2) and the operation of the arrangements that are in fact maintained with respect to those matters.

(4) The Office may do anything which appears to it to be calculated to facilitate, or is incidental to, the carrying out of its functions under these Regulations.

Efficiency etc. in exercise of functions

8. The Director General and the Office must carry out their functions under these Regulations efficiently and effectively.

Reports to the Secretary of State

9.—(1) As soon as practicable after the end of each of the Office's financial years, the Director General and the Office must jointly make a report to the Secretary of State on the carrying out of their functions under these Regulations during that year.

(2) The Secretary of State may also require reports to be made at any time—

(a) by the Director General about the carrying out of the Director General's functions;

(b) by the Office about the carrying out of the Office's functions; or

(c) jointly by the Director General and the Office about the carrying out of their functions,

under these Regulations.

(3) The Director General may, from time to time, make such other reports to the Secretary of State as the Director General considers appropriate for drawing the Secretary of State's attention to matters which—

(a) have come to the Director General's notice; and

(b) are matters which the Director General considers should be drawn to the attention of the Secretary of State by reason of their gravity or of other exceptional circumstances,

under these Regulations.

(4) The Office may, from time to time, make such other reports to the Secretary of State as it considers appropriate for drawing the Secretary of State's attention to matters which—

(a) have come to its notice; and

(b) are matters that it considers should be drawn to the Secretary of State's attention by reason of their gravity or other exceptional circumstances,

under these Regulations.

(5) The Director General and the Office may jointly make reports under paragraphs (3) and (4).

(6) The Director General may prepare such reports containing advice and recommendations as the Director General thinks appropriate for the purpose of carrying out the Director General's function under regulation 6(1)(e).

(7) Where the Secretary of State receives any report under this regulation, the Secretary of State must—

(a) in the case of every annual report under paragraph (1); and

(b) in the case of any other report, if and to the extent that the Secretary of State considers it appropriate to do so,

arrange for a copy of the report to be laid before Parliament and publish the report.

(8) The Office must send a copy of every annual report under paragraph (1) to the Secretary of State.

(9) The Director General or, as the case may be, the Office must send a copy of every report under paragraph (3) or (4) to the Secretary of State.

(10) The Director General or, as the case may be, the Office must send a copy of every report made or prepared under paragraph (3) or (4) to such of the persons (in addition to the Secretary of State) who—

(a) are referred to in the report; or

(b) appear to the Director General or the Office otherwise to have a particular interest in its contents,

as the Director General or the Office thinks fit.

(11) Where a report under paragraph (3) or (4) is prepared jointly under paragraph (5), a duty under this regulation to send a copy of the report to any person is met if either the Director General or the Office sends a copy to that person.

Complaints, matters and persons to whom and to which these Regulations apply

10.—(1) Subject to the following provisions of this regulation, in these Regulations "complaint" means any complaint about the conduct of an officer 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 sub-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 who is acting on behalf of a person falling within any of sub-paragraphs (a) to (c) and who is authorised to act on that person's behalf,

and references to a complaint are references to any expression of dissatisfaction with an officer which is expressed, whether in writing or otherwise, by or on behalf of a member of the public.

(2) In these Regulations—

(a) "conduct matter" means, subject to the following provisions of this regulation, any matter which is not and has not been the subject of a complaint but in the case of which there is an indication, whether from the circumstances or otherwise, that, whilst on duty and acting or operating in their capacity as an officer, an officer may have—

(i) committed a criminal offence; or

(ii) behaved in a manner which would justify the bringing of disciplinary proceedings;

(b) "death or serious injury matter" ("DSI matter") means any circumstance, other than those which are or have been the subject of a complaint or which amount to a conduct matter—

(i) in or in consequence of which a person has died or has sustained serious injury; and

(ii) in relation to which the custody requirement or the contact requirement are satisfied (as to which, see paragraphs (3) and (4)).

(3) The custody requirement is that at the time of the death or serious injury the person was in the custody of an officer, who was on duty, and acting or operating under powers in the Police and Criminal Evidence Act 1984 or the Criminal Justice and Public Order Act 1994, in their capacity as an officer at the time of the custody.

(4) The contact requirement is that—

(a) at or before the time of the death or serious injury the person had contact (of whatever kind, and whether direct or indirect), with an officer, who was on duty, and acting or operating under powers in the Police and Criminal Evidence Act 1984 or the Criminal Justice and Public Order Act 1994, in their capacity as an officer at the time of the contact; and

(b) there is an indication that the contact described in sub-paragraph (a) may have caused (whether directly or indirectly) or contributed to the death or serious injury.

(5) In paragraph (2)(b) the reference to a person includes an officer, but in relation to such a person "contact" in paragraph (4) does not include contact that that officer has whilst acting in the execution of their duties as an officer.

(6) The complaints that are complaints for the purposes of these Regulations by virtue of paragraph (1)(b) do not, except in a case falling within paragraph (7), include any made by or on behalf of a person who claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.

(7) A case falls within this paragraph if—

(a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that the person was able to see or hear the conduct or its effects; or

(b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect,

and for the purposes of sub-paragraph (a), "person in question" means the person expressing dissatisfaction or the person on whose behalf dissatisfaction is being expressed.

(8) For the purposes of this regulation a person is to be taken to have witnessed conduct only if—

(a) that person acquired knowledge of that conduct in a manner which would make that person a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or

(b) that person possesses or controls anything which would in any such proceedings constitute admissible evidence of that conduct.

(9) For the purposes of these Regulations a person falling within paragraph (1)(a) to (c) is not to be taken to have authorised another person to act on their behalf unless that other person—

(a) is for the time being designated for the purposes of this regulation by the Director General as a person through whom complaints may be made, or is of a description of persons so designated; or

(b) has been given, and is able to produce, the written consent to such action of the person on whose behalf that action is taken.

General duties of the chief executive

11.—(1) The chief executive must, in relation to officers, keep abreast of—

(a) matters with respect to which any provision of these Regulations has effect;

(b) anything which is done under or for the purposes of any such provision; and

(c) any obligations to act or refrain from acting that have arisen by or under these Regulations, but which have not yet been complied with or which have been contravened.

(2) The chief executive must provide the Director General and every member of the Office's staff with all such assistance as the Director General or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any functions by the Director General under these Regulations.

(3) The chief executive must ensure that a person appointed under regulation 42, 43 or 44 to carry out an investigation is given all such assistance and co-operation in the carrying out of that investigation as that person may reasonably require.

Payments

12.—(1) The FSA must pay such amount to the Secretary of State in respect of functions under these Regulations performed by the Office or the Director General, as the case may be, as may be agreed between the chief executive and the Office or the Director General, as the case may be.

(2) In the absence of an agreement, the FSA must pay such amount in respect of those functions, after consultation with the Secretary of State, as the Secretary of State determines.

Payment for assistance with investigations

13.—(1) This regulation applies where—

(a) a person serving with the police or a National Crime Agency officer is appointed to investigate a complaint or matter further to arrangements made in pursuance of regulation 43 or 44(2)(b);

(b) a person appointed under regulation 42, 43 or 44 to carry out an investigation requests assistance from a police force or the National Crime Agency in connection with the investigation, and the police force or National Crime Agency provides that assistance; or

(c) the Director General or a member of the Office's staff requests assistance from a police force or the National Crime Agency in connection with an investigation under these Regulations, and the police force or National Crime Agency provides that assistance.

(2) In a case where this regulation applies by virtue of paragraph (1)(a) or (b), the FSA must pay to the local policing body maintaining the relevant police force or the National Crime Agency, as the case may be, such contribution (if any) towards the costs of the assistance—

(a) as may be agreed between them;

(b) in the absence of an agreement, as may be determined in accordance with any arrangements which—

(i) have been agreed to by local policing bodies generally or the National Crime Agency, as the case may be, and the chief executive; and

(ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided in connection with investigations under these Regulations; or

(c) in any other case, as may be determined by the Secretary of State.

(3) In a case where this regulation applies by virtue of paragraph (1)(c), the Office must pay to the local policing body maintaining the relevant police force or the National Crime Agency, as the case may be, such contribution (if any) towards the costs of the assistance—

(a) as may be agreed between them;

(b) in the absence of an agreement, as may be determined in accordance with any arrangements which—

(i) have been agreed to by local policing bodies generally or the National Crime Agency, as the case may be, and the Director General; and

(ii) are for the time being in force with respect to the making of contributions towards the costs of assistance provided in connection with investigations under these Regulations; or

(c) in any other case, as may be determined by the Secretary of State.

PART 3

Handling of complaints and conduct matters, etc.

Duty to preserve evidence relating to complaints

14.—(1) Where—

(a) a complaint is made to the chief executive; or

(b) the chief executive becomes aware that a complaint has been made to the Director General,

the chief executive must take all such steps as appear to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the conduct complained of.

(2) The chief executive's duty under paragraph (1) must be performed as soon as practicable after the complaint is made or, as the case may be, the chief executive becomes aware of it.

(3) After that, the chief executive must, until satisfied that it is no longer necessary to do so, continue to take the steps which from time to time appear to the chief executive to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the conduct complained of.

(4) The chief executive must take all such specific steps for obtaining or preserving evidence relating to any conduct that is the subject matter of a complaint as the chief executive may be directed to take for the purposes of this regulation by the Director General.

Initial handling and recording of complaints

15.—(1) Where a complaint is made to the Director General, the Director General must give notification of the complaint to the chief executive.

(2) But the Director General need not give that notification if the Director General considers that there are exceptional circumstances that justify the chief executive not being given that notification.

(3) Where the Director General gives notification of a complaint under paragraph (1), the Director General must notify the complainant that the notification has been given and of what it contained.

(4) Where—

(a) a complaint is notified to the chief executive under paragraph (1); or

(b) a complaint is made to the chief executive,

the chief executive must record the complaint.

Keeping of records by the chief executive

16. The chief executive must keep records, in such form as the Director General determines, of—

(a) every complaint that is made to the chief executive;

(b) every conduct matter recorded by the chief executive under regulation 18 and 19;

(c) every DSI matter recorded by the chief executive under regulation 29;

(d) every exercise of a power or performance of a duty under these Regulations.

Handling of complaints by the chief executive

17.—(1) This regulation applies where a complaint has been recorded by the chief executive unless the complaint—

(a) is one which has been, or must be, referred to the Director General under regulation 23; and

(b) is not for the time being either referred back to the chief executive under regulation 25 or the subject of a determination under regulation 36.

(2) The chief executive is not to be required by virtue of any provisions of these Regulations to take any action in relation to the complaint but may handle the complaint in whatever manner the chief executive thinks fit, or take no action in relation to the complaint.

Conduct matters arising in civil proceedings

18.—(1) This regulation applies where—

(a) the chief executive has received notification (whether or not under this regulation) that civil proceedings relating to any matter have been brought by a member of the public against the FSA, or it otherwise appears to the chief executive that such proceedings are likely to be so brought; and

(b) it appears to the chief executive (whether at the time of the notification or at any time subsequently) that those proceedings involve, or would involve, a conduct matter.

(2) The chief executive must determine whether the matter is one which the chief executive is required to refer to the Director General under regulation 26 or is one which it would be appropriate to so refer.

(3) If the chief executive determines that the matter is one which the chief executive is required to refer to the Director General under regulation 26, or is one which it would be appropriate to so refer, the chief executive must record the matter.

(4) In any case not falling within paragraph (3), the chief executive must determine whether the matter—

(a) concerns substantially the same conduct as—

(i) a complaint made previously ("previous complaint"); or

(ii) a conduct matter recorded previously ("previous conduct matter");

(b) is one in respect of which there is no fresh indication that an officer may have—

(i) committed a criminal offence; or

(ii) behaved in a manner which would justify the bringing of disciplinary proceedings;

(c) is one in respect of which there is no fresh substantive evidence which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded; and

(d) is one where, as respects the previous complaint or previous conduct matter, it has been or is being investigated or (in the case of a complaint) otherwise handled in accordance with these Regulations.

(5) In a case where the chief executive determines that the matter does not fall within paragraph (4), the chief executive must record the matter.

(6) In any case not falling within paragraph (3) or (5), the chief executive may (but need not) record the matter.

(7) In a case where the chief executive—

(a) records a matter under this regulation; and

(b) is not required to refer the matter to the Director General under regulation 26 and does not do so,

the chief executive may deal with the matter in such other manner (if any) as the chief executive may determine.

(8) Nothing in paragraphs (3) or (5) requires the chief executive to record any conduct matter if the chief executive is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

(9) For the purposes of this paragraph, civil proceedings involve a conduct matter if—

(a) they relate to such a matter; or

(b) they are proceedings that relate to a matter in relation to which a conduct matter, or evidence of a conduct matter, is or may be relevant.

Recording, etc., of conduct matters in other cases

19.—(1) This regulation applies where—

(a) a conduct matter comes, otherwise than as mentioned in regulation 18, to the attention of the chief executive; and

(b) it appears to the chief executive that the conduct involved in that matter falls within paragraph (2).

(2) Conduct falls within this paragraph if, assuming it to have taken place—

(a) it appears to have resulted in the death of any person or in serious injury to any person;

(b) a member of the public has been adversely affected by it; or

(c) it involves—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status, as determined in guidance issued by the Director General;

(v) a relevant offence;

(vi) conduct whose gravity or other exceptional circumstances make it appropriate to record the matter in which the conduct is involved;

(vii) conduct which is alleged to have taken place in the same incident as one in which conduct within paragraphs (i) to (v) is alleged.

(3) The chief executive must determine whether the matter is one which the chief executive is required to refer to the Director General under regulation 26 or is one which it would be appropriate to so refer.

(4) If the chief executive determines that the matter is one which the chief executive is required to refer to the Director General under regulation 26, or is one which it would be appropriate to so refer, the chief executive must record the matter.

(5) In any case not falling within paragraph (3) or (4), the chief executive must determine whether the matter—

(a) concerns substantially the same conduct as—

(i) a complaint made previously ("previous complaint"); or

(ii) a conduct matter recorded previously ("previous conduct matter");

(b) is one in respect of which there is no fresh indication that an officer may have—

(i) committed a criminal offence; or

(ii) behaved in a manner which would justify the bringing of disciplinary proceedings;

(c) is one in respect of which there is no fresh substantive evidence which was not reasonably available at the time the previous complaint was made or the previous conduct matter was recorded; and

(d) is one where, as respects the previous complaint or previous conduct matter, it has been or is being investigated or (in the case of a complaint) otherwise handled in accordance with these Regulations.

