STATUTORY INSTRUMENTS

2015 No. 431

POLICE, ENGLAND AND WALES

The Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015

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The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 12(8) and (9), 23(2) and 105(4) and (5) of the Police Reform Act 2002(**a**).

In accordance with section 24 of the Police Reform Act 2002, the Secretary of State has consulted with the Independent Police Complaints Commission, 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 Association of Chief Police Officers and such other persons as she thinks fit.

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

PART 1

Introductory

Citation, commencement and extent

1. These Regulations may be cited as the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015 and come into force on 8th April 2015.

Interpretation

2. In these Regulations—

"1984 Act" means the Police and Criminal Evidence Act 1984(**c**);

"the 2002 Act" means the Police Reform Act 2002;

"the 2014 Act" means the Anti-social Behaviour, Crime and Policing Act 2014(**d**);

"the 2012 Regulations" means the Police (Complaints and Misconduct) Regulations 2012(**e**);

"the 2013 Regulations" means the Police (Complaints and Conduct) Regulations 2013(**f**);

"appropriate authority" means the chief officer—

(a) in relation to a contractor or in relation to any complaint, conduct matter or investigation relating to the conduct of such a person; and

(b) in relation to a death or serious injury (DSI) matter if the relevant officer is a contractor;

(**a**) 2002 c. 30. Relevant amendments were made by paragraphs 1, 9 and 10 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraphs 1 and 2 of Schedule 23 to the Criminal Justice and Immigration Act 2008 (c. 4), Schedules 14 and 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and sections 1 to 3 of the Police Complaints and Conduct) Act 2012 (c. 22). Section 12(8) and (9) was inserted by section 135 of the Anti-social Behaviour, Crime and Police Act 2014 (c. 12).

(**b**) 1996 c. 16. Section 63(3)(b) was substituted by paragraphs 68 and 78 of Schedule 4 to the Serious Organised Crime and Policing Act 2005; there have been further amendments to section 63 that are not relevant for these purposes.

(**c**) 1984 c. 60.

(**d**) 2014 c. 12.

(**e**) S.I. 2012/1204 as amended by S.I. 2014/2406.

(**f**) S.I. 2013/281.

"bank holiday" means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**a**) in England and Wales;

"Code B" means the code of practice issued under section 66(1)(c) and (d) of the 1984 Act(**b**);

"Code C" means the code of practice issued under section 66(1)(b) of the 1984 Act;

"complainant" shall be construed in accordance with regulation 8(2);

"complaint" has the same meaning as in regulation 8;

"conduct matter" has the same meaning as in regulation 8;

"contractor" means a person who is—

(a) a contractor in accordance with section 12(10) of the 2002 Act,

(b) a sub-contractor of a person falling within (a), or

(c) an employee of a person falling within (a) or (b);

"contractor friend" means a person chosen by the person concerned in accordance with regulation 58;

"contractor manager" means—

(a) the person who has responsibility for the management of the provision of the services to a chief officer, or

(b) the person—

(i) who has direct management responsibility for the person in relation to whom there is a complaint, conduct matter or DSI matter, and

(ii) who in the opinion of the chief officer has sufficient seniority, skills and experience to carry out this function;

"contractor standards" means the behaviours and standards in accordance with which a contractor is required to comply under the contractor's conduct and performance policies;

"death or serious injury matter" or "DSI matter" has the same meaning as in regulation 8;

"disciplinary proceedings" in relation to the contractor means any proceedings or management process in accordance with which the conduct of a person is considered in order to determine whether it is misconduct or gross misconduct and if so whether, as a result, any action is to be taken in relation to it;

"HMIC" means Her Majesty's Inspectors of Constabulary;

"investigator" means a person appointed or designated to investigate under regulations 42 to 45;

"person concerned" has the meaning in regulation 54;

"recordable conduct matter" means a conduct matter that is required to be recorded by the appropriate authority under regulation 29 or 30 or has been so recorded;

"relevant appeal body" means a body within the meaning of regulation 91(1);

"relevant offence" means—

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

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

"relevant officer", in relation to a DSI matter, means the contractor—

(a) who arrested the person who has died or suffered serious injury;

(**a**) 1971 c. 80.

(**b**) Section 66 was amended by section 57(1) and (4) of the Criminal Justice and Court Services Act 2000 (c. 43). There are other amendments which are not relevant to the provision made by these Regulations.

(**c**) 1980 c. 43.

(b) in whose custody that person was at the time of the death or serious injury; or

(c) with whom that person had the contact in question,

and where there is more than one such person it means the one who so dealt with the person who died or suffered serious injury last before the death or serious injury occurred (but where it cannot be determined which of the employees of the contractor dealt with a person last before a death or serious injury occurred, the most senior of them);

"senior officer" means a member of a police force holding a rank above that of chief superintendent;

"trade union" has the same meaning as in sections 1 and 119 of the Trade Union and Labour Relations (Consolidation) Act 1992(**a**);

"unsatisfactory performance proceedings" means any proceedings or management process in accordance with which the performance of the contractor is considered in order to determine whether it is unsatisfactory or whether, as a result, any action is to be taken in relation to it;

"working day" means any day other than a Saturday or Sunday or a day which is a bank holiday or public holiday in England and Wales.

Saving and transitional provisions

3.—(1) Subject to paragraphs (2) and (3), regulation 35 of the 2012 Regulations is omitted.

(2) Notwithstanding the omission of regulation 35 of the 2012 Regulations—

(a) regulation 35 as in force immediately before the coming into force of these Regulations continues to have effect—

(i) to a matter in respect of which section 39(9) to (11) of the 2002 Act continues to apply;

(ii) to a matter which came to the attention of the preceding appropriate authority before 8th April 2015; and

(b) nothing in these Regulations shall apply to a matter to which sub-paragraph (a) applies.

(3) In this regulation, "preceding appropriate authority" is the appropriate authority for the purposes of a matter in relation to which regulation 35 of the 2012 Regulations has effect.

Application: general

4. —(1) For the purposes of Part 2 of the 2002 Act and the Regulations listed in paragraph (2) a contractor is to be treated as a person serving with the police.

(2) The Regulations are—

(a) the 2012 Regulations; and

(b) the 2013 Regulations.

(3) But in the application of Part 2 of the 2002 Act and the Regulations listed in paragraph (2) to contractors, Part 2 and those Regulations are to be modified, and therefore the provisions in Part 2 and the regulations listed in paragraph (2) specified in the first column of the table in the Schedule are to be read as having effect as set out in the provisions of these Regulations specified in the second column of the table in the Schedule opposite the respective entries.

Delegation of functions to the contractor manager

5. In relation to a contractor, the chief officer may arrange for the contractor manager to carry out the functions of the appropriate authority.

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

PART 2

Complaints and Misconduct

General functions of the Commission under these Regulations

6.—(1) The functions of the Commission shall be—

(a) to secure the maintenance by the Commission itself, and by local policing bodies, chief officers and contractors, of suitable arrangements with respect to the matters mentioned in paragraph (2);

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

(c) to secure that arrangements maintained with respect to those matters comply with the requirements of the provisions of these Regulations, are efficient and effective and contain and manifest an appropriate degree of independence;

(d) to 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) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of the practice of the police or contractors or in relation to other matters, as appear, from the carrying out by the Commission of its other functions, to be necessary or desirable.

(2) Those matters are—

(a) the handling of complaints made about the conduct of contractors;

(b) the recording of matters from which it appears that there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;

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

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

(3) It shall be the duty of the Commission—

(a) to exercise the powers and perform the duties conferred on it by the following provisions of these Regulations in the manner that it considers best calculated for the purpose of securing the proper carrying out of its functions under paragraph (1); and

(b) to secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by persons in relation to whose conduct the Commission has functions.

(4) It shall also be the duty of the Commission—

(a) to enter into arrangements with the chief inspector of constabulary for the purpose of securing co-operation, in the carrying out of their respective functions, between the Commission and the inspectors of the constabulary; and

(b) to provide those inspectors with all such assistance and co-operation as may be required by those arrangements, or as otherwise appears to the Commission to be appropriate, for facilitating the carrying out by those inspectors of their functions.

(5) Subject to the other provisions of these Regulations, the Commission may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions under these Regulations.

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

Reports to the Secretary of State

7.—(1) As soon as practicable after the end of each of its financial years, the Commission shall make a report to the Secretary of State on the carrying out of its functions under these Regulations during that year.

(2) The Commission shall also make such reports to the Secretary of State about matters relating generally to the carrying out of its functions under these Regulations as the Secretary of State may, from time to time, require.

(3) The Commission 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 the Commission's notice; and

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

(4) The Commission shall prepare such reports containing advice and recommendations as it thinks appropriate for the purpose of carrying out its function under regulation 6(1)(e) (general functions of the Commission).

(5) Where the Secretary of State receives any report under this regulation, the Secretary of State shall—

(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,

lay a copy of the report before Parliament and cause the report to be published.

(6) The Commission shall send a copy of every annual report under paragraph (1) to every local policing body.

(7) The Commission shall send a copy of every report under paragraph (3)—

(a) to any local policing body that appears to the Commission to be concerned; and

(b) to the chief officer of police of any police force that appears to it to be concerned.

(8) The Commission shall send a copy of every report under paragraph (4) to—

(a) the Secretary of State;

(b) every local policing body; and

(c) every chief officer.

(9) The Commission shall send a copy of every report under paragraph (3) or (4) to such of the persons (in addition to those specified in the preceding paragraphs) who—

(a) are referred to in the report, or

(b) appear to the Commission otherwise to have a particular interest in its contents,

as the Commission thinks fit.

Complaints, matters and persons to which these Regulations apply

8.—(1) In these Regulations references to a complaint are references (subject to the following provisions of this regulation) to any complaint about the conduct of a contractor 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 acting on behalf of a person falling within any of sub-paragraphs (a) to (c).

(2) References in these Regulations, in relation to anything which is or purports to be a complaint, to the complainant are references—

(a) except in the case of anything which is or purports to be a complaint falling within paragraph (1)(d), to the person by whom the complaint or purported complaint was made; and

(b) in that case, to the person on whose behalf the complaint or purported complaint was made,

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

(3) Subject to paragraph (4), references in these Regulations, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public include references to a contractor (whether at the time of the conduct or at any subsequent time).

(4) In these Regulations, in relation to any conduct or to anything purporting to be a complaint about any conduct, to a member of the public do not include references to—

(a) a person who, at the time when the conduct is supposed to have taken place, was under the direction and control of the same chief officer as the person whose conduct it was; or

(b) a person who—

(i) at the time when the conduct is supposed to have taken place, in relation to him, or

(ii) at the time when he is supposed to have been adversely affected by it, or to have witnessed it,

was on duty in his capacity as a contractor.

(5) 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 the person is put in danger or is otherwise unduly put at risk of being adversely affected.

(6) In these Regulations "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 a contractor may have—

(a) committed a criminal offence; or

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

(7) In these Regulations "death or serious injury matter" (or "DSI matter" for short) means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter)—

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

(b) in relation to which the requirements of either paragraph (8) or (9) are satisfied.

(8) The requirements of this paragraph are that at the time of the death or serious injury the person—

(a) had been arrested by a contractor and had not been released from that arrest; or

(b) was otherwise detained in the custody of a contractor.

(9) The requirements of this paragraph are 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 a contractor who was acting in the execution of that person's duties; and

(b) there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.

(10) In paragraph (7) the reference to a person includes a contractor, but in relation to such a person "contact" in paragraph (9) does not include contact that the person has whilst acting in the execution of that person's duties.

(11) 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 (12), 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.

(12) 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.

(13) For the purposes of this regulation a person shall be taken to have witnessed conduct if, and only if—

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

(b) the person has possession or control of anything which would in any such proceedings constitute admissible evidence of that conduct.

(14) For the purposes of these Regulations a person falling within paragraph 1(a) to (c) shall not be taken to have authorised another person to act on that person's behalf unless—

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

(b) the person so acting has been given, and is able to produce, the written consent of the person on whose behalf the person is taking action.

General duties of local policing bodies, chief officers, contractors and inspectors

9.—(1) It shall be the duty of—

(a) every local policing body maintaining a police force;

(b) the chief officer of police of every police force;

(c) every contractor; and

(d) HMIC carrying out its functions in relation to a police force,

to ensure that they are each kept informed, in relation to that contractor, about all matters falling within paragraph (2).

(2) Those matters are—

(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 have not yet been complied with, or have been contravened.

(3) Paragraph (4) applies in a case where it appears to a local policing body that—

(a) an obligation to act or refrain from acting has arisen by or under these Regulations;

(b) that obligation is an obligation of the chief officer of police; and

(c) the chief officer has not yet complied with that obligation, or has contravened it.

(4) The local policing body may direct the chief officer to take such steps as the local policing body thinks appropriate.

(5) The chief officer must comply with any direction given under paragraph (4).

(6) Where—

(a) the local policing body requires a chief officer of a police force to provide a member of a police force for appointment under regulation 42, 43 or 44; or

(b) the chief officer requires the chief officer of another police force to provide a member of that force for appointment under any of those regulations,

it shall be the duty of the chief officer to whom the requirement is addressed to comply with it.

(7) It shall be the duty of—

(a) every local policing body maintaining a police force;

(b) the chief officer of every police force; and

(c) the contractor

to provide the Commission and every member of the Commission's staff with all such assistance as the Commission or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the Commission under this Part.

(8) It shall be the duty of—

(a) every local policing body maintaining a police force;

(b) the chief officer of every police force; and

(c) the contractor,

to ensure that a person appointed under regulation 42, 43 of 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.

(9) The duties imposed by paragraphs (7) and (8) on a local policing body maintaining a police force and on the chief officer of such a force have effect—

(a) irrespective of whether the investigation relates to the conduct of a person who is or has been a member of that force; and

(b) irrespective of who has the person appointed to carry out the investigation under his direction and control,

but a chief officer of a third force may be required to give assistance and co-operation under paragraph (8) only with the approval of the chief officer of the force to which the person who requires it belongs.

(10) In paragraph (9) "third force", in relation to an investigation, means a police force other than the force to which the person carrying out the investigation belongs.

(11) These Regulations shall only have effect with respect to so much of any complaint as relates to the direction and control of a contractor to the extent that it relates to the direction and control of the contractor by a chief officer of police.

Payment for assistance with investigations

10.—(1) This regulation applies where—

(a) a police force is required to provide assistance in connection with an investigation under these Regulations; or

(b) a police force is required to provide the Commission with assistance in connection with an investigation.

(2) For the purposes of this regulation assistance is required to be provided by a police force in connection with an investigation under these Regulations if the chief officer of that force complies with a requirement under regulation 9(6) that is made in connection with—

(a) an investigation relating to the conduct of a person who, at the time of the conduct, was a contractor; or

(b) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, a contractor.

(3) Where the assistance is required to be provided by a police force to the appropriate authority, the local policing body maintaining the force in respect of which the appropriate authority is the chief officer shall pay to the local policing body maintaining the assisting force such contribution (if any) towards the costs of the assistance—

(a) as may be agreed between them; or

(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 and the appropriate authority; 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 the absence of any such arrangements, as may be determined by the Secretary of State.

(4) Where the assistance is required to be provided by a police force to the Commission, the Commission shall pay to the local policing body maintaining that force such contribution (if any) towards the costs of the assistance—

(a) as may be agreed between the Commission and that body; or

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

(i) have been agreed to by the local policing bodies generally and the Commission; 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, to the Commission; or

(c) in the absence of any such arrangements, as may be determined by the Secretary of State.

Provision of information to the Commission

11.—(1) It shall be the duty of every local policing body, chief officer and contractor—

(a) to provide the Commission with all such information and documents specified or described in a notification given by the Commission to that body, chief officer or contractor; and

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

as appear to the Commission to be required by it for the purposes of the carrying out of any of its 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) any subsequent notification given by the Commission to that person for the purposes of this paragraph.

(3) Nothing in this regulation shall require the local policing body, chief officer or contractor—

(a) to provide the Commission with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for that body, chief officer or contractor to do so; or

(b) to provide, produce or deliver up anything at all in a case in which it never becomes practicable for that body, chief officer or contractor to do so.

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

Inspection of premises on behalf of the Commission

12.—(1) Where—

(a) the Commission requires—

(i) a local policing body maintaining any police force,

(ii) a chief officer of any such force, or

(iii) a contractor,

to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purpose of that force or a contractor and to documents or other things on those premises; and

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

it shall be the duty of the body, the chief officer or, as the case may be, the contractor to secure that the required access is allowed to the nominated person.

