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## STATUTORY INSTRUMENTS

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### 2012 No. 62

## The Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2012

### PART 5

#### Provision and recording of information

##### Address for receipt of complaints

**30.**—(1) A police and crime panel shall notify the elected local policing body for the panel's police area of the name and address of the person to whom complaints should be directed.

(2) The elected local policing body shall publish the information notified to it under paragraph (1) by such means as the police and crime panel shall specify.

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##### Commencement Information

**I1** Reg. 30 in force at 16.1.2012, see [reg. 1](#)

##### Copies of complaints etc

**31.**—(1) Where a complaint is recorded under regulation 9(5), the police and crime panel shall—

- (a) supply to the complainant a copy of the record made of the 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) A police and crime panel may decide not to supply 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 a police and crime panel decides not to supply a copy of a complaint, it shall keep that decision under regular review.

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##### Commencement Information

**I2** Reg. 31 in force at 16.1.2012, see [reg. 1](#)

##### Duty to keep complainant and any interested person informed

**32.**—(1) This regulation applies—

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- (a) in the case of a complaint which is being or has been investigated in accordance with these Regulations, to—
    - (i) the complainant; and
    - (ii) any interested person; and
  - (b) in the case of a conduct matter which is being or has been investigated in accordance with these Regulations, to any interested person.
- (2) For the purposes of these Regulations a person is an interested person in relation to a complaint or conduct matter if—
- (a) the Commission considers that he has an interest in the handling of the complaint or conduct matter which is sufficient to make it appropriate for information to be provided to him in accordance with this regulation, and
  - (b) he has indicated that he consents to the provision of information to him in accordance with this regulation.
- (3) It shall be the duty of the Commission to provide a person to whom this regulation applies with all such information as will keep him properly informed, while the investigation is being carried out and subsequently, of all the matters mentioned in paragraph (4), and the Commission shall perform this duty in accordance with paragraphs (5) to (10).
- (4) The matters of which a person to whom this regulation applies 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 25 (final reports on investigations).
- (5) The Commission shall notify a person to whom this regulation applies of—
- (a) the progress of the investigation promptly and in any event—
    - (i) if there has been no previous notification, within four weeks of the start of the investigation; and
    - (ii) in any other case, within four weeks of the previous notification;
  - (b) any provisional findings of the person carrying out the investigation as frequently as the Commission determines to be appropriate in order for the person to be kept properly informed.
- (6) When an investigation has been completed, each person to whom this regulation applies shall be notified—
- (a) of the date on which the report under regulation 25 is likely to be submitted;
  - (b) of the date on which the notification under regulation 26(2)(c) (action in response to an investigation report) is likely to be given.
- (7) In performing the duties imposed by paragraph (3) and by regulation 26(2)(c), the Commission shall determine whether it is appropriate to offer, or to accede to a request for, a meeting with a person to whom this regulation applies.
- (8) As soon as practicable after any such meeting the Commission shall send to the person concerned a written record of the meeting and an account of how any concerns of that person will be addressed.
- (9) If the Commission considers that an investigation has made minimal or no progress since the previous notification, then the next notification may be made by any means that in the opinion of the Commission is suitable.

(10) Any notification under this regulation shall be given in writing, except in a case where the Commission gives the notification at a meeting held in consequence of a determination under paragraph (7), or where the Commission gives the notification by means other than writing in accordance with paragraph (9).

#### Commencement Information

**I3** Reg. 32 in force at 16.1.2012, see [reg. 1](#)

### Exceptions to the duty to keep the complainant and any interested person informed

**33.**—(1) Subject to paragraph (2), the duties mentioned in regulations 26(2)(c) and 32(3) shall not apply in circumstances where in the opinion of the Commission the non-disclosure of information is necessary for the purpose of—

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

(2) The Commission shall not conclude that the non-disclosure of information is necessary under paragraph (1) unless it is satisfied that—

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

(3) Without prejudice to the generality of paragraph (1), the Commission shall consider whether the non-disclosure of information is justified under that paragraph in circumstances where—

- (a) the disclosure of that information may prejudice the welfare or safety of any third party;
- (b) the information constitutes criminal intelligence.

#### Commencement Information

**I4** Reg. 33 in force at 16.1.2012, see [reg. 1](#)

### Keeping of records by police and crime panels

**34.** Every police and crime panel shall keep records, in such form as the Commission shall determine, of—

- (a) every complaint and purported complaint that is made to it;
- (b) every conduct matter recorded by it under regulation 11 or 12;
- (c) every exercise of a power or performance of a duty under these Regulations.