(6) In a case where the chief executive determines that the matter does not fall within paragraph (5), the chief executive must record the matter.

(7) In any case not falling within paragraph (4) or (6), the chief executive may (but need not) record the matter.

(8) In a case where the chief executive—

(a) records a matter under this paragraph; and

(b) is not required to refer the matter to the Director General under regulation 26 and does not do so,

the chief executive may deal with the matter in such other manner (if any) as the chief executive may determine.

(9) Nothing in paragraph (4) or (6) requires the chief executive to record any conduct matter if the chief executive is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

Duty to preserve evidence relating to conduct matters

20.—(1) Where the chief executive becomes aware of any recordable conduct matter relating to the conduct of an individual, the chief executive must take all such steps as appear to the chief executive to be appropriate for the purposes of these Regulations for obtaining and preserving the evidence relating to that matter.

(2) The chief executive's duty under paragraph (1) must be performed as soon as practicable after the chief executive becomes aware of the matter in question.

(3) After that, the chief executive must, until satisfied that it is no longer necessary to do so, continue to take the steps from time to time appearing to the chief executive to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the matter.

(4) The Director General may direct the chief executive to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as the Director General considers appropriate for the purposes of these Regulations; and the chief executive must comply with any such direction.

Complaints against a person who has subsequently ceased to be employed by the FSA

21. Where a complaint or conduct matter relates to the conduct of a person who has ceased to be employed by the FSA since the time of the conduct concerned, these Regulations apply in relation to such a person as if they did not include any requirement to determine whether disciplinary proceedings or performance proceedings should be brought against a person whose conduct is the subject matter of a report.

PART 4

Referral of matters to the Director General

Recording and reference of conduct and DSI matters

22.—(1) Any conduct matter which is required to be referred to the Director General must be referred in such manner as the Director General specifies and—

(a) if the matter falls within regulation 26(1)(a) or (b), without delay and in any event not later than the end of the day following the day on which it first becomes clear to the chief executive that the conduct matter falls within regulation 26(1)(a) or (b);

(b) if the matter falls within regulation 26(1)(c), without delay and in any event not later than the end of the day following the day on which the Director General notifies the chief executive that the conduct matter is to be referred.

(2) Any DSI matter which is required to be referred to the Director General must be referred in such manner as the Director General specifies and—

(a) in a case where the Director General directs that the matter be referred to the Director General, without delay and in any event not later than the end of the day following the day on which the Director General so directs;

(b) in any other case, without delay and in any event not later than the end of the day following the day on which the matter first comes to the attention of the chief executive.

Reference of complaints to the Director General

23.—(1) The chief executive must refer a complaint to the Director General where the complaint is—

(a) one alleging that the conduct complained of has resulted in death or serious injury;

(b) any complaint not falling within sub-paragraph (a) but alleging conduct which constitutes—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion, or other status, as determined in guidance issued by the Director General;

(v) a relevant offence;

(c) a complaint which arises from the same incident as one in which any conduct falling within sub-paragraph (a) or (b) is alleged; or

(d) one in respect of which the Director General notifies the chief executive that the Director General requires the complaint in question to be referred to the Director General for the Director General's consideration.

(2) In a case where there is no obligation under paragraph (1) to make a reference, the chief executive may refer a complaint to the Director General if the chief executive considers that it would be appropriate to do so by reason of—

(a) the gravity of the subject matter of the complaint; or

(b) any exceptional circumstances.

(3) Where a complaint is required to be referred to the Director General under paragraph (1)(a), (b) or (c), notification of the complaint must be given to the Director General—

(a) without delay and in any event not later than the end of the day following the day on which it first becomes clear to the chief executive that the complaint falls within paragraph (1)(a), (b) or (c); and

(b) in such manner as the Director General specifies.

(4) Where a complaint is required to be referred to the Director General under paragraph (1)(d), notification of the complaint must be given to the Director General—

(a) without delay and in any event not later than the end of the day following the day on which the Director General notifies the chief executive that the complaint is to be referred; and

(b) in such manner as the Director General specifies.

(5) Subject to paragraph (6), the power of—

(a) the Director General by virtue of paragraph (1)(d) to require a complaint to be referred to the Director General; and

(b) the chief executive to refer a complaint to the Director General under paragraph (2),

may be exercised at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the Director General.

(6) Where the chief executive refers a complaint to the Director General under this regulation the chief executive shall give a notification of the making of the reference—

(a) to the complainant; and

(b) except in a case where it appears to the chief executive that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), to the person complained against.

(7) A complaint that has already been referred to the Director General under this regulation on a previous occasion or that has been treated as having been so referred by virtue of regulation 24—

(a) is not required to be referred again under this regulation unless the Director General so directs; and

(b) may only be referred under paragraph (2) if the Director General consents.

Power of Director General to treat complaints as having been referred

24.—(1) The Director General may treat a complaint that comes to the Director General's attention otherwise than by having been referred to the Director General under regulation 23 as having been so referred.

(2) Where the Director General treats a complaint as having been referred to the Director General—

(a) regulations 15 and 23 do not apply, or cease to apply, in relation to the complaint except to the extent provided for by regulation 23(7); and

(b) regulations 17, 25, 36 and 81 apply in relation to the complaint as if it had been referred to the Director General by the chief executive under regulation 23.

(3) The Director General must notify the following that the Director General is treating a complaint as having been referred to the Director General—

(a) the chief executive;

(b) the complainant;

(c) except in a case where it appears to the Director General that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), the person complained against (if any).

(4) Where the chief executive receives a notification under paragraph (3) in respect of a complaint and the complaint has not yet been recorded, the chief executive must record the complaint.

Duties of the Director General on references under regulation 23 or complaints treated as having been referred under regulation 24

25.—(1) The Director General must, in the case of every complaint referred to the Director General by the chief executive, or treated as having been referred under regulation 24, determine whether or not it is necessary for the complaint to be investigated.

(2) Where the Director General determines under this regulation that it is not necessary for a complaint to be investigated—

(a) in a case where the complaint is already being investigated by the chief executive on the chief executive's own behalf (and notwithstanding the Director General's determination), the Director General must refer the complaint back to the chief executive for the investigation to be completed;

(b) in any other case, the Director General may, if the Director General thinks fit, refer the complaint back to the chief executive to be dealt with by the chief executive in accordance with regulation 17.

(3) Where the Director General refers a complaint back under paragraph (2), the Director General must give a notification of the making of the reference back—

(a) to the complainant; and

(b) except in a case where it appears to the Director General that to do so might prejudice an investigation of the complaint (whether an existing investigation or a possible future one), to the person complained against (if any).

Reference of conduct matters to the Director General

26.—(1) The chief executive must refer a recordable conduct matter to the Director General, whether or not the case falls within regulation 18, if—

(a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;

(b) that matter involves the commission, or the alleged commission, by way of the conduct of an officer, of—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which, in either case, was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion, or other status, as determined in guidance issued by the Director General;

(v) a relevant offence; or

(vi) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraphs (i) to (v) is alleged; or

(c) the Director General notifies the chief executive that the Director General requires that matter to be referred to the Director General for the Director General's consideration.

(2) In any case where there is no obligation under paragraph (1) to make a reference, the chief executive may refer a recordable conduct matter to the Director General if the chief executive considers that it would be appropriate to do so by reason of—

(a) the gravity of the matter; or

(b) any exceptional circumstances.

(3) Where there is an obligation under paragraph (1) to refer any matter to the Director General, it must be so referred within such period as is provided for by regulation 22.

(4) Subject to paragraph (6), the power of—

(a) the Director General by virtue of paragraph (1)(c) to require a matter to be referred to the Director General;

(b) the chief executive to refer any matter to the Director General under paragraph (2),

may be exercised at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the Director General.

(5) The chief executive must give a notification of the making of a reference under this regulation to the person to whose conduct the matter relates, unless the chief executive considers that to do so might prejudice an investigation of the matter (whether an existing investigation or a possible future one).

(6) A matter that has already been referred to the Director General under this regulation on a previous occasion or that has been treated as having been so referred by virtue of regulation 27—

(a) is not required to be referred again under this regulation unless the Director General so directs; and

(b) may only be referred under paragraph (2) if the Director General consents.

Power of Director General to treat conduct matters as having been referred

27.—(1) The Director General may treat a conduct matter that comes to the Director General's attention otherwise than by having been referred to the Director General under regulation 26 as having been so referred.

(2) Where the Director General treats a conduct matter as having been referred to the Director General—

(a) regulations 18, 19 and 26 do not apply, or cease to apply, in relation to the matter except to the extent provided for by regulation 26(6); and

(b) regulations 28 and 36 apply in relation to the matter as if it had been referred to the Director General by the chief executive under regulation 26.

(3) The Director General must notify the following that the Director General is treating a conduct matter as having been referred to the Director General—

(a) the chief executive;

(b) except in a case where it appears to the Director General that to do so might prejudice an investigation of the matter (whether an existing investigation or a possible future one), the person to whose conduct the matter relates.

(4) Where the chief executive receives a notification under paragraph (3) in respect of a conduct matter and the matter has not yet been recorded, the chief executive must record the matter.

Duties of the Director General on references under regulation 26 or conduct matters treated as having been referred under regulation 27

28.—(1) The Director General must, in the case of every recordable conduct matter referred to the Director General by the chief executive under regulation 26 or treated as having been referred under regulation 27, determine whether or not it is necessary for the matter to be investigated.

(2) Where the Director General determines under this regulation that it is not necessary for a recordable conduct matter to be investigated—

(a) in a case where the recordable conduct matter is already being investigated by the chief executive on the chief executive's own behalf, and notwithstanding the Director General's determination, the Director General must refer the matter back to the chief executive for the investigation to be completed;

(b) in any other case, the Director General may, if the Director General thinks fit, refer the matter back to the chief executive to be dealt with by the chief executive in such manner (if any) as the chief executive may determine.

(3) Where—

(a) the Director General refers a matter back to the chief executive under this regulation; and

(b) the Director General does not consider that to do so might prejudice an investigation of that matter (whether an existing investigation or a possible future one),

the Director General must give a notification of the making of the reference to the person to whose conduct that matter relates.

PART 5

Handling of DSI matters

Duty to record DSI matters

29. Where a DSI matter comes to the attention of the chief executive, the chief executive must record that matter.

Duty to preserve evidence relating to DSI matters

30.—(1) Where a DSI matter comes to the attention of the chief executive, the chief executive must take all such steps as appear to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to that matter.

(2) The chief executive's duty under paragraph (1) must be performed as soon as practicable after the chief executive becomes aware of the matter in question.

(3) After that, the chief executive must, until satisfied that it is no longer necessary to do so, continue to take the steps from time to time appearing to the chief executive to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the matter.

(4) The Director General may direct the chief executive to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as the Director General considers appropriate for the purposes of these Regulations; and the chief executive must comply with any such direction.

Reference of DSI matters to the Director General

31.—(1) The chief executive must refer a DSI matter to the Director General.

(2) A DSI matter must be referred to the Director General in such manner as the Director General specifies and—

(a) in a case where the Director General directs that the matter be referred to the Director General, without delay and in any event not later than the end of the day following the day on which the Director General so directs; and

(b) in any other case, without delay and in any event not later than the end of the day following the day on which the matter first comes to the attention of the chief executive.

(3) A matter that has already been referred to the Director General under paragraph (1) on a previous occasion, or that has been treated as having been so referred by virtue of regulation 32, is not required to be referred again, unless the Director General so directs.

Power of Director General to treat DSI matters as having been referred

32.—(1) The Director General may treat a DSI matter that comes to the Director General's attention otherwise than by having been referred to the Director General under regulation 31 as having been so referred.

(2) Where the Director General treats a DSI matter as having been referred to the Director General—

(a) regulations 29 and 31 do not apply, or cease to apply, in relation to the matter except to the extent provided for by regulation 31(3); and

(b) regulations 33 and 36 apply in relation to the matter as if it had been referred to the Director General by the chief executive under regulation 31.

(3) The Director General must notify the chief executive that the Director General is treating a DSI matter as having been referred to the Director General.

(4) Where the chief executive receives a notification under paragraph (3) in respect of a DSI matter and the matter has not yet been recorded, the chief executive must record the matter.

Duties of Director General on references under regulation 31 or DSI matters treated as having been referred under regulation 32

33.—(1) The Director General must, in the case of every DSI matter referred to the Director General by the chief executive or treated as having been referred under regulation 32, determine whether or not it is necessary for the matter to be investigated.

(2) Where the Director General determines under this regulation that it is not necessary for a DSI matter to be investigated—

(a) in a case where the DSI matter is already being investigated by the chief executive on the chief executive's own behalf, and notwithstanding the Director General's determination, the Director General must refer the matter back to the chief executive for the investigation to be completed;

(b) in any other case, the Director General may, if the Director General thinks fit, refer the matter back to the chief executive to be dealt with by the chief executive in such manner (if any) as the chief executive may determine.

Procedure where conduct matter is revealed during investigation of DSI matter

34.—(1) If during the course of an investigation of a DSI matter it appears to a person appointed under regulation 43 or 44, that there is an indication that an officer may have—

(a) committed a criminal offence; or

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

the person so appointed must make a submission to that effect to the Director General.

(2) If, after considering a submission under paragraph (1), the Director General determines that there is such an indication, the Director General must—

(a) notify the chief executive of the Director General's determination; and

(b) send to the chief executive a copy of the submission under paragraph (1).

(3) If during the course of an investigation of a DSI matter being carried out by a person appointed under regulation 43 or 44 the Director General determines (without there having been a submission under paragraph (1)) that there is an indication that an officer may have—

(a) committed a criminal offence; or

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

the Director General must notify the chief executive of the Director General's determination.

(4) If during the course of an investigation of a DSI matter by a person designated under regulation 45 the Director General determines that an officer may have—

(a) committed a criminal offence; or

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

the Director General must proceed under paragraph (5).

(5) The Director General must—

(a) prepare a record of the determination;

(b) notify the chief executive of the determination; and

(c) send to the chief executive a copy of the record of the determination prepared under sub-paragraph (a).

(6) If, during the course of an investigation of a DSI matter, it appears to a person appointed by the chief executive under regulation 42 to undertake an investigation that an officer may have—

(a) committed a criminal offence; or

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

the person so appointed must make a submission to that effect to the chief executive in relation to the DSI matter.

