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STATUTORY INSTRUMENTS

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**2010 No. 1813**

**REVENUE AND CUSTOMS,  
ENGLAND AND WALES**

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

<i>Made</i>	- - - -	<i>14th July 2010</i>
<i>Laid before Parliament</i>		<i>15th July 2010</i>
<i>Coming into force</i>	- -	<i>5th August 2010</i>

The Treasury make the following Regulations in exercise of the powers conferred by sections 28(1), (2) and (6) and 29(3) of the Commissioners for Revenue and Customs Act 2005<sup>(1)</sup>.

**PART 1**  
**GENERAL**

**Citation and commencement**

1. These Regulations may be cited as the Revenue and Customs (Complaints and Misconduct) Regulations 2010 and shall come into force on 5th August 2010.

**Revocation and transitional provision**

2.—(1) Subject to paragraph (2), the Revenue and Customs (Complaints and Misconduct) Regulations 2005<sup>(2)</sup> and the Revenue and Customs (Complaints and Misconduct) (Amendment) Regulations 2006<sup>(3)</sup> are revoked.

(2) Where an allegation in respect of the conduct by an officer came to the attention of the appropriate authority before the 5th August 2010, nothing in these Regulations shall apply and the Revenue and Customs (Complaints and Misconduct) Regulations 2005 shall continue to have effect.

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(1) 2005 c. 11.  
(2) S.I. 2005/3311.  
(3) 2006/1748.

## Interpretation

### 3.—(1) In these Regulations—

“2002 Act” means the Police Reform Act 2002<sup>(4)</sup>;

“appropriate authority”—

(a) in relation to the Commissioners or an officer or in relation to any complaint, matter or investigation relating to the conduct of such a person, means—

(i) if that person is the Chairman, the Chief Executive or the Permanent Secretary for Tax, the Head of the Home Civil Service,

(ii) if that person is a Commissioner, the Chief Executive unless that Commissioner is the Chairman, the Permanent Secretary for Tax or the Chief Executive, or

(iii) if that person is an officer, the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary for Tax), and

(b) in relation to a death or serious injury matter and the relevant officer, means the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary for Tax);

“the Chairman” means the Chairman of the Board of HMRC;

“the Chief Executive” means the Chief Executive of HMRC;

“chief officer” means the chief officer of police of any police force;

“the Commissioners” unless a contrary intention appears, means the Commissioners for Her Majesty’s Revenue and Customs and for the purposes of these Regulations includes the Chairman (and unless a contrary intention appears, “Commissioner” is to be construed accordingly);

“complainant” shall be construed in accordance with paragraph (4);

“complaint” has the meaning given by regulation 9 (complaints, matters and persons to which these Regulations apply);

“conduct” includes acts, omissions and statements (whether actual, alleged or inferred);

“conduct matter” has the meaning given by regulation 9;

“death or serious injury matter” and “DSI matter” have the meaning given by regulation 9;

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

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

“function” in relation to the Commissioners or officers has the meaning given by section 51(2) of the Commissioners for Revenue and Customs Act 2005;

“HMRC” means Her Majesty’s Revenue and Customs;

“information” includes estimates and projections, and statistical analyses;

“IPCC” means the Independent Police Complaints Commission and has the meaning given by section 9(1) of the 2002 Act;

“officer” means, unless the context otherwise requires, an officer of Revenue and Customs;

“the Permanent Secretary for Tax” means HMRC’s Permanent Secretary for Tax;

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

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(4) 2002 c. 30. The 2002 Act has been amended by a number of amendments.

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

“recordable conduct matter” means—

- (a) a conduct matter that is required to be recorded by the appropriate authority under regulation 23 (conduct matters arising in civil proceedings) or 24 (recording etc. of conduct matters in other cases), or has been so recorded; or
- (b) except in paragraph (3) of regulation 19 (initial handling and recording of complaints), any matter brought to the attention of the appropriate authority under that paragraph;

“relevant offence” means—

- (a) an offence for which the sentence is fixed by law,
- (b) an offence for which a person of 18 years or over (not previously convicted) may be sentenced to imprisonment for a term of seven years or more (or might be so sentenced but for the restrictions imposed by section 33 of the Magistrates’ Courts Act 1980<sup>(5)</sup>);

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

- (2) In these Regulations “the relevant officer”, in relation to a DSI matter, means the officer—
  - (a) who arrested the person who has died or suffered serious injury,
  - (b) in whose custody that person was at the time of the death or serious injury, or
  - (c) with whom that person had the contact in question;

and where there is more than one such officer it means, subject to paragraph (3), the one who so dealt with that person last before the death or serious injury occurred.

(3) Where it cannot be determined which of two or more officers dealt with a person last before a death or serious injury occurred, the “relevant officer” is the most senior of them.

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

- (a) except in the case of anything which is or purports to be a complaint falling within regulation 9(1)(d) (complaints, matters and persons to which these Regulations apply), 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 by or in relation to the complainant may be done, instead, by or in relation to the person acting on the complainant’s behalf.

(5) Subject to paragraph (6), 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 any person who is a Commissioner or an officer (whether at the time of the conduct or any subsequent time).

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

- (a) a person who, at the time when the conduct was supposed to have taken place in relation to that person, was a Commissioner or an officer (whether or not that person was on duty in that person’s capacity as a Commissioner or officer at that time), or

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(5) 1980 c. 43. Section 33 has been amended by sections 17(3)(b) and 101(1) of, and Schedule 4 Part II and paragraph 6 of Schedule 12 to, the Criminal Justice Act 1991 (c. 53); sections 2(3)(a) and (b) of the Aggravated Vehicle-Taking Act 1992 (c. 11); sections 165 and 168(1) of, and paragraph 65 of Schedule 9 to, the Powers of the Criminal Courts (Sentencing) Act 2000 (c. 6).

- (b) a person who at the time when that person is supposed to have been adversely affected by it, or to have witnessed it, was on duty in that person's capacity as a Commissioner or officer.

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

(8) References in these Regulations to the investigation of any complaint or matter by the appropriate authority on its own behalf, under the supervision of the IPCC, under the management of the IPCC or by the IPCC itself shall be construed as references to its investigation in accordance with—

- (a) regulation 44 (investigations by the appropriate authority on its own behalf),
- (b) regulation 45 (investigations supervised by the IPCC),
- (c) regulation 46 (investigations by a police force under the management or under the supervision of the IPCC),
- (d) regulation 47 (investigations managed by the IPCC), or
- (e) regulation 48 (investigations by the IPCC itself).

#### **Application: general**

4. These Regulations shall apply for the purpose of conferring functions on the IPCC in relation to the Commissioners and officers, in the exercise of their functions in or in relation to England and Wales.

#### **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 IPCC), 22 (power of the IPCC to issue guidance), 23 (regulations), 24 (consultation on regulations) and 27 (conduct of the IPCC's staff) of the 2002 Act shall apply to the Commissioners and officers with the following modifications.

- (2) In section 22(6) of the 2002 Act—
- (a) for subsection (1) substitute—
 

“(1) The Commission may issue guidance to Her Majesty's Revenue and Customs and any person it sees fit concerning the exercise or performance by the persons to whom the guidance is issued, of any powers or duties specified in subsection (2).”;
  - (b) in subsection (2)(14) for “persons serving with the police” substitute “persons serving with Her Majesty's Revenue and Customs”;
  - (c) for subsection (3)(7) substitute—
 

“(3) Before issuing any guidance under this section, the Commission shall consult Her Majesty's Revenue and Customs and any person it sees fit.”;
  - (d) in subsection (4) for “the Secretary of State” substitute “the Chancellor of the Exchequer”;
  - (e) omit subsection (5)(c).

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(6) Section 22 has been amended by section 160 of, and paragraphs 1 and 8 of Schedule 12 to, the Serious Organised Crime and Police Act 2005 (c. 15); and section 6(1) of, and paragraph 11 of Schedule 4 to, the Police and Justice Act 2006 (c. 48).

(14) Section 22(2) has been amended by section 160 of, and paragraphs 1 and 8 of Schedule 12 to, the Serious Organised Crime and Police Act 2005.

(7) Section 22(3) has been amended by section 160 of, and paragraph 11 of Schedule 4 to, the Police and Justice Act 2006.

- (3) In section 23(8) of the 2002 Act—
  - (a) in subsection (2)(k)(9), for “a person serving with the police” substitute “a person serving with Her Majesty’s Revenue and Customs”;
  - (b) in subsection (2)(p), for “chief officers” substitute “the Commissioners for Her Majesty’s Revenue and Customs”.
- (4) In section 24(10) of the 2002 Act—
  - (a) at the end of paragraph (a) insert “and Her Majesty’s Revenue and Customs”;
  - (b) omit paragraphs (b) and (c).

### **Temporary service and copies of accounts**

6.—(1) The IPCC may make arrangements with the Commissioners under which officers are engaged on temporary service with the IPCC.

(2) Copies of the statement referred to in paragraph 17(1)(c) of Schedule 2 to the 2002 Act (accounts) shall also be sent to the Treasury.

### **General functions of the IPCC in relation to the Commissioners and officers**

- 7.—(1) The functions of the IPCC in relation to the Commissioners and officers shall be—
- (a) to secure the maintenance by the IPCC itself, and by the Commissioners, 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 following provisions of this Part, 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, as appear, from the carrying out by the IPCC of its other functions, to be necessary or desirable.
- (2) Those matters are—
- (a) the handling of complaints made about the conduct of the Commissioners or officers which the appropriate authority—
    - (i) has a duty to refer to the IPCC under regulation 28(1) (reference of complaints to the IPCC), or
    - (ii) may refer to the IPCC under regulation 28(4) or (5);
  - (b) the recording of matters from which it appears that—
    - (i) there may have been conduct by such persons which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings, and

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(8) Section 23 has been amended by section 160 of and paragraphs 1 and 9 of Schedule 12 to the Serious Organised Crime and Police Act 2005; and section 127 of, and paragraphs 1 and 2 of Schedule 23 to, the Criminal Justice and Immigration Act 2008 (c. 4).

