

2004 No.

POLICE, ENGLAND AND WALES

**The Independent Police Complaints Commission (Staff Conduct)
Regulations 2004**

Made 2004

Laid before Parliament 2004

Coming into force 1st April 2004

The Secretary of State, in exercise of the powers conferred on him by sections 27 and 105(4) and (5) of the Police Reform Act 2002(a), and having consulted, in accordance with sections 24 and 27(4) of that Act, the Independent Police Complaints Commission, persons whom he considers to represent the interests of police authorities, persons whom he considers to represent the interests of chief officers of police and such other persons as he thinks fit, hereby makes the following Regulations:

Citation, commencement and interpretation

1. –(1) These Regulations may be cited as the Independent Police Complaints Commission (Staff Conduct) Regulations 2004 and shall come into force on 1st April 2004.

(2) In these Regulations, “the Commission” means the Independent Police Complaints Commission.

Conduct of the Commission’s staff

2. –(1) Where an allegation of misconduct is made against a member of the Commission’s staff and that allegation takes the form of a complaint to which paragraph (3) applies, the Commission shall take the steps set out in regulation 3.

(2) Where any other allegation of misconduct is made against a member of the Commission’s staff or there is otherwise an indication that there may have been misconduct by a member of the Commission’s staff, the Commission shall take such action in relation to that allegation or indication as it thinks appropriate.

(3) This paragraph applies to any complaint which-

(a) either-

(i) has been made by or on behalf of a member of the public or a person serving with the police who has been adversely directly affected by the conduct complained of; or

(ii) has been made by a member of the Commission or a member of the Commission’s staff and in the view of the Commission should be recorded and dealt with as is mentioned in regulation 3;

(b) concerns the conduct of a member of the Commission’s staff in his capacity as such; and

(c) is in writing.

(4) For the purposes of paragraph (3)(a)(i), a person is not directly affected by conduct by reason only of the fact that he witnessed it.

Action to be taken in relation to a recordable complaint

3. –(1) Where the Commission receives a complaint to which regulation 2(3) applies, it shall-

(a) 2002 c. 30.

- (a) cause a record to be made of the complaint;
 - (b) determine whether the complaint is a serious complaint; and
 - (c) notify the complainant and the person complained about of the recording of the complaint and that determination.
- (2) Nothing in this regulation shall require the Commission to notify a person of any matter if it is of the opinion that to do so-
- (a) would prejudice the investigation of that complaint, or
 - (b) would be contrary to the public interest.
- (3) For the purposes of paragraph (1)(b), a complaint is a serious complaint if it would, if proved, be likely to result in the person involved being dismissed or required to resign.

Complaints other than serious complaints

- 4.** –(1) Subject to regulation 5(1), if the Commission determines that a complaint is not a serious complaint, it shall deal with it in accordance with its internal procedures.
- (2) For the avoidance of doubt, action taken under paragraph (1) can include the dismissal of any person or a requirement to resign.

Serious complaints

- 5.** –(1) If the Commission determines that a complaint is a serious complaint, or if it determines that a complaint is not a serious complaint but it concerns the conduct of the Commission’s chief executive, it shall appoint a person (who may be a member of the Commission’s staff) to investigate the complaint.
- (2) The Commission may suspend any member of staff against whom a serious complaint has been made if it is of the opinion that it is necessary to do so-
- (a) for the efficient carrying out of the Commission’s functions, or
 - (b) in the public interest.
- (3) A person appointed under paragraph (1) shall make a written report of the findings of the investigation and send it to the Commission.
- (4) The Commission shall determine whether to take any disciplinary or other action as a result of those findings and, if so, to proceed with such action to a proper conclusion.
- (5) Unless the Commission is of the opinion that it would be contrary to the public interest, the complainant shall be notified of the progress and findings of the investigation and of any disciplinary action taken as a result of those findings.

Dispensation from requirement to handle a complaint

- 6.** –(1) If, in relation to a complaint about a member of its staff, the Commission is of the opinion that-
- (a) more than 12 months have elapsed between the incident, or the latest incident, giving rise to the complaint and the making of the complaint and either that no good reason for the delay has been shown or that injustice would be likely to be caused by the delay;
 - (b) the complaint concerns a matter which is already the subject of a complaint;
 - (c) the complaint does not disclose the name and address of the complainant and it is not reasonably practicable to ascertain such a name or address;
 - (d) the complaint is vexatious, oppressive or is otherwise an abuse of the procedures for dealing with complaints;
 - (e) the complaint is repetitious; or
 - (f) it is not reasonably practicable to complete a satisfactory investigation of the complaint;
- then the Commission may dispense with the requirements of regulations 3(1)(b), 4 and 5 in relation to the complaint.
- (2) For the purposes of paragraph (1)(e) a complaint is repetitious if, and 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);
 - (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, either-
 - (i) the requirements of regulation 4 or 5 were complied with;
 - (ii) the complainant withdrew the complaint; or
 - (iii) the Commission dispensed with the requirement to handle the complaint.

(3) For the purposes of paragraph (1)(f) it is not reasonably practicable to complete a satisfactory investigation of a complaint if, and only if,

- (a) it is not reasonably practicable to communicate with the complainant or a person acting on his behalf; or
- (b) it is not reasonably practicable to complete a satisfactory investigation in consequence of-
 - (i) a refusal or failure, on the part of the complainant, to make a statement or afford other reasonable assistance for the purposes of the investigation; or
 - (ii) the lapse of time since the event or events forming the subject matter of the complaint.

(4) In this regulation any reference to action not being reasonably practicable shall include a reference to action which it does not appear reasonably practicable to take within a period which is reasonable in all the circumstances of the case.

(5) Unless the Commission is of the opinion that it would be contrary to the public interest, it shall notify the complainant and the person complained about of any decision under paragraph (1) to dispense with any procedures in relation to a complaint.

Withdrawn complaints

7. If the Commission receives notification from a complainant that-

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

then it may dispense with the requirements of regulations 3(1)(b), 4 and 5 in relation to the complaint.

Postponement

8. Where a complaint about the conduct of a member of the Commission's staff is made by a person who is himself under investigation by the Commission, then the Commission may postpone any action in relation to that complaint until the conclusion of the investigation.

Keeping of records

9. The Commission shall cause a record to be kept of-

- (a) any action taken in response to a complaint recorded under regulation 3(1)(a); and
- (b) any decision under regulation 6 or 7 to dispense with the requirements to handle a complaint.

Home Office
2004

Minister of State

EXPLANATORY NOTE

(This note is not part of the Regulations)

These Regulations are made under the Police Reform Act 2002 and set out procedures under which allegations of misconduct made against members of staff of the Independent Police Complaints Commission are dealt with. If a written complaint about a member of staff's conduct is made by a person who was directly affected by the conduct in question, then the Commission will record the matter and appoint a person to resolve or investigate it. The Commission may also record complaints made by other members of its staff.

In the case of complaint which is not a serious complaint, the Commission will deal with the matter according to its own internal procedures. In the case of a serious complaint, the Commission may appoint any person (whether or not a member of the Commission's staff) to investigate. Provision is made for the dispensation from the requirement to resolve or investigate complaints, for the postponement of action when the complaint is made by a person who is himself being investigated by the Commission, and for the keeping of records.