(2) Those purposes are—

(a) the purposes of any examination by the Commission of the efficiency and effectiveness of the arrangements made by the force in question or the contractor for handling complaints or dealing with recordable conduct matters or DSI matters;

(b) the purposes of any investigation by the Commission under these Regulations or of any investigation carried out under its supervision or management.

(3) A requirement imposed under this regulation for the purposes mentioned in paragraph (2)(a) must be notified to the body, the chief officer or the contractor 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; and

(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 shall have effect as an obligation to secure that the access is allowed to that person at the earliest practicable time as that person may specify after there cease to be any grounds in accordance with sub-paragraph (b).

(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 (investigations by the Commission itself); or

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

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 local policing body, the chief officer or the contractor under regulations 9 and 11.

Duty to keep the complainant informed

13.—(1) Subject to regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons), in any case in which there is an investigation of a complaint in accordance with the provisions of these Regulations—

(a) by the Commission; or

(b) under its management,

it shall be the duty of the Commission to provide the complainant with all such information as will keep the complainant properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (4).

(2) Subject to regulation 16, in any case in which there is an investigation of a complaint in accordance with the provisions of these Regulations—

(a) by the appropriate authority on its own behalf; or

(b) under the supervision of the Commission,

it shall be the duty of the appropriate authority to provide the complainant with all such information as will keep the complainant properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (4).

(3) Where paragraph (2) applies, it shall be the duty of—

(a) the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that paragraph; and

(b) the appropriate authority to comply with any direction given to it under this paragraph.

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

(a) the progress of the investigation;

(b) any provisional findings of the person carrying out the investigation;

(c) whether any report has been submitted under regulation 72 (final reports on investigations: complaints, conduct matters and certain DSI matters);

(d) the action (if any) that is taken in respect of any of the matters dealt with in any such report; and

(e) the outcome of any action.

(5) It shall be the duty of a person appointed to carry out an investigation under these Regulations to provide the Commission or, as the case may be, the appropriate authority with all such information as the Commission or that authority may reasonably require for the purpose of performing its duty under this regulation.

Duty to provide information for other persons

14.—(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 the provisions of these Regulations if—

(a) it appears to the Commission or to an appropriate authority that that person is a person falling within paragraph (2) or (3); and

(b) that person 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 from 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 from that conduct and that person is incapable of making a complaint; or

(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 a person who has died;

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

(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, conduct matter or DSI matter if—

(a) the Commission or the appropriate authority consider 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) that person has indicated consent to the provision of information in accordance with this regulation and that consent has not been withdrawn.

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

(6) A person who has an interest in being kept properly informed about the handling of a complaint, conduct matter or DSI matter is referred to in this regulation as an "interested person".

(7) Subject to regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons), in any case in which there is an investigation of a complaint, recordable conduct matter or DSI matter in accordance with the provisions of these Regulations—

(a) by the Commission; or

(b) under its management,

it shall be the duty of the Commission to provide the interested person with all such information as will keep the interested person properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (10).

(8) Subject to regulation 16, in any case in which there is an investigation of a complaint, recordable conduct matter or DSI matter in accordance with the provisions of these Regulations—

(a) by the appropriate authority on its own behalf, or

(b) under the supervision of the Commission,

it shall be the duty of the appropriate authority to provide the interested person with all such information as will keep the interested person properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (10).

(9) Where paragraph (8) applies, it shall be the duty of—

(a) the Commission to give the appropriate authority all such directions as it considers appropriate for securing that that authority complies with its duty under that paragraph; and

(b) the appropriate authority to comply with any direction given to it under this paragraph.

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

(a) the progress of the investigation;

(b) any provisional findings of the person carrying out the investigation;

(c) whether the Commission or the appropriate authority has made a determination under regulation 71 (procedure where conduct matter is revealed during investigation of a DSI matter);

(d) whether any report has been submitted under regulation 72 (final reports on investigations: complaints, conduct matters and certain DSI matters) and regulation 75 (final reports on investigations: other DSI matters);

(e) the action (if any) the Commission has taken in respect of any of the matters dealt with in any such report; and

(f) the outcome of any action.

(11) Regulation 13(5) (duty to keep the complainant informed) applies for the purposes of this regulation as it applies for the purposes of that regulation.

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

Manner in which duties to provide information are to be performed

15.—(1) For the purposes of regulations 13 and 14 (duties to keep complainant and other persons informed), the manner in which the Commission or, as the case may be, an appropriate authority shall perform the duties imposed by those regulations is as follows.

(2) The Commission, in a case falling within regulation 13(1) or 14(7) (investigation of a complaint, conduct matter or DSI matter by or under the management of the Commission), shall inform the complainant or, as the case may be, the interested person—

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

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

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

(b) of any provisional findings of the person carrying out the investigation as frequently as the Commission determines to be appropriate in order for the complainant to be kept properly informed.

(3) An appropriate authority, in a case falling within regulation 13(2) or 14(8) (investigation of a complaint, conduct matter or DSI matter by an appropriate authority on its own behalf or under the supervision of the Commission), shall inform the complainant or the interested person (as the case may be)—

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

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

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

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

(4) When an investigation has been completed, each complainant and interested person shall be notified—

(a) of the date on which the final report under regulation 72 (final reports on investigations: complaints, conduct matters and certain DSI matters) is likely to be submitted; and

(b) of the date on which the notification under regulation 73(11) or 74(12) (action by the Commission or appropriate authority in response to an investigation report) is likely to be given.

(5) In performing the duties imposed by regulations 13(1) and (2), 14(7) and (8), 73(11) or 74(12), the Commission or, as the case may be, the appropriate authority shall determine whether it is appropriate to offer, or to accede to a request for, a meeting with a complainant or, as the case may be, an interested person.

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

(7) As soon as practicable after the conclusion of any disciplinary proceedings or unsatisfactory performance proceedings that are taken in respect of the matters dealt with in any report submitted under regulation 74, the appropriate authority shall notify the Commission, any complainant and any interested person of the outcome of those proceedings, including the fact and outcome of any appeal against the outcome of the proceedings.

(8) If the Commission or, as the case may be, the appropriate authority, considers that an investigation has made minimal or no progress since the previous notification, then the next notification may be made by any means that in the opinion of the Commission or, as the case may be, the appropriate authority is suitable.

(9) Any notification under this regulation shall be given in writing, except in a case where the notification is given at a meeting held in consequence of a determination under paragraph (5) or it is given by means other than writing in accordance with paragraph (8).

Exceptions to the duty to keep the complainant informed and to provide information for other persons

16.—(1) Subject to paragraph (2), the duties mentioned in regulation 13(1) and (2) (duty to keep the complainant informed), regulation 14(7) and (8) (duty to provide information for other persons), regulation 73(11) and regulation 74(12) (action by the Commission or appropriate authority in response to an investigation report) shall not apply in circumstances where in the opinion of the Commission, or, as the case may be, of the appropriate authority, the non-disclosure of information is necessary for the purpose of—

(a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;

(b) preventing the disclosure of information in any circumstances in which its non-disclosure—

(i) is in the interests of national security;

(ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;

(iii) is required on proportionality grounds; or

(iv) is otherwise necessary in the public interest.

(2) The non-disclosure of information is required on proportionality grounds if its disclosure would cause, directly or indirectly, an adverse effect which would be disproportionate to the benefits arising from its disclosure.

(3) The Commission or, as the case may be, the appropriate authority shall not conclude that the non-disclosure of information is necessary under paragraph (1) unless it is satisfied that—

(a) there is a real risk of the disclosure of that information causing an adverse effect; and

(b) that adverse effect would be significant.

(4) Without prejudice to the generality of paragraph (1), the Commission or, as the case may be, the appropriate authority shall consider whether the non-disclosure of information is justified under that paragraph in circumstances where—

(a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings;

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

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

(d) that information constitutes criminal intelligence.

PART 3

Handling of complaints

Duties to preserve evidence relating to complaints

17.—(1) Where—

(a) a complaint is made to the chief officer about the conduct of the contractor; or

(b) the chief officer becomes aware that a complaint about the conduct of the contractor has been made to the Commission or local policing body,

the chief officer shall 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 officer'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 officer becomes aware of it.

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

(4) It shall be the duty of the chief officer to comply with all such directions as may be given by the Commission in relation to the chief officer's duty under paragraph (1).

(5) It shall be the duty of the contractor to take all such specific steps for obtaining or preserving evidence relating to any conduct that is the subject-matter of a complaint as the contractor may be directed to take for the purposes of this regulation by the chief officer or by the Commission.

Initial handling and recording of complaints

18.—(1) Where a complaint is made to the Commission, it shall give notification of the complaint to the chief officer.

(2) But the Commission need not give that notification if the Commission considers that there are exceptional circumstances that justify it not being given.

(3) Where a complaint is made to the local policing body, the local policing body shall give notification of the complaint to the chief officer.

(4) Where a complaint is made to the contractor, the contractor shall give notification of the complaint to the chief officer.

(5) Where the Commission, the local policing body or the contractor gives notification of a complaint under any of paragraphs (1), (3) and (4), the person who gave the notification shall notify the complainant that the notification has been given and of what it contained.

(6) Where—

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

(b) a complaint is notified to the chief officer under this paragraph,

the chief officer shall record the complaint.

(7) Nothing in this regulation shall require the notification or recording by any person of any complaint about any conduct if—

(a) that person is satisfied that the subject-matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct it was; or

(b) the complaint has been withdrawn.

(8) Nothing in this regulation shall require the recording by any person of any complaint about any conduct if that person considers that the complaint falls within a description of complaints specified in regulation 20 (recording of complaints).

Copies of complaints etc

19.—(1) Where a complaint is recorded under regulation 18(6), the appropriate authority shall—

(a) supply to the complainant a copy of the record made of that complaint; and

(b) subject to paragraphs (2) to (4), supply to the person complained against a copy of the complaint.

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

(3) An appropriate authority may decide not to supply such a copy of a complaint if it is of the opinion that to do so—

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

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

(4) Where an appropriate authority decides not to supply such a copy, it shall keep that decision under regular review.

Recording of complaints

20.—(1) For the purposes of regulation 18(8) (descriptions of complaint not required to be recorded) the complaints set out in paragraph (2) are specified.

(2) Those complaints are complaints in the case of which the appropriate authority considers that—

(a) the matter is already the subject of a complaint made by or on behalf of the same complainant;

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

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

(d) the complaint is repetitious; or

(e) the complaint is fanciful.

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

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

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

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

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

(i) the complaint was locally resolved in accordance the provisions in regulation 27;

(ii) the complaint was handled otherwise than in accordance with these Regulations or no action was taken in relation to it, in accordance with regulations 25 and 26 (disapplication of requirements of these Regulations);

(iii) the Commission gave the appropriate authority a direction under regulation 70 (power to discontinue an investigation);

(iv) the appropriate authority disapplied the requirements of these Regulations in accordance with regulation 26(4)(b);

(v) the complainant gave such notification as is mentioned in regulation 41(1); or

(vi) the requirements of regulation 73(9) or 74(11) (determination by the appropriate authority of what action to take) were complied with.

(4) For the purposes of paragraph (2)(e) a complaint is fanciful if, and only if, no reasonable person could lend any credence to it.

Failures to notify or record a complaint

21.—(1) This regulation applies where anything which is or purports to be a complaint in relation to which regulation 18 has effect is received by the chief officer, local policing body or

the contractor (whether in consequence of having been made directly or of a notification under that regulation).

(2) If the chief officer, local policing body or contractor decides not to take action under regulation 18 for notifying or recording the whole or any part of what has been received, the chief officer, local policing body or contractor shall notify the complainant of the following matters—

(a) the decision to take no action and, if that decision relates to only part of what was received, the part in question;

(b) the grounds on which the decision was made; and

(c) that complainant's right to appeal against that decision under this regulation.

(3) Subject to paragraph 4, the complainant shall have a right of appeal to the Commission against any failure by the chief officer, local policing body or contractor to make a determination under regulation 18 or to notify or record anything under that regulation.

(4) The complainant has no right of appeal under paragraph (3) if, by virtue of regulation 18(7), there is no requirement to record the complaint.

(5) On an appeal under this regulation, the Commission shall—

(a) determine whether any action under regulation 18 should have been taken in the case in question; and

(b) if the Commission finds in the complainant's favour, give such directions as the Commission considers appropriate to the chief officer, local policing body or contractor as to the action to be taken for making a determination, or for notifying or recording what was received,

and it shall be the duty of the chief officer, local policing body or contractor to comply with any directions given under sub-paragraph (b).

(6) Directions under paragraph (5)(b) may require action taken in pursuance of the directions to be treated as taken in accordance with any such provision of regulation 18 as may be specified in the direction.

(7) The Commission—

(a) shall give notification to the chief officer, local policing body or contractor and the complainant of any determination made by it under this regulation; and

(b) shall give notification to the complainant of any direction given by it under this regulation to the chief officer, local policing body or contractor.

Reference of complaints to the Commission

22.—(1) It shall be the duty of the appropriate authority to refer a complaint to the Commission if—

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

(b) the complaint does not fall within sub-paragraph (a) but is one alleging conduct which constitutes—

(i) a serious assault, as defined in guidance issued by the Commission(**a**);

(ii) a serious sexual offence, as defined in guidance issued by the Commission;

(iii) serious corruption, as defined in guidance issued by the Commission;

(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

(**a**) Guidance issued by the Commission under section 22 of the 2002 Act in January 2013. This applies to paragraph (1)(b)(i) to (iv) of this regulation. A copy is available at https://www.ipcc.gov.uk/page/statutory-guidance. A copy may be inspected at 90 High Holborn, London WC1V 6BH.

of a person's race, sex, religion, or other status identified in guidance by the Commission;

(v) a relevant offence;

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

(d) the complaint is one in respect of which the Commission notifies the appropriate authority that it requires the complaint in question to be referred to the Commission for its consideration.

(2) In a case where there is no obligation under paragraph (1) to make a reference, the appropriate authority may refer a complaint to the Commission if that authority 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 Commission under paragraph (1)(a), (b) or (c), notification of the complaint shall be given to the Commission—

(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 appropriate authority that the complaint is one to which that sub-paragraph applies; and

(b) in such manner as the Commission specifies.

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

(a) without delay and in any event not later than the end of the day following the day on which the Commission notifies the appropriate authority that the complaint is to be referred; and

(b) in such manner as the Commission specifies.

(5) Subject to paragraph (7), the following powers—

(a) the power of the Commission by virtue of paragraph (1)(d) to require a complaint to be referred to it; and

(b) the power of the appropriate authority to refer a complaint to the Commission under paragraph (2),

shall be exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the Commission.

(6) The appropriate authority who refers a complaint to the Commission under this regulation 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 appropriate authority that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

(7) A complaint that has already been referred to the Commission under this regulation on a previous occasion—

(a) shall not be required to be referred again under this regulation unless the Commission so directs; and

(b) shall not be referred in exercise of any power conferred by this regulation unless the Commission consents.

Duties of the Commission on references under regulation 22

23.—(1) It shall be the duty of the Commission in the case of every complaint referred to it by the appropriate authority, to determine whether or not it is necessary for the complaint to be investigated.

(2) Where the Commission determines under this regulation that it is not necessary for a complaint to be investigated, it may, if it thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with regulation 24.

(3) Where the Commission refers a complaint back under paragraph (2), it shall 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 Commission that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

Handling of complaints by the appropriate authority

24.—(1) This regulation applies where a complaint has been recorded by the chief officer.

(2) But this regulation does not apply to a complaint if it is one that has been, or must be, referred to the Commission under regulation 22, unless the complaint is for the time being—

(a) referred back to the authority under regulation 23; or

(b) the subject of a determination under regulation 39.

(3) Subject to regulations 25 and 26, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution.

(4) If the appropriate authority determines that the complaint is suitable for being subjected to local resolution, it shall make arrangements for it to be so subjected.

(5) If the appropriate authority determines that the complaint is not so suitable, it shall make arrangements for the complaint to be investigated by the authority on its own behalf.

(6) A determination that a complaint is suitable for being subjected to local resolution may not be made unless—

(a) the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not justify the bringing of any criminal or disciplinary proceedings against the person whose conduct is complained of; and

(b) the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not involve the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998(**a**)).

(7) In a case where this regulation applies to a complaint by virtue of paragraph (2)(b), a determination that the complaint is suitable for being subjected to local resolution may not be made unless the Commission approves the determination.

(8) No more than one application may be made to the Commission for the purposes of paragraph (7) in respect of the same complaint.

(9) Paragraph (7) (where applicable) is in addition to paragraphs (6).

