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STATUTORY INSTRUMENTS

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**2013 No. 2325**

**The National Crime Agency (Complaints  
and Misconduct) Regulations 2013**

**PART 2**

**Complaints and Misconduct**

**Application: general**

4. These Regulations shall apply for the purposes of conferring functions on the Commission in relation to the exercise of functions by the Director General and any NCA officer.

**Application of the 2002 Act**

5.—(1) Sections 9 (the Independent Police Complaints Commission), 19 (use of investigatory powers by or on behalf of the Commission), 22 (power of the Commission to issue guidance), 24 (consultation on regulations) and any regulations made under section 27 (conduct of the Commission’s staff) of, and Schedule 2 to, the 2002 Act shall apply to the Director General and an NCA officer with the following modifications.

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

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

“(1) The Commission may issue guidance—

- (a) to the Permanent Secretary to the Home Office;
- (b) to the Director General; and
- (c) to any other person it sees fit,

concerning the exercise or performance, by the persons to whom the guidance is issued, of any of the powers or duties specified in subsection (2)”;

(b) in subsection (2)(b)(iii) for “persons serving with the police” there were substituted “the Director General or NCA officers”;

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

“(3) Before issuing any guidance under this section, the Commission shall consult with—

- (a) the Permanent Secretary to the Home Office;
- (b) the Director General; and
- (c) any other person it sees fit.”.

(3) Section 24 of the 2002 Act shall apply as if—

- (a) at the end of paragraph (a) there were inserted “and the NCA”; and
- (b) paragraphs (b), (ba), (bb) and (c) were omitted.

## **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 the permanent Secretary to the Home Office and Director General, 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;
  - (e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also with respect to the practice of the NCA 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 the Director General or an NCA officer;
  - (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 the Director General or an NCA officer;
  - (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)(c), (d) or (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) and every report under paragraph (3)—

- (a) to the Permanent Secretary to the Home Office;
- (b) to the Director General; and
- (c) to the NCA.

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

- (a) the Secretary of State;
- (b) the Permanent Secretary to the Home Office;
- (c) the Director General; and
- (d) the NCA.

(8) 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 the Director General or an NCA officer (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 the Director General and an NCA officer (whether at the time of the conduct or at any subsequent time).
- (4) In these Regulations references, in relation to any conduct or anything purporting to be a complaint about any conduct, to a member of the public do not include references to the Director General or an NCA officer (“the relevant person”) where—
- (a) at the time when the conduct is supposed to have taken place, the person whose conduct would otherwise than under this paragraph have given rise to the complaint was—
    - (i) in relation to the Director General, an NCA officer, or
    - (ii) in relation to an NCA officer, the Director General or another NCA officer; and
  - (b) the relevant person was on duty in that person’s capacity as the Director General or an NCA officer.
- (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, section 28A of the 2002 Act and any regulations made under it, and any regulations made by virtue of section 23(2)(d) of the 2002 Act) 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 the Director General or an NCA officer 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 (subject to section 28A of the 2002 Act and any regulations made under it) 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 the Director General or an NCA officer and had not been released from that arrest; or

(b) was otherwise detained in the custody of the Director General or an NCA officer.

(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 the Director General or an NCA officer who was acting in the execution of the Director General's or NCA officer'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 the Director General or an NCA officer, 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 the Permanent Secretary, Director General and inspectors**

9.—(1) It shall be the duty of—

- (a) the Permanent Secretary to the Home Office,
- (b) the Director General, and
- (c) HMIC carrying out its functions in relation to the NCA,

to ensure that they are each kept informed, in relation to the NCA, 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 the Permanent Secretary to the Home Office 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 Director General; and
- (c) the Director General has not yet complied with that obligation, or has contravened it.

(4) The Permanent Secretary to the Home Office may direct the Director General to take such steps as the Permanent Secretary thinks appropriate.

(5) The Director General must comply with any direction given under paragraph (4).