(7) If, after considering a submission under paragraph (6), the chief executive determines that there is such an indication, the chief executive must notify the Director General of that determination and send a copy of the submission under paragraph (6) to the Director General.

(8) Where the chief executive—

(a) is notified of a determination by the Director General under paragraph (2), (3) or (5); or

(b) makes a determination under paragraph (7),

the chief executive must record the matter under regulation 19 as a conduct matter.

(9) Where a DSI matter is recorded under regulation 19 as a conduct matter by virtue of paragraph (8)—

(a) the person investigating the DSI matter must, subject to any determination made by the Director General under regulation 36(8) or (9), continue the investigation as if appointed or designated to investigate the conduct matter; and

(b) the other provisions of these Regulations apply in relation to that matter accordingly.

PART 6

Investigations

Inspections of FSA premises on behalf of the Director General

35.—(1) Where—

(a) the Director General requires the chief executive to allow a person nominated for the purpose by the Director General to have access to any premises occupied for the purposes of the FSA and to documents and other things on those premises; and

(b) the requirement is imposed for any of the purposes mentioned in paragraph (2),

the chief executive must secure that the required access is allowed to the nominated person.

(2) Those purposes are—

(a) the purposes of any examination by the Director General of the efficiency and effectiveness of the arrangements made by the chief executive for handling complaints or dealing with recordable conduct matters or DSI matters;

(b) the purposes of any investigation by the Director General under this Part or of any investigation carried out under the Director General's direction;

(c) the purposes of any review by the Director General under regulation 81.

(3) A requirement imposed under this regulation for the purposes mentioned in paragraph (2)(a) must be notified to the chief executive at least 48 hours before the time at which access is required.

(4) Where—

(a) a requirement imposed under this regulation for the purposes mentioned in paragraph (2)(a) requires access to any premises, document or thing to be allowed to any person; but

(b) there are reasonable grounds for not allowing that person to have the required access at the time at which access is sought,

the obligation to secure that the required access is allowed has effect as an obligation to secure that the access is allowed to that person at the earliest practicable time after there cease to be any such grounds as that person may specify.

(5) The provisions of this regulation are in addition to, and without prejudice to—

(a) the rights of entry, search and seizure that are or may be conferred on—

(i) a person designated for the purposes of regulation 45; or

(ii) any person who otherwise acts on behalf of the Director General,

in that person's capacity as a constable or as a person with the powers and privileges of a constable; or

(b) the obligations of the chief executive under regulations 11 and 58.

Power of the Director General to determine the form of an investigation

36.—(1) This regulation applies where—

(a) a complaint or recordable conduct matter or DSI matter is referred to the Director General; and

(b) the Director General determines under regulation 25(1), 28(1) or 33(1) that it is necessary for the complaint or matter to be investigated.

(2) The Director General must determine the form which the investigation is to take.

(3) The only forms which the investigation may take in accordance with a determination made under this regulation are—

(a) an investigation by the chief executive on the chief executive's own behalf;

(b) an investigation by the chief executive under the direction of the Director General;

(c) an investigation by the Director General.

(4) In making a determination under paragraph (2) the Director General must first determine whether, having regard to the seriousness of the case and the public interest, it is appropriate for the investigation to take the form of an investigation by the chief executive on the chief executive's own behalf and, if it is, the Director General must determine that the investigation is to take that form.

(5) Where, in accordance with paragraph (4), the Director General determines that it is not appropriate for the investigation to take the form of an investigation by the chief executive on the chief executive's own behalf, the Director General must determine that the investigation is to take the form of an investigation by the Director General unless paragraph (6) applies.

(6) This paragraph applies where the Director General determines that it would be more appropriate for the investigation to take the form of an investigation by the chief executive under the direction of the Director General, in which case the Director General must determine that the investigation is to take that form.

(7) Where the Director General determines under paragraph (6) or (9) that an investigation is to take the form of an investigation by the chief executive under the direction of the Director General, the Director General must keep under review whether that form of investigation continues to be the most appropriate form of investigation.

(8) If, on such a review, the Director General determines that—

(a) it would be more appropriate for the investigation to take the form of an investigation by the Director General, the Director General must make a further determination under this regulation (to replace the earlier one) that the investigation is instead to take that form;

(b) having regard to the seriousness of the case and the public interest, it would be more appropriate for the investigation to take the form of an investigation by the chief executive on the chief executive's own behalf, the Director General may make a further determination under this regulation (to replace the earlier one) that the investigation is instead to take that form.

(9) Subject to paragraph (8), if at any time the Director General determines that, were the Director General to apply paragraphs (4) to (6) again, the form of the investigation would be different, the Director General may make a further determination under this regulation (to replace the earlier one) such that the investigation takes that different form.

(10) Where a determination under this regulation replaces an earlier determination under this regulation, or relates to a complaint or matter in relation to which the chief executive has already begun an investigation on the chief executive's own behalf, the Director General may give—

(a) the chief executive; and

(b) any person previously appointed to carry out the investigation,

such directions as the Director General considers appropriate for the purpose of giving effect to the new determination.

(11) A person to whom a direction is given under this regulation must comply with it.

(12) The Director General must notify the chief executive of any determination that the Director General makes under this regulation in relation to a particular complaint, recordable conduct matter or DSI matter, and of the Director General's reasons for making the determination.

(13) Subject to regulation 62, the Director General must also notify the following of any determination that the Director General makes under this regulation in relation to a particular

complaint, recordable conduct matter or DSI matter, and of the Director General's reasons for making the determination—

(a) every person entitled to be kept properly informed in relation to the complaint or matter under regulation 60;

(b) where the determination is made in relation to a complaint, the complainant;

(c) the person to whose conduct the investigation will relate.

Appointment of persons to carry out investigations

37. A person may not be appointed to carry out an investigation under regulation 42, 43 or 44—

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

(b) if that person's involvement could reasonably give rise to a concern as to whether that person could act impartially under these Regulations; or

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

Timeliness of investigations

38.—(1) Where an investigation under regulation 42 is not completed within a relevant period, the chief executive must, as soon as practicable after the end of that period, provide in writing the information mentioned in paragraph (4) to the Director General.

(2) Where an investigation under regulation 43, 44 or 45 is not completed within a relevant period, the Director General must, as soon as practicable after the end of that period, provide in writing the information mentioned in paragraph (4) to the chief executive, unless it appears to the Director General that to do so might prejudice the investigation or any other investigation (including a criminal investigation).

(3) For the purposes of this regulation, each of the following is a "relevant period"—

(a) the period of 12 months starting with the date on which—

(i) the complaint to which the investigation relates was made; or

(ii) the conduct matter or DSI matter to which the investigation relates came to the attention of the chief executive;

(b) each subsequent period of six months starting with the day after the end of the previous relevant period.

(4) The information is—

(a) the date on which—

(i) the complaint to which the investigation relates was made; or

(ii) the conduct matter or DSI matter to which the investigation relates came to the attention of the chief executive;

(b) the date on which any notice was given under regulation 50;

(c) the progress of the investigation;

(d) an estimate of when the report on the investigation will be submitted or completed under regulation 72 or 75;

(e) the reason for the length of time being taken to complete the investigation; and

(f) a summary of planned steps to progress the investigation and bring it to a conclusion.

(5) The chief executive or the Director General, as the case may be, must send a copy of the information provided in writing under paragraph (1) or (2) to—

(a) except where paragraph (6) applies, the complainant (if any) and any interested person; and

(b) except in a case where it appears to the chief executive or the Director General, as the case may be, that to do so might prejudice the investigation or any other investigation (including a criminal investigation), the person to whose conduct the investigation relates.

(6) This paragraph applies where the Director General or the chief executive, as the case may be, is of the opinion that the non-disclosure of the information is necessary for a purpose mentioned in regulation 62(3).

(7) Paragraphs (4) and (5) of regulation 62 apply in relation to paragraph (6) of this regulation as they apply in relation to paragraph (1) of regulation 61.

Combining and splitting investigations

39.—(1) Where the chief executive is carrying out an investigation on the chief executive's own behalf, the chief executive may—

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

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

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

(2) Subject to paragraph (3), where the Director General is directing an investigation or carrying out an investigation, the Director General may—

(a) combine that investigation with another investigation; or

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

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

(3) The Director General must consult the chief executive before taking any action under paragraph (2) in relation to an investigation directed by the Director General.

(4) Nothing in this regulation prevents the Director General from determining—

(a) that where an investigation is split into two or more separate investigations, those investigations may take different forms; or

(b) that two or more separate investigations which take different forms (including an investigation being carried out by the chief executive on the chief executive's own behalf) may be combined into a single investigation.

Withdrawn complaints

40.—(1) This regulation applies where the chief executive 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 chief executive 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, these Regulations cease to apply in respect of that complaint.

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

(a) was referred to the Director General under regulation 23 or is being treated by the Director General as having been so referred under regulation 24; and

(b) has not been referred back to the chief executive under regulation 25(2);

the chief executive must notify the Director General that the chief executive 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 chief executive knows is subject to a review under regulation 81, the chief executive must notify the

Director General that the chief executive 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 chief executive of the Director General's determination.

(6) In a case falling within paragraph (4) (but not also paragraph (3)), the chief executive 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 Director General of that 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 chief executive 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 is to be treated as a recordable conduct matter, regulations 18, 19, 20, 26, 27 and 28 apply to that matter.

(9) Where—

(a) a complaint is subject to a review by the Director General under regulation 81; and

(b) the chief executive notifies the Director General under paragraph (6)(b) that the chief executive 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 chief executive to reverse the determination.

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

(a) the chief executive 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 chief executive to reverse a determination not to treat the complaint as a recordable conduct matter;

(d) the provisions of these Regulations cease to apply to the complaint.

(11) Nothing in paragraph (10) requires the chief executive to make a notification if the chief executive believes that to do so—

(a) might prejudice any criminal investigation or pending proceedings; or

(b) would otherwise be contrary to the public interest.

Withdrawn complaints: no written signed notification

41.—(1) This regulation applies where the complainant indicates a wish—

(a) to withdraw the complaint; or

(b) that no further steps be taken,

but does not provide a notification to that effect signed by the complainant or the complainant's solicitor or other authorised agent on the complainant's behalf.

(2) The chief executive must write to the complainant to determine how the complainant wishes to proceed.

(3) A letter under paragraph (2) must, subject to guidance issued by the Director General, be sent by recorded delivery.

(4) Where the complainant—

(a) replies confirming the complainant's wish to withdraw the complaint or that no further steps be taken; or

(b) does not reply within a period of 28 days starting with the day after the day the letter was sent by the chief executive in accordance with paragraph (2),

the chief executive must proceed as if the chief executive had received a notification signed by the complainant that the complainant withdraws the complaint or wishes that no further steps be taken.

Investigations by the chief executive on the chief executive's own behalf

42.—(1) This regulation applies where the chief executive is required by virtue of any determination made by the Director General under regulation 36 to make arrangements for a complaint, recordable conduct matter or DSI matter to be investigated by the chief executive on the chief executive's own behalf.

(2) The chief executive must appoint an officer to investigate the complaint or matter.

Investigation by a police force or the National Crime Agency under the direction of the Director General

43.—(1) This regulation applies where the Director General determines that there should be an investigation under the direction of the Director General by—

(a) a police force; or

(b) the National Crime Agency(**a**).

(2) The Director General must—

(a) in the case of an investigation by a police force—

(i) identify the police force whose force area includes the geographical area to which the subject matter of the complaint, recordable conduct matter or DSI matter most closely relates; and

(ii) take steps to obtain the agreement of the chief officer of that force, and the chief executive, to the carrying out of the investigation by that force; or

(b) in the case of an investigation by the National Crime Agency, take steps to obtain the agreement of the Director General of the National Crime Agency, and the chief executive, to the carrying out of the investigation by the National Crime Agency.

(3) In the event that no agreement is reached under paragraph (2) the Director General may require the chief officer of any police force that the Director General considers appropriate or, as the case may be, the National Crime Agency, to carry out the investigation.

(4) Whether by agreement or if required to do so under paragraph (3), where—

(a) the investigation is to be carried out by a police force, the chief officer of the police force concerned must, if that person has not already done so, appoint a person serving with the police who is a member of that force to investigate that complaint or matter;

(b) the investigation is to be carried out by the National Crime Agency, the Director General of the National Crime Agency must, if that person has not already done so, appoint a person serving with the National Crime Agency to investigate that complaint or matter.

(5) An appointment of a person under paragraph (4) must be notified to the chief executive by the chief officer concerned or, as the case may be, by the Director General of the National Crime Agency.

(6) The person appointed to investigate the complaint or matter under paragraph (4)—

(**a**) The National Crime Agency was established by section 1 of the Crime and Courts Act 2013 (c. 22).

(a) shall be under the direction and control of the Director General; and

(b) must comply with all such requirements in relation to the carrying out of that investigation as may be imposed under these Regulations.

Investigations directed by the Director General

44.—(1) This regulation applies where the Director General has determined that the Director General should direct the investigation by the chief executive of any complaint, recordable conduct matter or DSI matter.

(2) On being given notice of that determination, the chief executive must, if the chief executive has not already done so—

(a) appoint an officer to investigate the complaint or matter; or

(b) if the chief executive is of the opinion that, having regard to regulation 37, it is not possible to appoint an officer to investigate the complaint or matter, make arrangements with a chief officer or the Director General of the National Crime Agency to have a person serving with the police or a person serving with the National Crime Agency appointed to investigate the complaint or matter.

(3) The Director General may require that no appointment is made under paragraph (2) unless the Director General has given notice to the chief executive that the Director General approves the person whom the chief executive proposes to appoint.

(4) Where at any time the Director General is not satisfied with the person investigating, the Director General may require the chief executive, as soon as reasonably practicable after being required to do so, to—

(a) appoint a different officer, or make arrangements for another person to be appointed in accordance with paragraph (2)(b), to investigate the complaint or matter; and

(b) notify the Director General of the person selected.

(5) Paragraph (4) applies whether the person investigating was appointed—

(a) before the chief executive was given notice of the Director General's determination that the Director General should direct the investigation by the chief executive;

(b) under paragraph (2) (including where the appointment was approved by the Director General in accordance with paragraph (3)); or

(c) under paragraph (6)(a).