Disapplication of requirements of these Regulations

25.—(1) If, in a case in which regulation 24 applies, the appropriate authority considers—

(a) that it should handle the complaint otherwise than in accordance with these Regulations or should take no action in relation to it; and

(b) that the complaint falls within a description of complaints specified in paragraph (7),

the appropriate authority may handle the complaint in whatever manner (if any) that authority thinks fit.

(2) But, in a case where regulation 24 applies by virtue of regulation 24(2)(a) or (b), the appropriate authority may not handle the complaint in whatever manner (if any) the authority thinks fit unless—

(**a**) 1998 c. 42.

(a) the authority applies to the Commission, in accordance with these Regulations, for permission to so handle the complaint; and

(b) the Commission gives permission.

(3) An application under paragraph (2) for permission to handle a complaint in whatever manner (if any) an appropriate authority thinks fit shall be in writing and shall be accompanied by—

(a) a copy of the complaint;

(b) an explanation of the appropriate authority's reasons for making the application; and

(c) copies of any other documents or material in the possession of the appropriate authority which are relevant to the complaint.

(4) The appropriate authority shall supply any further information requested by the Commission for the purpose of considering an application by that authority made under paragraph (2).

(5) Where such an application is made to the Commission, it shall—

(a) consider the application and determine whether to grant the permission applied for; and

(b) notify its decision to the appropriate authority and the complainant.

(6) Where an application is made under this paragraph in respect of any complaint, the appropriate authority shall not, while the application is being considered by the Commission, take any action in accordance with the provisions of these Regulations (other than under regulation 17) in relation to that complaint.

(7) For the purposes of paragraph (1)(b), the description of complaints are any one in relation to which the appropriate authority considers that—

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

(b) the matter is already the subject of a complaint made by or on behalf of the same complainant;

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

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

(e) the complaint is repetitious, as defined in regulation 20(3); or

(f) it is not reasonably practicable to complete the investigation of the complaint or any other procedures under these Regulations.

(8) For the purposes of paragraph (7)(f) it is not reasonably practicable to complete the investigation of a complaint or any other procedures under these Regulations if, and only if—

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

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

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

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

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

26.—(1) Before deciding to handle a complaint in whatever manner (if any) it thinks fit in accordance with regulation 25(1), the appropriate authority shall—

(a) write to the complainant at the complainant's last known address—

(i) inviting the complainant to make representations in relation to the matter; and

(ii) allowing the complainant a period of 28 days, commencing on the day after the date of the letter, to do so; and

(b) have regard to any representations made by the complainant.

(2) The appropriate authority shall notify the complainant—

(a) that the appropriate authority has decided to handle the complaint as permitted by regulation 25(1) (in a case where the appropriate authority is not required to apply for permission under regulation 25(2) to so handle the complaint); or

(b) about the making of the application under regulation 25(2) (in a case where the appropriate authority makes such an application).

(3) Where the complaint is to be handled in whatever manner (if any) the appropriate authority thinks fit (whether or not the Commission's permission is needed), the authority—

(a) shall not be required by virtue of any of the provisions of these Regulations (other than regulation 17) to take any action in relation to the complaint; and

(b) may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint, and for the purposes of handling the complaint may take any step that it could have taken, or would have been required to take, if it were not proceeding in accordance with this regulation.

(4) Where the appropriate authority applies to the Commission under regulation 25(2) and the Commission determines that no permission should be granted—

(a) it shall refer the matter back to the appropriate authority for the making of a determination under regulation 24(3); and

(b) the authority shall then make that determination.

(5) No more than one application may be made to the Commission under this regulation in respect of the same complaint.

(6) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under this regulation to handle the complaint otherwise than in accordance with these Regulations or to take no action in relation to it.

(7) But the complainant has no right of appeal in a case in which the appeal relates to a decision for which the Commission has given permission under this regulation.

(8) On an appeal under this paragraph, subject to paragraphs (9) and (10), the relevant appeal body shall—

(a) determine whether any decision taken by the appropriate authority under this regulation should have been taken in the case in question; and

(b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the appropriate authority as to the action to be taken for handling the complaint in accordance with these Regulations or handling it otherwise than in accordance with these Regulations;

and it shall be the duty of the appropriate authority to comply with any directions given under sub-paragraph (b).

(9) Paragraph (8) does not apply in a case where the appropriate authority is—

(a) the person in respect of whose decision the appeal is made under this regulation, and

(b) the relevant appeal body in relation to the appeal.

(10) In such a case—

(a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and

(b) if the appeal finds in the complainant's favour, the appropriate authority must take such action as the appropriate authority thinks appropriate for handling the complaint in

accordance with these Regulations or handling it otherwise than in accordance with these Regulations.

Local resolution of complaints

27.—(1) The arrangements made by the appropriate authority for subjecting any complaint to local resolution may include the appointment of a person who is—

(a) a member of a police force;

(b) a civilian employee of a police force; or

(c) a contractor

to secure the local resolution of the complaint.

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

(3) Where it appears to the appointed person that the complaint had in fact already been satisfactorily dealt with at the time it was brought to his notice, the appointed person may, subject to any representation by the complainant, treat it as having been locally resolved.

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

(5) The appointed person shall not, for the purpose of locally resolving a complaint, tender on behalf of the person complained against an apology for that person's conduct unless the person complained against has agreed to the apology.

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

(7) At the time of sending a copy of the record of outcome to the complainant under paragraph (6), the appropriate authority shall notify the complainant in writing of the complainant's right of appeal against that outcome under regulation 28 (appeals relating to complaints dealt with other than by investigation), unless paragraph (2) of that regulation applies.

(8) In this regulation, "the appointed person" means a person appointed under paragraph (1) to secure the local resolution of a complaint.

(9) A statement made by any person for the purposes of the local resolution of any complaint shall not be admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to local resolution.

(10) If, after attempts have been made to resolve a complaint using local resolution, it appears to the appropriate authority—

(a) that the resolution of the complaint in that manner is impossible; or

(b) that the complaint is, for any other reason, not suitable for such resolution,

it shall make arrangements for the complaint to be investigated by that authority on its own behalf.

(11) The local resolution of any complaint shall be discontinued if—

(a) any arrangements are made under paragraph (10);

(b) the Commission notifies the appropriate authority that it requires the complaint to be referred to the Commission under regulation 22; or

(c) the complaint is so referred otherwise than in pursuance of such a notification.

(12) A person who has participated in any attempt to resolve a complaint using local resolution shall be disqualified for appointment under any provision of these Regulations to investigate that complaint, or to assist with the carrying out of the investigation of that complaint.

Appeals relating to complaints dealt with other than by investigation

28.—(1) The complainant shall have a right of appeal to the relevant appeal body against the outcome of any complaint that is—

(a) subjected to local resolution; or

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

(2) On an appeal under this regulation, subject to paragraphs (3) and (4), the relevant appeal body shall—

(a) determine whether the outcome of the complaint is a proper outcome; and

(b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the appropriate authority as to the action to be taken in relation to the complaint,

and it shall be the duty of the appropriate authority to comply with any directions given under paragraph (b).

(3) Paragraph (2) does not apply in a case where the chief officer is the relevant appeal body in relation to the appeal.

(4) In such a case—

(a) the appeal shall determine whether the outcome of the complaint is a proper outcome; and

(b) if the appeal finds in the complainant's favour, the chief officer must take such action as the chief officer thinks appropriate in relation to the complaint.

PART 4

Handling of conduct matters

Conduct matters arising in civil proceedings

29.—(1) This regulation applies where—

(a) the chief officer, the local policing body or the contractor 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 chief officer, the local policing body or the contractor, or it otherwise appears to the chief officer, the local policing body or the contractor that such proceedings are likely to be so brought; and

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

(2) In a case where the chief officer has not received notification in accordance with paragraph (1), the local policing body or the contractor shall notify the chief officer about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as mentioned in paragraph (1)(b).

(3) In a case where the chief officer determines that the matter is one which the chief officer is required to refer to the Commission under regulation 33, or is one which it would be appropriate to so refer, the chief officer shall record the matter.

(4) In any other case, the chief officer shall determine whether the matter is repetitious within the meaning of regulation 31.

(5) In a case where the chief officer determines that the matter is not repetitious within the meaning of regulation 31, the chief officer shall record the matter.

(6) In any other case, the chief officer may (but need not) record the matter.

(7) In a case where the chief officer—

(a) records a matter under this regulation; and

(b) is not required to refer the matter to the Commission under regulation 33 and does not do so,

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

(8) Nothing in paragraph (3) or (5) shall require the chief officer to record any conduct matter if the chief officer 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 regulation 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

30.—(1) This regulation applies where—

(a) a conduct matter comes (otherwise than as mentioned in regulation 29) to the attention of the chief officer, the local policing body or the contractor; and

(b) it appears to the chief officer, the local policing body or the contractor that the conduct involved in that matter falls within paragraph (3).

(2) In a case where a conduct matter has not come to the attention of the chief officer in accordance with paragraph (1), the local policing body or the contractor shall notify the chief officer about the matter and the circumstances that make it appear as mentioned in paragraph (1)(b).

(3) 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 public has been adversely affected by it; or

(c) it is of a description specified in paragraph (4).

(4) The following descriptions of conduct are specified for the purposes of paragraph (3)—

(a) a serious assault, as defined in guidance issued by the Commission(**a**);

(b) a serious sexual offence, as defined in guidance issued by the Commission;

(c) serious corruption, as defined in guidance issued by the Commission;

(d) 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 identified in guidance by the Commission;

(e) a relevant offence;

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

(g) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraph (a) to (f) is alleged.

(5) The chief officer must determine whether the matter is one which the chief officer is required to refer to the Commission under regulation 33 or is one which it would be appropriate to so refer.

(6) In a case in which the chief officer determines that the matter is one which the chief officer is required to refer to the Commission under regulation 33, or is one which it would be appropriate to so refer, the chief officer shall record the matter.

(7) In any other case, the chief officer shall determine whether the matter is repetitious within the meaning of regulation 31.

(**a**) Guidance issued by the Commission under section 22 of the 2002 Act in January 2013. This applies to paragraph (4)(a) to (d) of this regulation. A copy is available at https://www.ipcc.gov.uk/page/statutory-guidance. A copy may be inspected at 90 High Holborn, London WC1V 6BH.

(8) In a case where the chief officer determines that the matter is not repetitious within the meaning of regulation 31, the chief officer shall record the matter.

(9) In any other case, the chief officer may (but need not) record the matter.

(10) In a case where the chief officer—

(a) records a matter under this regulation; and

(b) is not required to refer the matter to the Commission under regulation 33 and does not do so,

the appropriate authority may deal with the matter in such other manner (if any) as it may determine.

(11) Nothing in paragraph (6) or (8) shall require the chief officer to record any conduct matter if the chief officer 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.

(12) If it appears to the Commission that—

(a) any matter that has come to its attention is a recordable conduct matter; but

(b) the matter has not been recorded by the chief officer,

the Commission may direct the chief officer to record that matter; and it shall be the duty of the chief officer to comply with the direction.

Conduct matters not required to be recorded

31. For the purposes of regulations 29(4) and 30(7), a conduct matter is repetitious only if—

(a) it concerns substantially the same conduct as a previous complaint or conduct matter;

(b) there is no fresh indication in respect of that matter that a contractor may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings;

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

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

(i) the complaint was locally resolved in accordance with the provisions of regulation 27;

(ii) the complaint was handled otherwise than in accordance with these Regulations or no action was taken in relation to it, in accordance with regulations 25 and 26 (disapplication of requirements of these Regulations);

(iii) the Commission gave the appropriate authority a direction under regulation 70 (power to discontinue an investigation);

(iv) the appropriate authority disapplied the requirements of these Regulations in accordance with regulation 26(4)(b);

(v) the complainant gave such notification as is mentioned in regulation 41(1); or

(vi) the requirements of regulations 73(9) or 74(11) (determination by the appropriate authority of what action to take) were complied with.

Duties to preserve evidence relating to conduct matters

32.—(1) Where the chief officer becomes aware of any recordable conduct matter relating to the conduct of the contractor, it shall be the chief officer's duty to 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 officer's duty under paragraph (1) must be performed as soon as practicable after the chief officer becomes aware of the matter in question.

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

(4) It shall be the duty of the contractor to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as the contractor may be directed to take for the purposes of this regulation by the chief officer or by the Commission.

Reference of conduct matters to the Commission

33.—(1) It shall be the duty of the appropriate authority to refer a recordable conduct matter to the Commission if, in a case (whether or not falling within regulation 29 (conduct matters arising in civil proceedings))—

(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 is of a description specified in paragraph (2); or

(c) the Commission notifies the appropriate authority that it requires that matter to be referred to the Commission for its consideration.

(2) Any matter which relates to conduct falling within the following descriptions is specified for the purposes of paragraph (1)(b)—

(a) a serious assault, as defined in guidance issued by the Commission(**a**);

(b) a serious sexual offence, as defined in guidance issued by the Commission;

(c) serious corruption, as defined in guidance issued by the Commission;

(d) 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 identified in guidance by the Commission;

(e) a relevant offence;

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

(g) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraphs (a) to (e) is alleged.

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

(a) the gravity of the matter; or

(b) any exceptional circumstances.

(4) Where there is an obligation under this regulation to refer any matter to the Commission, it must be referred in such manner as the Commission specifies and—

(a) if the matter falls within paragraph (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 appropriate authority that the conduct matter is one to which that sub-paragraph applies; and

(b) if the matter falls within paragraph (1)(c), without delay and in any event not later than the end of the day following the day on which the Commission notifies the appropriate authority that the conduct matter is to be referred.

(5) Subject to paragraph (7), the following powers—

(**a**) Guidance issued by the Commission under section 22 of the 2002 Act in January 2013. This applies to paragraph (2)(a) to (d) of this regulation. A copy is available at https://www.ipcc.gov.uk/page/statutory-guidance. A copy may be inspected at 90 High Holborn, London WC1V 6BH.

(a) the power of the Commission by virtue of paragraph (1)(c) to require a matter to be referred to it; and

(b) the power of the appropriate authority to refer any matter to the Commission under paragraph (3),

shall each be exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the Commission.

(6) Where—

(a) the appropriate authority refers a matter to the Commission under this regulation; and

(b) the appropriate authority does not consider that to do so might prejudice a possible future investigation of that matter,

it shall give a notification of the making of the reference to the person to whose conduct that matter relates.

(7) A matter that has already been referred to the Commission under this regulation on a previous occasion—

(a) shall not be required to be referred again under this regulation unless the Commission so directs; and

(b) shall not be referred in exercise of any power conferred by this regulation unless the Commission consents.

Duties of the Commission on references under regulation 33

34.—(1) It shall be the duty of the Commission, in the case of every recordable conduct matter referred to it by the appropriate authority under regulation 33 (reference of conduct matters to the Commission), to determine whether or not it is necessary for the matter to be investigated.

(2) Where the Commission determines under this regulation that it is not necessary for a recordable conduct matter referred by the appropriate authority to be investigated, it may if it thinks fit refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.

(3) Where the Commission—

(a) refers a matter back to the appropriate authority under this regulation; and

(b) does not consider that to do so might prejudice a possible future investigation of that matter,

the Commission shall give a notification of the making of the reference to the person to whose conduct that matter relates.

PART 5

Handling of Death and Serious Injury (DSI) Matters

Duty to record DSI matters

35.—(1) Where a DSI matter comes to the attention of the chief officer, the local policing body or the contractor—

(a) the chief officer shall record that matter, or

(b) if the matter has not come to the attention of the chief officer, the local policing body or the contractor shall notify the chief officer about the matter and the circumstances that make it appear that it is a DSI matter, and the chief officer shall record the matter.

(2) If it appears to the Commission—

(a) that any matter that has come to its attention is a DSI matter; but

(b) that that matter has not been recorded by the chief officer,

the Commission may direct the chief officer to record that matter and it shall be the duty of the chief officer to comply with the direction.

Duty to preserve evidence relating to DSI matters

36.—(1) Where—

(a) the chief officer becomes aware of a DSI matter; and

(b) the relevant officer in relation to that matter is a contractor under the direction and control of the chief officer,

it shall be the duty of the chief officer to 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 officer's duty under paragraph (2) must be performed as soon as practicable after the chief officer becomes aware of the matter in question.

(3) After that, the chief officer shall be under a duty, until the chief officer is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time as appear to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the matter.

(4) It shall be the duty of the contractor to take all such specific steps for obtaining or preserving evidence relating to any DSI matter as the contractor may be directed to take for the purposes of this regulation by the chief officer or by the Commission.

Reference of DSI matters to the Commission

37.—(1) It shall be the duty of the chief officer to refer a DSI matter to the Commission.

