
STATUTORY INSTRUMENTS

2009 No. 2133

**The UK Border Agency (Complaints
and Misconduct) Regulations 2009**

PART 6

PROVISION OF INFORMATION

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

55.—(1) Subject to paragraph (2), the duties mentioned in regulation 49(1) and (2) (duty to keep the complainant informed) and regulation 50(7) and (8) (duty to provide information for other persons) shall not apply in circumstances where in the opinion of the IPCC, or, as the case may be, of the relevant appropriate authority, the non-disclosure of information is necessary for the purpose of—

- (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
- (b) preventing the disclosure of information in any circumstances in which its non-disclosure—
 - (i) is in the interests of national security;
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - (iii) is required on proportionality grounds; or
 - (iv) is otherwise necessary in the public interest.

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

- (a) there is a real risk of the disclosure of that information causing an adverse effect; and
- (b) that adverse effect would be significant.

(3) The IPCC shall consult the relevant appropriate authority in any case under paragraph (1)(b) before deciding whether or not it is satisfied under paragraph (2).

(4) Notwithstanding paragraph (1), the IPCC, or as the case may be, the relevant appropriate authority shall consider whether the non-disclosure of information is justified under this regulation 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.