(6) Where a selection made in pursuance of a requirement under paragraph (4) has been notified to the Director General—

(a) the chief executive must appoint that person to investigate the complaint or matter if, but only if, the Director General notifies the chief executive that the Director General approves the appointment of that person;

(b) if the Director General notifies the chief executive that the Director General does not approve the appointment of that person, the chief executive must make another selection in accordance with paragraph (4).

(7) The person appointed to investigate the complaint or matter shall—

(a) in relation to that investigation, be under the direction and control of the Director General; and

(b) keep the Director General informed of the progress of the investigation.

Investigations by the Director General

45.—(1) This regulation applies where the Director General has determined that the Director General should carry out the investigation of a complaint, recordable conduct matter or DSI matter.

(2) The Director General must designate both—

(a) a person to take charge of the investigation; and

(b) such members of the Office's staff as are required by the Director General to assist the person designated to take charge of the investigation.

(3) The person designated under paragraph (2) to take charge of an investigation must be—

(a) the Director General acting personally; or

(b) a person who is authorised to exercise the function of taking charge of the investigation on behalf of the Director General by virtue of paragraph 6A of Schedule 2 to the 2002 Act(**a**) (delegation of Director General's functions).

(4) A person who—

(a) is designated under paragraph (2) in relation to any investigation; but

(b) does not already, by virtue of section 97(8) of the Police Act 1996(**b**), have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,

has, for the purposes of the carrying out of the investigation and all purposes connected with it, all those powers and privileges throughout England and Wales and those waters.

(5) A person designated under paragraph (2) who is not a constable is not, as a result of paragraph (3), to be treated as being in police service for the purposes of—

(a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992(**c**) (person in police service excluded from definitions of "worker" and "employee"); or

(b) section 200 of the Employment Rights Act 1996(**d**) (certain provisions of that Act not to apply to persons in police service).

(6) References in this regulation to the powers and privileges of a constable—

(a) are references to any power or privilege conferred by or under any enactment (including one passed after the making of these Regulations) on a constable; and

(b) have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this paragraph).

(7) In this regulation "United Kingdom waters" means the sea and other waters within the seaward limits of the United Kingdom's territorial sea.

Change of form of investigation: provision of documentation and evidence

46.—(1) This regulation applies where the Director General determines that—

(a) an investigation being carried out by the Director General should instead take the form of an investigation by the chief executive on the chief executive's own behalf or an investigation by the chief executive under the direction of the Director General; or

(b) an investigation being carried out by the chief executive under the direction of the Director General should instead take the form of an investigation by the chief executive on the chief executive's own behalf.

(2) The Director General must send to the chief executive any documentation and evidence gathered during the investigation which will assist the chief executive to carry out the chief executive's functions under these Regulations.

(**a**) Paragraph 6A was inserted by Schedule 9 to the Policing and Crime Act 2017 (c. 3).

(**b**) 1996 c. 16. Section 97(8) of the Police Act 1996 was amended by: Schedule 4 to the Serious Organised Crime and Police Act 2005 (c. 15); Schedule 15 to the Police and Justice Act 2006 (c. 48); Schedule 14 to the Serious Crime Act 2007 (c. 27); Schedule 8 to the Crime and Courts Act 2013; and by S.I. 2007/1098 and 2012/2954.

(**c**) 1992 c. 52.

(**d**) 1996 c. 18. Section 200 of the Employment Rights Act 1996 was amended by: section 6 of the Police (Health and Safety) Act 1997 (c. 42); Schedule 9 to the Employment Relations Act 1999 (c. 26); section 37 of the Police Reform Act 2002; and Schedule 1 to the Employment Relations Act 2004 (c. 24).

Suspension of investigation or other procedure

47.—(1) The Director General and, subject to paragraph (2), the chief executive may suspend any investigation or other procedure under these Regulations which, in the opinion of the Director General or, as the case may be, the chief executive, would, if it were to continue, prejudice any criminal investigation or proceedings.

(2) The Director General may direct that any investigation or other procedure under these Regulations which is liable to be, or has been, suspended by the chief executive under paragraph (1) is to continue, or be resumed, if the Director General is of the view that it is in the public interest to make such a direction.

(3) The Director General must consult the chief executive before making a direction under paragraph (2).

Resumption of investigation of complaint after criminal proceedings

48.—(1) This regulation applies where—

(a) the Director General or the chief executive has suspended the whole or part of the investigation of a complaint until the conclusion of criminal proceedings under regulation 47; and

(b) the criminal proceedings described in sub-paragraph (a) have concluded.

(2) Where the complainant has not indicated—

(a) a wish for the investigation to start or be resumed; or

(b) a wish that the investigation is not started or resumed,

the Director General or the chief executive, as the case may be, must write to the complainant to determine how the complainant wishes to proceed.

(3) A letter under paragraph (2) must, subject to guidance issued by the Director General, be sent by recorded delivery.

(4) Where the complainant indicates a wish for the investigation to start or be resumed, the Director General or the chief executive, as the case may be, must start or resume the investigation.

(5) Where the complainant—

(a) indicates a wish that the investigation is not started or resumed; or

(b) does not reply to a letter under paragraph (2) within a period of 28 days starting with the day after the letter was sent by the Director General or the chief executive in accordance with paragraph (2),

the Director General or the chief executive, as the case may be, must determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

(6) Where the Director General or the chief executive determines that it is not in the public interest for the complaint to be treated as a recordable conduct matter, these Regulations cease to apply to the complaint.

(7) Where the Director General or the chief executive determines that it is in the public interest for the complaint to be treated as a recordable conduct matter, the relevant provisions of regulations 18, 19, 20, 26, 27 and 28 apply to the matter.

(8) Subject to paragraph (9), the Director General or the chief executive, as the case may be, must notify the person complained against if paragraph (6) or (7) applies.

(9) Nothing in paragraph (8) requires the Director General or the chief executive to make a notification if the Director General or the chief executive, as the case may be, believes that to do so might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.

Special procedure: severity assessment

49.—(1) Where Condition A, B or C is satisfied, the person investigating must proceed with the investigation in accordance with paragraphs (5) to (8) and regulations 50 to 55.

(2) Condition A is that—

(a) the investigation is an investigation of a complaint; and

(b) during the course of the investigation it appears to the person investigating or, in the case of an investigation by a designated person under regulation 45, the Director General, that there is an indication that the person to whose conduct the investigation relates may have—

(i) committed a criminal offence; or

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

(3) Condition B is that—

(a) the investigation is an investigation of a complaint being carried out by a person appointed under regulation 43 or 44; and

(b) during the course of the investigation the Director General determines that there is an indication that the person to whose conduct the investigation relates may have—

(i) committed a criminal offence; or

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

(4) Condition C is that the investigation is an investigation of a recordable conduct matter.

(5) In the case of an investigation under regulation 43 or 44, the person investigating must, as soon as is reasonably practicable—

(a) form an opinion as to—

(i) whether the conduct of the person concerned, if proved, would amount to misconduct that is so serious as to justify disciplinary action or gross misconduct, and

(ii) if that conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take;

(b) notify the Director General of that opinion; and

(c) refer the case to the Director General for the Director General to make a severity assessment in relation to the conduct of the person concerned.

(6) In the case of an investigation under regulation 45 other than by the Director General acting personally, the person investigating must, as soon as is reasonably practicable, refer the case to the Director General for the Director General to make a severity assessment in relation to the conduct of the person concerned.

(7) In any other case, the person investigating must, as soon as is reasonably practicable, make a severity assessment in relation to the conduct of the person concerned.

(8) A severity assessment may only be made after consultation with the chief executive.

(9) In this regulation and in regulations 50 to 55, "person concerned" means—

(a) in relation to an investigation of a complaint, the officer in respect of whom it appears to the person investigating or, in the case of an investigation by a designated person under regulation 45, the Director General, that there is the indication mentioned in paragraph (2)(b) or, as the case may be, paragraph (3)(b);

(b) in relation to an investigation of a recordable conduct matter, the officer to whose conduct the investigation relates.

Special procedure: notification of severity assessment etc.

50.—(1) Except where paragraph (4) applies, on the completion of a severity assessment, the person investigating must give the person concerned a notice stating—

(a) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the standards contained in the Civil Service Code;

(b) that there is to be an investigation into the matter and the identity of the person investigating;

(c) the result of the severity assessment;

(d) that the person concerned has the right to seek advice from the person's staff association or any other body;

(e) the effect of regulation 51; and

(f) the effect of regulation 53.

(2) Where a notice is given under paragraph (1), the person investigating must—

(a) except where paragraph (4) applies, provide a copy of the terms of reference of the investigation to the person concerned; or

(b) where paragraph (4) applies, give the person concerned a notice stating that the terms of reference of the investigation are not being provided and explaining why,

where practicable, at the same time as notice is given under paragraph (1), or otherwise within a period of 5 working days starting with the first working day after the day on which such notice is given.

(3) Except where paragraph (4) applies, where a copy of the terms of reference of the investigation has been provided under paragraph (2) and those terms are revised, the person investigating must provide a copy of the revised terms to the person concerned as soon as practicable.

(4) This paragraph applies for so long as—

(a) in the case of an investigation under regulation 43, 44 or 45, the Director General; or

(b) in the case of an investigation under regulation 42, the person investigating the complaint or matter,

considers that giving the notice, or providing a copy of the terms, or revised terms, of reference of the investigation, might prejudice the investigation or any other investigation, including a criminal investigation.

(5) A copy of the terms, or revised terms, of reference of the investigation provided under paragraph (2) or (3) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

(6) On the completion of a severity assessment, the person investigating must notify the chief executive of the result of the assessment.

(7) A notice under paragraph (1) and a copy of the terms, or revised terms, of reference of the investigation under paragraph (2) or (3) must be—

(a) given to the person concerned in person;

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

(c) given to the person concerned in person by their FSA friend, where the FSA friend has agreed with the chief executive to deliver the notice; or

(d) given to the person concerned in any other manner agreed between the person investigating and the person concerned.

Special procedure: FSA friend

51.—(1) This regulation applies where the person investigating a complaint or matter has given the person concerned a notice under regulation 50.

(2) The person concerned may choose—

(a) an officer or a member of the FSA's staff;

(b) an official of a trade union,

who is not otherwise involved in the matter to act as their FSA friend.

(3) An FSA friend may—

(a) advise the person concerned throughout proceedings under these Regulations;

(b) provide any relevant statement or relevant document to the person investigating;

(c) accompany the person concerned to any interview of that person conducted by the person investigating; and

(d) make representations to the Director General concerning any aspect of the proceedings under these Regulations.

(4) Where an FSA friend is an officer or a member of the FSA's staff, the chief executive must permit the FSA friend to use a reasonable amount of their contractual working time for the purposes mentioned in paragraph (3).

Special procedure: revision of severity assessment

52.—(1) Where in the case of an investigation under—

(a) regulation 43 or 44; or

(b) regulation 45, other than by the Director General acting personally,

the Director General has made a severity assessment and indicates that it is appropriate to revise the assessment, the person investigating must refer the case to the Director General for the Director General to revise the assessment.

(2) Where in the case of an investigation under—

(a) regulation 43 or 44; or

(b) regulation 45, other than by the Director General acting personally,

the Director General has made a severity assessment and the person investigating forms the opinion that it is appropriate to revise that assessment, the person investigating must notify the Director General of that opinion.

(3) Where in any other case the person investigating has made a severity assessment and considers it appropriate to do so, the person investigating may revise the assessment.

(4) A severity assessment may only be revised after consultation with the chief executive.

(5) On the revision of a severity assessment, the person investigating must give a notice to—

(a) the chief executive; and

(b) except where paragraph (6) applies, the person concerned,

of the result of the revision.

(6) This paragraph applies for so long as—

(a) in the case of an investigation under regulation 43, 44 or 45, the Director General; or

(b) in the case of an investigation under regulation 42, the person investigating the complaint or matter,

considers the notice might prejudice the investigation or any other investigation (including a criminal investigation).

(7) A notice under paragraph (5)(b) must be—

(a) given to the person concerned in person;

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

(c) given to the person concerned in person by their FSA friend, where the FSA friend has agreed with the chief executive to deliver the notice; or

(d) given to the person concerned in any other manner agreed between the person investigating and the person concerned.

Special procedure: representations to the person investigating

53.—(1) This regulation applies where the person investigating a complaint or matter has provided the person concerned with a copy of the terms of reference of the investigation, or given the person concerned a notice, under regulation 50.

(2) Where in the case of an investigation under—

(a) regulation 43 or 44; or

(b) regulation 45, other than by the Director General acting personally,

the person concerned or their FSA friend provides the person investigating with a relevant statement or relevant document before the expiry of the time limit mentioned in paragraph (4), the person investigating must send the statement or document to the Director General for consideration.

(3) Where, in any other case, the person concerned or their FSA friend provides the person investigating with a relevant statement or relevant document before the expiry of the time limit mentioned in paragraph (4), the person investigating must consider the statement or document.

(4) The time limit is 10 working days starting with the day after the day on which a copy of the terms of reference of the investigation is provided, or a notice is given, under regulation 50, unless this period is extended by—

(a) the person investigating; or

(b) in the case of an investigation under regulation 45, other than by the Director General acting personally, the Director General.

Special procedure: interview of the person concerned

54.—(1) This regulation applies where the person investigating a complaint or matter has provided the person concerned with a copy of the terms of reference of the investigation, or given the person concerned a notice under regulation 50.

(2) In the case of an investigation under regulation 45 other than by the Director General acting personally, if the Director General wishes the person concerned to be interviewed as part of the investigation, the person investigating must refer the case to the Director General for the Director General—

(a) if reasonably practicable, to agree a date and time for the interview with the person concerned;

(b) where no date and time is agreed, to specify a date and time for the interview.

(3) In any other case, if the person investigating wishes to interview the person concerned as part of the investigation, the person investigating must—

(a) if reasonably practicable, agree a date and time for the interview with the person concerned;

(b) where no date and time is agreed, specify a date and time for the interview.

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

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

(b) the person concerned proposes an alternative time which satisfies paragraph (5),

the interview must be postponed to the time proposed by the person concerned.

(5) An alternative time proposed by the person concerned must—

(a) be reasonable; and

(b) fall before the end of the period of 5 working days starting with the first working day after the day specified by the person investigating or the Director General.

(6) The person investigating must, in advance of the interview, give the person concerned—

(a) a notice stating the date, time and place of the interview; and

(b) such information as the person investigating or, in the case of an investigation under regulation 45, other than by the Director General acting personally, the Director General considers appropriate in the circumstances of the case to enable the person concerned to prepare for the interview.

