
STATUTORY INSTRUMENTS

2010 No. 1813

**The Revenue and Customs (Complaints
and Misconduct) Regulations 2010**

PART 7

PROVISION OF INFORMATION

Provision of information to the IPCC

53.—(1) It shall be the duty of the Commissioners at such times, in such circumstances and in accordance with such other requirements as may be set out in these Regulations, to provide the IPCC with all such information and documents as may be specified or described in these Regulations.

(2) It shall also be the duty of the Commissioners—

- (a) to provide the IPCC with all such other information and documents specified or described in a notification given by the IPCC to the Commissioners, and
- (b) to produce or deliver up to the IPCC all such evidence and other things so specified or described,

as appear to the IPCC to be required by it for the purposes of the carrying out of any of its functions.

(3) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under paragraph (2) 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 IPCC to that person for the purposes of this paragraph.

(4) Nothing in this regulation shall require the Commissioners—

- (a) to provide the IPCC 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 Commissioners 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 Commissioners to do so.

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

Duty to keep the complainant informed

54.—(1) Subject to regulation 60, in any case in which there is an investigation of a complaint in accordance with the provisions of these Regulations—

- (a) by the IPCC, or
- (b) under its management,

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

(2) Subject to regulation 60, 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 IPCC,

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 specified in paragraph (4).

(3) Where paragraph (2) applies, it shall be the duty of the IPCC 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 it shall be the duty of the appropriate authority to comply with any direction so given.

(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 69 (final reports on investigations: other DSI matters);
- (d) the action (if any) that is taken in respect of the matters dealt with in any such report; and
- (e) the outcome of any such action.

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

Duty to provide information for other persons

55.—(1) A person has an interest in being kept properly informed about the handling of a complaint or 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 IPCC 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;
- (c) has suffered serious injury as the alleged result of that conduct.

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

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

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

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

(a) the IPCC or an appropriate authority considers that that person has an interest in the handling of the complaint, 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 section 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) In any case in which there is an investigation of the complaint, recordable conduct matter or DSI matter in accordance with the provisions of these Regulations—

(a) by the IPCC, or

(b) under its management,

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

(8) In any case in which there is an investigation of the 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 IPCC,

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 of all the matters specified in paragraph (10) while the investigation is being carried out and subsequently.

(9) Where paragraph (8) applies, it shall be the duty of the IPCC 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 it shall be the duty of 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 IPCC or the appropriate authority has made a determination under regulation 36 (procedure where conduct matter is revealed during investigation of a DSI matter);

(d) whether any report has been submitted under regulation 66 or 69;

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

(f) the outcome of any such action.

(11) The duties imposed by this regulation on the IPCC and the appropriate authority in relation to any complaint, recordable conduct matter or DSI matter shall be performed in such manner, and shall have effect subject to such exceptions, as may be provided for by regulation 60.

(12) Paragraph (5) of regulation 54 (duty to keep the complainant informed) applies for the purposes of this regulation as it applies for the purposes of that regulation.

(13) In this regulation “relative” means any spouse, partner, parent or adult child.

Written notices

56.—(1) If during the course of an investigation of a complaint or matter which falls to be determined under these Regulations it appears to the person investigating that there is an indication that 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 person investigating the complaint or matter must give a notification to the person whose conduct is in question that complies with paragraph (2) .

(2) The notification must—

- (a) provide sufficient details of the complaint or matter in question so that the person whose conduct is in question may make representations to the person investigating the complaint or matter;
- (b) give the information about the effect of regulation 57 (duty to consider submissions from the person whose conduct is in question);
- (c) set out the time limits for providing the person investigating the complaint or matter with relevant statements and relevant documents for the purposes of regulation 57(2);
- (d) give such information that may be set out in guidance.

(3) Paragraphs (1) and (2) do not apply for so long as the person investigating the complaint or the matter considers that giving the notification might prejudice—

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

(4) In this regulation and regulations 57 and 58, the person whose conduct is in question—

- (a) in relation to an investigation of a complaint, means 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, means the person to whose conduct the investigation relates.

(5) In this regulation—

- (a) “relevant document” means—
 - (i) a document relating to any complaint or matter under investigation, and
 - (ii) includes such a document containing suggestions as to lines of inquiry to be pursued or witness to be interviewed;
- (b) “relevant statement” means an oral or written statement relating to any complaint or matter under investigation.

Duty to consider submissions from the person whose conduct is in question

57.—(1) This regulation applies where a notification under regulation 56 (written notices) has been issued to the person whose conduct is in question.

(2) If before the expiry of the appropriate time limit notified in pursuance of regulation 56(2)—

- (a) the person whose conduct is in question provides the person investigating the complaint or matter with a relevant statement or a relevant document, or
- (b) any person provides the person investigating the complaint or matter with a relevant document,

the person investigating must consider the statement or document.