(6) Where—

- (a) the Permanent Secretary to the Home Office requires the Director General or the chief officer of a police force to provide an NCA officer or a member of a police force for appointment under regulation 41, 42 or 43; or
- (b) the Director General requires the chief officer of a police force to provide a member of that force for appointment under any of those regulations,

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

(7) It shall be the duty of—

- (a) the Permanent Secretary to the Home Office, and
- (b) the Director General,

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 these Regulations.

(8) It shall be the duty of—

- (a) the Permanent Secretary to the Home Office; and
- (b) the Director General,

to ensure that a person appointed under regulation 41, 42 or 43 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 the Permanent Secretary to the Home Office and Director General have effect—

- (a) irrespective of whether the investigation relates to the conduct of a person who is or has been an NCA officer; and
- (b) irrespective of who has the person appointed to carry out the investigation under that person's 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—

- (a) the force to which the person carrying out the investigation belongs; or

- (b) the force to which the person whose conduct is under investigation belonged at the time of the conduct,

and where the person whose conduct is under investigation was an NCA officer at the time of the conduct, “third force” means any police force other than the force to which the person carrying out the investigation belongs.

(11) Where the person who requires assistance and co-operation under paragraph (8) is an NCA officer, a chief officer of a third force may be required to give that assistance and co-operation only with the approval of the Director General.

(12) Where—

- (a) the person carrying out an investigation is not an NCA officer; and
- (b) the person whose conduct is under investigation was not an NCA officer at the time of the conduct,

the NCA may be required to give assistance and co-operation under paragraph (8) only with the approval of the relevant directing officer.

(13) In paragraph (12) “the relevant directing officer”, in a case where the person who requires assistance and co-operation belongs to a police force, means the chief officer of that force.

#### **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—

- (a) 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—
  - (i) an investigation relating to the conduct of a person who, at the time of the conduct, was the Director General or an NCA officer; or
  - (ii) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, the Director General or an NCA officer.

(3) Where the assistance is required to be provided by a police force to the appropriate authority, the appropriate authority 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 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.

(5) This regulation shall have effect in relation to cases in which assistance is to be provided by the Permanent Secretary to the Home Office or the Director General as if—

- (a) the reference in paragraph (3)(b) to local policing bodies generally included a reference to the NCA; and
- (b) the reference in paragraph (4)(b) to local policing bodies generally were a reference to the NCA.

#### **Provision of information to the Commission**

**11.**—(1) It shall be the duty of the Director General or an NCA officer—

- (a) to provide the Commission with all such information and documents specified or described in a notification given by the Commission to the Director General or an NCA officer; 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) in any subsequent notification given by the Commission to that person for the purposes of this paragraph.

(3) Nothing in this regulation shall require the Director General or an NCA officer—

- (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 the Director General or an NCA officer to do so; or
- (b) to provide, produce or deliver up anything at all in a case in which it never becomes practicable for the Director General or an NCA officer 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.

(5) Where the Commission or any person acting on the Commission's behalf obtains information from the Director General or an NCA officer in the course of performing a function under these Regulations, that information—

- (a) may not be used for any purpose other than in the performance of a function under these Regulations or as otherwise prescribed by law; and



- (b) may not be disclosed except as permitted under these Regulations or as otherwise prescribed by law.

### **Inspection of premises on behalf of the Commission**

#### **12.—(1) Where—**

- (a) the Commission requires—

- (i) the Permanent Secretary to the Home Office, or
- (ii) the Director General,

to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purpose of the NCA 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 Permanent Secretary or the Director General 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 NCA 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 Permanent Secretary or Director General 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 after there cease to be any such grounds as that person may specify.

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

- (a) the rights of entry, search and seizure that are or may be conferred on—
  - (i) a person designated for the purposes of regulation 44 (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 Permanent Secretary to the Home Office and Director General 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 57 (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.
- (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 34 (procedure where conduct matter is revealed during investigation of a DSI matter);
  - (d) whether any report has been submitted under regulation 66 (final reports on investigations: complaints, conduct matters and certain DSI matters) and regulation 69 (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 66 (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 67(11) or 68(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), 67(11) or 68(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 57, the appropriate authority shall notify 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 67(11) and regulation 68(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 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.

(3) 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 or unsatisfactory performance proceedings;

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- (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.