(7) The person concerned must attend the interview.

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

Special procedure: duty to provide information to chief executive

55. In a case where the Director General or person investigating has made a severity assessment under regulation 49, the person investigating must provide the chief executive with such information in that person's possession as the chief executive may reasonably request for the purpose of determining whether—

(a) the person concerned should be, or should remain, suspended from their appointment as an officer; or

(b) in relation to a person concerned who has been seconded to the FSA to serve as an officer, the secondment of the person concerned should cease to have effect, or continue to cease to have effect.

Interview of an officer during investigations

56.—(1) Paragraph (2) prescribes the procedure to be followed in connection with an interview which—

(a) is held with an officer during the course of the investigation by the person investigating; and

(b) does not fall within regulation 54.

(2) Where the person investigating wishes to interview an officer as part of an investigation, the person investigating must—

(a) give written notice to that officer that the interview will take place in accordance with this regulation; and

(b) if reasonably practicable, agree a date and time for the interview.

(3) Where no date and time is agreed under paragraph (2), the person investigating must specify a date and time for the interview.

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

(a) the relevant officer or the accompanying person will not be available at that time; and

(b) the relevant officer proposes an alternative time which satisfies paragraph (5),

the interview must be postponed to the time proposed by the relevant officer.

(5) An alternative time proposed by the relevant officer must—

(a) be reasonable; and

(b) fall before the end of the period of 5 working days starting with the first working day after the day specified by the person investigating.

(6) The person investigating must, in advance of the interview, give the relevant officer—

(a) a notice stating the date, time and place of the interview;

(b) such information as the person investigating considers appropriate in the circumstances of the case to enable the relevant officer to prepare for the interview.

(7) The relevant officer must attend the interview.

(8) An accompanying person may accompany the relevant officer to the interview under this regulation, and—

(a) during, and in relation to, the interview may—

(i) advise the relevant officer;

(ii) provide any relevant statement or relevant document to the person investigating; but

(b) may not answer any questions asked of the relevant officer during the interview.

(9) Where an accompanying person is an officer, the chief executive must permit the accompanying person to use a reasonable amount of contractual working time for the purposes of this regulation.

(10) Nothing in this regulation applies to an interview of any person—

(a) in relation to an investigation of a complaint, in respect of which it appears to the person investigating that there is an indication that the person to whose conduct the investigation relates may have—

(i) committed a criminal offence; or

(ii) behaved in a manner which would justify the bringing of disciplinary proceedings; or

(b) in relation to an investigation of a recordable conduct matter, to whose conduct the investigation relates.

(11) Nothing in this regulation prevents or restricts the holding of interviews to which this regulation does not apply during the course of any investigation under these Regulations.

(12) In this regulation—

"accompanying person" means a person who is—

(a) an officer or a member of the FSA's staff or an official of a trade union;

(b) nominated by the relevant officer; and

(c) not otherwise involved in the matter;

"relevant officer" means an officer given notice under paragraph (2)(a).

Restrictions on proceedings pending the conclusion of an investigation

57.—(1) No criminal or disciplinary proceedings may be brought in relation to any matter which falls to be determined under these Regulations until a report on that investigation has been submitted to the Director General or to the chief executive under regulation 72 or 75 or, as the case may be, a report has been completed by the Director General under those regulations.

(2) The restrictions imposed by this regulation in relation to the bringing of criminal proceedings do not apply to the bringing of criminal proceedings by the Director of Public Prosecutions in any case in which it appears to the Director of Public Prosecutions that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.

PART 7

Provision of information

Provision of information to the Director General

58.—(1) The chief executive must—

(a) provide the Director General with—

(i) all such information and documents as may be specified or described in these Regulations;

(ii) to the extent not falling within paragraph (i), all such other information and documents specified or described in a notification given by the Director General to the chief executive; and

(b) produce or deliver up to the Director General all such evidence and other things so specified or described,

as appear to the Director General to be required for the purposes of the carrying out of any of the Director General's functions.

(2) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under paragraph (1) must be provided, produced or delivered up in such form, in such manner and within such period as may be specified in—

(a) the notification imposing the requirement; or

(b) in any subsequent notification given by the Director General to that person for the purposes of this paragraph.

(3) Nothing in this regulation requires the chief executive —

(a) to provide the Director General with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for the chief executive to do so; or

(b) to provide, produce or deliver up anything at all in a case in which it is not, or it never becomes, practicable for the chief executive to do so.

(4) A requirement imposed under this regulation may authorise or require information or documents to which it relates to be provided to the Director General electronically.

Duty to keep the complainant informed

59.—(1) Subject to regulation 62, in any case in which there is an investigation of a complaint in accordance with these Regulations—

(a) by the Director General; or

(b) under the direction of the Director General,

the Director General must provide the complainant with all such information as will keep the complainant properly informed, while the investigation is being carried out and subsequently, of the matters specified in paragraph (4).

(2) Subject to regulation 62, in any case in which there is an investigation of a complaint in accordance with these Regulations by the chief executive on the chief executive's own behalf, the chief executive must provide the complainant with all such information as will keep the complainant properly informed, while the investigation is being carried out and subsequently, of the matters specified in paragraph (4).

(3) Where paragraph (2) applies, the Director General must give the chief executive such directions as the Director General considers appropriate for securing that the chief executive complies with the chief executive's duty under that paragraph; and the chief executive must comply with any such direction.

(4) The matters of which the complainant must be kept properly informed are—

(a) the progress of the handling of the complaint;

(b) the outcome of the handling of the complaint;

(c) any right to apply for a review conferred on the complainant by regulation 81, including—

(i) the time limit for applying for the review; and

(ii) the effect of regulation 82(4);

(d) the progress of any—

(i) criminal proceedings;

(ii) disciplinary proceedings; or

(iii) performance proceedings,

brought in relation to, or arising from, any matter which was the subject of the complaint;

(e) the outcome of any such proceedings or process falling within sub-paragraph (d);

(f) where an appeal is brought against the outcome of proceedings falling within sub-paragraph (d), the fact and outcome of the appeal.

(5) The generality of paragraph (4)(a) and (b) is not affected by any requirement to notify the complainant that is imposed by any other provision of these Regulations.

(6) A person appointed to carry out an investigation under these Regulations must provide the Director General or, as the case may be, the chief executive, with such information as the Director General or the chief executive may reasonably require for the purpose of the performance by the Director General or the chief executive of their duties under this regulation.

(7) In any case in which there is an investigation of a complaint, the Director General or the chief executive may comply with their duty under paragraph (1) or (2), as the case may be, so far as relating to a report of the investigation submitted (or completed) under regulation 72, by sending the complainant a copy of the report.

(8) Paragraph (7) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to—

(a) regulation 61; and

(b) regulation 62.

Duty to provide information for other persons

60.—(1) A person has an interest in being kept properly informed about the handling of a complaint, recordable conduct matter or DSI matter which is the subject of an investigation in accordance with these Regulations if—

(a) it appears to the Director General or the chief executive that the person falls within paragraph (2) or (3); and

(b) the person described in sub-paragraph (a) has indicated consent to the provision of information in accordance with this regulation and that consent has not been withdrawn.

(2) A person falls within this paragraph if, in the case of a complaint or recordable conduct matter, that person—

(a) is a relative of a person whose death is the alleged result of the conduct complained of or to which the recordable conduct matter relates;

(b) is a relative of a person whose serious injury is the alleged result of that conduct and that person is incapable of making a complaint;

(c) has suffered serious injury as the alleged result of that conduct.

(3) A person falls within this paragraph if, in the case of a DSI matter, that person—

(a) is a relative of the person who has died;

(b) is a relative of the person who has suffered serious injury and that person is incapable of making a complaint;

(c) is the person who has suffered serious injury.

(4) A person who does not fall within paragraph (2) or (3) has an interest in being kept properly informed about the handling of a complaint, recordable conduct matter or DSI matter if—

(a) the Director General or the chief executive considers that that person has an interest in the handling of the complaint, recordable conduct matter or DSI matter which is sufficient to make it appropriate for information to be provided to that person in accordance with this regulation; and

(b) the person described in sub-paragraph (a) has indicated consent to the provision of information in accordance with this regulation.

(5) In relation to a complaint, this regulation confers no rights on the complainant.

(6) In any case where there is an investigation of the complaint, recordable conduct matter or DSI matter in accordance with these Regulations—

(a) by the Director General or under the Director General's direction, the Director General must; or

(b) by the chief executive on the chief executive's own behalf, the chief executive must,

while the investigation is being carried out and subsequently, keep the interested person properly informed of the matters in paragraph (8).

(7) Where paragraph (6) applies, the Director General must give the chief executive such directions as the Director General considers appropriate for securing that the chief executive complies with the chief executive's duty under that paragraph; and the chief executive must comply with any such direction.

(8) The matters of which the interested person must be kept properly informed are—

(a) the progress of the handling of the complaint, recordable conduct matter or DSI matter;

(b) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;

(c) the progress of any—

(i) criminal proceedings;

(ii) disciplinary proceedings; or

(iii) performance proceedings,

brought in relation to, or arising from, any matter which was the subject of the complaint, recordable conduct matter or DSI matter;

(d) the outcome of any such proceedings or process falling within sub-paragraph (c);

(e) where an appeal is brought against the outcome of proceedings falling within sub-paragraph (c), the fact and outcome of the appeal.

(9) The generality of paragraph (8)(a) and (b) is not affected by any requirement to notify an interested person that is imposed by any other provision of these Regulations.

(10) The duties imposed by this regulation on the Director General and the chief executive in relation to any complaint, recordable conduct matter or DSI matter must be performed in accordance with, and subject to any exceptions set out in, regulation 62.

(11) In any case in which there is an investigation of a complaint, recordable conduct matter or DSI matter, the Director General or the chief executive may comply with their duty under paragraph (6) so far as relating to a report of the investigation submitted (or completed) under regulation 72 or 75, by sending the interested person a copy of the report.

(12) Paragraph (11) applies notwithstanding any obligation of secrecy imposed by any rule of law or otherwise but is subject to—

(a) regulation 61; and

(b) regulation 62.

(13) Regulation 59(6) applies for the purposes of this regulation as it applies for the purposes of that regulation.

(14) In this regulation "relative" means any spouse, partner, parent or adult child.

Manner in which duties to keep the complainant and interested person informed are to be performed

61.—(1) The Director General or the chief executive, as the case may be, must inform the complainant or interested person of—

(a) the progress of the handling of the complaint, recordable conduct matter or DSI matter and any of the matters mentioned in regulation 59(4)(d) and 60(8)(c) promptly and in any event—

(i) if there has been no previous notification, within four weeks of the start of the handling of the complaint, proceedings or process; and

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

(b) the following matters—

(i) the outcome of the handling of the complaint, recordable conduct matter or DSI matter;

(ii) the matter mentioned in regulation 59(4)(e) and 60(8)(d); and

(iii) the matters mentioned in regulation 59(4)(f) and 60(8)(e),

promptly and in any event within 5 working days of the outcome (and, where applicable, the bringing of the appeal).

(2) The information required by paragraph (1) must be given in writing, unless, in the case of a complaint, the complaint—

(a) was made otherwise than in writing; and

(b) is being handled otherwise than in accordance with these Regulations.

(3) The chief executive must inform the complainant in writing of—

(a) any right to apply for a review conferred on the complainant by regulation 81; and

(b) the matters mentioned in regulation 59(4)(c)(i) and (ii),

promptly and in any event within 5 working days of the outcome of the handling of the complaint.

(4) In performing the duties imposed by these Regulations, the Director General or the chief executive, as the case may be, must determine whether it is appropriate to offer, or grant a request for, a meeting with a complainant or interested person.

(5) As soon as practicable after any such meeting, the Director General or the chief executive, as the case may be, must send the complainant or interested person a written record of the meeting and an account of how any concerns of that person will be addressed.

Exceptions to duties to keep the complainant and interested person informed

62.—(1) Paragraph (2) specifies the circumstances in which the duties imposed on the Director General and the chief executive to keep the complainant informed and to provide information for interested persons do not apply.

(2) The circumstances are where in the opinion of the Director General or the chief executive, as the case may be, the non-disclosure of information is necessary for a purpose mentioned in paragraph (3).

(3) The purposes are—

(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; or

(iv) is otherwise necessary in the public interest.

(4) The Director General or the chief executive, as the case may be, may only conclude that the non-disclosure of information is necessary under paragraph (2) if 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.

(5) The Director General or the chief executive, as the case may be, must consider whether the non-disclosure of information is justified under paragraph (2) in circumstances where—

(a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings or performance proceedings or appeal against the outcome of such proceedings;

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

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

(d) that information constitutes criminal intelligence.

Chief executive to notify the Director General of outcome of disciplinary proceedings etc.

63. The chief executive must notify the Director General of—

(a) the outcome of any disciplinary proceedings or performance proceedings brought in relation to, or arising from, any matter dealt with in a report submitted or completed under regulation 72 or 75, as soon as practicable after the outcome of the proceedings or process;

(b) the bringing of any appeal against the outcome of any such proceedings, as soon as practicable after the chief executive becomes aware of the appeal;

(c) the outcome of any such appeal, as soon as practicable after its conclusion.

Copies of complaints etc.

64.—(1) Where a complaint is recorded under regulation 15(4), the chief executive must—

(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) The chief executive may decide not to supply such a copy of a complaint if the chief executive 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 the chief executive decides not to supply such a copy, the chief executive shall keep that decision under regular review.

Information for complainant about disciplinary recommendations

65.—(1) This paragraph applies where, on the review of the outcome of a complaint under regulation 81, the Director General makes a recommendation under regulation 81(7)(c).

(2) Where the chief executive notifies the Director General under regulation 81(8)(a) that the recommendation has been accepted, the Director General must notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 60 of that fact and of the steps that have been, or are to be taken, by the chief executive to give effect to it.

(3) Where the chief executive —

(a) notifies the Director General under regulation 81(8)(a) that the chief executive does not, either in whole or in part, accept the recommendation; or

(b) fails to take steps to give full effect to the recommendation,

the Director General must determine what further steps (if any) to take under regulation 78, as applied by regulation 81(8)(b).

(4) The Director General must notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 60—

(a) of any determination under paragraph (3) not to take further steps; and

(b) where the Director General determines under paragraph (3) that the Director General will take further steps, of the outcome of the taking of those steps.