(2) A DSI matter shall be referred to the Commission in such manner as the Commission specifies and—

(a) in a case where the Commission directs that the matter be referred to it, without delay and in any event not later than the end of the day following the day on which the Commission 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 officer.

(3) A matter that has already been referred to the Commission under this regulation on a previous occasion shall not be required to be referred again under this regulation unless the Commission so directs.

Duties of Commission on references under regulation 37

38.—(1) It shall be the duty of the Commission, in the case of every DSI matter referred to it by the chief officer, to determine whether or not it is necessary for the matter to be investigated.

(2) Where the Commission determines under this regulation that it is not necessary for a DSI matter to be investigated, it may if it thinks fit refer the matter back to the chief officer to be dealt with by it in such manner (if any) as the chief officer may determine.

PART 6

Investigations and Subsequent Proceedings

Power of the Commission to determine the form of an investigation

39.—(1) This regulation applies where—

(a) a complaint, recordable conduct matter or DSI matter is referred to the Commission; and

(b) the Commission determines that it is necessary for the complaint or matter to be investigated.

(2) It shall be the duty of the Commission to determine the form which the investigation should take.

(3) In making a determination under paragraph (2) the Commission shall have regard to the following factors—

(a) the seriousness of the case; and

(b) the public interest.

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

(a) the appropriate authority on its own behalf;

(b) the appropriate authority under the supervision of the Commission;

(c) the appropriate authority under the management of the Commission;

(d) the Commission.

(5) The Commission may at any time make a further determination under this regulation to replace an earlier one.

(6) 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 appropriate authority has already begun an investigation on its own behalf, the Commission may give—

(a) the appropriate authority; and

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

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

(7) It shall be the duty of a person to whom a direction is given under paragraph (6) to comply with it.

(8) The Commission shall notify the appropriate authority of any determination that it makes under this regulation in relation to a particular complaint, recordable conduct matter or DSI matter.

Appointment of persons to carry out investigations

40. No person shall be appointed to carry out an investigation under regulation 42, 43 or 44 (investigation by the appropriate authority on its own behalf, supervised and managed investigations)—

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

(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.

Withdrawn complaints

41.—(1) If an appropriate authority receives from a complainant notification in writing signed by the complainant or by a solicitor or other authorised agent on the complainant's behalf to the effect either—

(a) that the complainant withdraws the complaint; or

(b) that the complainant does not wish any further steps to be taken in consequence of the complaint,

then the appropriate authority shall forthwith record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be, and subject to the following provisions of this regulation, these Regulations shall cease to apply in respect of that complaint.

(2) Where a complainant gives such notification as is mentioned in paragraph (1) to the Commission but, so far as is apparent to the Commission, has not sent that notification to the appropriate authority, then—

(a) the Commission shall send a copy of the notification to the appropriate authority;

(b) that appropriate authority shall record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be; and

(c) subject to the following provisions of this regulation, these Regulations shall cease to apply in respect of that complaint.

(3) Where a complainant gives such notification as is mentioned in paragraph (1) to an appropriate authority, or where the appropriate authority receives a copy of a notification under paragraph (2), and it relates to a complaint—

(a) which was referred to the Commission under regulation 22 (reference of complaints to the Commission) and which has not been referred back to the appropriate authority under regulation 23 (duties of the Commission on references under regulation 22); or

(b) which the appropriate authority knows is currently the subject of an appeal to the Commission under regulation 21(3), 26(6), 28(1), 70(9) or 77(2),

then the appropriate authority shall notify the Commission that it has recorded the withdrawal of the complaint or the fact that the complainant does not wish any further steps to be taken, as the case may be.

(4) In a case falling within paragraph (3)(a), the Commission shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter, and shall notify the appropriate authority of its decision.

(5) In a case falling within paragraph (3)(b), the appropriate authority shall—

(a) determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter; and

(b) notify the Commission of its determination and the reasons for that determination.

(6) Where a determination is made that a complaint is to be treated as a recordable conduct matter, then the provisions of these Regulations shall apply to that matter.

(7) Where a complainant gives such notification as is mentioned in paragraph (1) to an appropriate authority, or where the appropriate authority receives a copy of a notification under paragraph (2), and that notification relates to a complaint which does not fall within paragraph (3), then—

(a) the appropriate authority shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter;

(b) if the complaint is to be treated as a recordable conduct matter, the provisions of these Regulations shall apply to that matter;

(c) if the complaint is not to be treated as a recordable conduct matter, the provisions of these Regulations shall cease to apply in respect of that complaint.

(8) In a case where—

(a) a complaint has been subjected to an investigation by the appropriate authority on its own behalf;

(b) the complaint is currently subject to an appeal to the Commission under regulation 77; and

(c) the appropriate authority has notified the Commission under paragraph (5)(b) that it has determined that the complaint is not to be treated as a recordable conduct matter,

the Commission shall consider whether it is in the public interest for that determination to be reversed, and if so it shall instruct the appropriate authority to reverse the decision.

(9) Where a complainant indicates a wish to withdraw the complaint or the wish that no further steps are to be taken in consequence of the complaint, but the complainant fails to provide a notification to that effect in writing signed by or on behalf of the complainant, then—

(a) in the case of an indication received by the appropriate authority, the authority shall take the steps set out in paragraph (10);

(b) in the case of an indication received by the Commission, the Commission shall refer the matter to the appropriate authority which shall take the steps set out in paragraph (10).

(10) Those steps are—

(a) the appropriate authority shall write to the complainant to ascertain whether the complainant wishes to withdraw the complaint or does not wish any further steps to be taken in consequence of the complaint;

(b) if the complainant indicates the wish to withdraw the complaint or does not wish any further steps to be taken in consequence of the complaint, or if the complainant fails to reply within a period of 28 days commencing on the day after the date of the written communication under sub-paragraph (a), the appropriate authority shall treat the indication as though it had been received in writing signed by the complainant;

(c) if the complainant indicates the wish not to withdraw the complaint, or the wish for further steps to be taken in consequence of the complaint, the appropriate authority shall start or resume the investigation as the case may be.

(11) Subject to paragraph (12), the appropriate authority shall notify the person complained against if—

(a) it records the withdrawal of a complaint or the fact that the complainant does not wish any further steps to be taken;

(b) it determines that a complaint shall be treated as a recordable conduct matter;

(c) the Commission determines that a complaint shall be treated as a recordable conduct matter;

(d) the Commission instructs it to reverse a decision not to treat a complaint as a recordable conduct matter;

(e) the provisions of these Regulations cease to apply in respect of a complaint.

(12) Nothing in paragraph (11) shall require the appropriate authority to make a notification if it has previously decided under regulation 19 (copies of complaints etc.) not to notify the person complained against of the complaint because it is of the opinion that that might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.

Investigations by the appropriate authority on its own behalf

42.—(1) This regulation applies if the appropriate authority is required by virtue of—

(a) any determination made by that authority under regulation 24(3) (whether following the recording of a complaint or on a reference back under regulation 23(2)) or under regulation 27(10); or

(b) any determination made by the Commission under regulation 39 (power of the Commission to determine the form of an investigation),

to make arrangements for a complaint, recordable conduct matter or DSI matter to be investigated by the appropriate authority on its own behalf.

(2) This regulation also applies if—

(a) a determination falls to be made by that authority under regulation 29(7), 30(10) or 34(2) in relation to any recordable conduct matter or under regulation 38(2) in relation to any DSI matter; and

(b) the appropriate authority determines that it is necessary for the matter to be investigated by the authority on its own behalf.

(3) Subject to regulation 40, it shall be the duty of the appropriate authority to appoint—

(a) a member of a police force;

(b) a civilian employee of a police force; or

(c) a contractor.

to investigate the complaint or matter.

Investigations supervised by the Commission

43.—(1) Subject to regulation 40, this regulation applies where the Commission has determined that it should supervise the investigation by the appropriate authority of any complaint or recordable conduct matter or DSI matter.

(2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint—

(a) a member of a police force;

(b) a civilian employee of a police force; or

(c) a contractor.

to investigate the complaint or matter.

(3) The Commission may require that no appointment is made under paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint.

(4) Where a person has already been appointed to investigate the complaint or matter, or is selected under this paragraph for appointment, and the Commission is not satisfied with that person, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so—

(a) to select another person falling within paragraph (2) to investigate the complaint or matter; and

(b) to notify the Commission of the person selected.

(5) Where a selection made in pursuance of a requirement under paragraph (4) has been notified to the Commission, the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person.

(6) Subject to paragraphs (7) and (8), the person appointed to investigate the complaint or matter shall comply with any reasonable requirements as to the conduct of the investigation which may be imposed by the Commission as appear to it to be necessary.

(7) Where at any stage of an investigation of a complaint, recordable conduct matter or DSI matter the possibility of criminal proceedings arises, the Commission shall not, under paragraph (6), impose any requirement relating to the obtaining or preservation of evidence of a criminal offence without first obtaining the consent of the Director of Public Prosecutions.

(8) The Commission shall not, under paragraph (6), impose any requirement relating to the resources to be made available by the chief officer for the purposes of an investigation without first consulting the chief officer and having regard to any representations the chief officer may make.

Investigations managed by the Commission

44.—(1) Subject to regulation 40, this regulation applies where the Commission has determined that it should manage the investigation by the appropriate authority of any complaint, recordable conduct matter or DSI matter.

(2) Paragraphs (2) to (5) of regulation 43 (investigations supervised by the Commission) shall apply as they apply in the case of an investigation which the Commission has determined is one that it should supervise.

(3) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the Commission.

Investigations by the Commission itself

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

(2) The Commission shall designate both—

(a) a member of the Commission's staff to take charge of the investigation on behalf of the Commission; and

(b) all such other members of the Commission's staff as are required by the Commission to assist that member.

(3) The person designated under paragraph (2) to be the person to take charge of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that paragraph.

(4) The person designated under paragraph (2) to be the person to take charge of an investigation of a DSI matter in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that paragraph.

(5) A member of the Commission's staff who—

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

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

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

(6) A member of the Commission's staff who is not a constable shall not, as a result of paragraph (5), be treated as being in police service for the purposes of—

(a) section 280 (police service) of the Trade Union and Labour Relations (Consolidation) Act 1992(**b**); or

(b) section 200 (police officers) of the Employment Rights Act 1996(**c**).

(7) 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) shall 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).

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

Investigations by the Commission: power to serve information notice

46.—(1) The Commission may serve upon any person an information notice requiring the person to provide it with information that it 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;

(**a**) 1996 c. 16.
(**b**) 1992 c. 52.
(**c**) 1996 c. 18.

(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 Part 1 of the Regulation of Investigatory Powers Act 2000(**b**);

(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 or telecommunications operator (within the meaning of Chapter 2 of Part 1 of the Regulation of Investigatory Powers Act 2000) to provide communications data (within the meaning of that Chapter).

(4) An information notice must—

(a) specify or describe the information that is required by the Commission 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 48.

(5) The period specified under paragraph (4)(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.

(6) The Commission may cancel an information notice by written notice to the person on whom it was served.

Failure to comply with information notice

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

(a) fails or refuses to provide the 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 Commission 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

48.—(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 Commission in relation to the service of a further information notice.

Sensitive information: restriction on further disclosure

49.—(1) Where the Commission receives information within paragraph (2) under an information notice, it must not disclose (whether under regulation 7, 13 or 14 or otherwise) the information, or the fact that it has received it, unless the relevant authority consents to the disclosure.

(2) The information is—

(**a**) 1984 c. 60.
(**b**) 2000 c. 23.

(a) intelligence service information;

(b) intercept information; or

(c) information obtained (directly or indirectly) from a government department which, at the time it is provided to the Commission, 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 or international relations; or

(ii) the economic interests of the United Kingdom or any part of the United Kingdom.

(3) Where the Commission discloses to another person information within paragraph (2), or the fact that it has received it, that person must not disclose that information or that fact unless the relevant authority consents to the disclosure.

(4) In this regulation—

"government department" means a department of Her 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 relates to an intelligence service;

"intelligence service" means—

(a) the Security Service,

(b) the Secret Intelligence Service,

(c) GCHQ, or

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

"intercept information" means information relating to any of the matters mentioned in section 19(3) of the Regulation of Investigatory Powers Act 2000;

"Minister of the Crown" includes the Treasury;

"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 Her Majesty's forces or the Ministry of Defence, the Secretary of State;

(e) in the case of intercept information, the person to whom the relevant interception warrant is or was addressed;

(f) in the case of information within paragraph (2)(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);

"relevant interception warrant" means the interception warrant issued under section 5 of the Regulation of Investigatory Powers Act 2000 that relates to the intercept information.

(**a**) 2006 c. 52.

Combining and splitting investigations

50.—(1) An appropriate authority which is carrying out an investigation on its own behalf may—

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

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

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

(2) Subject to paragraph (3), where the Commission is supervising, managing or carrying out an investigation, it may—

(a) combine that investigation with another investigation; or

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

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

(3) The Commission shall not take any action under paragraph (2) in relation to a supervised or managed investigation except after consultation with the appropriate authority.

(4) Nothing in this regulation shall prevent the Commission from determining that—

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

(b) two or more separate investigations which take different forms (including an investigation being carried out by the appropriate authority on its own behalf) may be combined into a single investigation.

Relinquishing the Commission's supervision or management of an investigation

51.—(1) This regulation applies where the Commission relinquishes—

(a) the management of an investigation in favour of a supervised investigation or an investigation by the appropriate authority on its own behalf; or

(b) the supervision of an investigation in favour of an investigation by the appropriate authority on its own behalf.

(2) Where this regulation applies, and subject to paragraph (3), the Commission shall—

(a) notify the appropriate authority, the complainant, any interested person within the meaning of regulation 14 (duty to provide information for other persons) and the person complained against of its decision, and the reasons for that decision; and

(b) send to the appropriate authority any documentation and evidence gathered during its investigations as will assist the appropriate authority to carry out its functions under these Regulations.

(3) Nothing in paragraph (2)(a) shall require the Commission to make a notification to the person complained against if it is of the opinion that that might prejudice any criminal investigation or pending proceedings or would be contrary to the public interest.

Circumstances in which an investigation or other procedure may be suspended

52.—(1) The Commission may suspend any investigation or other procedure under these Regulations which would, if it were to continue, prejudice any criminal investigation or proceedings.

(2) An appropriate authority may, subject to paragraph (3), suspend any investigation or other procedure under these Regulations which would, if it were to continue, prejudice any criminal investigation or proceedings.

(3) The Commission may direct that any investigation or other procedure under these Regulations which is liable to be suspended under paragraph (2) shall continue if it is of the view that it is in the public interest to make such a direction.

(4) The Commission shall consult the appropriate authority before making such a direction.

Resumption of investigation after criminal proceedings

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

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

(3) If the complainant indicates the wish for the investigation to start or be resumed, the Commission or appropriate authority shall start or resume the investigation as the case may be.

(4) If the complainant indicates that the complainant does not want the investigation to start or be resumed, or if the complainant fails to reply within a period of 28 days commencing on the day after the date of a letter sent to the complainant by the Commission or appropriate authority, the Commission or appropriate authority as the case may be shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

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

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

(7) Subject to paragraph (8), the Commission or appropriate authority shall notify the person complained against if paragraph (5) or (6) applies.

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

Special procedure: assessment of seriousness of conduct under investigation

54.—(1) If, during the course of an investigation of a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have—

(a) committed a criminal offence; or

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

the person investigating must certify the investigation as one subject to special requirements.

(2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.

(3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—

(a) as soon as is reasonably practicable after that person's appointment or designation; or

(b) in the case of a matter recorded in accordance with regulations 71(5) or 76(2), as soon as is reasonably practicable after it is so recorded.

(4) For the purposes of this regulation a "severity assessment", in relation to conduct, means an assessment as to whether the conduct, if proved, would amount to misconduct or gross misconduct.

(5) An assessment under this regulation may only be made after consultation with the appropriate authority.

(6) On completing an assessment under this regulation, the person investigating the complaint or matter must give a notification to the person concerned that complies with paragraph (7).

(7) The notification must be in writing and state—

(a) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the contractor standards;

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

(c) the investigator's assessment of whether that conduct, if proved, would amount to misconduct or gross misconduct;

(d) that the person concerned has the right to seek advice from the trade union or any other body representing the interests of the person concerned and of the effect of regulation 58 (contractor friend); and

(e) the effect of paragraph (8) and regulation 55 (duty to consider submissions from person whose conduct is being investigated).

(8) The person concerned shall have such a period as determined by the investigator, starting with the day after which the notice is given under paragraph (7) (unless this period is extended by the investigator) to provide any relevant statement or relevant document as the case may be.