(9) Section 23(2) has been amended by section 160 of, and paragraphs 1 and 9 of Schedule 12 to, the Serious Organised Crime and Police Act 2005; and section 127 of, and paragraphs 1 and 2 of Schedule 23 to, the Criminal Justice and Immigration Act 2008.

(10) Section 24 has been amended by section 6(1) of, and paragraph 12 of Schedule 4 to, the Police and Justice Act 2006.

- (ii) that conduct or behaviour is conduct or behaviour which the appropriate authority has a duty to refer to the IPCC under regulation 30(1) (reference of conduct matters to the IPCC) or may refer to the IPCC under regulation 30(5) or (6) of these Regulations;
  - (c) the recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with an officer;
  - (d) the manner in which any such complaints or any such matters as are mentioned in subparagraph (b) or (c) are investigated or otherwise handled and dealt with.
- (3) It shall be the duty of the IPCC—
- (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 IPCC has functions.
- (4) It shall also be the duty of the IPCC—
- (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 in relation to the Commissioners and officers, between the IPCC and the inspectors of 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 IPCC to be appropriate, for facilitating the carrying out by those inspectors of their functions.
- (5) Subject to the other provisions of these Regulations, the IPCC may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions.
- (6) The IPCC 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 function under paragraph (1)(e), impose any such charge on that person for anything done by the IPCC for the purposes of, or in connection with, the carrying out of that function as it thinks fit.
- (7) Nothing in these Regulations shall confer any function on the IPCC in relation to so much of any complaint or conduct matter as relates to the direction and control of HMRC by the Commissioners.

### **Reports to the Chancellor of the Exchequer**

- 8.—**(1) As soon as practicable after the end of each of its financial years, the IPCC shall also make a report to the Chancellor of the Exchequer (“the Chancellor”) on the carrying out of its functions during that year.
- (2) The IPCC shall also make such reports to the Chancellor about matters relating generally to the carrying out of its functions as the Chancellor may, from time to time, require.
- (3) The IPCC may, from time to time, make such other reports to the Chancellor as it considers appropriate for drawing the Chancellor’s attention to matters which—
- (a) have come to the IPCC’s notice, and
  - (b) are matters that it considers should be drawn to the Chancellor’s attention by reason of their gravity or of other exceptional circumstances.
- (4) The IPCC shall prepare such reports containing advice and recommendations as it thinks appropriate for the purpose of carrying out its function under regulation 7(1)(e) (general functions of the IPCC in relation to Commissioners and officers).
- (5) Where the Chancellor receives any report under this regulation, the Chancellor 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 Chancellor considers it appropriate to do so,
- lay a copy of the report before Parliament and cause the report to be published.
- (6) The IPCC shall send a copy of every annual report under paragraph (1) to the Commissioners.
  - (7) The IPCC shall send a copy of every report under paragraph (3) to the Commissioners.
  - (8) The IPCC shall send a copy of every report under paragraph (4) to—
    - (a) the Chancellor of the Exchequer, and
    - (b) the Commissioners.
  - (9) The IPCC shall send a copy of every report made or prepared by it under paragraphs (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 IPCC otherwise to have a particular interest in its contents,as the IPCC thinks fit.

### **Complaints, matters and persons to which these Regulations apply**

- 9.—**(1) In these Regulations references to a complaint are references (subject to the following provisions of this regulation) to any complaint about the conduct of a Commissioner or an officer which is made (whether in writing or otherwise) by—
- (a) a member of the public who claims to be the person in relation to whom the conduct took place;
  - (b) a member of the public not falling within sub-paragraph (a) who claims to have been adversely affected by the conduct;
  - (c) a member of the public who claims to have witnessed the conduct;
  - (d) a person acting on behalf of a person falling within any of sub-paragraphs (a) to (c).
- (2) In these Regulations “conduct matter” means (subject to the following provisions of this regulation, and regulation 19(3)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a Commissioner or an officer may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings.
- (3) In these Regulations “death or serious injury matter” (“DSI matter”) means any circumstance (other than those which are or have been the subject of a complaint or which amount to a conduct matter)—
- (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 (4) or (5) are satisfied.
- (4) The requirements of this paragraph are that at the time of the death or serious injury the person—
- (a) had been arrested by an officer and had not been released from that arrest, or
  - (b) was otherwise detained in the custody of an officer.
- (5) 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 an officer who was acting in the execution of 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.
- (6) In paragraph (3) the reference to a person includes an officer, but in relation to such a person “contact” in paragraph (5) does not include contact that the officer has whilst acting in the execution of duties.
- (7) 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 (8), 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.
- (8) 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.
- (9) For the purposes of this regulation a person shall be taken to have witnessed conduct if, and only if—
- (a) that person acquired knowledge of that conduct in a manner which would make that person a competent witness capable of giving admissible evidence of that conduct in criminal proceedings, or
  - (b) that person possesses or controls anything which would in any such proceedings constitute admissible evidence of that conduct.
- (10) 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) that other person is for the time being designated for the purposes of these Regulations by the IPCC as a person through whom complaints may be made, or is of a description of persons so designated, or
  - (b) the other person has been given, and is able to produce, the written consent to such action, of the person on whose behalf that action is taken.

### **Handling of complaints, conduct matters and DSI matters etc**

- 10.** These Regulations shall have effect subject to regulation 11 (direction and control matters).

#### **Direction and control matters**

- 11.** Nothing in these Regulations shall have effect with respect to so much of any complaint as relates to the direction and control of HMRC by the Commissioners.



## PART 2

### COMPLAINTS AND MISCONDUCT

#### **Co-operation, assistance and information**

**12.**—(1) It shall be the duty of the Commissioners to ensure that they are kept informed, in relation to HMRC, 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) Where the IPCC requires the chief officer of a police force to provide a member of that person's force for appointment under regulation 46 or 47, it shall be the duty of the chief officer to whom the requirement is addressed to comply with it.

(4) It shall be the duty of the Commissioners to provide the IPCC and every member of the IPCC's staff with all such assistance as the IPCC or that member of staff may reasonably require for the purposes of, or in connection with, the carrying out of any investigation by the IPCC under these Regulations.

(5) It shall be the duty of the Commissioners to ensure that a person appointed under regulation 42 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.

(6) It shall be the duty of the Head of the Home Civil Service and the Commissioners to ensure that a person appointed under regulation 44, 45, 46 or 47 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.

#### **Disclosure of information**

**13.** Where the IPCC, or any person acting on its behalf, obtains information in the course of performing a function under these Regulations, that information may not be disclosed except as permitted under these Regulations or as otherwise prescribed by law.

#### **Use of information**

**14.** Where the IPCC or any person acting on its behalf, obtains information in the course of performing a function under these Regulations, that information may not be used for any purpose other than in the performance of a function under these Regulations or as otherwise prescribed by law.

#### **Payments**

**15.**—(1) The Commissioners shall pay such amount to the Secretary of State in respect of functions performed by the IPCC under these Regulations as may be agreed between the Commissioners and the IPCC.

(2) In the absence of an agreement, the Commissioners shall pay such amount in respect of those functions as the Treasury, after consultation with the Secretary of State, shall determine.

## **Payment for assistance with investigations**

- 16.—(1) This regulation applies where—
- (a) a police force is required to provide assistance in connection with an investigation under Part 6 of these Regulations (investigations);
  - (b) a police force is required to provide assistance in such a connection to the IPCC; or
  - (c) a police force provides assistance by agreement under regulation 46(2).
- (2) For the purposes of this regulation—
- (a) assistance is required to be provided by a police force in connection with an investigation under Part 6 of these Regulations if the chief officer of that force complies with a requirement under regulation 12(3) (co-operation, assistance and information) that is made in connection with—
    - (i) an investigation relating to the conduct of a person who, at the time of the conduct, was a Commissioner or an 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, an officer; and
  - (b) assistance is required to be provided in such a connection by a police force to the IPCC if the chief officer of that force complies with a requirement under regulation 12(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 a Commissioner or an 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, an officer.
- (3) Where the assistance is required to be provided by a police force, the appropriate authority shall pay to the police authority maintaining that force such contribution 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 police authorities generally and the Commissioners, 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 Part 6 of these Regulations; or
  - (c) in the absence of any such arrangements, as may be determined by the Secretary of State.
- (4) Paragraph (3) shall have effect in relation to assistance which a police force provides by agreement under regulation 46(2) as if the reference in that paragraph to required to be provided were a reference to provided by agreement under regulation 46(2).
- (5) Where the assistance is required to be provided by a police force to the IPCC, the IPCC shall pay to the police authority maintaining the assisting force such contribution (if any) towards the costs of the assistance—
- (a) as may be agreed between the IPCC and that authority; or
  - (b) in the absence of an agreement, as may be determined in accordance with any arrangements which—
    - (i) have been agreed to by police authorities generally and by the IPCC, 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 this Part, to the IPCC; or
- (c) in the absence of any such arrangements, as may be determined by the Secretary of State.

## PART 3

### HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC

#### **Duties to preserve evidence relating to complaints**

- 17.—(1) This regulation applies where condition A or B is met.
- (2) Condition A is that—
- (a) a complaint is made to an appropriate authority about the conduct of an individual, and
  - (b) that authority is the appropriate authority in relation to that individual.
- (3) Condition B is that—
- (a) an appropriate authority becomes aware that a complaint has been made to the IPCC, and
  - (b) that authority is the appropriate authority in relation to that individual.
- (4) The appropriate authority shall take all such steps as appear to that authority to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the conduct complained of.
- (5) The duty of the appropriate authority under paragraph (4) must be performed as soon as practicable after the complaint is made or after it becomes aware of the complaint.
- (6) After that, the appropriate authority shall be under a duty, until it is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to that authority to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to the conduct complained of.
- (7) It shall be the duty of the appropriate authority to take all such specific steps for obtaining or preserving evidence relating to any conduct that is the subject-matter of a complaint as it may be directed by the IPCC to take for the purposes of this regulation.