Register to be kept by the Director General

66.—(1) The Director General must establish and maintain a register of all information supplied to the Director General by the chief executive under these Regulations.

(2) Subject to paragraph (3), the Director General may publish or otherwise disclose to any person any information held on the register where, in the opinion of the Director General, that is necessary for, or conducive to, the purpose of—

(a) learning lessons from the handling of complaints, conduct matters or DSI matters;

(b) demonstrating the thoroughness and effectiveness of the handling of complaints or such matters;

(c) raising public awareness of the complaints system; or

(d) improving the complaints system.

(3) Information may not be published or disclosed in circumstances where, in the opinion of the Director General, the non-disclosure of the information is necessary for a purpose mentioned in regulation 62(3).

Manner and time limits of notices and notifications

67.—(1) Any notice or notification to be given under these Regulations must—

(a) unless otherwise specified in these Regulations or in guidance issued by the Director General, be given in writing; and

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

(2) No time limit mentioned in these Regulations or determined by the Director General applies in any case where exceptional circumstances prevent that time limit being complied with.

Investigations by the Director General: power to serve an information notice

68.—(1) The Director General may serve upon any person a notice (an "information notice") requiring the person to provide the Director General with information that the Director General reasonably requires for the purposes of an investigation in accordance with regulation 45.

(2) But an information notice must not require a person—

(a) to provide information that might incriminate the person;

(b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984(**a**) (see section 10 of that Act);

(c) to make a disclosure that would be prohibited by any of Part 1 of the Regulation of Investigatory Powers Act 2000(**b**) or Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016(**c**);

(d) to provide information that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information.

(3) Neither must an information notice require a postal operator or telecommunications operator to provide communications data.

(4) In paragraph (3) "communications data", "postal operator" and "telecommunications operator" have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act)(**d**).

(**a**) 1984 c. 60.
(**b**) 2000 c. 23. Part 1 was amended by Schedule 10 to the Investigatory Powers Act 2016.
(**c**) 2016 c. 25, to which there are amendments, but these are not relevant to this instrument.
(**d**) Section 261 of the Investigatory Powers Act 2016 was amended by sections 13 and 19 of the Investigatory Powers (Amendment) Act 2024 (c. 9).

(5) An information notice must—

(a) specify or describe the information that is required by the Director General and the form in which it must be provided;

(b) specify the period within which the information must be provided;

(c) give details of the right of appeal against the information notice under regulation 70.

(6) The period specified under paragraph (5)(b) must not end before the end of the period within which an appeal can be brought against the notice and, if such an appeal is brought, the information need not be provided pending the determination or withdrawal of the appeal.

(7) The Director General may cancel an information notice by written notice to the person on whom it was served.

Failure to comply with an information notice

69.—(1) If a person who has received an information notice—

(a) fails or refuses to provide information required by the notice; or

(b) knowingly or recklessly provides information in response to the notice that is false in a material respect,

the Director General may certify in writing to the High Court that the person has failed to comply with the information notice.

(2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

Appeals against information notices

70.—(1) A person on whom an information notice is served may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law.

(2) If the Tribunal considers that the notice is not in accordance with the law—

(a) it must quash the notice; and

(b) it may give directions to the Director General in relation to the service of a further information notice.

Sensitive information: restriction on disclosure

71.—(1) Where the Director General receives information within paragraph (3), the Director General must not disclose, whether under regulation 9, 59 or 60 or otherwise, the information, or the fact that the Director General has received it, unless the relevant authority consents to the disclosure.

(2) Where a person appointed under regulation 43 or 44 to investigate a complaint or matter (an "investigator in a directed investigation (under regulation 43 or 44)") receives information within paragraph (3), the investigator in a directed investigation (under regulation 43 or 44) must not disclose the information, or the fact that it has been received, to any person other than the Director General unless the relevant authority consents to the disclosure.

(3) The information is—

(a) intelligence service information;

(b) protected information relating to a relevant warrant; or

(c) information obtained (directly or indirectly) from a government department which, at the time it is provided to the Director General or the investigator in a directed investigation (under regulation 43 or 44), is identified by the department as information the disclosure of which may, in the opinion of the relevant authority, cause damage to—

(i) national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom; or

(ii) jeopardise the safety of any person.

(4) Where the Director General or an investigator in a directed investigation (under regulation 43 or 44) discloses to another person information within paragraph (3) or the fact that the Director General or the investigator in a directed investigation (under regulation 43 or 44) has received it, that person must not disclose that information or that fact unless the relevant authority consents to the disclosure.

(5) In this regulation—

"government department" means a department of His Majesty's Government but does not include—

(a) the Security Service;

(b) the Secret Intelligence Service; or

(c) the Government Communications Headquarters ("GCHQ");

"intelligence service information" means information which was obtained (directly or indirectly) from an intelligence service or which related to an intelligence service;

"intelligence service" means—

(a) the Security Service;

(b) the Secret Intelligence Service;

(c) GCHQ; or

(d) any part of His Majesty's forces (within the meaning of the Armed Forces Act 2006(**a**)), or of the Ministry of Defence, which engages in intelligence activities;

"protected information", in relation to a relevant warrant, means information relating to any of the matters mentioned in section 57(4) of the Investigatory Powers Act 2016 in relation to the warrant;

"relevant authority" means—

(a) in the case of intelligence service information obtained from the Security Service, the Director General of the Security Service;

(b) in the case of intelligence service information obtained from the Secret Intelligence Service, the Chief of the Secret Intelligence Service;

(c) in the case of intelligence service information obtained from GCHQ, the Director of GCHQ;

(d) in the case of intelligence service information obtained from any part of His Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities, the Secretary of State;

(e) in the case of protected information relating to a relevant warrant, the person to whom the warrant is or was addressed;

(f) in the case of information within paragraph (3)(c)—

(i) the Secretary of State; or

(ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State), and for this purpose "Minister of the Crown" has the meaning given in the Ministers of the Crown Act 1975(**b**);

"relevant warrant" means—

(a) a warrant under Chapter 1 of Part 2 of the Investigatory Powers Act 2016; or

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(**a**) 2006 c. 52, to which there are amendments, but these are not relevant to this instrument.
(**b**) 1975 c. 26, to which there are amendments, but these are not relevant to this instrument.

(b) a warrant under Chapter 1 of Part 6 of that Act.

PART 8

Reports and recommendations

Final reports on investigations: complaints, conduct matters and certain DSI matters

72.—(1) This regulation applies on the completion of an investigation of—

(a) a complaint; or

(b) a conduct matter.

(2) A person appointed under regulation 42 must submit a report on the investigation to the chief executive.

(3) A person appointed under regulation 43 or 44 must—

(a) submit a report on the investigation to the Director General; and

(b) send a copy of that report to the chief executive.

(4) A person designated under regulation 45 as the person in charge of an investigation must—

(a) submit a report on the investigation to the Director General; or

(b) where the person in charge of the investigation is the Director General acting personally, complete a report on the investigation.

(5) A person submitting or, in the case of an investigation under regulation 45 by the Director General personally, completing a report under this regulation shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in the report as the person thinks fit.

(6) Where a person would contravene regulation 71 by submitting, or, as the case may be, sending a copy of, a report in its entirety to the chief executive under paragraph (2) or (3)(b), the person must instead submit, or send a copy of, the report after having removed or obscured the information which by virtue of regulation 71 the person must not disclose.

(7) A person who has submitted or, in the case of an investigation under regulation 45 by the Director General acting personally, completed a report on an investigation under this regulation on an investigation to which regulation 49 applies must supply the chief executive with such copies of further documents or other items in that person's possession as the chief executive may request, except so far as the person is prevented from doing so by regulation 71.

(8) The chief executive may only make a request under paragraph (7) in respect of a copy of a document or other item if the chief executive —

(a) considers that the document or item is of relevance to the investigation; and

(b) requires a copy of the document or the item for a purpose mentioned in paragraph (9).

(9) Those purposes are—

(a) complying with any obligation which the chief executive has under disciplinary proceedings in relation to any person whose conduct is the subject matter of the investigation;

(b) ensuring that any such person whose conduct is in question receives a fair hearing at any disciplinary proceedings in respect of any such conduct of that person.

(10) A report on an investigation to which regulation 49 applies must—

(a) include an accurate summary of the evidence;

(b) be accompanied by, or refer to, any relevant documents; and

(c) where the investigation was carried out under regulation 42, include the opinion of the person investigating as to the matters mentioned in paragraph (12)(a) and (b).

(11) On completion of an investigation—

(a) carried out under regulation 43, 44 or 45; and

(b) to which regulation 49 applies,

where the Director General seeks the views of the chief executive on the matters mentioned in regulation 73(8)(a), the Director General must notify the chief executive of the Director General's opinion as to the matters mentioned in paragraph (12).

(12) The matters are—

(a) whether any person to whose conduct the investigation related has a case to answer in respect of their conduct, or has no case to answer;

(b) whether or not any such person's performance is unsatisfactory;

(c) whether or not disciplinary proceedings should be brought against any such person;

(d) whether or not performance proceedings should be brought against any such person.

(13) For the purposes of paragraphs (10) and (11), the chief executive must provide the Director General with the chief executive's views (if any) on the matters mentioned in regulation 73(8)(a) before the expiry of the time limit mentioned in paragraph (14).

(14) The time limit is 28 days starting with the day after the day on which the Director General seeks the chief executive's views in accordance with regulation 73(8)(a), unless this period is extended by the Director General.

Action by the Director General in relation to an investigation report under regulation 72

73.—(1) This regulation applies where—

(a) a report on an investigation carried out under the direction of the Director General is submitted to the Director General under regulation 72(3); or

(b) a report on an investigation carried out by a person designated by the Director General is submitted to the Director General, or is otherwise completed, under regulation 72(4).

(2) But if, following the submission or completion of such a report, the Director General determines under regulation 80 that the complaint or recordable conduct matter is to be re-investigated, the provisions of this regulation other than paragraph (3)(a), read with paragraph (4), do not apply, or cease to apply, in relation to that report.

(3) On receipt of the report, or on its completion by the Director General, the Director General—

(a) must send a copy of the report to the chief executive if it appears that the chief executive has not already been sent a copy of the report;

(b) must determine whether the conditions in paragraphs (5) and (6) are satisfied in respect of the report;

(c) if the Director General determines that the conditions in paragraphs (5) and (6) are satisfied, must notify the Director of Public Prosecutions of that determination and send the Director of Public Prosecutions a copy of the report; and

(d) must notify the chief executive and—

(i) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 60; and

(ii) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that regulation,

of the Director General's determination under sub-paragraph (b) and of any action taken by the Director General under sub-paragraph (c).

(4) Where the Director General would contravene regulation 71 by sending a copy of a report in its entirety to the chief executive under paragraph (3)(a) or to the Director of Public Prosecutions under paragraph (3)(c), the Director General must instead send a copy of the report after having removed or obscured the information which by virtue of regulation 71 the Director General must not disclose.

(5) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(6) The second condition is that the circumstances are such that, in the opinion of the Director General, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions.

(7) The Director of Public Prosecutions must notify the Director General of any decision of the Director of Public Prosecutions to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to the Director of Public Prosecutions under paragraph (3)(c).

(8) On receipt of the report, or on its completion by the Director General, the Director General must also—

(a) seek the views of the chief executive on—

(i) whether any person to whose conduct the investigation related has a case to answer in respect of their conduct, or has no case to answer;

(ii) whether or not any such person's performance is unsatisfactory; and

(iii) the other matters (if any) dealt with in the report (but not on whether the conditions in paragraphs (5) and (6) are satisfied in respect of the report);

(b) having considered the views (if any) of the chief executive, make a determination as to—

(i) the matters described in sub-paragraph (a)(i) and (ii); and

(ii) whether or not disciplinary proceedings should be brought against any person to whose conduct the investigation related;

(c) having considered the views (if any) of the chief executive and if the Director General considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that the Director General is required to make under paragraph (3)(b) or sub-paragraph (b) of this paragraph;

(d) notify the chief executive of the determination under sub-paragraph (b) and any determination under sub-paragraph (c);

(e) where the Director General determines that disciplinary proceedings should be brought against a person, direct the chief executive to bring those proceedings; and

(f) direct the chief executive to determine what action (if any) the chief executive will, in the chief executive's discretion, take, other than action involving the bringing of disciplinary proceedings, in respect of the matters dealt with in the report and having regard to the Director General's determination under sub-paragraph (b) and any determination under sub-paragraph (c).

(9) The chief executive must comply with a direction given under paragraph (8)(e) and must secure that the proceedings, once brought, are proceeded with to a proper conclusion.

(10) The Director General may at any time withdraw a direction given under paragraph (8)(e); and paragraph (9) shall not impose any obligation in relation to any time after the withdrawal of the direction.

(11) The chief executive must keep the Director General informed of the action the chief executive takes in response to a direction given under paragraph (8)(e).

(12) The chief executive must comply with a direction given under paragraph (8)(f) and must notify the Director General of the determination the chief executive makes.

(13) On receipt of the report, or on its completion by the Director General, where it is a report of an investigation of a complaint, the Director General may also make a recommendation under regulation 87.

Action by the chief executive in response to an investigation report under regulation 72

74.—(1) This regulation applies where a report of an investigation is submitted to the chief executive in accordance with regulation 72(2).

(2) On receipt of the report, the chief executive must—

(a) determine whether the conditions in paragraphs (3) and (4) are satisfied in respect of the report;

(b) if the chief executive determines that the conditions in paragraphs (3) and (4) are satisfied, notify the Director of Public Prosecutions of the determination and send the Director of Public Prosecutions a copy of the report; and

(c) notify the persons mentioned in paragraph (6) of the chief executive's determination under sub-paragraph (a) and of any action taken by the chief executive under sub-paragraph (b).

(3) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.

(4) The second condition is that the circumstances are such that, in the opinion of the chief executive, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions.

(5) The Director of Public Prosecutions must notify the chief executive of any decision of the Director of Public Prosecutions to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to the Director of Public Prosecutions under paragraph (2)(b).

(6) The persons are—

(a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 60; and

(b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that regulation.

(7) On receipt of the report, the chief executive must—

(a) determine whether any person to whose conduct the investigation related has a case to answer in respect of their conduct, or has no case to answer;

(b) determine whether or not any such person's performance is unsatisfactory;

(c) determine what action (if any) the chief executive is required to, or will in the chief executive's discretion, take in respect of the matters dealt with in the report; and

(d) if the chief executive considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that the chief executive is required to make under paragraph (2)(a) or sub-paragraphs (a) to (c) of this paragraph.