Duty to provide certain information to the appropriate authority

58.—(1) This regulation applies during the course of an investigation under these Regulations.

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

(3) That purpose is determining whether the person whose conduct is in question should be, or should remain, suspended from duty.

Manner in which duties to provide information to the complainant are to be performed

59.—(1) For the purposes of regulations 54(4) (duty to keep the complainant informed) and 55(10) (duty to provide information for other persons), the manner in which the IPCC or, as the case may be, an appropriate authority, shall perform the duties imposed by those regulations is as follows.

(2) The IPCC, in a case falling within regulation 54(1) or 55(7) (investigation of a complaint, conduct matter or DSI matter by or under the management of the IPCC), 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; and

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

(3) An appropriate authority, in a case falling within regulation 54(2) (duty to keep the complainant informed or 55(8) (duty to provide information for other persons), 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; and

(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) (action by the IPCC in response to an investigation report under regulation 66) or 68(12) (action by the appropriate authority in response to an investigation report under regulation 66) is likely to be given.

(5) In performing the duties imposed by regulations 54(1) and (2), 55(7) and (8), 67(11) and 68(12), the IPCC 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 IPCC 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 any misconduct hearing or other action that is taken in respect of the matters dealt with in any report submitted under regulation 66, the IPCC or, as the case may be, the appropriate authority, shall notify any complainant and interested person of the outcome of that hearing or action, including the fact and outcome of any appeal against the findings of or sanctions imposed by such a hearing.

(8) If the IPCC 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 IPCC or, as the case may be, the appropriate authority, is suitable.

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

60.—(1) Subject to paragraph (2), the duties mentioned in regulation 54(1) and (2) (duty to keep the complainant informed), regulation 55(7) and (8) (duty to provide information for other persons) and in regulations 67(11) and 68(12) shall not apply in circumstances where in the opinion of the IPCC, 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; or
- (c) preventing the disclosure of any information held by HMRC in connection with its functions which—
 - (i) is obtained from the Head of the Home Civil Service, the Chief Executive, the Commissioners or an officer, and
 - (ii) relates to a person whose identity is specified in the disclosure or can be deduced from it.

(2) Paragraph (1)(c) does not apply to any information relating to internal administrative arrangements of HMRC (whether relating to the Commissioners, officers or others).

(3) The IPCC 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) The IPCC shall consult the appropriate authority in any case under paragraph (1)(c) before deciding whether or not it is satisfied under paragraph (3).

(5) Without prejudice to the generality of paragraph (1), the IPCC, 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.

Copies of complaints etc.

61.—(1) Where a complaint is recorded under regulation 19(6) (initial handling and recording of complaints), 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) The 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 the appropriate authority decides not to supply such a copy, it shall keep that decision under regular review.

Notification of actions and decisions

62.—(1) So far as not covered by regulation 67(11) and (12) and regulation 74(11) and (12) (appeals to the IPCC with respect to an investigation), where the IPCC takes any action or decisions in consequence of it having received a memorandum under regulation 67(9) or regulation 74(3), 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 55(2) and (3); and
- (c) subject to paragraph (2), the person complained against.

(2) The IPCC 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.

Information for complainant about disciplinary recommendations

63.—(1) Where—

- (a) the IPCC makes recommendations under regulation 71 (duties with respect to disciplinary proceedings) in the case of an investigation of a complaint, and
 - (b) the appropriate authority notifies the IPCC that the recommendations have been accepted,
- the IPCC shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 55 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 IPCC that it does not (either in whole or in part) accept recommendations made by the IPCC under regulation 71, or
 - (b) fails to take steps to give full effect to any such recommendations,
- it shall be the duty of the IPCC to determine what further steps (if any) to take under that regulation.
- (3) It shall be the duty of the IPCC to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under regulation 55—
- (a) of any determination under paragraph (2) not to take further steps under regulation 71; and
 - (b) where it determines under that paragraph to take further steps under that regulation, of the outcome of the taking of those steps.

Register to be kept by the IPCC

64.—(1) The IPCC 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 IPCC 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, investigations by the IPCC or of 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 IPCC the non-disclosure of information is necessary for the purposes mentioned in regulation 60(1) (a) and (b) (exceptions to the duty to keep the complainant informed and to provide information for other persons).

Manner and time limits of notifications

65.—(1) Any notification to be given under these Regulations shall—

- (a) unless otherwise specified in these Regulations or determined in guidance issued by the IPCC, be given in writing; and
- (b) unless otherwise specified in these Regulations, be made within such period as the IPCC may determine in guidance.

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