#### **Delegation of powers and duties**

- 18.—(1) Subject to paragraph (3), the appropriate authority may delegate all or any of the powers or duties conferred or imposed on it by or under these Regulations to a person mentioned in paragraph (2).
- (2) Those powers or duties may be delegated—
- (a) in the case of the Head of the Home Civil Service, to a member of the Senior Civil Service;
  - (b) in the case of the Chief Executive, to a member of the Senior Civil Service employed in the service of the Commissioners;
  - (c) in the case of a Commissioner (other than the Chief Executive), to an officer.
- (3) The appropriate authority shall not, in any particular case, delegate any power or duty under paragraph (1) to a person who has acted as investigating officer in that case.

#### **Initial handling and recording of complaints**

- 19.—(1) Where a complaint is made to the IPCC—

- (a) it shall ascertain whether the complainant is content for the appropriate authority to be notified of the complaint, and
  - (b) it shall give notification of the complaint to the appropriate authority if, and only if, the complainant is so content.
- (2) Where a complaint is made to an appropriate authority, the authority shall—
- (a) determine whether or not it is the appropriate authority in relation to the complaint, and
  - (b) if it determines that it is not, give notification of the complaint to the appropriate authority for the individual complained against.
- (3) Where the IPCC—
- (a) is prevented by paragraph (1)(b) from notifying any complaint to the appropriate authority, and
  - (b) considers that it is in the public interest for the subject-matter of the complaint to be brought to the attention of the appropriate authority and recorded under regulation 24,
- the IPCC may bring that matter to the appropriate authority’s attention under that regulation as if it were a recordable conduct matter, and (if it does so) the following provisions of these Regulations shall have effect accordingly as if it were such a matter.
- (4) Where the IPCC or the appropriate authority gives notification of a complaint under paragraph (1) or (2) or the IPCC brings any matter to the appropriate authority’s attention under paragraph (3), the person who gave the notification or, as the case may be, the IPCC shall notify the complainant—
- (a) that the notification has been given and of what it contained, or
  - (b) that the matter has been brought to the appropriate authority’s attention to be dealt with otherwise than as a complaint.
- (5) Where—
- (a) an appropriate authority, in the case of any complaint made to it, decides that it is the appropriate authority, or
  - (b) a complaint is notified to the appropriate authority under this regulation,
- the appropriate authority shall record the complaint.
- (6) Nothing in this regulation shall require the notification or recording by any person of any complaint about any conduct if—
- (a) that person is satisfied that the subject-matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct it was, or
  - (b) the complaint has been withdrawn.

### **Keeping of records**

- 20.** The appropriate authority shall keep records, in such form as the IPCC shall determine, of—
- (a) every complaint and purported complaint that is made to it;
  - (b) every conduct matter recorded by it under regulation 23(3) (conduct matters arising in civil proceedings);
  - (c) every DSI matter recorded by it under regulation 32 (duty to record DSI matters);
  - (d) every exercise of a power or performance of a duty under these Regulations.

### **Failures to notify or record a complaint**

**21.**—(1) This regulation applies where anything which is or purports to be a complaint in relation to which regulation 19 (initial handling and recording of complaints) has effect is received by the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) (whether in consequence of having been made directly or of a notification under that regulation).

(2) Where the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) decides or decide not to take action under regulation 19 for notifying or recording the whole or any part of what has been received, the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) shall notify the complainant of the following matters—

- (a) the decision to take no action, and, if that decision relates to only part of what was received, the part in question;
- (b) the grounds on which the decision was made; and
- (c) whether the complainant has a right to appeal against that decision under this regulation.

(3) The complainant shall have a right of appeal to the IPCC against any failure by the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) to make a determination under regulation 19 or to notify or record anything under that regulation if, but only if, the failure is in respect of conduct which the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) is required to refer to the IPCC under regulation 28(1)(a) or (b) (reference of complaints to the IPCC).

(4) On an appeal under this regulation, the IPCC shall—

- (a) determine whether any action under regulation 19 should have been taken in the case in question, and
- (b) if the IPCC finds in the complainant's favour, give to the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) such directions as the IPCC considers appropriate, as to the action to be taken for making a determination, or for notifying or recording what was received,

and it shall be the duty of the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) to comply with any directions given under sub-paragraph (b).

(5) Directions under paragraph (4)(b) may require action taken in pursuance of the directions to be treated as taken in accordance with any such provision of regulation 19 as may be specified in the direction.

(6) The IPCC—

- (a) shall give notification both to the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary), as the case may be, and to the complainant, of any determination made by it under this regulation, and
- (b) shall give notification to the complainant of any direction given by it to the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) under this regulation.

### **Handling of complaints by the appropriate authority**

22.—(1) This regulation applies where a complaint has been recorded by the appropriate authority unless the complaint—

- (a) is one which has been, or must be, referred to the IPCC under regulation 28 (reference of complaints to the IPCC), and
- (b) is not for the time being either referred back to the authority under regulation 29 (duties of the IPCC on references under regulation 28) or the subject of a determination under regulation 38 (power of the IPCC to determine the form of an investigation).

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

### **Conduct matters arising in civil proceedings**

23.—(1) This regulation applies where—

- (a) the appropriate authority has received notification (whether or not under this regulation) that civil proceedings relating to any matter have been brought by a member of the public against it, or it otherwise appears to the appropriate authority that such proceedings are likely to be so brought, and
- (b) it appears to the appropriate authority (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter.

(2) The appropriate authority —

- (a) shall consider whether it is the appropriate authority in relation to the conduct matter in question, and
- (b) if it is not, shall notify the person who is the appropriate authority about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as mentioned in paragraph (1)(b).

(3) Where the appropriate authority determines for the purposes of this regulation that it is the appropriate authority in relation to any conduct matter, it shall record that matter.

(4) Where the appropriate authority records any matter under this regulation it—

- (a) shall first determine whether the matter is one which it is required to refer to the IPCC under regulation 30 (reference of conduct matters to the IPCC) or is one which it would be appropriate so to refer, and
- (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.

(5) Nothing in paragraph (3) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.

(6) For the purposes of this regulation civil proceedings involve a conduct matter if—

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

### **Recording etc. of conduct matters in other cases**

24.—(1) Where—

- (a) a conduct matter comes (otherwise than as mentioned in regulation 23 (conduct matters arising in civil proceedings)) to the attention of the appropriate authority in relation to that matter, and
- (b) it appears to the appropriate authority that the conduct involved in that matter falls within paragraph (2),

it shall be the duty of the appropriate authority to record that matter.

- (2) Conduct falls within this paragraph if (assuming it to have taken place)—
  - (a) it appears to have resulted in the death of any person or in serious injury to any person;
  - (b) a member of the public has been adversely affected by it; or
  - (c) it is of a description specified in paragraph (3).
- (3) The following descriptions of conduct are specified for the purposes of paragraph (2)—
  - (a) a serious assault, as defined in guidance issued by the IPCC;
  - (b) a serious sexual offence, as defined in guidance issued by the IPCC;
  - (c) serious corruption, as defined in guidance issued by the IPCC;
  - (d) a criminal offence or behaviour liable to result in disciplinary proceedings which was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion, or other status identified in guidance by the IPCC;
  - (e) a relevant offence;
  - (f) conduct whose gravity or other exceptional circumstances make it appropriate to record the matter in which the conduct is involved; or
  - (g) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraphs (a) to (e) is alleged.
- (4) Where the appropriate authority records any matter under this regulation it—
  - (a) shall first determine whether the matter is one which it is required to refer to the IPCC under regulation 30 (reference of conduct matters to the IPCC) or is one which it would be appropriate to so refer, and
  - (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.
- (5) Nothing in paragraph (1) shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.
- (6) If it appears to the IPCC—
  - (a) that any matter that has come to its attention is a recordable conduct matter, but
  - (b) that that matter has not been recorded by the appropriate authority,

the IPCC may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

### **Duties to preserve evidence relating to conduct matters**

**25.**—(1) Where the appropriate authority becomes aware of any recordable matter relating to the conduct of an individual, it shall be the duty of that authority to take all such steps as appear to it to be appropriate for the purposes of these Regulations for obtaining and preserving the evidence relating to that matter.

(2) The duty of the appropriate authority under paragraph (1) must be performed as soon as practicable after it becomes aware of the matter in question.

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

(4) It shall be the duty of the appropriate authority to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter, as it may be directed by the IPCC to take for the purposes of these Regulations.

### **Complaints against a person who has subsequently ceased to serve with HMRC**

**26.** Where a complaint or conduct matter relates to the conduct of a person who has ceased to be a Commissioner or an officer since the time of the conduct, these Regulations shall apply in relation to such person as if they did not include any requirement for an appropriate authority to determine whether disciplinary proceedings should be brought against a person whose conduct is reported to the appropriate authority.

## **PART 4**

### **REFERRAL OF MATTERS TO THE IPCC**

#### **Recording and reference of conduct and DSI matters**

**27.—**(1) Any conduct matter which is required to be referred to the IPCC shall be referred in such manner as the IPCC specifies and—

- (a) if the matter falls within paragraph (1)(a) or (b) of regulation 30, not later than the end of the day following the day on which it first becomes clear to the appropriate authority that the conduct matter is one to which that paragraph applies, and
- (b) if the matter falls within paragraph (1)(c) of that regulation, not later than the end of the day following the day on which the IPCC notifies the appropriate authority that the conduct matter is to be referred.

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

- (a) in a case where the IPCC directs that the matter be referred to it, within time limits defined in guidance issued by the IPCC, but no later than the end of the day following the day on which the IPCC so directs;
- (b) in any other case, within time limits defined in guidance issued by the IPCC, but no later than the end of the day following the day on which the matter first comes to the attention of the appropriate authority.

