
STATUTORY INSTRUMENTS

2015 No. 431

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

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⁽¹⁾;
 - (ii) a serious sexual assault, as defined in guidance issued by the Commission;
 - (iii) serious corruption, as defined in guidance issued by the Commission;

(1) 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.

- (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.
- (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.