(8) It shall be the duty of the chief executive—

(a) to take the action which the chief executive determines under paragraph (7) that the chief executive is required to, or will in the chief executive's discretion, take; and

(b) in a case where that action consists of, or includes, the bringing of disciplinary proceedings, secure that those proceedings, once brought, are proceeded with to a proper conclusion.

Final reports on investigations: other DSI matters

75.—(1) This regulation applies on the completion of an investigation of a DSI matter in respect of which neither the Director General nor the chief executive has made a determination under regulation 34(2), (3), (4) or (7).

(2) The person investigating must—

(a) submit a report on the investigation to the Director General; and

(b) send a copy of that report to the chief executive.

(3) Paragraph (2)(a) does not apply where the person investigating is the Director General carrying out an investigation personally under regulation 45, but the Director General must complete a report on the investigation.

(4) A person submitting a report to the Director General under paragraph (2) or completing one under paragraph (3) shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in the report as the person thinks fit.

(5) Where a person would contravene regulation 71 by sending a copy of a report in its entirety to the chief executive under paragraph (2), the person must instead send a copy of the report after having removed or obscured the information which by virtue of regulation 71 the person must not disclose.

(6) On receipt of the report, or on its completion by the Director General, the Director General must determine whether the report indicates that the officer may have—

(a) committed a criminal offence; or

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

(7) On receipt of the report, or on its completion by the Director General, the Director General must also, if the Director General considers it appropriate to do so, make a determination as to any matter dealt with in the report, being a determination other than one that the Director General is required to make under paragraph (6) or that the chief executive may be required to make by virtue of regulation 77(3).

(8) But paragraphs (6) and (7) and regulation 77 do not apply, or cease to apply, in relation to a report submitted under paragraph (2) or completed under paragraph (3) if, following the submission or completion of the report, the Director General determines under regulation 80 that the DSI matter is to be re-investigated.

Provision of copy of report on investigation etc to person to whose conduct the investigation related

76.—(1) Except where paragraph (2) applies, where—

(a) the Director General determines under regulation 73(8) that neither disciplinary proceedings nor performance proceedings should be brought against a person to whose conduct the investigation related; or

(b) the chief executive determines under regulation 74(7) that the chief executive will bring neither disciplinary proceedings nor performance proceedings against such a person,

the Director General or the chief executive, as the case may be, must provide the officer with a copy of the report on the investigation or such parts of it as relate to the officer.

(2) This paragraph applies for so long as the Director General or the chief executive, as the case may be, believes that providing a copy of the report, or part of it, under paragraph (1) might prejudice any investigation or proceedings (including a criminal investigation or proceedings) or review under regulation 81.

(3) A copy of the report, or part of it, provided under paragraph (1) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

(4) Where the Director General or the chief executive would contravene regulation 71 by providing a copy of the report, or part of it, under paragraph (1), the Director General or the chief executive must instead provide the copy having removed or obscured the information which by virtue of regulation 71 must not be disclosed.

Action by the Director General in response to an investigation report under regulation 75

77.—(1) This regulation applies to the determination by the Director General under regulation 75(6).

(2) This paragraph applies where the Director General determines under regulation 75(6) that there is no indication in the report that an officer may have—

(a) committed a criminal offence; or

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

(3) Where paragraph (2) applies, the Director General may notify the chief executive that the chief executive must determine—

(a) whether or not the performance of a person whose conduct is under investigation is unsatisfactory; and

(b) what action (if any) the chief executive will take in respect of the performance of the person mentioned in sub-paragraph (a).

(4) On receipt of a notification under paragraph (3) the chief executive must make the determinations and submit a memorandum to the Director General setting out the determinations the chief executive has made.

(5) On receipt of a memorandum under paragraph (4), the Director General must—

(a) consider the memorandum and consider whether the chief executive has made the determinations under paragraph (3) that the Director General considers appropriate;

(b) determine whether or not to make recommendations under regulation 78;

(c) make such recommendations (if any) under regulation 78 as the Director General thinks fit.

(6) Paragraphs (3) and (5) do not affect any power of the Director General to make recommendations or give advice under regulation 6 in other cases, whether arising under these Regulations or otherwise.

(7) If the Director General determines under regulation 75(6) that the report indicates that an officer may have—

(a) committed a criminal offence; or

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

the Director General must notify the chief executive of the Director General's determination, and, if it appears that the chief executive has not already been sent a copy of the report, send a copy of the report to the chief executive.

(8) Where the chief executive is notified under paragraph (7) of a determination by the Director General, the chief executive must record the matter under regulation 19 as a conduct matter (and the other provisions of these Regulations apply in relation to that matter accordingly).

(9) Where a DSI matter is recorded under regulation 19 as a conduct matter by virtue of paragraph (8)—

(a) the person investigating the DSI matter must, subject to any determination made by the Director General under regulation 36(9), investigate the conduct matter as if appointed or, as the case may be, designated to do so; and

(b) the other provisions of these Regulations apply in relation to that matter accordingly.

Duties with respect to disciplinary proceedings

78.—(1) This regulation applies where, in the case of any investigation, the chief executive has submitted, or is required to submit, a memorandum to the Director General under regulation 77(4).

(2) But this regulation does not apply, or ceases to apply, in relation to the investigation if the Director General determines under regulation 80 that the DSI matter is to be re-investigated.

(3) Subject to regulation 57, and to any recommendations or directions under this regulation, the chief executive must—

(a) take the action which is, or which is required to be, set out in the memorandum; and

(b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.

(4) The Director General may make a recommendation to the chief executive—

(a) that the performance of a person whose conduct is under investigation is, or is not, satisfactory;

(b) that action is taken in respect of the performance of the person mentioned in sub-paragraph (a),

and the chief executive must notify the Director General whether the chief executive accepts the recommendation and (if the chief executive does) set out in the notification the steps that the chief executive is proposing to take to give effect to the recommendation.

(5) If, after the Director General has made a recommendation under this regulation, the chief executive does not take steps to secure that full effect is given to the recommendation—

(a) the Director General may direct the chief executive to take steps for that purpose; and

(b) the chief executive must comply with a direction under sub-paragraph (a).

(6) A direction under paragraph (5) may, to such extent as the Director General thinks fit, set out the steps to be taken by the chief executive in order to give effect to the recommendation.

(7) Where the Director General gives the chief executive a direction under this regulation, the Director General must supply the chief executive with a statement of the Director General's reasons for doing so.

(8) Where disciplinary or other proceedings have been brought in accordance with a recommendation or direction under this regulation, the chief executive must ensure that they are proceeded with to a proper conclusion.

(9) The Director General may at any time withdraw a direction given under this regulation, and paragraph (8) does not impose any obligation in relation to any time after the withdrawal of the direction.

(10) The chief executive must keep the Director General informed—

(a) of whatever action the chief executive takes in pursuance of the chief executive's duties under paragraph (3); and

(b) in every case of a recommendation or direction under this regulation, of whatever action the chief executive takes in response to that recommendation or direction.

Complaints and conduct matters relating to a person whose identity is unascertained

79.—(1) Where a complaint or conduct matter relates to the conduct of a person whose identity is unascertained at the time at which the complaint is made or the conduct matter is recorded, or whose identity is not ascertained during or subsequent to, the investigation of the complaint or recordable conduct matter, these Regulations apply in relation to such a person as if they 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 Director General or the chief executive 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 the Director General or the chief executive 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 Director General and the chief executive must take such action in accordance with these Regulations as they see fit, regardless of any previous action taken.

PART 9

Re-investigations, reviews and recommendations

Power of the Director General to require re-investigation

80.—(1) This regulation applies where—

(a) a report on an investigation of a complaint, recordable conduct matter or DSI matter carried out under the direction of the Director General has been submitted to the Director General under regulation 72(3) or regulation 75; or

(b) a report on an investigation of a complaint, recordable conduct matter or DSI matter carried out by a person designated by the Director General has been submitted to the Director General (or, in the case of an investigation carried out under regulation 45 by the Director General personally, is otherwise completed by the Director General) under regulation 72(4) or 75.

(2) The Director General may at any time determine that the complaint, recordable conduct matter or DSI matter is to be re-investigated if the Director General is satisfied that there are compelling reasons for doing so.

(3) Where the Director General makes a determination under paragraph (2), the Director General must determine that the re-investigation is to take the form of an investigation by the Director General unless paragraph (4) applies, in which case the Director General must determine that the re-investigation is to take the form described in that paragraph.

(4) This paragraph applies where the Director General determines that it would be more appropriate for the re-investigation to take the form of an investigation by the chief executive under the direction of the Director General.

(5) Where—

(a) the Director General determines under paragraph (3) or (7) that a re-investigation is to take the form of an investigation by the Director General; and

(b) at any time after the determination described in sub-paragraph (a), the Director General determines that paragraph (4) applies in relation to the re-investigation,

the Director General may make a further determination under this regulation (to replace the earlier one) that the re-investigation is instead to take the form of an investigation by the chief executive under the direction of the Director General.

(6) Where the Director General determines under paragraph (3) or (5) that a re-investigation is to take the form of an investigation by the chief executive under the direction of the Director General, the Director General must keep under review whether paragraph (4) continues to apply in relation to the re-investigation.

(7) If, on such a review, the Director General determines that paragraph (4) no longer applies in relation to a re-investigation, the Director General must make a further determination under this regulation (to replace the earlier one) that the re-investigation is instead to take the form of an investigation by the Director General.

(8) Paragraphs (10) and (11) of regulation 36 apply in relation to a further determination under paragraph (5) or (7) as they apply in the case of a further determination under regulation 36(8) or (9).

(9) The other provisions of these Regulations apply in relation to any re-investigation in pursuance of a determination under this regulation as they apply in relation to any investigation in pursuance of a determination under regulation 36.

(10) The Director General must notify the chief executive of any determination that the Director General makes under this regulation and of the Director General's reasons for making the determination.

(11) Subject to regulation 62, the Director General must also notify the following of any determination that the Director General makes under this regulation and of the Director General's reasons for making the determination—

(a) every person entitled to be kept properly informed in relation to the complaint, recordable conduct matter or DSI matter, as the case may be, under regulation 60;

(b) where the determination is made in relation to a complaint, the complainant;

(c) the person to whose conduct the re-investigation will relate.

(12) The reference to a report in paragraph (1) includes a report on a re-investigation by virtue of this regulation or regulation 81.

Reviews with respect to an investigation

81.—(1) This regulation applies where a complaint has been subjected to an investigation by the chief executive on the chief executive's own behalf.

(2) Where this regulation applies, the complainant has the right to apply to the Director General for a review of the outcome of the complaint.

(3) The Director General must notify the following of an application for a review under paragraph (2)—

(a) the chief executive;

(b) every person entitled to be kept properly informed in relation to the complaint under regulation 60; and

(c) the person complained against (if any).

(4) Where the Director General so requires on the making of an application for a review under paragraph (2), the chief executive must provide the Director General with—

(a) a copy of the report of the investigation; and

(b) such information concerning the chief executive's determinations under regulation 74 as is described in a notification given by the Director General to the chief executive.

(5) On a review under paragraph (2), the Director General must determine whether the outcome of the complaint is reasonable and proportionate.

(6) In making a determination under paragraph (5), the Director General may review the findings of the investigation.

(7) Where the Director General finds that the outcome of the complaint is not reasonable and proportionate, the Director General may—

(a) make the Director General's own findings (in place of, or in addition to, any findings of the investigation);

(b) direct that the complaint be re-investigated;

(c) make a recommendation to the chief executive in respect of any officer—

(i) that the officer has a case to answer in respect of their conduct, or has no case to answer;

(ii) that the officer's performance is, or is not, unsatisfactory;

(iii) that disciplinary proceedings are brought against the officer in respect of the conduct to which the investigation related;

(iv) that any disciplinary proceedings brought against that officer are modified so as to deal with such aspects of that conduct as may be so specified;

(d) make a recommendation under regulation 87.

(8) Where the Director General makes a recommendation under paragraph (7)(c)—

(a) the chief executive must notify the Director General whether the chief executive accepts the recommendation and (if the chief executive does) set out in the notification the steps that the chief executive proposes to take to give effect to it; and

(b) paragraphs (5) to (9) and (10)(b) of regulation 78 apply in relation to the recommendation as if it had been made under those provisions.

(9) Paragraph (10) applies where, on a review applied for under paragraph (2), the Director General determines that the report of the investigation indicates that a criminal offence may have been committed by a person to whose conduct the investigation related and that the circumstances are such that, in the opinion of the Director General, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions.

(10) Where this paragraph applies, the Director General must notify the Director of Public Prosecutions of the determination under paragraph (9) and send the Director of Public Prosecutions a copy of the report.

(11) The Director General must give notification of the outcome of a review under this regulation, and of the reasons for the determination under paragraph (5)—

(a) to the chief executive;

(b) to the complainant;

(c) to every person entitled to be kept properly informed in relation to the complaint under regulation 60; and

(d) except in a case where it appears to the Director General that to do so might prejudice any re-investigation of the complaint, to the person complained against (if any).

(12) The chief executive must comply with any directions given to the chief executive under this regulation.

(13) In this regulation, references, in relation to an investigation, to the outcome of the complaint do not include the outcome of any criminal or disciplinary proceedings brought in relation to any matter which was the subject of the investigation.

Reviews: general

82.—(1) This regulation applies to reviews under regulation 81.

(2) Subject to paragraph (3), an application for a review must be made within a period of 28 days starting with the day after the day on which the information mentioned in regulation 59(4)(c) was provided to the complainant.

(3) The Director General may extend the period mentioned in paragraph (2) in any case where the Director General is satisfied that, because of the special circumstances of the case, it is just to do so.

(4) Subject to paragraph (5), an application for a review must be made in writing and must state—

(a) details of the complaint;

(b) the date on which the complaint was made; and

(c) the date on which the information mentioned in regulation 59(4)(c) was provided to the complainant.

(5) Where the Director General receives an application for a review which fails to comply with one or more of the requirements mentioned in paragraph (4), the Director General may decide to proceed as if those requirements had been complied with.