#### **Reference of complaints to the IPCC**

**28.—**(1) It shall be the duty of the appropriate authority to refer a complaint to the IPCC where the complaint is—

- (a) one alleging that the conduct complained of has resulted in death or serious injury;
- (b) any complaint not falling within paragraph (a) but alleging conduct which constitutes—
  - (i) a serious assault, as defined in guidance issued by the IPCC;
  - (ii) a serious sexual offence, as defined in guidance issued by the IPCC;
  - (iii) serious corruption, as defined in guidance issued by the IPCC;



- (iv) a criminal offence or behaviour which is liable to lead to a disciplinary sanction 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 IPCC;
  - (v) a relevant offence;
  - (c) a complaint which arises from the same incident as one in which any conduct falling within paragraph (a) or (b) is alleged; or
  - (d) one in respect of which the IPCC notifies the appropriate authority that it requires the complaint in question to be referred to the IPCC for its consideration.
- (2) The obligation on the Head of the Home Civil Service under paragraph (1)(a) or (b) to refer a complaint about the conduct of a person in respect of whom the Head of the Home Civil Service is the appropriate authority arises only if the Head of the Home Civil Service is satisfied that the complaint contains an indication that a criminal offence may have been committed by that person.
- (3) The obligation on the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary for Tax) under paragraph (1)(a) or (b) to refer a complaint about the conduct of a person in respect of whom the Chief Executive is or the Commissioners are the appropriate authority arises only if the Chief Executive is or the Commissioners are satisfied that the complaint contains an indication that the person may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings and that such behaviour (if it had taken place) would be likely to lead to the termination of that person's office or employment.
- (4) In a case where there is no obligation under paragraph (1) to make a reference, the appropriate authority may refer a complaint to the IPCC if that authority considers that it would be appropriate to do so by reason of—
- (a) the gravity of the subject-matter of the complaint; or
  - (b) any exceptional circumstances.
- (5) In a case in which a reference under paragraph (1) or (4) is neither made nor required to be made, the Head of the Home Civil Service may refer a complaint to the IPCC if—
- (a) it is one in relation to which the Chief Executive is the appropriate authority; and
  - (b) the Head of the Home Civil Service considers that it would be appropriate to do so by reason of—
    - (i) the gravity of the subject-matter of the complaint, or
    - (ii) any exceptional circumstances.
- (6) Where a complaint is required to be referred to the IPCC under paragraph (1)(a), (b) or (c), notification of the complaint shall be given to the IPCC—
- (a) not later than the end of the day following the day on which it first becomes clear to the appropriate authority that the complaint is one to which that sub-paragraph applies, and
  - (b) in such manner as the IPCC specifies.
- (7) Where a complaint is required to be referred to the IPCC under paragraph (1)(d), notification of the complaint shall be given to the IPCC—
- (a) not later than the end of the day following the day on which the IPCC notifies the appropriate authority that the complaint is to be referred, and
  - (b) in such manner as the IPCC specifies.
- (8) Subject to paragraph (10), the power—
- (a) of the IPCC by virtue of paragraph (1)(d) to require a complaint to be referred to it, and

(b) of the appropriate authority to refer a complaint to the IPCC under paragraph (2) or (3), shall each be exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the IPCC.

(9) Where the appropriate authority refers a complaint to the IPCC under this regulation it shall give a notification of the making of the reference—

- (a) to the complainant, and
- (b) except in a case where it appears to the appropriate authority that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

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

- (a) shall not be required to be referred again under this regulation unless the IPCC so directs, and
- (b) shall not be referred in exercise of any power conferred by this regulation unless the IPCC consents.

#### **Duties of the IPCC on references under regulation 28**

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

(2) Where the IPCC determines under this regulation that it is not necessary for a complaint to be investigated, it may, if it thinks fit, refer the complaint back to the appropriate authority in accordance with paragraph (3).

(3) In a case to which paragraph (2) applies, the appropriate authority shall not be required by virtue of any provisions of these Regulations to take any action in relation to the complaint but may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint.

(4) Where the IPCC refers a complaint back under paragraph (2), it shall give a notification of the making of the reference back—

- (a) to the complainant, and
- (b) to the person complained against.

#### **Reference of conduct matters to the IPCC**

**30.**—(1) It shall be the duty of the appropriate authority to refer a recordable conduct matter to the IPCC (whether or not the case falls within regulation 23), if—

- (a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;
- (b) that matter is of a description specified in paragraph (2); or
- (c) the IPCC notifies the appropriate authority that it requires that matter to be referred to the IPCC for its consideration.

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

- (a) a serious assault, as defined in guidance issued by the IPCC;
- (b) a serious sexual offence, as defined in guidance issued by the IPCC;
- (c) serious corruption, as defined in guidance issued by the IPCC;

- (d) a criminal offence or behaviour which is liable to lead to a disciplinary sanction 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 issued by the IPCC;
- (e) a relevant offence; or
- (f) conduct which is alleged to have taken place in the same incident as one in which conduct within sub-paragraphs (a) to (e) is alleged.

(3) The obligation on the Head of the Home Civil Service under paragraph (1)(a) or (b) to refer a recordable conduct matter in respect of a person for whom the Head of the Home Civil Service is the appropriate authority arises only if the Head of the Home Civil Service is satisfied that the matter is one in respect of which there is an indication that a criminal offence may have been committed by that person.

(4) The obligation on the appropriate authority under paragraph (1)(a) or (b) to refer a recordable conduct matter in respect of a person for whom it is the appropriate authority arises only if it is satisfied that the matter is one in respect of which there is an indication that the person may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings and that such behaviour (if it had taken place) would be likely to lead to the termination of that person's office or employment.

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

- (a) the gravity of the matter, or
- (b) any exceptional circumstances.

(6) In a case in which a reference under paragraph (1) or (5) is neither made nor required to be made, the Head of the Home Civil Service may refer any recordable conduct matter to the IPCC if—

- (a) it is one in relation to which the Chief Executive is the appropriate authority, and
- (b) the Head of the Home Civil Service considers that it would be appropriate to do so by reason of—
  - (i) the gravity of the matter, or
  - (ii) any exceptional circumstances.

(7) Where there is an obligation under this regulation to refer any matter to the IPCC, it must be so referred within such period as may be provided for by regulation 27.

(8) Subject to paragraph (10), the power—

- (a) of the IPCC by virtue of paragraph (1)(c) to require a matter to be referred to it, and
- (b) of the appropriate authority to refer any matter to the IPCC under paragraph (5) or (6),

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

(9) Where—

- (a) the appropriate authority refers a matter to the IPCC under this regulation, and
- (b) it does not consider that to do so might prejudice a possible future investigation of that matter,

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

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

- (a) shall not be required to be referred again under this regulation unless the IPCC so directs, and
- (b) shall not be referred in exercise of any power conferred by this regulation unless the IPCC consents.

### **Duties of the IPCC on references under regulation 30**

**31.**—(1) It shall be the duty of the IPCC, in the case of every recordable conduct matter referred to it by the appropriate authority under regulation 30, to determine whether or not it is necessary for the matter to be investigated.

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

(3) Where—

- (a) the IPCC refers a matter back to the appropriate authority under this regulation, and
- (b) the IPCC does not consider that to do so might prejudice a possible future investigation of that matter,

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

## **PART 5**

### **HANDLING DEATH AND SERIOUS INJURY (DSI)**

#### **Duty to record DSI matters**

**32.**—(1) Where a DSI matter comes to the attention of the appropriate authority, it shall be the duty of the appropriate authority to record that matter.

(2) If it appears to the IPCC—

- (a) that any matter that has come to its attention is a DSI matter, but
- (b) that that matter has not been recorded by the appropriate authority,

the IPCC may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

#### **Duty to preserve evidence relating to DSI matters**

**33.**—(1) Where a DSI matter comes to the attention of the appropriate authority it shall be the duty of that authority to take all such steps as appear to it to be appropriate for the purposes of these Regulations for obtaining and preserving evidence relating to that matter.

(2) The duty of the appropriate authority under paragraph (1) must be performed as soon as practicable after it becomes aware of the matter in question.

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

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

### **Reference of DSI matters to the IPCC**

**34.**—(1) It shall be the duty of the appropriate authority to refer a DSI matter to the IPCC.

(2) The appropriate authority must do so within the period specified in regulation 27(2) (recording and reference of conduct matters).

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

### **Duties of IPCC on references under regulation 34**

**35.**—(1) It shall be the duty of the IPCC, in the case of every DSI matter referred to it by the appropriate authority, to determine whether or not it is necessary for the matter to be investigated.

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

### **Procedure where conduct matter is revealed during investigation of DSI matter**

**36.**—(1) If during the course of an investigation of a DSI matter it appears to a person designated under regulation 47 or 48 or appointed to undertake an investigation under the management of the IPCC under regulation 46, 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 so appointed shall make a submission to that effect to the IPCC.

(2) If, after considering a submission under paragraph (1), the IPCC determines that there is such an indication, it shall—

- (a) notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its determination, and
- (b) send to it (or each of them) a copy of the submission under paragraph (1).

(3) If during the course of an investigation of a DSI matter it appears to a person appointed under regulation 44 or 45 or appointed to undertake an investigation under the supervision of the IPCC under regulation 46, 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 so appointed shall make a submission to that effect to the appropriate authority in relation to the DSI matter.

(4) If, after considering a submission under paragraph (3), the appropriate authority determines that there is such an indication, it shall—

- (a) if it is not the appropriate authority in relation to the person whose conduct is in question, notify that other authority of its determination and send to that authority a copy of the submission under paragraph (3), and
- (b) notify the IPCC of its determination and send to it a copy of the submission under paragraph (3).

(5) Where the appropriate authority in relation to the person whose conduct is in question—

- (a) is notified of a determination by the IPCC under paragraph (2),

- (b) (in a case where it is also the appropriate authority in relation to the DSI matter) makes a determination under paragraph (4), or
- (c) (in a case where it is not the appropriate authority in relation to the DSI matter) is notified by that other authority of a determination by it under paragraph (4),

it shall record the matter under regulation 24 (recording etc of conduct matters in other cases) as a conduct matter (and the other provisions of these Regulations shall apply in relation to that matter accordingly).