(9) Paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—

(a) the investigation; or

(b) any other investigation (including, in particular, a criminal investigation).

(10) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.

(11) On revising a severity assessment, the person investigating the complaint or matter must, as soon as practicable, give the person concerned further written notice of the assessment of whether the conduct, if proved, would amount to misconduct or gross misconduct as the case may be and the reason for that assessment.

(12) The notice whether given in accordance with paragraph (6) or (11) shall be—

(a) given to the person concerned in person;

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

(c) given to the contractor in person by that person's contractor friend where the contractor friend has agreed with the appropriate authority to deliver the notice.

(13) In this regulation and regulations 55 to 58—

"the person concerned" means—

(a) in relation to an investigation of a complaint, the person in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph (1);

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

"relevant document" means a document relating to any complaint or matter under investigation and includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;

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

Duty to consider submissions from person whose conduct is being investigated

55.—(1) This regulation applies to—

(a) an investigation of a complaint that has been certified under regulation 54(1) as one subject to special requirements; or

(b) an investigation of a recordable conduct matter.

(2) If before the expiry of the appropriate time limit notified in pursuance of regulation 54(8)—

(a) the person concerned provides the person investigating the complaint or matter with a relevant statement or a relevant document; or

(b) a contractor friend provides that person with a relevant document,

that person must consider the statement or document.

Interview of person whose conduct is being investigated

56.—(1) This regulation applies to an investigation to which regulation 55(1)(a) or (b) applies.

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

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

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

(a) the person concerned or that person's contractor friend will not be available at that time; and

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

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

(5) An alternative time must—

(a) be reasonable; and

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

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

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

(8) The person concerned shall attend the interview.

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

Duty to provide certain information to appropriate authority

57.—(1) This paragraph applies during the course of an investigation to which regulation 55(1)(a) or (b) applies.

(2) The person investigating the complaint or matter must supply the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in paragraph (3).

(3) That purpose is determining whether—

(a) the person concerned should be, or should remain, suspended from that person's appointment or employment as a contractor; or

(b) in relation to a person who has been seconded to the contractor to provide services to a chief officer, the secondment of the person concerned should cease to have effect, or continue to cease to have effect.

Contractor friend

58.—(1) The person concerned may choose—

(a) a contractor; or

(b) an official of a trade union,

who is not otherwise involved in the matter to act as that person's contractor friend.

(2) A contractor friend may—

(a) provide any relevant document to the investigator in accordance with regulation 55(2)(b);

(b) accompany the person concerned to any interview conducted under regulation 56;

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

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

Interview of the contractor during certain investigations

59.—(1) This regulation applies to an investigation of a complaint, recordable conduct matter or DSI matter which—

(a) is carried out by the appropriate authority under the management of the Commission; or

(b) is carried out by the Commission itself.

(2) Paragraph (3) prescribes the procedure to be followed in connection with an interview which—

(a) is held with the contractor during the course of the investigation by the person investigating the complaint or matter; and

(b) is not within regulation 56.

(3) Where a relevant investigator wishes to interview a contractor as part of an investigation, the relevant investigator shall—

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

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

(4) Where no date and time is agreed under paragraph (3), the relevant investigator shall specify a date and time for the interview.

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

(a) the contractor or the contractor's accompanying person will not be available at that time; and

(b) the contractor proposes an alternative time which satisfies paragraph (6),

the interview shall be postponed to the time proposed by the contractor.

(6) An alternative time must—

(a) be reasonable; and

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

(7) The contractor shall be given written notice of the date, time and place of the interview.

(8) The relevant investigator shall, in advance of the interview, provide the contractor with such information as the relevant investigator considers appropriate in the circumstances of the case to enable the contractor to prepare for the interview.

(9) The contractor shall attend the interview.

(10) An accompanying person may not answer any questions asked of the contractor during the interview.

(11) Where an accompanying person is a contractor, the contractor manager shall permit the accompanying person to use a reasonable amount of duty time for the purposes of this regulation.

(12) Nothing in this regulation shall apply to an interview of any person—

(a) in relation to an investigation of a complaint, in respect of whom it appears to the investigator that there is a relevant indication; or

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

(13) 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.

(14) In this regulation—

"accompanying person" means any person nominated by the contractor and who is not otherwise involved in the matter;

"relevant indication" means an indication that a person to whose conduct the investigation relates may have—

(a) committed a criminal offence; or

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

"relevant investigator" means a person appointed or designated to investigate under regulations 44 or 45.

Restrictions on proceedings pending the conclusion of an investigation

60.—(1) No criminal or disciplinary proceedings shall be brought in relation to any matter which is the subject of an investigation in accordance with the provisions of these Regulations until—

(a) the appropriate authority has certified the case as a special case under regulation 62(3) or 65(3); or

(b) a report on that investigation has been submitted to the Commission or to the appropriate authority under regulation 72 or 75.

(2) Nothing in this regulation shall prevent the bringing of criminal or disciplinary proceedings in respect of any conduct at any time after the discontinuance of the investigation in accordance with the provisions of these Regulations which relate to that conduct.

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

Accelerated procedure in special cases

61.—(1) If, at any time before the completion of the investigation, the person investigating a complaint or recordable conduct matter believes that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, the person shall proceed in accordance with the following provisions of this paragraph.

(2) If the person was appointed under regulation 42, the person shall submit to the appropriate authority—

(a) a statement of that person's belief and the grounds for it; and

(b) a written report on the investigation to that point,

and if the person was appointed following a determination made by the Commission under regulation 39 he shall send a copy of the statement and the report to the Commission.

(3) If the person was appointed under regulation 43 or 44 or designated under regulation 44, the person shall submit to the appropriate authority—

(a) a statement of that person's belief and the grounds for it; and

(b) a written report on the investigation to that point,

and shall send a copy of the statement and the report to the Commission.

(4) A person submitting 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 that person thinks fit.

(5) A statement and report may be submitted under this regulation whether or not a previous statement and report have been submitted, but a second or subsequent statement and report may be

submitted only if the person submitting them has grounds to believe that the appropriate authority will reach a different determination under regulation 62(2) or 65(2).

(6) After submitting a report under this regulation, the person investigating the complaint or recordable conduct matter shall continue his investigation to such extent as that person considers appropriate.

(7) The special conditions are that—

(a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct; and

(b) it is in the public interest for the person whose conduct it is to cease to be a contractor without delay.

(8) In regulations 62 to 67 "special report" means a report submitted under this regulation.

Investigations managed or carried out by Commission: action by appropriate authority

62.—(1) This regulation applies where—

(a) a statement and special report on an investigation carried out under the management of the Commission; or

(b) a statement and special report on an investigation carried out by a person designated by the Commission,

are submitted to the appropriate authority under regulation 61(3).

(2) The appropriate authority shall determine whether the special conditions are satisfied.

(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—

(a) certify the case as a special case for the purposes of procedures for the taking of disciplinary proceedings in respect of the conduct of the contractor; and

(b) take such steps as are required by those procedures in relation to a case so certified.

(4) The appropriate authority shall notify the Commission of a certification under paragraph (3).

(5) If the appropriate authority determines—

(a) that the special conditions are not satisfied; or

(b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it shall submit to the Commission a memorandum under this paragraph.

(6) The memorandum required to be submitted under paragraph (5) is one which—

(a) notifies the Commission of its determination that those conditions are not satisfied or (as the case may be) that they are so satisfied but the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings; and

(b) (in either case) sets out its reasons for so determining.

(7) In this regulation "special conditions" has the meaning given by regulation 61(7).

Investigations managed or carried out by Commission: action by Commission

63.—(1) On receipt of a notification under regulation 62(4), the Commission shall give a notification—

(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under regulation 14; and

(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that regulation.

(2) The notification required by paragraph (1) is one setting out—

(a) the findings of the special report;

(b) the appropriate authority's determination under regulation 62(2); and

(c) the action that the appropriate authority is required to take as a consequence of that determination.

(3) Regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons) shall have effect in relation to the duties imposed on the Commission by paragraph (1) as they have effect in relation to the duties imposed on the Commission by that regulation.

(4) The Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in paragraph (1) notification of the findings of the special report by sending that person a copy of that report, except so far as—

(a) regulation 16 provides otherwise, or

(b) the Commission is prevented from doing so by regulation 49.

64.—(1) On receipt of a memorandum under regulation 62(5), the Commission shall—

(a) consider the memorandum;

(b) determine, in the light of that consideration, whether or not to make a recommendation under regulation 67; and

(c) if it thinks fit to do so, make a recommendation under that regulation.

(2) If the Commission determines not to make a recommendation under regulation 67, it shall notify the appropriate authority and the person investigating the complaint or matter of its determination.

Other investigations: action by appropriate authority

65.—(1) This regulation applies where—

(a) a statement and a special report on an investigation carried out by an appropriate authority on its own behalf; or

(b) a statement and a special report on an investigation carried out under the supervision of the Commission,

are submitted to the appropriate authority under regulation 61(2) or (3).

(2) The appropriate authority shall determine whether the special conditions are satisfied.

(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—

(a) certify the case as a special case for the purposes of procedures for the taking of disciplinary proceedings in respect of the conduct of the contractor; and

(b) take such steps as are required by those procedures in relation to a case so certified.

(4) Where the statement and report were required under regulation 61(2) to be copied to the Commission, the appropriate authority shall notify the Commission of a certification under paragraph (3).

(5) If the appropriate authority determines—

(a) that the special conditions are not satisfied; or

(b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it shall notify the person investigating the complaint or matter of its determination.

(6) In this regulation "special conditions" has the meaning given by regulation 61(7).

66.—(1) If the appropriate authority certifies a case under regulation 65(3), it shall give a notification—

(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under regulation 14; and

(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that regulation.

(2) The notification required by paragraph (1) is one setting out—

(a) the findings of the report;

(b) the authority's determination under regulation 65(2); and

(c) the action that the authority is required to take in consequence of that determination.

(3) Regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons) shall have effect in relation to the duties imposed on the appropriate authority by paragraph (1) as they have effect in relation to the duties imposed on the appropriate authority by that regulation.

(4) Except so far as may be otherwise prohibited by regulation 16, the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

Special cases: recommendation or direction of Commission

67.—(1) Where the appropriate authority has submitted, or is required to submit, a memorandum to the Commission under regulation 62(5), the Commission may make a recommendation to the appropriate authority that it should certify the case under regulation 62(3).

(2) If the Commission determines to make a recommendation under this regulation, it shall give a notification—

(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under regulation 14; and

(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that regulation.

(3) The notification required by paragraph (2) is one setting out—

(a) the findings of the special report; and

(b) the Commission's recommendation under this regulation.

(4) Regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons) shall have effect in relation to the duties imposed on the Commission by paragraph (2) as they have effect in relation to the duties imposed on the Commission by that regulation.

(5) The Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in paragraph (2) notification of the findings of the special report by sending that person a copy of the report, except so far as regulation 16 provides otherwise.

(6) It shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to certify the case and proceed accordingly.

(7) If, after the Commission has made a recommendation under this regulation, the appropriate authority does not certify the case under regulation 62(3)—

(a) the Commission may direct the appropriate authority so to certify it; and

(b) it shall be the duty of the appropriate authority to comply with any such direction and proceed accordingly.

(8) Where the Commission gives the appropriate authority a direction under this regulation, it shall supply the appropriate authority with a statement of its reasons for doing so.

(9) The Commission may at any time withdraw a direction given under this regulation.

(10) The appropriate authority shall keep the Commission informed of whatever action it takes in response to a recommendation or direction.

68.—(1) Where—

(a) the Commission makes a recommendation under regulation 67 in the case of an investigation of a complaint; and

(b) the appropriate authority notifies the Commission that the recommendation has been accepted,

the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 14 of that fact and of the steps that have been, or are to be, taken by the appropriate authority to give effect to it.

(2) Where in the case of an investigation of a complaint the appropriate authority—

(a) notifies the Commission that it does not accept the recommendation made by the Commission under regulation 67; or

(b) fails to certify the case under 62(3) and to proceed accordingly,

it shall be the duty of the Commission to determine what (if any) further steps to take under regulation 67.

(3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 14—

(a) of any determination under paragraph (2) not to take further steps under regulation 67; and

(b) where it determines under that paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

Power to discontinue an investigation

69.—(1) The Commission may by order require the discontinuance of the investigation of a complaint or matter if (whether on the application of the appropriate authority or otherwise) it appears to the Commission that—

(a) the complaint or matter is of a description specified in paragraph (9); and

(b) discontinuance of the investigation is within the Commission's power.

(2) The appropriate authority that is investigating a complaint or matter may discontinue the investigation if it appears to that authority that—

(a) the complaint or matter is of a description specified in paragraph (9); and

(b) discontinuance of the investigation is not within the Commission's power.

(3) Before discontinuing an investigation or applying to the Commission for an order requiring the discontinuance of an investigation, an appropriate authority shall—

(a) write to the complainant at his last known address—

(i) inviting the complainant to make representations in relation to the matter; and

(ii) allowing the complainant a period of 28 days, commencing on the day after the date of the letter, to do so; and

(b) have regard to any representations made by the complainant.

(4) Any application by an appropriate authority to the Commission for an order that it discontinue an investigation shall be in writing and shall be accompanied by—

(a) a copy of the complaint; and

(b) a memorandum from the appropriate authority containing a summary of the investigation undertaken so far and explaining the reasons for the application to discontinue the investigation.

(5) The appropriate authority shall—

(a) send the complainant a copy of any such application on the same day as the day on which the application is sent to the Commission; and

(b) supply any further information requested by the Commission for the purpose of considering that application.

(6) The Commission shall not require the discontinuance of an investigation in a case where there has been no application to do so by the appropriate authority unless it has consulted with that authority.

(7) Before requiring the discontinuance of an investigation under paragraph (1) in a case where there has been no application to do so by the appropriate authority, or discontinuing an investigation itself under paragraph (6), the Commission shall—

(a) write to the complainant at the complainant's last known address—

(i) inviting the complainant to make representations in relation to the matter; and

(ii) allowing the complainant a period of 28 days, commencing on the day after the date of the letter, to do so; and

(b) have regard to any representations made by the complainant.

(8) For the purposes of this paragraph—

(a) discontinuance of the investigation of a complaint is within the Commission's power if—

(i) the investigation is being undertaken by the appropriate authority on its own behalf and the complaint is one required to be referred to the Commission under regulation 22; or

(ii) the investigation is under the supervision or management of the Commission;

(b) discontinuance of the investigation of a matter other than a complaint is within the Commission's power if the investigation is under the supervision or management of the Commission.

(9) For the purposes of paragraphs (1) and (2), a specified complaint or matter is one—

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

(b) which the appropriate authority has determined is suitable for local resolution;

(c) which the relevant body considers is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints, conduct matters or DSI matters;

(d) which is repetitious, as defined in regulation 20(3) or 31; or

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

(10) For the purposes of paragraph (9) "relevant body" means—

(a) the Commission, in a case where discontinuance is within the Commission's power in accordance with paragraph (8); and

(b) the appropriate authority, in any other case.

70.—(1) The Commission shall not discontinue any investigation that is being carried out in accordance with regulation 45 except in any cases where the complaint, conduct matter or DSI matter under investigation falls within regulation 69(9).

(2) Where the Commission makes an order under this regulation or discontinues an investigation being carried out in accordance with regulation 45, it shall give notification of the discontinuance—

(a) to the appropriate authority;

(b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under regulation 14; and

(c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.

(3) Where the appropriate authority discontinues an investigation under regulation 69(2), the appropriate authority shall give notification of the discontinuance—

(a) to every person entitled to be kept properly informed in relation to the investigation under regulation 14; and

(b) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.

(4) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with an order under regulation 69(1)—

(a) the Commission may give the appropriate authority directions in accordance with paragraph (5);

(b) the Commission may itself take any such steps of a description specified in paragraph (8) (with the exception of the step in paragraph (8)(c)) as it considers appropriate for purposes connected with the discontinuance of the investigation; and

(c) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of these Regulations in relation to that complaint or matter.

(5) A direction given to an appropriate authority by the Commission under paragraph (4)(a) may—

(a) require the appropriate authority to produce an investigation report on the discontinued investigation under regulation 72 and to take any subsequent steps under these Regulations;

(b) where the investigation concerned a complaint, require the appropriate authority to disapply the requirements of these Regulations as respects that complaint;

(c) in a case within regulation 69(9)(b), require the appropriate authority to subject the complaint to local resolution;

(d) direct the appropriate authority to handle the matter in whatever manner (if any) that authority thinks fit.

(6) The appropriate authority shall comply with any directions given to it under paragraph (5).