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#### Commencement Information

**15** Reg. 34 in force at 16.1.2012, see [reg. 1](#)

#### Provision of information to the Commission

**35.**—(1) It shall be the duty of every police and crime panel, every relevant office holder and every chief officer of police—

- (a) to provide the Commission with all such information and documents specified or described in a notification given by the Commission to that panel, office holder or chief officer, and
- (b) to produce or deliver up to the Commission all such evidence and other things so specified or described,

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

(2) Anything falling to be provided, produced or delivered up by any person in pursuance of a requirement imposed under paragraph (1) must be provided, produced or delivered up in such form, in such manner and within such period as may be specified in—

- (a) the notification imposing the requirement; or
- (b) any subsequent notification given by the Commission to that person for the purposes of this paragraph.

(3) Nothing in this regulation shall require a person—

- (a) to provide the Commission with any information or document, or to produce or deliver up any other thing, before the earliest time at which it is practicable for the person to do so; or
- (b) to provide, produce or deliver up anything in a case in which it never becomes practicable for the person to do so.

(4) A requirement imposed by any notification under this regulation may authorise or require information or documents to which it relates to be provided to the Commission electronically.

#### Commencement Information

**16** Reg. 35 in force at 16.1.2012, see [reg. 1](#)

#### Access to premises on behalf of the Commission

**36.**—(1) Where—

- (a) the Commission requires—
  - (i) a police and crime panel,
  - (ii) a relevant office holder, or
  - (iii) a chief officer of police

to allow a person nominated for the purpose by the Commission to have access to any premises occupied for the purposes of the functions of that panel, office holder or chief officer 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 panel, the office holder or, as the case may be, the chief officer to secure that the required access is allowed to the nominated person.

- (2) Those purposes are—
- (a) the purposes of any examination by the Commission of the efficiency and effectiveness of the arrangements made in accordance with these Regulations for handling complaints or dealing with conduct matters;
  - (b) the purposes of any investigation carried out by the Commission or under its management in accordance with these Regulations.
- (3) A requirement imposed under this regulation for the purposes mentioned in paragraph (2) (a) must be notified to the police and crime panel, relevant office holder or chief officer of police 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 he 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 20 (investigations by the Commission itself), or
    - (ii) any person who otherwise acts on behalf of the Commission, in his capacity as a constable or as a person with the powers and privileges of a constable; or
  - (b) the obligations on police and crime panels, relevant office holders and chief officers of police under regulation 6 (general duties of police and crime panels, relevant office holders and chief officers of police) and 35 (provision of information to the Commission).

**Commencement Information**

**17** Reg. 36 in force at 16.1.2012, see [reg. 1](#)

**Manner and time limits of notifications**

**37.** Regulation 27 of the 2004 Regulations shall apply in relation to notifications to be given under these Regulations, modified so that it has effect as follows—

**“Manner and time limits of notifications**

**27.—(1)** Any notification to be given under the Elected Local Policing Bodies (Complaints and Misconduct) Regulations 2011 shall, unless otherwise specified in those Regulations, be given in writing.

**(2)** No time limit mentioned in those Regulations shall apply in any case where exceptional circumstances prevent that time limit being complied with.”.

**Commencement Information**

**18** Reg. 37 in force at 16.1.2012, see [reg. 1](#)

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### Register to be kept by the Commission

**38.**—(1) The Commission shall establish and maintain a register of all information supplied to it by a police and crime panel or relevant office holder under these Regulations.

(2) Subject to paragraph (3), the Commission 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) improving the handling of complaints and conduct matters, or demonstrating the thoroughness and effectiveness of investigations by or under the management of the Commission;
- (b) raising public awareness of the system by which complaints and conduct matters are handled; or
- (c) improving that system.

(3) Information may not be published or disclosed in circumstances where in the opinion of the Commission the non-disclosure of information is necessary for the purposes mentioned in regulation 33(1)(a) and (b).

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#### Commencement Information

**19** Reg. 38 in force at 16.1.2012, see [reg. 1](#)

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**Changes and effects yet to be applied to :**

- Regulations applied (with modifications) by [S.I. 2017/863 art. 28Sch. 1](#)
- Regulations applied (with modifications) by [S.I. 2021/112 art. 35\(1\)\(2\)Sch. 5 para. 52](#)
- Regulations words substituted by [S.I. 2017/1250 reg. 21\(2\)\(a\)](#)
- Regulations words substituted by [S.I. 2017/1250 reg. 21\(2\)\(b\)](#)
- Regulations words substituted by [S.I. 2017/1250 reg. 21\(2\)\(c\)](#)
- Regulations words substituted by [S.I. 2017/1250 reg. 21\(2\)\(d\)](#)

**Changes and effects yet to be applied to the whole Instrument associated Parts and Chapters:**

Whole provisions yet to be inserted into this Instrument (including any effects on those provisions):

- reg. 3(4A) inserted by [S.I. 2017/1250 reg. 21\(5\)\(a\)](#)
- reg. 3A3B inserted by [S.I. 2017/1250 reg. 21\(6\)](#)
- reg. 20(2)(2A) substituted for reg. 20(2) by [S.I. 2017/1250 reg. 21\(10\)\(b\)](#)