(6) Where a DSI matter is recorded under regulation 24 as a conduct matter by virtue of paragraph (5)—

- (a) the person investigating the DSI matter shall (subject to any determination made by the IPCC under regulation 38(6)) continue the investigation as if appointed or designated to investigate the conduct matter, and
- (b) the other provisions of these Regulations shall apply in relation to that matter accordingly.

## PART 6

### INVESTIGATIONS

#### **Inspections of HMRC premises on behalf of the IPCC**

37.—(1) Where—

- (a) the IPCC requires the Commissioners to allow a person nominated for the purpose by the IPCC to have access to any premises occupied for the purposes of HMRC and to documents and 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 Commissioners to secure that the required access is allowed to the nominated person.

(2) Those purposes are—

- (a) the purposes of any examination by the IPCC of the efficiency and effectiveness of the arrangements made by the Commissioners for handling complaints or dealing with recordable conduct matters or DSI matters;
- (b) the purposes of any investigation by the IPCC under this Part 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 Commissioners at least 48 hours before the time at which access is required.

(4) Where—

- (a) a requirement imposed under this regulation for the purposes mentioned in paragraph (2)
  - (a) requires access to any premises, document or thing to be allowed to any person, but
  - (b) there are reasonable grounds for not allowing that person to have the required access at the time at which that person seeks to have it,

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 48 (investigations by the IPCC itself), or
  - (ii) any person who otherwise acts on behalf of the IPCC,
- 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 Commissioners under regulations 12 (co-operation, assistance and information) and 53 (provision of information to the IPCC).

### **Power of the IPCC to determine the form of an investigation**

- 38.**—(1) This regulation applies where—
- (a) a complaint or recordable conduct matter or DSI matter is referred to the IPCC; and
  - (b) the IPCC determines that it is necessary for the complaint or matter to be investigated.
- (2) It shall be the duty of the IPCC to determine the form which the investigation shall take.
- (3) In making a determination under paragraph (2) the IPCC shall have regard to the seriousness of the case and the public interest.
- (4) The only forms which the investigation may take in accordance with a determination made under this regulation are—
- (a) an investigation by the appropriate authority on its own behalf;
  - (b) an investigation by the appropriate authority under the supervision of the IPCC;
  - (c) an investigation by a police force under the supervision of the IPCC;
  - (d) an investigation by the appropriate authority under the management of the IPCC;
  - (e) an investigation by a police force under the management of the IPCC;
  - (f) an investigation by the IPCC.
- (5) An investigation under this regulation relating to any conduct of the Commissioners may only be carried out in the form specified in paragraph (4)(c), (4)(e) or (4)(f).
- (6) The IPCC may at any time make a further determination under this regulation to replace an earlier one.
- (7) Where a determination under this regulation replaces an earlier determination under this regulation, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the IPCC may give—
- (a) the appropriate authority, and
  - (b) any person previously appointed to carry out the investigation,
- such directions as it considers appropriate for the purpose of giving effect to the new determination.
- (8) It shall be the duty of a person to whom a direction is given under paragraph (7) to comply with it.
- (9) The IPCC shall notify the appropriate authority of any determination that it makes under this regulation in relation to a particular complaint or recordable conduct matter or DSI matter.

### **Appointment of persons to carry out investigations**

- 39.** No person shall be appointed to carry out an investigation under regulation 44, 45, 46 or 47—
- (a) unless that person has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
  - (b) if that person's involvement could reasonably give rise to a concern as to whether that person could act impartially under these Regulations; or

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

### **Power of the IPCC to impose requirements in relation to an investigation which it is supervising**

**40.**—(1) For the purposes of regulation 45(6) the requirements which may be imposed by the IPCC on a person appointed to investigate a complaint, recordable conduct matter or DSI matter are, subject to paragraphs (2) and (3), any reasonable requirements as to the conduct of the investigation as appear to the IPCC to be necessary.

(2) Where at any stage of an investigation of a complaint, recordable conduct matter or DSI matter the possibility of criminal proceedings arises, the IPCC shall not, under paragraph (1), impose any requirement relating to the obtaining or preservation of evidence of a criminal offence without first obtaining the consent—

- (a) in the case of an investigation carried out by an appointed person who is an officer, of the Director of Revenue and Customs Prosecutions, or
- (b) in any other case, of the Director of Public Prosecutions,

to the imposition of any such requirement.

(3) The IPCC shall not, under paragraph (1), impose any requirement relating to the resources to be made available by the appropriate authority, for the purposes of an investigation, without first consulting it and having regard to any representations it may make.

### **Combining and splitting investigations**

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

- (a) combine that investigation with another such investigation, or
- (b) split that investigation into two or more such separate investigations,

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

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

- (a) combine that investigation with another investigation, or
- (b) split that investigation into two or more separate investigations,

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

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

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

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

### **Power of the IPCC to discontinue an investigation**

**42.**—(1) If, following a determination under regulation 29 (duties of the IPCC on reference under regulation 28), 31 (duties of the IPCC on reference under regulation 30) or 35 (duties of the IPCC on reference under regulation 34), it appears at any time to the IPCC (whether on an application by the appropriate authority or otherwise) that a complaint or matter that is being investigated—



- (a) by the appropriate authority on its own behalf, or
- (b) under the supervision or management of the IPCC,

is of a description of complaint or matter specified in paragraph (5), the IPCC may by order require the discontinuance of the investigation.

(2) Where the IPCC makes an order under this regulation or discontinues an investigation being carried out in accordance with regulation 48 (investigations by the IPCC itself), it shall give notification of the discontinuance—

- (a) to the appropriate authority;
- (b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under regulation 55 (duty to provide information for other persons); and
- (c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.

(3) Where an investigation of a complaint or recordable conduct matter or DSI matter is discontinued in accordance with this regulation—

- (a) the IPCC may give the appropriate authority directions to do any such things as it is authorised to direct under paragraphs (11) and (12);
- (b) the IPCC may itself take any such steps of a description specified in regulations so made as it considers appropriate for purposes connected with the discontinuance of the investigation; and
- (c) subject to the preceding paragraphs, neither the appropriate authority nor the IPCC shall take any further action in accordance with the provisions of these Regulations in relation to that complaint or matter.

(4) The appropriate authority shall comply with any directions given to it under paragraph (3).

(5) The descriptions of complaint or matter are—

- (a) one in which the complainant refuses to co-operate to the extent that the IPCC considers that it is not reasonably practicable to continue the investigation;
- (b) one which the IPCC considers is vexatious, oppressive or otherwise an abuse of the procedures for dealing with complaints, conduct matters or DSI matters;
- (c) one which is repetitious, as defined in paragraph (6); and
- (d) one which the IPCC otherwise considers is such as to make it not reasonably practicable to proceed with the investigation.

(6) A complaint is repetitious only if—

- (a) it is substantially the same as a previous complaint (whether made by or on behalf of the same or a different complainant), or it concerns substantially the same conduct as a previous conduct matter;
- (b) it contains no fresh allegations which significantly affect the account of the conduct complained of;
- (c) no fresh evidence, being evidence which was not reasonably available at the time the previous complaint was made, is tendered in support of it; and
- (d) as respects the previous complaint or conduct matter, either—
  - (i) the requirements of regulation 67(9) or 68(11) (determination by the appropriate authority of what action to take) were complied with;
  - (ii) the IPCC gave the appropriate authority a direction under paragraph (11)(b) (requirement to dispense with the requirements of these Regulations); or

(iii) the complainant gave such notification of the withdrawal of the complaint as is mentioned in regulation 43(1)(a) (complainant withdraws the complaint).

(7) The cases in which the IPCC is authorised to discontinue an investigation that is being carried out in accordance with regulation 48 are any cases where the complaint, conduct matter or DSI matter under investigation falls within paragraph (5) of this regulation.

(8) Any application by an appropriate authority to the IPCC for an order that it discontinue an investigation shall be in writing and shall be accompanied by—

- (a) a copy of the complaint, and
- (b) a memorandum from the appropriate authority containing a summary of the investigation undertaken so far and explaining the reasons for the application to discontinue the investigation.

(9) The appropriate authority shall—

- (a) send the complainant a copy of any such application on the same day as the day on which the application is sent to the IPCC, and
- (b) supply any further information requested by the IPCC for the purpose of considering that application.

(10) The IPCC shall not require the discontinuance of an investigation in a case where there has been no application to do so by the appropriate authority unless it has consulted with that authority.

(11) A direction given to an appropriate authority by the IPCC under paragraph (3) may—

- (a) require the appropriate authority to produce an investigation report on the discontinued investigation under regulation 66 and to take any subsequent steps under these Regulations;
- (b) where the investigation concerned a complaint, require the appropriate authority to dispense with the requirements of these Regulations as respects that complaint;
- (c) direct the appropriate authority to handle the matter in whatever manner (if any) that authority thinks fit.

(12) For the purposes of this regulation the steps that may be taken by the IPCC where an investigation is discontinued are—

- (a) to produce an investigation report on the discontinued investigation and take any subsequent steps required under these Regulations;
- (b) where the investigation concerned a complaint, to dispense with the requirements of these Regulations as respects that complaint;
- (c) to handle the matter in whatever manner it thinks fit.

### **Withdrawn and discontinued complaints**

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

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

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

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

- (a) the IPCC shall send a copy of the notification to the appropriate authority;
- (b) that appropriate authority shall record the withdrawal or the fact that the complainant does not wish any further steps to be taken, as the case may be; and
- (c) subject to the following provisions of this regulation, the provisions of these Regulations shall cease to apply in respect of that complaint.

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

- (a) which was referred to the IPCC under regulation 28(1) (reference of complaints to the IPCC) and which has not been referred back to the appropriate authority under regulation 29(2);
- (b) which the appropriate authority knows is currently the subject of an appeal to the IPCC under regulation 21 (failures to notify or record a complaint), or 74 (appeals to the IPCC with respect to an investigation; or
- (c) which was notified to the appropriate authority by the IPCC under regulation 19(1) (initial handling and recording of complaints),

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

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

(5) In a case falling within sub-paragraphs (b) or (c) of paragraph (3), the appropriate authority shall also—

- (a) determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter, and
- (b) notify the IPCC of its determination and the reasons for the determination.