(7) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with regulation 69(2)—

(a) the appropriate authority may take any such steps of a description specified in paragraph (8) it considers appropriate for purposes connected with the discontinuance of the investigation; and

(b) subject to regulation 69 and the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of these Regulations in relation to that complaint or matter.

(8) For the purposes of paragraphs (4)(b) and (7)(a), the steps are—

(a) to produce an investigation report on the discontinued investigation and take any subsequent steps under these Regulations;

(b) where the investigation concerned a complaint, to disapply the requirements of these Regulations as respects that complaint;

(c) to subject the complaint to local resolution;

(d) to handle the matter in whatever manner the appropriate authority or (as the case may be) the Commission thinks fit.

(9) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under regulation 69(2) to discontinue the investigation of the complaint.

(10) On an appeal under this regulation, subject to paragraphs (11) and (12), the relevant appeal body shall—

(a) determine whether any decision taken by the appropriate authority under this regulation should have been taken in the case in question; and

(b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the appropriate authority as to the action to be taken for investigating the complaint;

and it shall be the duty of the appropriate authority to comply with any directions given under paragraph (b).

(11) Paragraph (10) does not apply in a case where the chief officer is—

(a) the person in respect of whose decision an appeal is made under this regulation, and

(b) the relevant appeal body in relation to the appeal.

(12) In such a case—

(a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and

(b) if the appeal finds in the complainant's favour, the chief officer must take such action as the chief officer thinks appropriate for investigating the complaint.

Procedure where conduct matter is revealed during investigation of DSI matter

71.—(1) If during the course of an investigation of a DSI matter it appears to a person appointed under regulation 44 or designated under regulation 45 that there is an indication that a person ("the person whose conduct is in question") may have—

(a) committed a criminal offence; or

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

the appointed or designated person shall make a submission to that effect to the Commission.

(2) If, after considering a submission under paragraph (1), the Commission determines that there is such an indication, it shall—

(a) notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its determination; and

(b) send to it (or each of them) a copy of the submission under paragraph (1).

(3) If during the course of an investigation of a DSI matter it appears to a person appointed under regulation 42 or 43 that there is an indication that a person ("the person whose conduct is in question") may have—

(a) committed a criminal offence; or

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

the appointed person shall make a submission to that effect to the appropriate authority in relation to the DSI matter.

(4) If, after considering a submission under paragraph (3), the appropriate authority determines that there is such an indication, it shall—

(a) if it is not the appropriate authority in relation to the person whose conduct is in question, notify that other authority of its determination and send to that authority a copy of the submission under paragraph (3); and

(b) notify the Commission of its determination and send to it a copy of the submission under paragraph (3).

(5) Where the appropriate authority in relation to the person whose conduct is in question—

(a) is notified of a determination by the Commission under paragraph (2);

(b) (in a case where it is also the appropriate authority in relation to the DSI matter) makes a determination under paragraph (4); or

(c) (in a case where it is not the appropriate authority in relation to the DSI matter) is notified by that other authority of a determination by it under paragraph (4),

it shall record the matter under regulation 30 as a conduct matter.

(6) Where a DSI matter is recorded under regulation 30 as a conduct matter by virtue of paragraph (5)—

(a) the person investigating the DSI matter shall (subject to any determination made by the Commission under regulation 39(5)) continue the investigation as if appointed or designated to investigate the conduct matter; and

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

PART 7

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 (investigations by the appropriate authority on its own behalf) shall submit a report on that person's investigation to the appropriate authority.

(3) A person appointed under regulation 43 (investigations supervised by the Commission) or 44 (investigations managed by the Commission) shall—

(a) submit a report on that investigation to the Commission; and

(b) send a copy of that report to the appropriate authority.

(4) In relation to a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of regulation 71(5), the references in paragraphs (2) and (3) of this regulation to the appropriate authority are references to—

(a) the appropriate authority in relation to the DSI matter; and

(b) (where different) the appropriate authority in relation to the person whose conduct is in question.

(5) A person designated under regulation 45 (investigations by the Commission itself) as the person in charge of an investigation by the Commission itself shall submit a report on it to the Commission.

(6) A person submitting 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 that person's report as that person thinks fit.

(7) For the purposes of a report on an investigation under regulation 55(1)(a) or (b) (special procedure cases), on completion of the investigation the report shall—

(a) provide an accurate summary of the evidence;

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

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

(8) A person who has submitted a report under this regulation on an investigation within regulation 55(1)(a) or (b) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.

(9) The appropriate authority may only make a request in respect of a copy of a document or other item if the authority—

(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 either or both of the purposes mentioned in paragraph (10).

(10) Those purposes are—

(a) complying with any obligation which the authority has in respect of any disciplinary proceedings in relation to any person to whose conduct the investigation related;

(b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of that person.

Action by the Commission in response to an investigation report under regulation 72

73.—(1) This regulation applies where—

(a) a report on an investigation carried out under the management of the Commission is submitted to it under paragraph (3) of regulation 72 (final reports on investigations: complaints, conduct matters and certain DSI matters); or

(b) a report on an investigation carried out by a person designated by the Commission is submitted to it under paragraph (5) of that regulation.

(2) On receipt of the report, the Commission—

(a) if it appears that the appropriate authority has not already been sent a copy of the report, shall send a copy of the report to that authority;

(b) shall determine whether the conditions set out in paragraphs (3) and (4) are satisfied in respect of the report;

(c) if it determines that those conditions are so satisfied, shall notify the Director of Public Prosecutions of the determination and send that person a copy of the report; and

(d) shall notify the appropriate authority and the persons mentioned in paragraph (7) of its determination under paragraph (b) and of any action taken by it under paragraph (c).

(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 Commission, 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 shall notify the Commission of any decision of the Director 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 under paragraph (2)(c).

(6) It shall be the duty of the Commission to notify the persons mentioned in paragraph (7) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to the Director under paragraph (2)(c).

(7) 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 14 (duty to provide information for other persons); 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.

(8) On receipt of the report, the Commission shall also notify the appropriate authority that it must determine—

(a) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer;

(b) whether or not any such person's performance is unsatisfactory;

(c) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report; and

(d) what other action (if any) the authority will in its discretion take in respect of those matters.

(9) On receipt of a notification under paragraph (8) the appropriate authority shall make those determinations and submit a memorandum to the Commission which—

(a) sets out the determinations the authority has made; and

(b) if the appropriate authority has decided in relation to any person whose conduct is the subject-matter of the report that disciplinary proceedings or unsatisfactory performance proceedings should not be brought against that person, sets out its reasons for so deciding.

(10) On receipt of a memorandum under paragraph (9), the Commission shall—

(a) consider the memorandum and whether the appropriate authority has made the determinations under paragraph (9)(a) that the Commission considers appropriate in respect of the matters dealt with in the report;

(b) determine, in the light of its consideration of those matters, whether or not to make recommendations under regulation 79 (duties with respect to disciplinary proceedings); and

(c) make such recommendations (if any) under that regulation as it thinks fit.

(11) On the making of a determination under paragraph (10)(b) the Commission shall give a notification—

(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under regulation 13 (duty to keep the complainant informed); and

(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under regulation 14 (duty to provide information for other persons).

(12) The notification required by paragraph (11) is one setting out—

(a) the findings of the report;

(b) the Commission's determination under paragraph (10)(b); and

(c) the action which the appropriate authority is to be recommended to take as a consequence of the determination.

(13) Regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons) shall have effect in relation to the duties imposed on the Commission by paragraph (11) of this regulation as they have effect in relation to the duties imposed on the Commission by regulations 13 and 14.

(14) The Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in paragraph (11) notification of the findings of the report by sending that person a copy of the report, except so far as regulation 16 provides otherwise.

(15) In relation to a DSI matter in respect of which a determination has been made under regulation 71(2) or (4) (procedure where conduct matter is revealed during investigation of DSI matter), the references in this regulation to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.

Action by the appropriate authority in response to an investigation report under regulation 72

74.—(1) This regulation applies where—

(a) a report of an investigation is submitted to the appropriate authority in accordance with regulation 72(2) (final reports on investigations: complaints, conduct matters and certain DSI matters); or

(b) a copy of a report of an investigation carried out under the supervision of the Commission is sent to the appropriate authority in accordance with regulation 72(3).

(2) On receipt of the report or (as the case may be) the copy, the appropriate authority—

(a) shall determine whether the conditions set out in paragraphs (3) and (4) are satisfied in respect of the report;

(b) if it determines that those conditions are so satisfied, shall notify the Director of Public Prosecutions of the determination and send the Director a copy of the report; and

(c) shall notify the persons mentioned in paragraph (7) of its determination under paragraph (a) and of any action taken by it under 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 appropriate authority, 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 shall notify the appropriate authority of any decision of the Director 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 under paragraph (2)(b).

(6) It shall be the duty of the appropriate authority to notify the persons mentioned in paragraph (7) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to the Director under paragraph (2)(b).

(7) 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 14 (duty to provide information for other persons); 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.

(8) In the case of a report falling within paragraph (1)(b) which relates to a recordable conduct matter, the appropriate authority shall also notify the Commission of its determination under paragraph (2)(a).

(9) On receipt of such a notification that the appropriate authority has determined that the conditions in paragraph (3) and (4) are not satisfied in respect of the report, the Commission—

(a) shall make its own determination as to whether those conditions are so satisfied; and

(b) if it determines that they are so satisfied, shall direct the appropriate authority to notify the Director of Public Prosecutions of the Commission's determination and to send the Director a copy of the report.

(10) It shall be the duty of the appropriate authority to comply with any direction given to it under paragraph (9).

(11) On receipt of the report or (as the case may be) of the copy, the appropriate authority shall note the contents of the report and determine—

(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) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report; and

(d) what other action (if any) the authority will in its discretion take in respect of those matters.

(12) On the making of the determinations under paragraph (11) the appropriate authority shall give a notification—

(a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under regulation 13 (duty to keep complainant informed); and

(b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under regulation 14 (duty to provide information for other persons).

(13) The notification required by paragraph (12) is one setting out—

(a) the findings of the report;

(b) the determinations the authority has made under paragraph (11);

(c) the complainant's right of appeal under regulation 77 (appeals with respect to an investigation).

(14) Regulation 16 (exceptions to the duty to keep the complainant informed and to provide information for other persons) shall have effect in relation to the duties imposed on the appropriate authority by paragraph (12) of this regulation as it has effect in relation to the duties imposed on the appropriate authority by regulations 13 and 14.

(15) Subject to regulation 16, the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in paragraph (12) notification of the findings of the report by sending that person a copy of the report.

(16) In relation to a DSI matter in respect of which a determination has been made under regulation 71(2) or (4) (procedure where conduct matter is revealed during investigation of DSI matter), the references in this regulation to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.

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 Commission nor the appropriate authority has made a determination under regulation 71(2) or (4) (procedure where a conduct matter is revealed during investigation of a DSI matter).

(2) The person investigating shall—

(a) submit a report on the investigation to the Commission; and

(b) send a copy of that report to the appropriate authority.

(3) A person submitting a report to the Commission 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 his report as that person thinks fit.

(4) On receipt of the report, the Commission shall determine whether the report indicates that the contractor may have—

(a) committed a criminal offence; or

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

Action by the Commission in response to an investigation report under regulation 75

76.—(1) If the Commission determines under regulation 75(4) that the report indicates that the contractor may have—

(a) committed a criminal offence; or

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

it shall notify the appropriate authority in relation to the person whose conduct is in question of its determination and, if it appears that the authority has not already been sent a copy of the report, send a copy of the report to that authority.

(2) Where the appropriate authority in relation to the person whose conduct is in question is notified of a determination by the Commission under paragraph (1), it shall record the matter under regulation 30 (recording etc. of conduct matters in other cases) as a conduct matter.

(3) Where a DSI matter is recorded under regulation 30 as a conduct matter by virtue of paragraph (2)—

(a) the person investigating the DSI matter shall (subject to any determination made by the Commission under regulation 39(5)) investigate the conduct matter as if appointed or designated to do so; and

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

(4) This paragraph applies where the Commission determines under regulation 75(4) that there is no indication in the report that the contractor may have—

(a) committed a criminal offence; or

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

(5) The Commission may notify the appropriate authority that it must determine—

(a) whether or not the performance of a contractor is unsatisfactory, and

(b) what action (if any) the authority will take in respect of any such person's performance.

(6) On receipt of a notification under paragraph (5) the appropriate authority shall make those determinations and submit a memorandum to the Commission setting out the determinations the authority has made.

(7) On receipt of a memorandum under sub-paragraph (6), the Commission shall—

(a) consider the memorandum and whether the appropriate authority has made the determinations under paragraph (6) that the Commission considers appropriate;

(b) determine whether or not to make recommendations under regulation 79;

(c) make such recommendations (if any) under that regulation as it thinks fit.

Appeals with respect to an investigation

77.—(1) This regulation applies where a complaint has been subjected to—

(a) an investigation by the appropriate authority on its own behalf; or

(b) an investigation under the supervision of the Commission.

(2) The complainant shall have the following rights of appeal to the relevant appeal body—

(a) a right to appeal on the grounds that the complainant has not been provided with adequate information—

(i) about the findings of the investigation; or

(ii) about any determination of the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report on the investigation;

(b) a right to appeal against the findings of the investigation;

(c) a right of appeal against any determination by the appropriate authority that a person to whose conduct the investigation related has a case to answer or that such a person's performance is, or is not, unsatisfactory in respect of that person's conduct or has no case to answer;

(d) a right of appeal against any determination by the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report; and

(e) a right of appeal against any determination by the appropriate authority under regulation 74(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report,

and it shall be the duty of relevant appeal body to notify the appropriate authority, every person entitled to be kept properly informed in relation to the complaint under regulation 14 and the person complained against of any appeal brought under this regulation (except that the duty to notify the appropriate authority does not apply where that authority is the relevant appeal body).

(3) In paragraph (2)—

(a) references to the findings of an investigation do not include a reference to findings on a report submitted under regulation 61 (accelerated procedure in special cases); and

(b) references to the report of an investigation do not include a reference to a report submitted under that regulation.

(4) On the bringing of an appeal under this regulation, the Commission may require the person investigating to submit a memorandum to the Commission which—

(a) sets out whether the appropriate authority has determined that a person to whose conduct the investigation related has a case to answer in respect of misconduct or has no case to answer;

(b) sets out whether the appropriate authority has determined any such person's performance is, or is not, unsatisfactory;

(c) sets out what action (if any) the appropriate authority has determined that it is required to or will, in its discretion, take in respect of the matters dealt with in the report;

(d) if the appropriate authority has decided in relation to a person to whose conduct the investigation related that disciplinary proceedings or unsatisfactory performance proceedings should not be brought against that person, sets out its reasons for so deciding; and

(e) if the appropriate authority made a determination under regulation 74(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report, sets out the reasons for that determination,

and it shall be the duty of the person investigating to comply with any requirement under this paragraph.

(5) Where the Commission so requires on the bringing of any appeal under this regulation in the case of an investigation by the appropriate authority on its own behalf, the appropriate authority shall provide the Commission with a copy of the report of the investigation.

(6) On an appeal under this regulation, the relevant appeal body shall determine such of the following as it considers appropriate in the circumstances—

(a) whether the complainant has been provided with adequate information about the matters mentioned in paragraph (2)(a);

(b) whether the findings of the investigation need to be reconsidered;

(c) whether the appropriate authority—

(i) has made such a determination as is mentioned in paragraph (4)(a) or (b) that the relevant appeal body considers to be appropriate in respect of matters dealt with in the report; and

(ii) has determined that it is required to or will, in its discretion, take the action (if any) that the relevant appeal body considers to be so appropriate; and

(d) whether the conditions set out in regulation 74(3) and (4) are satisfied in respect of the report.

(7) If, on an appeal under this regulation, the relevant appeal body determines that the complainant has not been provided with adequate information about any matter—

(a) in a case where the Commission is the relevant appeal body, the Commission shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed; and

(b) in a case where the appropriate authority is the relevant appeal body, that authority shall take steps as it considers appropriate for securing that the complainant is properly informed.

(8) Nothing in paragraph (7)(a) shall authorise the Commission to require the disclosure of any information the disclosure of which to the appellant has been or is capable of being withheld by virtue of any provision in regulation 16.

(9) If, on an appeal under this regulation, the Commission determines that the findings of the investigation need to be reconsidered in a case where the Commission is the relevant appeal body it shall either—

(a) review those findings without an immediate further investigation; or

(b) direct that the complaint be re-investigated; and

in a case where the appropriate authority is the relevant appeal body, that authority shall re-investigate the complaint.