(6) Where the Director General receives an application for a review, the Director General must request any information from any person which the Director General considers necessary to dispose of the review, except information—

(a) that might incriminate the person;

(b) that is subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act);

(c) that would cause a disclosure to be made that would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016;

(d) that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information;

(e) the disclosure of which would require a postal operator or telecommunications operator to provide communications data; and for this purpose "communications data", "postal operator" and "telecommunications operator" have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act).

Information for complainant about disciplinary recommendations

83.—(1) This regulation applies where, on the review of the outcome of a complaint under regulation 81, the Director General makes a recommendation under paragraph (7)(c) of that regulation.

(2) Where the chief executive notifies the Director General under regulation 81(8)(a) that the recommendation has been accepted, the Director General must notify the complainant, and every person entitled to be kept properly informed in relation to the complaint under regulation 60, of that fact, and of the steps that have been, or are to be taken, by the chief executive to give effect to it.

(3) Where the chief executive—

(a) notifies the Director General under regulation 81(8)(a) that the chief executive does not, either in whole or in part, accept the recommendation; or

(b) fails to take steps to give full effect to the recommendation,

the Director General must determine what further steps (if any) to take under regulation 78 as applied by regulation 81(8)(b).

(4) The Director General must notify the complainant, and every person entitled to be kept properly informed in relation to the complaint under regulation 60—

(a) of any determination under paragraph (3) not to take further steps; and

(b) where the Director General determines under paragraph (3) that the Director General will take further steps, of the outcome of the taking of those steps.

Re-investigations following a review

84.—(1) Where the Director General directs under regulation 81 that a complaint be re-investigated, the Director General must make a determination of the form that the re-investigation should take.

(2) Paragraphs (3) to (11) of regulation 36 apply in relation to a determination under paragraph (1) as they apply in the case of a determination under that regulation.

(3) The other provisions of these Regulations (including this regulation) apply in relation to any re-investigation in pursuance of a direction under regulation 81(7)(b) as they apply in relation to any investigation in pursuance of a determination under regulation 36.

(4) Where the Director General determines under paragraph (1) that the re-investigation should take the form of an investigation by the chief executive on the chief executive's own behalf, the Director General may also give the chief executive such directions as to the handling of the matter in future as the Director General thinks fit; and the chief executive must comply with any such directions.

(5) The Director General must notify the chief executive of any determination that the Director General makes under this regulation and of the Director General's reasons for making the determination.

(6) Subject to regulation 62, the Director General must also notify the following of any determination that the Director General makes under this regulation and of the Director General's reasons for making the determination—

(a) the complainant;

(b) every person entitled to be kept properly informed in relation to the complaint under regulation 60;

(c) the person complained against (if any).

Recommendations by the Director General following receipt of reports on completion of an investigation or following a determination on a review

85.—(1) This regulation applies where the Director General has—

(a) received a report, or otherwise completed one in relation to an investigation carried out under regulation 45 by the Director General personally, under—

(i) regulation 72(3);

(ii) regulation 72(4); or

(iii) regulation 75(2) or (3);

(b) made a determination on a review under regulation 81.

(2) The Director General may make a recommendation to the chief executive in relation to a matter dealt with in the report or review.

(3) Where this paragraph applies—

(a) by virtue of paragraph (1)(a)(i) or (ii), and the report is a report of an investigation of a complaint; or

(b) by virtue of paragraph (1)(b),

a recommendation made under paragraph (2) may not be a recommendation of a kind described in regulation 87(3).

(4) A recommendation under this regulation may also be made to any person if it is made—

(a) following the receipt or completion of a report relating to—

(i) a DSI matter;

(ii) a conduct matter of a type specified in paragraph (6);

(iii) a complaint of a type specified in paragraph (7); or

(b) following a determination on a review relating to a complaint of a type specified in paragraph (7).

(5) Where the Director General makes a recommendation under this regulation, the Director General must also—

(a) publish the recommendation; and

(b) send a copy of it to any person to whom the Director General thinks a copy should be sent.

(6) The types of conduct matter specified for the purposes of paragraph (4)(a)(ii) are any matter—

(a) that is a recordable conduct matter that relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;

(b) relating to—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status, as determined in guidance issued by the Director General;

(v) a relevant offence;

(vi) conduct which took place in the same incident as one in which conduct falling within paragraphs (i) to (v) took place;

(c) in respect of which the Director General gives a notification to the chief executive that the Director General requires a recordable conduct matter to be referred to the Director General for consideration; or

(d) that the Director General is treating as having been referred to the Director General under regulation 27(1).

(7) The types of complaint specified for the purposes of paragraph (4)(a)(iii) and (b) are any complaint—

(a) alleging that the conduct or other matter complained of has resulted in death or serious injury;

(b) alleging conduct which constitutes—

(i) a serious assault, as determined in guidance issued by the Director General;

(ii) a serious sexual offence, as determined in guidance issued by the Director General;

(iii) serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;

(iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status, as determined in guidance issued by the Director General;

(v) a relevant offence;

(c) which arises from the same incident as one in which any conduct falling within sub-paragraphs (a) or (b) took place;

(d) in respect of which the Director General gives a notification to the chief executive under regulation 23(1)(d) that the Director General requires the complaint in question to be referred to the Director General for consideration; or

(e) that the Director General is treating as having been referred to the Director General under regulation 24(1).

Response to recommendation

86.—(1) A person to whom a recommendation under regulation 85 is made must provide to the Director General a response in writing stating—

(a) what action the person has taken or proposes to take in response to the recommendation; or

(b) why the person has not taken, or does not propose to take, any action in response.

(2) The person must provide the response to the Director General before the end of the period of 56 days starting with the day on which the recommendation was made, unless paragraph (3) applies.

(3) The Director General may extend the period of 56 days following an application received before the end of the period; and if the Director General grants an extension, the person must provide the response before the end of the extended period.

(4) But if proceedings for judicial review of the Director General's decision to make a recommendation are started during the period allowed by paragraph (2) or (3), that period is extended by however many days the proceedings are in progress.

(5) On receiving a response, the Director General must, within the period of 21 days starting with the day on which the Director General received it—

(a) publish the response; and

(b) send a copy of it to any person who was sent a copy of the recommendation under regulation 85(5)(b),

unless the person giving the response has made representations under paragraph (6).

(6) The person giving the response may, at the time of providing it to the Director General, make representations to the Director General asserting that the requirements of publication and disclosure under paragraph (5) should not apply to the response, or to particular parts of it.

(7) On receiving such representations, the Director General may decide—

(a) that the response should not be published, or that only parts of it should be published;

(b) that the response should not be disclosed, or that only parts of it should be disclosed.

(8) Where, following a decision on such representations, the Director General decides to publish or disclose a response (in whole or in part), the Director General must do so only after the person giving the response has been informed of the Director General's decision, and—

(a) in a case where the Director General has decided to accept all of the representations, the Director General must do so within the period of 21 days starting with the day on which the Director General received the response;

(b) in a case where the Director General has decided to reject any of the representations, the Director General must do so—

(i) within the period of 21 days starting with the day on which the person was informed of the Director General's decision on the representations; but

(ii) not before the end of the period of 7 days starting with that day.

(9) But if proceedings for judicial review of the Director General's decision to reject a representation are started during the period of 7 days referred to in paragraph (8)(b)(ii)—

(a) the Director General must not publish or disclose the response while the proceedings are in progress;

(b) if the court upholds the Director General's decision to reject a representation, the Director General must publish and disclose the response (in whole or in part, as appropriate) before the end of the period of 7 days starting with the day on which the proceedings are no longer in progress.

(10) Where the chief executive makes a response under this regulation, the chief executive must, at the time the Director General publishes the response, also publish the response (to the same extent as published by the Director General) and the recommendation under regulation 85.

(11) For the purposes of this regulation—

(a) "disclosing" a response means sending a copy of it as mentioned in paragraph (5)(b);

(b) the period during which judicial review proceedings are in progress includes any day on which an appeal is in progress or may be brought.

(12) This regulation does not apply, or ceases to apply, in relation to a recommendation made under regulation 85 if the Director General determines under regulation 80 that the complaint, recordable conduct matter or DSI matter that the Director General received a report on, or otherwise completed one on in relation to an investigation carried out under regulation 45 by the Director General personally, is to be re-investigated.

Recommendations by the Director General in relation to remedying dissatisfaction expressed by the complainant

87.—(1) This regulation applies for the purposes of a recommendation under regulation 73(13) or 81(7)(d) where the Director General considers it appropriate to make a recommendation of a kind described in paragraph (3) with a view to remedying the dissatisfaction expressed by the complainant concerned.

(2) A recommendation under this regulation may only be made to the chief executive.

(3) The kinds of recommendation are—

(a) a recommendation that an apology be made to the complainant concerned;

(b) a recommendation that any property seized from the complainant concerned be returned;

(c) a recommendation not falling within sub-paragraphs (a) or (b), other than a recommendation that compensation be paid, which the Director General considers appropriate to remedy the dissatisfaction expressed by the complainant concerned.

(4) Following receipt of a recommendation, the chief executive must provide to the Director General with a written response stating—

(a) whether the chief executive accepts the recommendation;

(b) if the chief executive accepts the recommendation, the steps that the chief executive proposes to take to give effect to the recommendation;

(c) if the chief executive does not accept the recommendation, the reasons for not accepting it.

(5) Subject to paragraph (6), the chief executive must provide the response before the end of the period of 28 days starting with the day after the day on which the recommendation was made.

(6) The Director General may extend the period mentioned in paragraph (5) and, if so, the chief executive must provide the response before the end of the extended period.

(7) The Director General must send a copy of the recommendation and the response to it to—

(a) the complainant concerned;

(b) any interested person; and

(c) except in a case where it appears to the Director General that to do so might prejudice any investigation (including a criminal investigation), the person complained against (if any).

(8) In this regulation, "complainant concerned" means—

(a) in relation to a recommendation under regulation 73(13), the complainant whose complaint, having been investigated, resulted in the submission or completion of the report under regulation 72;

(b) in relation to a recommendation under regulation 81(7)(d), the complainant who applied under regulation 81(2) for the review.

PART 10

Delegation by the chief executive

Delegation of powers and duties by the chief executive

88.—(1) Subject to paragraph (2), the chief executive may delegate all or any of the powers or duties conferred or imposed on the chief executive by or under these Regulations to another staff member of the FSA.

(2) The chief executive may not, in any particular case, delegate any power or duty under paragraph (1) to a person—

(a) unless that person has an appropriate level of knowledge, skills and experience to exercise the power or perform the duty;

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

(c) if that person's involvement in the role could reasonably give rise to a concern as to whether that person could act impartially under these Regulations.

Signed by authority of the Secretary of State for Health and Social Care

Ashley Dalton
Parliamentary Under Secretary of State
Department of Health and Social Care

7th March 2025

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations provide for the basis on which the Director General (the "Director General") of the Independent Office for Police Conduct ("IOPC") has oversight of complaints and other matters relating to the conduct of food crime officers of the Food Standards Agency ("FSA"). Section 114C of the Police and Criminal Evidence Act 1984 (c. 60) defines "food crime officers" (also see the definition of "officer" in regulation 2).

The statutory framework in accordance with which the IOPC has oversight of police conduct is set out in Part 2 of, and Schedule 3 to, the Police Reform Act 2002 (c. 30, "the 2002 Act"). These Regulations make provision which broadly reflects existing arrangements in accordance with which the IOPC has oversight of the police under the 2002 Act, but with modifications to reflect differences between the FSA and the police.

Part 1 contains introductory provision, including an interpretation provision.

Part 2 comprises regulations 3 to 13 and includes general provision as to complaints and misconduct. In particular, Part 2 includes provision about the persons, complaints and matters to whom and to which these Regulations apply; the application of certain provisions of the 2002 Act with modifications; the general functions of the Director General, the IOPC and the chief executive ("the chief executive") of the FSA; reporting to the Secretary of State; and provision relating to payments and payment for assistance with investigations.

Part 3 comprises regulations 14 to 21 and includes provision about the handling of complaints and conduct matters. In particular, Part 3 includes provision about the preservation of evidence; the initial handling and recording of complaints; and the keeping of records.

Part 4 comprises regulations 22 to 28. Part 4 contains provision about the recording and referral of complaints and conduct matters by the chief executive to the Director General; the duties of the Director General on such references; and the power of the Director General to treat complaints or conduct matters as having been referred to the Director General.

Part 5 concerns the handling of death and serious injury ("DSI") matters and comprises regulations 29 to 34. Part 5 contains provision in relation to the recording and referral of DSI matters that is broadly similar to the provision contained in Part 4.

Part 6 comprises regulations 35 to 57. In particular, Part 6 contains provision about the investigation of complaints and matters, including in particular the power of the Director General to determine the form of investigations; the appointment of persons to carry out investigations; investigations by the chief executive on the chief executive's own behalf; investigations by a police force or the National Crime Agency under the direction of the Director General; investigations by the chief executive under the direction of the Director General; and investigations by the Director General. Part 6 also contains provision about combining, splitting and suspending investigations; the withdrawal of complaints; and the application of a special procedure and the carrying out of a severity assessment in certain cases of alleged serious misconduct.

Part 7 comprises regulations 58 to 71. In particular, Part 7 contains provision about duties to keep the complainant and certain other persons informed; the provision of information; and restrictions on the disclosure of sensitive information. Part 7 also contains provision relating to the power of the Director General to serve an information notice.

Part 8 comprises regulations 72 to 79. In particular, Part 8 contains provision about reports and recommendations following an investigation.

Part 9 comprises regulations 80 to 87. In particular, Part 9 contains provision about the power of the Director General to require a re-investigation of a complaint or matter and about the review of the outcome of a complaint. Part 9 also contains provision about the making of recommendations following an investigation.

Part 10 comprises regulation 88. This provision concerns the power of the chief executive to delegate functions under the Regulations to other FSA staff members.

The guidance referred to in regulations 19, 23, 26, 41, 48, 67 and 85 is IOPC statutory guidance on the police complaints system, issued under section 22 of the 2002 Act and can be viewed at https://www.policeconduct.gov.uk/complaints/information-for-police. Hard copies are available for inspection at the National Food Crime Unit, Food Standards Agency, at either Floor 6, Clive House, 70 Petty France, London SW1H 9EX or Apex House, Calthorpe Road, Birmingham B15 1TR, at reasonable times, following a written request to the address concerned or to nfcufutures@food.gov.uk.

An impact assessment has not been produced for this instrument as no, or no significant, impact on the private, voluntary or public sectors is foreseen.

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