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

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

- (a) the appropriate authority shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter;
- (b) if the complaint is to be treated as a recordable conduct matter, the provisions of these Regulations shall apply to that matter;
- (c) if the complaint is not to be treated as a recordable conduct matter, the provisions of these Regulations shall cease to apply in respect of that complaint.

(8) In a case where—

- (a) a complaint has been subjected to an investigation by the appropriate authority on its own behalf;
- (b) the complaint is currently subject to an appeal to the IPCC under regulation 74; and
- (c) the appropriate authority has notified the IPCC under paragraph (5)(b) that it has determined that the complaint is not to be treated as a recordable conduct matter,

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

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

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

(10) Those steps are—

- (a) the appropriate authority shall write to the complainant to ascertain whether the complainant wishes to withdraw the complaint or does not wish any further steps to be taken in consequence of the complaint;
- (b) if the complainant indicates the wish to withdraw the complaint or does not wish any further steps to be taken in consequence of the complaint, or if the complainant fails to reply within 21 days from the date of the communication under sub-paragraph (a), the appropriate authority shall treat the indication as though it had been received in writing signed by the complainant;
- (c) if the complainant indicates the wish not to withdraw the complaint, or the wish that further steps be taken in consequence of the complaint, the appropriate authority shall start or resume the investigation as the case may be.

(11) The appropriate authority shall notify the person complained against if—

- (a) it records the withdrawal of a complaint or the fact that the complainant does not wish any further steps to be taken;
- (b) it determines that a complaint shall be treated as a recordable conduct matter;
- (c) the IPCC determines that a complaint shall be treated as a recordable conduct matter;
- (d) the IPCC instructs it to reverse a decision not to treat a complaint as a recordable conduct matter; or
- (e) the provisions of these Regulations cease to apply in respect of a complaint.

(12) But nothing in paragraph (11) shall require the appropriate authority to make a notification if it has previously decided under regulation 61(3) (copies of complaints etc) not to notify the person complained against of the complaint because it is of the opinion that that —

- (a) might prejudice any criminal investigation or pending proceedings, or
- (b) would be contrary to the public interest.

### **Investigations by the appropriate authority on its own behalf**

**44.**—(1) This regulation applies where the appropriate authority is required by virtue of any determination made by the IPCC under regulation 38 (power of the IPCC to determine the form of an investigation) to make arrangements for a complaint or recordable conduct matter or DSI matter to be investigated by the appropriate authority on its own behalf.

(2) It shall be the duty of the appropriate authority to appoint an officer to investigate the complaint or matter.

(3) The person to be appointed under this regulation to investigate any DSI matter in relation to which the relevant officer is the Chairman, the Chief Executive or the Permanent Secretary for Tax is the Head of the Home Civil Service.

### **Investigations supervised by the IPCC**

**45.**—(1) This regulation applies where the IPCC has determined that it should supervise the investigation by the appropriate authority of any complaint or recordable conduct matter or DSI matter.

(2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint an officer to investigate the complaint or matter.

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

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

- (a) to select another person falling within paragraph (2) to investigate the complaint or matter, and
- (b) to notify the IPCC of the person selected.

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

(6) The person appointed to investigate the complaint or matter shall comply with all the requirements of regulation 40.

### **Investigation by a police force under the management or under the supervision of the IPCC**

**46.**—(1) This regulation applies where the IPCC determines that there should be an investigation by a police force under the management or supervision of the IPCC.

(2) The IPCC shall—

- (a) identify the police force whose force area includes the geographical area to which the subject matter of the complaint, recordable conduct matter or DSI matter most closely relates, and
- (b) take steps to obtain the agreement of—
  - (i) the chief officer of police of that force, and
  - (ii) the appropriate authority,

to the appointment by the IPCC of that force to carry out the investigation.

(3) In the event that no agreement is reached under paragraph (2) the IPCC may require the chief officer of police of any police force it considers appropriate to carry out the investigation.

(4) A chief officer of police of a police force who agrees to or is required to carry out an investigation shall, if that person has not already done so, appoint a person serving with the police who is a member of that force to investigate that complaint or matter.

(5) Paragraphs (3) to (6) of regulation 45 (investigations supervised by the IPCC) shall apply as they apply to an investigation by the appropriate authority which the IPCC has determined is one that it should supervise; and the references to the appropriate authority in those paragraphs shall be treated as references to the chief officer of police concerned.

(6) An appointment of a person under paragraph (4) or (5) shall be notified by the chief of police concerned to the appropriate authority.

(7) The person appointed to investigate the complaint or matter shall, in relation to an investigation under the management of the IPCC, be under the direction and control of the IPCC.

(8) The person appointed to investigate the complaint or matter shall comply with all such requirements in relation to the carrying out of that investigation as may be imposed by these Regulations.

### **Investigations managed by the IPCC**

**47.**—(1) This regulation applies where the IPCC has determined that it should manage the investigation by the appropriate authority of any complaint or recordable conduct matter or DSI matter.

(2) Paragraphs (2) to (5) of regulation 45 shall apply as they apply in the case of an investigation which the IPCC has determined is one that it should supervise.

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

### **Investigations by the IPCC itself**

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

(2) The IPCC shall designate both—

- (a) a member of the IPCC's staff to take charge of the investigation on behalf of the IPCC, and
- (b) all such other members of the IPCC's staff as are required by the IPCC to assist that member.

(3) A member of the IPCC's staff who—

- (a) is designated under paragraph (2) in relation to any investigation, but
- (b) does not already, by virtue of section 97(8) of the Police Act 1996<sup>(11)</sup>, have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,

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

(4) A member of the IPCC's staff who is not a constable shall not, as a result of paragraph (3), be treated as being in police service for the purposes of—

- (a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992<sup>(12)</sup> (person in police service excluded from definitions of “worker” and “employee”); or
- (b) section 200 of the Employment Rights Act 1996<sup>(13)</sup> (certain provisions of that Act not to apply to persons in police service).

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

- (a) are references to any power or privilege conferred by or under any enactment (including one passed after the making of these Regulations) on a constable; and
- (b) shall have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this paragraph).

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<sup>(11)</sup> 1996 c. 16. Section 97(8) has been amended by section 134(1) of, and paragraph 86(4) of Schedule 9 to the Police Act 1997 (c. 50); and sections 102 and 138(2) of, and paragraph 7(3)(b) of Schedule 4 to, the Criminal Justice and Police Act 2001 (c. 16).

<sup>(12)</sup> 1992 c. 52.

<sup>(13)</sup> 1996 c. 18. Section 200 has been amended by section 37(2) of, and Schedule 8 to, the 2002 Act.

(6) In this regulation “United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea.

### **Relinquishing the IPCC’s supervision or management of an investigation**

**49.**—(1) This regulation applies where the IPCC —

- (a) relinquishes the management of an investigation in favour of a supervised investigation or an investigation by the appropriate authority on its own behalf, or
- (b) relinquishes the supervision of an investigation in favour of an investigation by the appropriate authority on its own behalf.

(2) The IPCC—

- (a) shall notify the appropriate authority, the complainant, any interested person within the meaning of regulation 55 (duty to provide information for other persons) and the person complained against of its decision, and the reasons for that decision; and
- (b) shall send to the appropriate authority any documentation and evidence gathered during its investigations as will assist the appropriate authority to carry out its functions under these Regulations.

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

### **Circumstances in which an investigation or other procedure may be suspended**

**50.**—(1) Subject to the provisions of this regulation, proceedings under these Regulations shall proceed without delay.

(2) In a case investigated by the IPCC or under the management of the IPCC, the IPCC may suspend any investigation or other procedure under these Regulations which would, if it were to continue, prejudice any criminal proceedings. Before referring a case to misconduct proceedings, the IPCC shall decide whether misconduct proceedings may prejudice any criminal proceedings.

(3) For any period during which the IPCC considers misconduct proceedings would prejudice any criminal proceedings, no such misconduct proceedings shall take place.

(4) Where a witness who is or may be a witness in any criminal proceedings is to be or may be asked to provide evidence in misconduct proceedings, the IPCC shall consult the relevant prosecutor (and when doing so must inform the prosecutor of the names and addresses of all such witnesses) before making a decision under paragraph (2).

(5) For the purposes of this regulation, “relevant prosecutor” means the Director of Public Prosecutions or any other person who has or is likely to have responsibility for criminal proceedings.

(6) In a case under the supervision of the IPCC or undertaken by the appropriate authority on its own behalf, the appropriate authority may, subject to paragraph (7), suspend any investigation or other procedure under these Regulations which would, if it were to continue, prejudice any criminal investigation or proceedings.

(7) The IPCC may direct that any investigation or other procedure under these Regulations which is liable to be suspended under paragraph (6) shall continue if it is of the view that it is in the public interest to make such a direction.

(8) The IPCC shall consult the appropriate authority before making such a direction.

### **Resumption of investigation after criminal proceedings**

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

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

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

(4) If the complainant indicates that the complainant does not want the investigation to start or to be resumed, or if the complainant fails to reply within 21 days of the date of the letter to the complainant by the IPCC or the appropriate authority, the IPCC or the appropriate authority, as the case may be, shall determine whether it is in the public interest for the complaint to be treated as a recordable conduct matter.

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

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

(7) The IPCC or the appropriate authority shall notify the person complained against if paragraph (5) or (6) applies.

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

### **Restrictions on proceedings pending the conclusion of an investigation**

**52.**—(1) No criminal or disciplinary proceedings shall be brought in relation to any matter which falls to be determined under these Regulations until a report on that investigation has been submitted to the IPCC or to the appropriate authority under regulation 66 (final reports on investigations: complaints, conduct matters and certain DSI matters) or 69 (final reports on investigations: other DSI matters).