(10) If, on an appeal under this regulation, the relevant appeal body makes one of the determinations set out in paragraph (11)—

(a) paragraph (12) applies if the Commission is the relevant appeal body; or

(b) paragraph (13) applies if the chief officer is the relevant appeal body.

(11) The determinations to which paragraph (10) refers are—

(a) that the appropriate authority has not made a determination as to whether there is a case for a person to whose conduct the investigation related to answer that the relevant appeal body considers appropriate, or

(b) that the appropriate authority has not made a determination as to whether a person's performance is or is not unsatisfactory, or

(c) that the appropriate authority has not determined that it is required to or will, in its discretion, take the action in respect of the matters dealt with in the report that the relevant appeal body considers appropriate.

(12) The Commission shall—

(a) determine, in the light of that determination, whether or not to make recommendations under regulation 79 (duties with respect to disciplinary proceedings); and

(b) make such recommendations (if any) under that regulation as it thinks fit.

(13) The chief officer shall take such action as the chief officer considers appropriate in relation to the bringing of disciplinary or unsatisfactory performance proceedings in respect of the matters dealt with in the report.

(14) If disciplinary proceedings are brought by virtue of paragraph (11), it shall be the duty of the appropriate authority to ensure that they are proceeded with to a proper conclusion.

(15) If, on an appeal under this regulation, the relevant appeal body determines that the conditions set out in regulation 74(3) and (4) are satisfied in respect of the report, in a case where the Commission is the relevant appeal body it shall direct the appropriate authority to, or in a case where the appropriate authority is the relevant appeal body it shall—

(a) notify the Director of Public Prosecutions of the determination, and

(b) send the Director a copy of the report.

(16) The relevant appeal body shall give notification of any determination under this regulation—

(a) to the appropriate authority (unless it is the relevant appeal body);

(b) to the complainant;

(c) to every person entitled to be kept properly informed in relation to the complaint under regulation 14 (duty to provide information for other persons); and

(d) except in a case where it appears to the relevant appeal body that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

(17) In a case where the Commission is the relevant appeal body, it shall also give notification of any directions given to a person under this regulation—

(a) to the complainant;

(b) to every person entitled to be kept properly informed in relation to the complaint under regulation 14 (duty to provide information for other persons); and

(c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

(18) It shall be the duty of the appropriate authority to comply with any directions given to it under this regulation.

Reviews and re-investigations following an appeal

78.—(1) On a review under regulation 77(9)(a) (appeals with respect to an investigation) of the findings of an investigation the powers of the Commission shall be, according to its determination on that review, to do one or more of the following—

(a) to uphold the findings in whole or in part;

(b) to give the appropriate authority such directions as the Commission sees fit—

(i) as to the carrying out by the appropriate authority of its own review of the findings;

(ii) as to the information to be provided to the complainant; and

(iii) generally as to the handling of the matter in future;

(c) to direct that the complaint be re-investigated.

(2) Where the Commission directs under regulation 77 or paragraph (1) that a complaint be re-investigated, it shall make a determination of the form that the re-investigation should take.

(3) Paragraphs (3) to (7) of regulation 39 (power of the Commission to determine the form of an investigation) shall apply in relation to a determination under paragraph (2) as they apply in the case of a determination under that regulation.

(4) The other provisions of these Regulations (including this paragraph) shall apply in relation to any re-investigation in pursuance of a direction under regulation 77(9) or paragraph (1) of this regulation as they apply in relation to any investigation in pursuance of a determination under regulation 39.

(5) The Commission shall give notification of any determination made by it under this regulation—

(a) to the appropriate authority,

(b) to the complainant;

(c) to every person entitled to be kept properly informed in relation to the complaint under regulation 14 (duty to provide information for other persons); and

(d) except in a case where it appears to the Commission that to do so might prejudice any proposed re-investigation of the complaint, to the person complained against.

(6) The Commission shall also give notification of any directions given to the person investigating under this regulation—

(a) to the complainant;

(b) to every person entitled to be kept properly informed in relation to the complaint under regulation 14 (duty to provide information for other persons); and

(c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

Duties with respect to disciplinary proceedings etc.

79.—(1) This regulation applies where, in the case of any investigation, the appropriate authority—

(a) has given, or is required to give, a notification under regulation 74(12) (action by the appropriate authority in response to an investigation report under regulation 72) of the action it is required to or will, in its discretion, take in relation to the matters dealt with in any report of the investigation;

(b) has submitted, or is required to submit, a memorandum to the Commission under regulation 73 (action by the Commission in response to an investigation report under regulation 72) or 77 (appeals with respect to an investigation) setting out the action that it is required to or will, in its discretion, take in relation to those matters; or

(c) has submitted, or is required to submit, a memorandum to the Commission under regulation 76.

(2) Subject to regulation 60 (restrictions on proceedings pending the conclusion of an investigation) and to any recommendations or directions under the following provisions of this regulation, it shall be the duty of the appropriate authority—

(a) to take the action which has been or is required to be notified or, as the case may be, which is or 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.

(3) Where this regulation applies by virtue of paragraph (1)(b), the Commission may make a recommendation to the appropriate authority in respect of the contractor—

(a) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to the conduct to which the investigation related;

(b) that the person's performance is, or is not, unsatisfactory;

(c) that disciplinary proceedings or unsatisfactory performance proceedings of the form specified in the recommendation are brought against that person in respect of the conduct, efficiency or effectiveness to which the investigation related;

(d) that any disciplinary proceedings or unsatisfactory performance proceedings brought against that person are modified so as to deal with such aspects of that conduct, efficiency or effectiveness as may be so specified,

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

(4) Where this paragraph applies by virtue of paragraph (1)(c), the Commission may make a recommendation to the appropriate authority—

(a) that the performance of a contractor is, or is not, satisfactory;

(b) that action of the form specified in the recommendation is taken in respect of the person's performance;

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.

(5) If, after the Commission has made a recommendation under this regulation, the appropriate authority does not take steps to secure that full effect is given to the recommendation—

(a) the Commission may direct the appropriate authority to take steps for that purpose; and

(b) it shall be the duty of the appropriate authority to comply with the direction.

(6) A direction under paragraph (5) may, to such extent as the Commission thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.

(7) Where the Commission gives the appropriate authority a direction under this regulation, it shall supply the appropriate authority with a statement of its reasons for doing so.

(8) Where disciplinary proceedings or unsatisfactory performance proceedings have been brought in accordance with a recommendation or direction under this regulation, it shall be the duty of the authority to ensure that they are proceeded with to a proper conclusion.

(9) The Commission may at any time withdraw a direction given under this regulation, and paragraph (8) shall not impose any obligation in relation to any time after the withdrawal of the direction.

(10) The appropriate authority shall keep the Commission informed—

(a) in a case in which this regulation applies by virtue of paragraph (1)(b) or (c), of whatever action it takes in pursuance of its duty under paragraph (2); and

(b) in every case of a recommendation or direction under this regulation, of whatever action it takes in response to that recommendation or direction.

Information for complainant about disciplinary recommendations

80.—(1) Where—

(a) the Commission makes recommendations under regulation 79 in the case of an investigation of a complaint; and

(b) the appropriate authority notify the Commission that the recommendations have been accepted,

the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 14 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.

(2) Where in the case of an investigation of a complaint the appropriate authority—

(a) notifies the Commission that it does not (either in whole or in part) accept recommendations made by the Commission under regulation 79; or

(b) fails to take steps to give full effect to any such recommendations,

it shall be the duty of the Commission to determine what if any further steps to take under that paragraph.

(3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 14—

(a) of any determination under paragraph (2) not to take further steps under regulation 79; and

(b) where it determines under that paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

Recommendations by the Commission

81.—(1) This regulation applies where the Commission has received a report under—

(a) regulation 72(3) (report on completion of investigation of complaint or conduct matter supervised or managed by Commission),

(b) regulation 72(5) (report on completion of investigation of complaint or conduct matter by Commission itself), or

(c) regulation 75(2) (report on completion of investigation of DSI matter that is not also conduct matter).

(2) This regulation also applies where the Commission has made a determination on an appeal under—

(a) regulation 28 (appeals relating to complaint dealt with other than by investigation), or

(b) regulation 77 (appeals with respect to an investigation).

(3) The Commission may make a recommendation in relation to a matter dealt with in the report or appeal.

(4) A recommendation under this regulation may be made to any person if it is made following the receipt of a report relating to a matter specified in paragraph (5).

(5) The matters specified for the purposes of paragraph (4) are—

(a) a DSI matter;

(b) a matter falling within regulation 33(1)(a);

(c) a matter relating to—

(i) a serious assault, as defined in guidance issued by the Commission(**a**);

(ii) a serious sexual assault, as defined in guidance issued by the Commission;

(iii) serious corruption, as defined in guidance issued by the Commission;

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

(v) a relevant offence;

(vi) conduct which took place in the same incident as one in which conduct falling within sub-paragraphs (i) to (v) took place; or

(d) a matter in respect of which the Commission gives a notification to the appropriate authority under regulation 33(1)(c);

(e) a complaint falling within regulation 22(1)(a);

(f) a complaint alleging conduct which constitutes—

(i) a serious assault, as defined in guidance issued by the Commission;

(ii) a serious sexual assault, as defined in guidance issued by the Commission;

(iii) serious corruption, as defined in guidance issued by the Commission;

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

(v) a relevant offence;

(g) a complaint which arises from the same incident as one in which any conduct falling within sub-paragraphs (e) or (f) took place;

(h) a complaint in respect of which the Commission gives a notification to the appropriate authority under regulation 22(1)(d); or

(i) an appeal relating to a complaint of a type described in sub-paragraphs (e) to (h).

(6) In any other case, a recommendation under this paragraph may be made only to—

(a) a chief officer, or

(b) a local policy body, or

(c) a contractor.

(7) Where the Commission makes a recommendation under this paragraph, it must also—

(a) publish the recommendation, and

(b) send a copy of it—

(i) in a case where the recommendation is made to a local policing body, to the chief officer of the police force maintained by that body;

(ii) in a case where the recommendation is made to a chief officer of a police force, to the local policing body that maintains the police force;

(iii) in a case where the recommendation is made to a contractor, to the chief officer of a police force to whom the contractor is providing services, and the local policing body that maintains the police force;

(iv) in any other case, to any person to whom the Commission thinks a copy should be sent.

(**a**) Guidance issued by the Commission under section 22 of the 2002 Act in January 2013. This applies to paragraph (5)(c)(i)(iv) of this regulation. A copy is available at https://www.ipcc.gov.uk/page/statutory-guidance. A copy may be inspected at 90 High Holborn, London WC1V 6BH.

(8) Nothing in this paragraph affects the power of the Commission to make recommendations or give advice under regulation 6(1)(e) (whether arising under these Regulations or otherwise).

Response to recommendation

82.—(1) A person to whom a recommendation under regulation 81 is made must provide to the Commission 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 Commission before the end of the period of 56 days beginning with the day on which the recommendation was made, unless paragraph (3) applies.

(3) The Commission may extend the period of 56 days following an application received before the end of the period; and if the Commission 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 Commission'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 Commission must, within the period of 21 days beginning with the day on which the Commission 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 81(7)(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 Commission, make representations to the Commission 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 Commission 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 the response should be disclosed.

(8) Where, following a decision on representations, the Commission decides to publish or disclose a response (in whole or in part), it must do so only after the person giving the response has been informed of the Commission's decision, and—

(a) in a case where the Commission has decided to accept all of the representations, it must do so within the period of 21 days beginning with the day on which it received the response;

(b) in a case where the Commission has decided to reject any of the representations, it must do so—

(i) within the period of 21 days beginning with the day on which the person was informed of the Commission's decision on the representations, but

(ii) not before the end of the period of 7 days beginning with that day.

(9) But if proceedings for judicial review of the Commission's decision to reject a representation are started during the period of 7 days referred to in paragraph (8)(b)(ii)—

(a) the Commission must not publish or disclose the response while the proceedings are in progress;

(b) if the court upholds the Commission's decision to reject a representation, the Commission must publish and disclose the response (in whole or in part, as appropriate) before the end of the period of 7 days beginning with the day on which the proceedings are no longer in progress.

(10) Where a local policing body or a chief officer makes a response under this paragraph, the body or officer must, at the time the Commission publishes the response, also publish the response (to the same extent as published by the Commission) and the recommendation under regulation 81.

(11) For the purposes of this paragraph—

(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.

PART 8

General

Complaints or conduct matters concerning a person who has subsequently ceased to be a contractor

83. Where a complaint or conduct matter relates to the conduct of a person who has ceased to be a contractor since the time of the conduct, then these Regulations shall apply in relation to such a person as if they did not include any requirement for an appropriate authority to determine whether disciplinary proceedings should be brought against a person whose conduct is the subject-matter of a report.

Complaints or conduct matters concerning a person whose identity is unascertained

84.—(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, then these Regulations shall apply in relation to such a person as if it did not include—

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

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

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

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

Notification of actions and decisions

85.—(1) So far as not covered by regulations 73(11) and (12) and 77(15) and (16) (notifications by the Commission in relation to recommending disciplinary proceedings), where the Commission takes any action or decisions in consequence of it having received a memorandum under regulation 73(9) or regulation 77(4), it shall notify such action or decisions, together with an explanation of its reasons for having taken them, to—

(a) the appropriate authority;

(b) the complainant and any other interested person within the meaning of regulation 14(6);

(c) subject to paragraph (3), the person complained against.

(2) Without prejudice to the generality of paragraph (1), the Commission shall include in any notification under that paragraph a statement as to whether it intends to participate in any disciplinary proceedings.

(3) The Commission may decide not to give such a notification and explanation to the person complained against if it is of the opinion that that notification might prejudice any criminal investigation, pending proceedings, or review of the complaint.

Keeping of records

86. The appropriate authority shall keep records, in such form as the Commission shall determine, of—

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

(b) every conduct matter recorded by it under regulation 29 (conduct matters arising in civil proceedings) or 30 (recording etc. of conduct matters in other cases);

(c) every DSI matter recorded by it under regulation 35 (duty to record DSI matters);

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

Register to be kept by the Commission

87.—(1) The Commission shall establish and maintain a register of all information supplied to it by the appropriate authority under these Regulations.

(2) Subject to paragraph (3), the Commission may publish or otherwise disclose to any person any information held on the register provided that the publication or disclosure is necessary for or conducive to the purpose of—

(a) learning lessons from the handling of, or demonstrating the thoroughness and effectiveness of, local resolutions, investigations by the Commission or managed or supervised investigations;

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

(c) improving the complaints system.

(3) Information may not be published or disclosed in circumstances where in the opinion of the Commission the non-disclosure of information is necessary for a purpose mentioned in regulation 16(1)(a) or (b) (exceptions to the duty to keep the complainant informed and to provide information for other persons).

Delegation of powers and duties by the chief officer

88.—(1) Subject to the remaining paragraphs of this regulation, the chief officer may delegate all or any of the powers or duties conferred or imposed on the chief officer by or under these Regulations to such an officer as is mentioned in paragraph (2), or to a police staff member who, in the opinion of the chief officer, is of at least a similar level of seniority.

(2) That officer is—

(a) a senior officer, in the case of a complaint or conduct matter concerning the conduct of a contractor manager, or

(b) in any other case, a member of a police force of at the least the rank of chief inspector.

(3) The chief officer shall not, in any particular case, delegate any power or duty under paragraph (1) to a person whose involvement in the role could reasonably give rise to a concern as to whether that person could act impartially under these Regulations, whether because the person has acted as investigating officer in the case or attempted to resolve it by way of local resolution or otherwise.

(4) The chief officer may delegate all or any of the chief officer's powers or duties in relation to the local resolution of complaints under these Regulations to—

(a) a member of a police force;

(b) a civilian employee of a police force; or

(c) a contractor.

Manner and time limits of notifications

89.—(1) Any notification to be given under these Regulations shall—

(a) unless otherwise specified in these Regulations or determined in guidance issued by the Commission, be given in writing;

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

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

Appeals

90.—(1) This regulation applies to an appeal under any of the following provisions of these Regulations—

(a) regulation 21(3) (appeal against a failure to notify or record a complaint);

(b) regulation 26(6) (appeal against a decision to handle a complaint otherwise than in accordance with these Regulations or take no action in relation to it);

(c) regulation 28(1) (appeal against the outcome of a complaint subjected to local resolution or handled otherwise than in accordance with these Regulations);

(d) regulation 70(9) (appeal against a decision to discontinue an investigation); and

(e) regulation 77(2) (appeal in relation to an investigation).

(2) Where the appropriate authority notifies the complainant of a decision which is or may be capable of appeal under any of the provisions in paragraph (1), the appropriate authority shall at the same time notify the complainant in writing of—

(a) the existence of the right of appeal;

(b) the identity of the relevant appeal body or, in a case to which regulation 21(3) applies, the fact that the appeal is to the Commission;

(c) where the appropriate authority has determined that the Commission is the relevant appeal body, the paragraph of regulation 91(2) relied upon in making that determination;

(d) where the appropriate authority has determined that the chief officer is the relevant appeal body, the fact that there is no right of appeal to the Commission; and

(e) the time limit for making an appeal mentioned in paragraph (3).

(3) Subject to paragraphs (4) and (5), an appeal shall be made within a period of 28 days commencing on the day after the date of the letter giving notification under paragraph (2).

(4) For the purposes of the time period mentioned in paragraph (3), the following shall be left out of account—

(a) any time elapsing between the appeal being received by the Commission under regulation 91(3) and being forwarded to the appropriate authority under that paragraph;

(b) any time elapsing between the appeal being received by the appropriate authority under regulation 91(5) and being forwarded to the Commission under that paragraph.

(5) The relevant appeal body or, in a case of an appeal under regulation 21(3), the Commission may extend the time period mentioned in paragraph (3) in any case where it is satisfied that by reason of the special circumstances of the case it is just to do so.

(6) Subject to paragraph (7), an appeal shall be made in writing and shall state—

(a) details of the complaint;

(b) the date on which the complaint was made;

(c) the appropriate authority whose decision is the subject of the appeal;

(d) the grounds for the appeal; and

(e) the date on which notification was given under paragraph (2).

(7) Where the relevant appeal body or, in the case of an appeal under regulation 21(3), the Commission receives an appeal which fails to comply with one or more of the requirements mentioned in paragraph (6), it may decide to proceed as if those requirements had been complied with.

(8) Where the Commission receives an appeal it shall—

(a) in the case of an appeal under regulation 21(3), notify the appropriate authority concerned of the appeal as soon as reasonably practicable; and

(b) in that or any other case, request any information from any person which it considers necessary to dispose of the appeal.

(9) Any person receiving a request under paragraph (8)(b) shall supply to the Commission the information requested.

(10) The relevant appeal body or, in the case of an appeal under regulation 21(3), the Commission shall determine the outcome of the appeal as soon as practicable.

(11) The relevant appeal body or, in the case of an appeal under regulation 21(3), the Commission shall notify the complainant of the reasons for its determination, and the Commission—

(a) in the case of an appeal under the said regulation, shall also notify the chief officer; and

(b) in a case where it is the relevant appeal body, shall also notify the appropriate authority.

(12) In the case of an appeal other than one under regulation 21(3)—

(a) where the Commission is the relevant appeal body—

(i) it shall notify the complainant of any direction it gives to the appropriate authority as to the future handling of the complaint; and

(ii) subject to paragraph (13), the appropriate authority shall notify the person complained against of any such direction;

(b) where the chief officer is the relevant appeal body, the chief officer shall notify the complainant and the person complained against of the action that he proposes to take in relation to the complaint.

(13) An appropriate authority may decide not to make a notification under paragraph (12)(a)(ii) if it is of the opinion that to do so might prejudice any criminal investigation or pending proceedings or would otherwise be contrary to the public interest.

Relevant appeal body

91.—(1) The relevant appeal body in relation to an appeal is—

(a) the Commission, in a case where the relevant complaint falls within a description of a complaint specified in paragraph (2);

(b) the chief officer in any other case.

(2) Complaints to which this paragraph applies are any complaint—

(a) about the conduct of a senior officer;

(b) in the case of which the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved)—

(i) would not justify the bringing of criminal or disciplinary proceedings against a contractor; or

(ii) would not involve the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998(**a**));

(**a**) 1998 c. 42.

(c) that has been, or must be, referred to the Commission under regulation 22;

(d) arising from the same incident as a complaint to which sub-paragraph (a), (b) or (c) applies;

(e) to any part of which sub-paragraph (a), (b), (c) or (d) applies.

(3) Where an appeal is made to the Commission and the appropriate authority is the relevant appeal body in relation to the appeal, the Commission must—

(a) forward the appeal to the appropriate authority; and

(b) notify the person who made the appeal that—

(i) the appropriate authority is the relevant appeal body; and

(ii) the appeal has been forwarded.

(4) In an appeal to which paragraph (3) applies, the appeal is taken to have been—

(a) made to the appropriate authority; and

(b) so made at the time when it is forwarded to the appropriate authority.

(5) Where an appeal is made to the appropriate authority and the Commission is the relevant appeal body in relation to the appeal, the appropriate authority must—

(a) forward the appeal to the Commission; and

(b) notify the person who made the appeal that—

(i) the Commission is the relevant appeal body; and

(ii) the appeal has been forwarded.

(6) In an appeal to which paragraph (5) applies, the appeal is taken to have been—

(a) made to the Commission; and

(b) so made at the time when it is forwarded to the Commission.

(7) In this regulation—

"appeal" mean an appeal under regulation 21(3), 26(6), 28(1), 70(9) or 77(2);

"relevant complaint", in relation to an appeal, means the complaint to which the appeal relates.

Home Office
26th February 2015

Mike Penning
Minister of State

SCHEDULE

Regulation 4(3)

Provision in Part 2 etc.	*Provision of these Regulations*
Section 10 of the 2002 Act	Regulation 6
Section 11 of the 2002 Act	Regulation 7
Sections 12 and 29 of the 2002 Act	Regulation 8
Section 15 of the 2002 Act	Regulation 9
Section 16 of the 2002 Act	Regulation 10
Section 17 of the 2002 Act	Regulation 11
Section 18 of the 2002 Act	Regulation 12
Section 20 of the 2002 Act	Regulation 13
Section 21 and regulation 14 of the 2012 Regulations	Regulation 14
Regulation 12 of the 2012 Regulations	Regulation 15
Regulation 13 of the 2012 Regulations	Regulation 16

Paragraph 1 of Schedule 3 to the 2002 Act	Regulation 17
Paragraph 2 of Schedule 3 to the 2002 Act	Regulation 18
Regulation 15 of the 2012 Regulations	Regulation 19
Regulation 3 of the 2012 Regulations	Regulation 20
Paragraph 3 of Schedule 3 to the 2002 Act	Regulation 21
Paragraph 4 of Schedule 3 to the 2002 Act	Regulation 22
Paragraph 5 of Schedule 3 to the 2002 Act	Regulation 23
Paragraph 6 of Schedule 3 to the 2002 Act	Regulation 24
Paragraph 7 of Schedule 3 to the 2002 Act and regulation 5 of the 2012 Regulations	Regulations 25 and 26
Paragraph 8 of Schedule 3 to the 2002 Act and regulation 6 of the 2012 Regulations	Regulation 27
Paragraph 9 of Schedule 3 to the 2002 Act	Regulation 28
Paragraph 10 of Schedule 3 to the 2002 Act	Regulation 29
Paragraph 11 of Schedule 3 to the 2002 Act and regulation 7 of the 2012 Regulations	Regulation 30
Regulation 7 of the 2012 Regulations	Regulation 31
Paragraph 12 of Schedule 3 to the 2002 Act	Regulation 32
Paragraph 13 of Schedule 3 to the 2002 Act	Regulation 33
Paragraph 14 of Schedule 3 to the 2002 Act	Regulation 34
Paragraph 14A of Schedule 3 to the 2002 Act	Regulation 35
Paragraph 14B of Schedule 3 to the 2002 Act	Regulation 36
Paragraph 14C of Schedule 3 to the 2002 Act and regulation 8 of the 2012 Regulations	Regulation 37
Paragraph 14D of Schedule 3 to the 2002 Act	Regulation 38
Paragraph 15 of Schedule 3 to the 2002 Act	Regulation 39
Regulation 24 of the 2012 Regulations	Regulation 40
Regulation 21 of the 2012 Regulations	Regulation 41
Paragraph 16 of Schedule 3 to the 2002 Act	Regulation 42
Paragraph 17 of Schedule 3 to the 2002 Act and regulation 9 of the 2012 Regulations	Regulation 43
Paragraph 18 of Schedule 3 to the 2002 Act	Regulation 44
Paragraph 19 of Schedule 3 to the 2002 Act	Regulation 45
Paragraph 19ZA of Schedule 3 to the 2002 Act	Regulation 46
Paragraph 19ZB of Schedule 3 to the 2002 Act	Regulation 47
Paragraph 19ZC of Schedule 3 to the 2002 Act	Regulation 48
Paragraph 19ZD of Schedule 3 to the 2002 Act	Regulation 49
Regulation 25 of the 2012 Regulations	Regulation 50
Regulation 26 of the 2012 Regulations	Regulation 51
Regulation 22 of the 2012 Regulations	Regulation 52
Regulation 23 of the 2012 Regulations	Regulation 53
Paragraph 19B of Schedule 3 to the 2002 Act and regulation 16 of the 2012 Regulations	Regulation 54
Paragraph 19C of Schedule 3 to the 2002 Act	Regulation 55
Paragraph 19D of Schedule 3 to the 2002 Act and regulation 19 of the 2012 Regulations	Regulation 56
Paragraph 19E of Schedule 3 to the 2002 Act	Regulation 57
Regulation 17 of the 2012 Regulations	Regulation 58
Paragraph 19F of Schedule 3 to the 2002 Act and regulations 1 and 2 of the 2013 Regulations	Regulation 59
Paragraph 20 of Schedule 3 to the 2002 Act	Regulation 60
Paragraph 20A of Schedule 3 to the 2002 Act	Regulation 61
Paragraph 20B of Schedule 3 to the 2002 Act	Regulation 62
Paragraph 20C of Schedule 3 to the 2002 Act	Regulation 63

Paragraph 20D of Schedule 3 to the 2002 Act	Regulation 64
Paragraph 20E of Schedule 3 to the 2002 Act	Regulation 65
Paragraph 20F of Schedule 3 to the 2002 Act	Regulation 66
Paragraph 20H of Schedule 3 to the 2002 Act	Regulation 67
Paragraph 20I of Schedule 3 to the 2002 Act	Regulation 68
Paragraph 21 of Schedule 3 to the 2002 Act and regulation 10 of the 2012 Regulations	Regulation 69 and 70
Paragraph 21A of Schedule 3 to the 2002 Act	Regulation 71
Paragraph 22 of Schedule 3 to the 2002 Act	Regulation 72
Paragraph 23 of Schedule 3 to the 2002 Act	Regulation 73
Paragraph 24 of Schedule 3 to the 2002 Act	Regulation 74
Paragraph 24A of Schedule 3 to the 2002 Act	Regulation 75
Paragraphs 24B and 24C of Schedule 3 to the 2002 Act	Regulation 76
Paragraphs 25 of Schedule 3 to the 2002 Act	Regulation 77
Paragraph 26 of Schedule 3 to the 2002 Act	Regulation 78
Paragraph 27 of Schedule 3 to the 2002 Act	Regulation 79
Paragraph 28 of Schedule 3 to the 2002 Act	Regulation 80
Paragraph 28A of Schedule 3 to the 2002 Act	Regulation 81
Paragraph 28B of Schedule 3 to the 2002 Act	Regulation 82
Regulation 27 of the 2012 Regulations	Regulation 83
Regulation 28 of the 2012 Regulations	Regulation 84
Regulation 29 of the 2012 Regulations	Regulation 85
Regulation 31 of the 2012 Regulations	Regulation 86
Regulation 32 of the 2012 Regulations	Regulation 87
Regulation 33 of the 2012 Regulations	Regulation 88
Regulation 34 of the 2012 Regulations	Regulation 89
Regulation 11 of the 2012 Regulations	Regulation 90
Paragraphs 30 to 32 of Schedule 3 to the 2002 Act	Regulation 91

EXPLANATORY NOTE

(This note is not part of these Regulations)

These Regulations provide for the basis on which the Independent Police Complaints Commission ("the Commission") has oversight of complaints and other matters relating to the conduct of a contractor.

The statutory framework in accordance with which the Commission has oversight of police conduct is set out in Part 2 of, and Schedule 3 to, the Police Reform Act 2002 ("the 2002 Act"). The Commission was established by the 2002 Act to provide an effective and independent means of overseeing the investigation of complaints and alleged misconduct relating to the actions of the police. These Regulations are made under the 2002 Act and make provision which broadly reflects existing arrangements in accordance with which the Commission has oversight of the police, but with modifications in parts where it is necessary to reflect differences between contractors and the police.

Part 1 contains introductory provision and an interpretation provision (regulation 2); this includes a definition of the appropriate authority, which performs a number of investigative functions under the framework established by these Regulations. The appropriate authority is ordinarily the chief officer of police but may also be the contractor manager. Regulation 3 makes saving and transitional provision to the effect that these Regulations do not apply to a matter in respect of which section 39(9) to (11) of the 2002 Act continues to apply or a matter which arose prior to 8th April 2015. Regulation 4 provides that the relevant provisions in or under the 2002 Act listed in the first column of the table in the Schedule to these Regulations are to be read as having effect as

set out in the provisions of these Regulations listed in the second column of the table. Regulation 5 provides for chief officers of police to be able to delegate the functions of the appropriate authority to a contractor manager in respect of a contractor.

Part 2 contains provision which sets out the broad basis on which the Commission has oversight of complaints and misconduct relating to contractors. This Part sets the general functions of the Commission and the reporting requirements which apply to it (regulations 6 and 7). Regulation 8 defines the matters which may be the subject of an investigation under these Regulations (a complaint, conduct matter or death or serious injury (or DSI) matter). Regulations 9 to 12 makes provision in respect of the general duties of local policing bodies and others, payment for assistance (e.g. in a case where the police assists with an investigation), the provision of information to the Commission and requirements in relation to onward disclosure of such information and the inspection of a contractor's premises by the Commission.

Regulations 13 to 16 make provision for keeping complainants and other interested persons informed about investigations, and includes provision about the manner in which these requirements are fulfilled and exceptions to them.

Part 3 contains provision about the handling of complaints. It imposes duties to preserve evidence (regulation 17), handling and recording of complaints (regulations 18 to 21), the cases in which complaints are referred to the Commission (regulations 22 and 23) and the handling of complaints by the appropriate authority (regulations 24 to 27). There are prescribed appeal rights in certain cases (regulation 28).

Part 4 contains provision about the handling of conduct matters. It imposes duties in relation to the identification and recording of conduct matters (regulations 29 to 31), preservation of evidence (regulation 32) and the cases in which conduct matters are referred to the Commission (regulations 33 and 34).

Part 5 contains provision about the handling of DSI matters. It imposes duties to record DSI matters and preserve evidence (regulations 35 and 36) and the reference of DSI matters to the Commission and its corresponding duties on a referral to it (regulations 37 and 38).

Part 6 contains provision governing the basis on which the Commission determines the form of an investigation in a matter referred to it (regulation 39), ranging from investigations carried out by the appropriate authority on its own behalf (regulation 42) or supervised or managed by the Commission (regulations 43 or 44) to investigations carried out by the Commission itself (regulation 45). There is also provision governing the appointment of investigators (regulation 40) and the processes which apply in specific cases (e.g. withdrawn complaints or the resumption of an investigation following the conclusion of relevant criminal proceedings (regulations 41 and 50 to 53)). Provision is also made for the Commission to require information to be provided through service of an information notice (regulations 46 to 49).

Part 6 also contains provision governing a special procedure which applies in a case in which a conduct matter is revealed during the course of the investigation of a complaint (regulations 54 to 58), the Commission's powers to interview witnesses (regulation 59), restrictions on certain proceedings during an investigation (regulation 60) and an accelerated procedure in cases where gross misconduct is identified during an investigation into a complaint or conduct matter (regulations 61 to 68). This Part also contains provision governing the discontinuance of an investigation (regulations 69 and 70) and the procedure in cases where a conduct matter is revealed during an investigation into a DSI matter (regulation 71).

Part 7 sets out the basis governing the submission of investigation reports, the actions which the Commission or the appropriate authority are required to take, the prescribed appeal rights in relation to an investigation and the availability of a review or reinvestigation following an appeal (regulations 72 to 78). Regulation 79 sets out the duties on the appropriate authority with respect to disciplinary proceedings (e.g. following a recommendations made by the Commission) and the information which is required to be provided to complainants about such proceedings (regulation 80). Regulations 81 and 82 make provision for the Commission's power to make recommendation in certain cases and the corresponding duties on person to whom such recommendations are made.

Part 8 contains provision about a number of general matters including appeal processes and which person may hear an appeal (regulations 90 and 91).

An impact assessment has not been prepared for this instrument as no impact on businesses, charities, voluntary bodies or the public sector is foreseen.

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