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

(3) The restrictions imposed by this regulation in relation to the bringing of criminal proceedings shall not apply to the bringing of criminal proceedings by the Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions in any case in which it appears to that person that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.



## PART 7

### PROVISION OF INFORMATION

#### **Provision of information to the 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.

## **PART 8**

### **REPORTS AND RECOMMENDATIONS**

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

**66.**—(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 44 (investigation 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 45 (investigations supervised by the IPCC), 46 (investigations by a police force under the management or under the supervision of the IPCC), or 47 (investigations managed by the IPCC) shall—

- (a) submit a report on that person's investigation to the IPCC; 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 36(5) (procedure where conduct matter is revealed during investigation of a DSI matter), 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 48 (investigations by the IPCC itself) as the person in charge of an investigation by the IPCC itself shall submit a report on the investigation to the IPCC.

(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 the report as that person thinks fit.

(7) A person who has submitted a report on an investigation under this regulation on an investigation within regulation 57(1) (duty to consider submissions from the person whose conduct is in question) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.

(8) The appropriate authority may only make a request under paragraph (7) 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 (9).

(9) Those purposes are—

- (a) complying with any obligation which the authority has under the disciplinary proceedings in relation to any person whose conduct is the subject-matter of the investigation;
- (b) ensuring that any such officer (a person whose conduct is in question) receives a fair hearing at any disciplinary proceedings in respect of any such conduct of that officer.

#### **Action by the IPCC in response to an investigation report under regulation 66**

**67.**—(1) This regulation applies where—

- (a) a report on an investigation carried out under the management of the IPCC is submitted to it under paragraph (3) of regulation 66 (final report on investigations: complaints, conduct matters and certain DSI matters); or
- (b) a report on an investigation carried out by a person designated by the IPCC is submitted to it under paragraph (5) of that regulation.

(2) On receipt of the report, the IPCC—

- (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 or the Director of Revenue and Customs Prosecutions of the determination and send the Director a copy of the report; and
- (d) shall notify the appropriate authority and the persons mentioned in paragraph (7) of its determination under sub-paragraph (b) and of any action taken by it under sub-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 IPCC, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions.

(5) The Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions shall notify the IPCC 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 IPCC to notify the persons mentioned in paragraph (7) if criminal proceedings are brought against any person by the Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions in respect of any matters dealt with in a report copied to the Director under paragraph (2)(c).

(7) Those 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 55 (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 IPCC shall also notify the appropriate authority that it must—

- (a) determine—
  - (i) whether any officer (person whose conduct is in question) has a case to answer in respect of their conduct or has no case to answer, and
  - (ii) 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
- (b) determine 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 IPCC 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 should not be brought against that person, sets out its reasons for so deciding.

(10) On receipt of a memorandum under paragraph (9), the IPCC shall—

- (a) consider the memorandum and whether the appropriate authority has made the determinations under paragraph (8)(a) that the IPCC 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 71 (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 IPCC 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 55; and

- (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that regulation.
- (12) The notification required by paragraph (11) is one setting out—
  - (a) the findings of the report;
  - (b) the IPCC’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 60 shall have effect in relation to the duties imposed on the IPCC by paragraph (11) of this regulation.
- (14) Except so far as may be otherwise provided by these Regulations, the IPCC 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.
- (15) In relation to a DSI matter in respect of which a determination has been made under regulation 36(2) or (4) (procedure where conduct matter is revealed during the investigation of a 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 66**

- 68.**—(1) This regulation applies where—
- (a) a report of an investigation is submitted to the appropriate authority in accordance with regulation 66(2); or
  - (b) a copy of a report on an investigation carried out under the supervision of the IPCC is sent to the appropriate authority in accordance with regulation 66(3).
- (2) On receipt of the report or (as the case may be) of 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 or, as the case may be, the Director of Revenue and Customs 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 sub-paragraph (a) and of any action taken by it under sub-paragraph (b).
- (3) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
- (4) The second condition is that the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions.
- (5) The Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs 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).
- (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 or, as the case may be, the Director of Revenue and Customs Prosecutions in respect of any matters dealt with in a report copied to the Director under paragraph (2)(b).

- (7) Those 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 55 (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 IPCC of its determination under paragraph (2) (a).
- (9) On receipt of such a notification that the appropriate authority has determined that the conditions in paragraphs (3) and (4) are not satisfied in respect of the report, the IPCC—
- (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 or, as the case may be, the Director of Revenue and Customs Prosecutions of the IPCC's determination and 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)(b).
- (11) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—
- (a) determine—
    - (i) whether any person to whose conduct the investigation related has a case to answer in respect of their conduct or has no case to answer, and
    - (ii) 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
  - (b) determine 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 55; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that regulation.
- (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); and
  - (c) the complainant's right of appeal under regulation 74 (appeals to the IPCC with respect to an investigation).
- (14) Regulation 60 shall have effect in relation to the duties imposed on the appropriate authority by paragraph (12) of this regulation.
- (15) Except so far as may be otherwise provided by these Regulations, 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 36(2) or (4), 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**

**69.**—(1) This regulation applies on the completion of an investigation of a DSI matter in respect of which neither the IPCC nor the appropriate authority has made a determination under regulation 36(2) or (4) (procedure where conduct matter is revealed during investigation of DSI matter).

(2) The person investigating shall—

- (a) submit a report on the investigation to the IPCC; and
- (b) send a copy of that report to the appropriate authority.

(3) 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 report as that person thinks fit.

#### **Action by the IPCC in response to an investigation report under regulation 69**

**70.**—(1) On receipt of the report referred to in regulation 69, the IPCC shall determine whether the report indicates that an officer may have—

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings.

(2) If the IPCC determines under paragraph (1) that there is no indication in the report that an officer may have—

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

it shall make such recommendations or give such advice (if any) under regulation 7 as it considers necessary or desirable.

(3) Paragraph (2) does not affect any power of the IPCC to make recommendations or give advice under regulation 7 in other cases (whether arising under these Regulations or otherwise).

(4) If the IPCC determines under paragraph (1) that the report indicates that an officer may have—

- (a) committed a criminal offence; or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

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 appropriate authority has not already been sent a copy of the report, send a copy of the report to that authority.

(5) Where the appropriate authority in relation to the person whose conduct is in question is notified of a determination by the IPCC under paragraph (4), it shall record the matter under regulation 24 (recording etc. of conduct matters in other cases) as a conduct matter (and the other provisions of these Regulations shall apply in relation to that matter accordingly).

(6) Where a DSI matter is recorded under regulation 24 as a conduct matter by virtue of paragraph (5)—

- (a) the person investigating the DSI matter shall (subject to any determination made by the IPCC under regulation 38(6) (power of the IPCC to determine the form of an investigation – further determination)) 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.

### **Duties with respect to disciplinary proceedings**

**71.—(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 68(12) (action by the appropriate authority in response to an investigation report under regulation 66) of the action it is proposing to take in relation to the matters dealt with in any report of the investigation; or
- (b) has submitted, or is required to submit, a memorandum to the IPCC under regulation 67 (action by the IPCC in response to an investigation report under regulation 66) or 74 (appeals to the IPCC with respect to an investigation) setting out the action that it is proposing to take in relation to those matters.

(2) Subject to regulation 52 (restrictions on proceedings pending the conclusion of an investigation) and to any recommendations or directions under 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 IPCC may make a recommendation to the appropriate authority in respect of any person whose conduct is in question—

- (a) that the person has a case to answer in respect of their conduct or has no case to answer in relation to their conduct to which the investigation related;
- (b) that disciplinary proceedings of the form specified in the recommendation are brought against that person in respect of the conduct to which the investigation related; or
- (c) that any disciplinary proceedings brought against that person are modified so as to deal with such aspects of that conduct as may be so specified;

and it shall be the duty of the appropriate authority to notify the IPCC 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) If, after the IPCC 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 IPCC 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.

(5) A direction under paragraph (4) may, to such extent as the IPCC thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.

(6) Where the IPCC gives the appropriate authority a direction under this regulation, it shall supply the appropriate authority with a statement of its reasons for doing so.

(7) Where disciplinary 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.

(8) The IPCC may at any time withdraw a direction given under this regulation; and paragraph (7) shall not impose any obligation in relation to any time after the withdrawal of the direction.

- (9) The appropriate authority shall keep the IPCC informed—

- (a) in a case in which this regulation applies by virtue of paragraph (1)(b), 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.

### **Complaints against a person whose identity is unascertained**

**72.**—(1) Where a complaint or conduct matter relates to the conduct of a person whose identity is unascertained at the time at which the complaint is made or the conduct matter is recorded, or whose identity is not ascertained during or subsequent to, the investigation of the complaint or recordable conduct matter, these Regulations shall apply in relation to such a person as if it did not include—

- (a) any requirement for the person complained against to be given a notification or an opportunity to make representations;
- (b) any requirement for the IPCC or the appropriate authority to determine whether a criminal offence may have been committed by the person whose conduct has been the subject-matter of an investigation, or to take any action in relation to such a determination;
- (c) any requirement for an appropriate authority to determine whether disciplinary proceedings should be brought against a person whose conduct is the subject-matter of a report.

(2) Where the identity of such a person is subsequently ascertained, the IPCC and the appropriate authority shall take such action in accordance with these Regulations as they see fit, regardless of any previous action taken.

## **PART 9**

### **APPEALS**

#### **Appeals to the IPCC: failures to notify or record a complaint**

**73.**—(1) An appeal under regulation 21 (failures to notify or record a complaint) against any failure referred to in regulation 21(3) shall be made within 28 days of the date on which notification of that failure is made or sent to the complainant under regulation 21(2).

- (2) Any such appeal shall be made in writing and shall state—
  - (a) details of the complaint;
  - (b) the date on which the complaint was made;
  - (c) the name of the Head of the Home Civil Service, the Chief Executive or the Commissioner (other than the Chairman, the Chief Executive and the Permanent Secretary) who gave notification of the failure;
  - (d) the grounds for the appeal; and
  - (e) the date on which the complainant was notified of the determination or of the failure to record the complaint.
- (3) Where the IPCC receives such an appeal it shall—
  - (a) notify the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) concerned of the appeal, and
  - (b) request any information from any person which it considers necessary to dispose of the appeal.

(4) Where the IPCC receives an appeal which fails to comply with one or more of the requirements mentioned in paragraph (2), it may decide to proceed as if those requirements had been complied with.

(5) The Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) shall supply to the IPCC any information requested under paragraph (3)(b).

(6) The IPCC shall determine the outcome of the appeal as soon as practicable.

(7) The IPCC shall notify the complainant and the Head of the Home Civil Service, the Chief Executive or the Commissioners (other than the Chairman, the Chief Executive and the Permanent Secretary) concerned of the reasons for its determination.

(8) The IPCC may extend the time period mentioned in paragraph (1) in any case where it is satisfied that by reason of the special circumstances of the case it is just to do so.

### **Appeals to the IPCC with respect to an investigation**

74.—(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 IPCC.

(2) The complainant shall have the following rights of appeal to the IPCC—

- (a) a right of 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 of 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 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 68(2)(a) (action by the appropriate authority in response to an investigation report under regulation 66), as a result of which it is not required to send the Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions a copy of the report.

(3) On the bringing of an appeal under this regulation, the IPCC may require the appropriate authority to submit a memorandum to the IPCC 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 that person's conduct or has no case to answer;
- (b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take;
- (c) if the appropriate authority has decided in relation to a person to whose conduct the investigation related, that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding; and
- (d) if the appropriate authority made a determination under regulation 68(2)(a) as a result of which it is not required to send the Director of Public Prosecutions or, as the case may



be, the Director of Revenue and Customs Prosecutions, a copy of the report relating to the investigation, sets out the reasons for that determination;

and it shall be the duty of the appropriate authority to comply with any requirement under this paragraph.

(4) Where the IPCC 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 IPCC with a copy of the report of the investigation.

(5) On an appeal under this regulation, the IPCC 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; and
- (c) whether the appropriate authority—
  - (i) has made such a determination as is mentioned in paragraph (3)(a) that the IPCC 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 IPCC considers to be so appropriate; and
- (d) whether the conditions set out in regulation 68(3) and (4) are satisfied in respect of the report on the investigation.

(6) Where, on an appeal under this regulation, the IPCC determines that the complainant has not been provided with adequate information about any matter, the IPCC shall give the appropriate authority all such directions as the IPCC considers appropriate for securing that the complainant is properly informed.

(7) Nothing in paragraph (6) shall authorise the IPCC 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 regulation 60.

(8) Where, on an appeal under this regulation, the IPCC determines that the findings of the investigation need to be reconsidered, it shall either—

- (a) review those findings without an immediate further investigation; or
- (b) direct that the complaint be re-investigated.

(9) Where, on an appeal under this regulation, the IPCC determines 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 IPCC considers appropriate or 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 IPCC considers appropriate, the IPCC shall—

- (a) determine, in the light of that determination, whether or not to make recommendations under regulation 71 (duties with respect to disciplinary proceedings); and
- (b) make such recommendations (if any) under that regulation as it thinks fit.

(10) Where, on an appeal under this regulation, the IPCC determines that the conditions set out in regulation 68(3) and (4) are satisfied in respect of the report, it shall direct the appropriate authority—

- (a) to notify the Director of Public Prosecutions or, as the case may be, the Director of Revenue and Customs Prosecutions, of the IPCC's determination; and
- (b) to send the Director a copy of the report.

(11) The IPCC shall give notification of any determination 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 55 (duty to provide information for other persons); and
  - (d) except in a case where it appears to the IPCC that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (12) The IPCC shall also give notification of any directions given to the appropriate authority under this regulation—
- (a) to the complainant;
  - (b) to every person entitled to be kept properly informed in relation to the complaint under regulation 55; and
  - (c) except in a case where it appears to the IPCC that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (13) It shall be the duty of the appropriate authority to comply with any directions given to it under this regulation.
- (14) Any appeal made by a complainant under this regulation shall be made within 28 days of the date on which the appropriate authority sends a notification to the complainant of its determination under regulation 68(12) as to what action (if any) it will take in respect of the matters dealt with in the investigation report.
- (15) Any such appeal shall be in writing and shall state—
- (a) details of the complaint;
  - (b) the date on which the complaint was made;
  - (c) the grounds for the appeal; and
  - (d) the date on which the complainant received notification under regulation 68(12).
- (16) Where the IPCC receives such an appeal, it shall request any information from any person which it considers necessary to dispose of the appeal.
- (17) Where the IPCC receives an appeal which fails to comply with one or more of the requirements mentioned in paragraph (15), it may decide to proceed as if those requirements had been complied with.
- (18) The appropriate authority shall supply to the IPCC any further information requested of it under paragraph (16).
- (19) The IPCC shall determine the outcome of the appeal as soon as practicable.
- (20) The IPCC shall notify the complainant and the appropriate authority of the reasons for its determination.
- (21) The IPCC may extend the time period mentioned in paragraph (14) in any case where it is satisfied that by reason of the special circumstances of the case it is just to do so.

### **Reviews and re-investigations following an appeal**

**75.—**(1) On a review under regulation 74(8)(a) (appeals to the IPCC with respect to an investigation) of the findings of an investigation, the powers of the IPCC 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 IPCC thinks 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 IPCC directs under regulation 74 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 (8) of regulation 38 (power of the IPCC 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 provisions of these Regulations shall apply in relation to any re-investigation in pursuance of a direction under regulation 74(9) or paragraph (1) as they apply in relation to any investigation in pursuance of a determination under regulation 38.
- (5) The IPCC 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 55 (duty to provide information for other persons); and
  - (d) except in a case where it appears to the IPCC that to do so might prejudice any proposed re-investigation of the complaint, to the person complained against.
- (6) The IPCC shall also give notification of any directions given to the appropriate authority under this regulation—
- (a) to the complainant;
  - (b) to every person entitled to be kept properly informed in relation to the complaint under regulation 55; and
  - (c) except in a case where it appears to the IPCC that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

14th July 2010

*Michael Fabricant*  
*James Duddridge*  
Two of the Lords Commissioners of Her  
Majesty's Treasury

*Status: This is the original version (as it was originally made). This item of legislation is currently only available in its original format.*

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## EXPLANATORY NOTE

*(This note is not part of the Regulations)*

These Regulations restate, with certain amendments, the effect of the Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311) as amended by the Revenue and Customs (Complaints and Misconduct) (Amendment) Regulations 2006 (S.I. 2006/1748).

The effect of these Regulations is to restate the legislation relating to the handling of complaints and misconduct insofar as that legislation is modified to confer functions on the Independent Police Complaints Commission (“IPCC”) in relation to Her Majesty’s Revenue and Customs (“HMRC”).

The relevant legislation is-

The Police Reform Act 2002 (2002 c. 30) (as amended).

The Police (Complaints and Misconduct) Regulations 2004 (S.I. 2004/643) (as amended).

The Independent Police Complaints Commission (Investigatory Powers) Order 2004 (S.I. 2004/815) (as amended).

The Independent Police Complaints Commission (Staff Conduct) Regulations 2004 (S.I. 2004/660) (as amended).

These Regulations consolidate and arrange the substance of the previous legislation as follows-  
Part 1 General.

Part 2 Complaints & Misconduct.

Part 3 Handling of Complaints & Conduct matters etc.

Part 4 Referral of matters to the IPCC.

Part 5 Handling Death and Serious Injury (DSI).

Part 6 Investigations.

Part 7 Provision of Information.

Part 8 Reports & Recommendations.

Part 9 Appeals.

These Regulations have been updated to include the amendments made to Schedule 3 to the Police Reform Act 2002 by Schedule 23 to the Criminal Justice and Immigration Act 2008 (c. 4) and the Serious Organised Crime and Police Act 2005 (c. 15). In addition to minor amendments made for greater clarity and for consistency, the Regulations make the following changes of substance.

The definitions of two new posts, “the Chief Executive” and “the Permanent Secretary for Tax” are inserted in regulation 3 (interpretation). This is to take account of the revised structuring of the organisation of HMRC which in turn has led to a revision in the structure of the appropriate authority in relation to HMRC complaints and misconduct matters. This re-structuring is reflected in the body of the Regulations. Where a reference to “the Commissioners” is not a reference to them acting in their capacity as the appropriate authority, that expression is defined to include the posts of the Chairman, the Chief Executive and the Permanent Secretary for Tax.

For the purposes of these Regulations, “relevant offence” has been defined in regulation 3.

In regulation 24 (recording etc of conduct matters in other cases) the definition of a conduct matter has been amended for clarity and now refers to a “relevant offence”. The regulation provides a clearer outline of what amounts to discriminatory behaviour.

In regulation 27 (recording and reference of conduct matters) the timescales for referral to the IPCC have been included.

Paragraph (4) of regulation 54 (duty to keep the complainant informed) sets out the duty of the IPCC to inform the complainant of the outcome of disciplinary proceedings.

Regulation 55 (duty to provide information for other persons) is limited to matters which are subject to investigation under the scrutiny of the IPCC.

Regulation 56 (written notices), 57 (duty to consider submissions from the person whose conduct is in question) and 58 (duty to provide certain information to appropriate authority) have been inserted following amendments made by Schedule 23 to the Criminal Justice and Immigration Act 2008, but restricted to matters referable to the IPCC.

Regulation 68 (action by appropriate authority in response to an investigation report under regulation 66 (final reports on investigations: complaints, conduct matters and certain DSI matters)) gives effect to Schedule 23 to the Criminal Justice and Immigration Act 2008 which amends Schedule 3 to the Police Reform Act 2002. The amendments set out the action the appropriate authority must or may take following the outcome of an investigation and its determination on whether there is a case to answer.

Regulation 74(2)(e) gives a complainant a right of appeal to the IPCC against a determination made by the appropriate authority under regulation 68(2)(a).

A full Impact Assessment has not been produced for this instrument as no impact on the private or voluntary sectors is foreseen.