STATUTORY INSTRUMENTS

2017 No. 521

EMPLOYMENT, ENGLAND AND WALES

The Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017

Made - - - -	*3rd April 2017*
Laid before Parliament	*6th April 2017*
Coming into force - -	*30th April 2017*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 26D(1), (2) and (6) and 105(4) and (5) of the Police Reform Act 2002(**1**).

In accordance with section 24 of that Act(**2**), the Secretary of State has consulted with the Independent Police Complaints Commission, such persons as appear to her to represent the views of police and crime commissioners, the Mayor's Office for Policing and Crime, the Common Council, the National Police Chiefs' Council and such other persons as she thinks fit.

In accordance with section 63(3)(b) of the Police Act 1996(**3**), the Secretary of State has supplied a draft of these Regulations to the Police Advisory Board of England and Wales and has taken into account its representations before making these Regulations.

PART 1

INTRODUCTORY

Citation and commencement

1. These Regulations may be cited as the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017 and come into force on 30th April 2017.

Interpretation

2. In these Regulations—

(**1**) 2002 c. 30. Section 26D was inserted by paragraph 12 of Schedule 3 to the Immigration Act 2016 (c. 19).
(**2**) Section 24 was amended by paragraph 12 of Schedule 4 to the Police and Justice Act 2006 (c. 48), paragraph 289 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and paragraphs 6 and 7 of Schedule 14 to the Policing and Crime Act 2017 (c. 3).
(**3**) 1996 c. 16. Section 63(3)(b) was substituted by paragraphs 68 and 78 of Schedule 4 to the Serious Organised Crime Act 2005 (c. 15); there have been further amendments to section 63 that are not relevant for these purposes.

"the 2002 Act" means the Police Reform Act 2002;

"the Authority" means the Gangmasters and Labour Abuse Authority;

"the Authority's standards" means the standards in accordance with which a LAPO is required to comply under the Authority's conduct and performance policies;

"bank holiday" means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**4**) in England and Wales;

"the Chief Executive" means the chief executive of the Authority, appointed in accordance with regulations made under section 1(5) of the Gangmasters (Licensing) Act 2004(**5**);

"the Commission" means the Independent Police Complaints Commission;

"complainant" is to be construed in accordance with regulation 8(2);

"complaint" has the meaning given by regulation 8(1);

"conduct" includes acts, omissions, statements and decisions (whether actual, alleged or inferred);

"conduct matter" has the meaning given by regulation 8(5);

"death or serious injury matter" (or "DSI matter" for short) has the meaning given by regulation 8(6);

"disciplinary proceedings", in relation to a LAPO, means any proceedings or management process in accordance with which the conduct of the LAPO is considered in order to determine whether it is misconduct or gross misconduct and if so whether, as a result, any action is to be taken in relation to it;

"gross misconduct" means a breach of the Authority's standards so serious that it warrants dismissal;

"labour abuse prevention officer" (or "LAPO" for short) has the meaning given by section 114B of the Police and Criminal Evidence Act 1984(**6**);

"LAPO friend" means a person chosen in accordance with regulation 57;

"local resolution", in relation to a complaint, means the handling of that complaint in accordance with a procedure which—

(a) does not involve a formal investigation; and

(b) is laid down in regulation 26 for complaints which it has been decided, in accordance with regulation 23, to subject to local resolution;

"misconduct" means a breach of the Authority's standards;

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

"recordable conduct matter" means a conduct matter that is required to be recorded by the Chief Executive under regulation 28 or 29 or has been so recorded;

"relevant offence" means—

(a) an offence for which the sentence is fixed by law; or

(**4**) 1971 c. 80.
(**5**) 2004 c. 11.
(**6**) 1984 c. 60. Section 114B was inserted by section 12(1) of the Immigration Act 2016.

(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 might be so sentenced but for the restrictions imposed by section 33 of the Magistrates' Courts Act 1980(**7**));

"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;

"serving with the police", in relation to a person, is to be construed in accordance with section 12(7) of the 2002 Act(**8**);

"trade union" has the same meaning as in section 1 of the Trade Union and Labour Relations (Consolidation) Act 1992(**9**);

"unsatisfactory performance proceedings", in relation to a LAPO, means any proceedings or management process in accordance with which the performance of the LAPO is considered in order to determine whether it is unsatisfactory or whether, as a result, any action is to be taken in relation to it;

"working day" means any day other than a Saturday or Sunday or a day which is a bank holiday or public holiday in England and Wales.

Transitional provision

3.—(1) Regulation 48 applies with the following modifications until each of section 57(4), Chapter 1 of Part 2 and Chapter 1 of Part 6 of the Investigatory Powers Act 2016(**10**) are in force.

(2) Regulation 48(2)(b) applies as if for "protected information relating to a relevant warrant" there were substituted "intercept information".

(3) Regulation 48(4) applies as if—

(a) after the definition of "intelligence service" there were inserted—

> ""intercept information" means information relating to any of the matters mentioned in section 19(3) of the Regulation of Investigatory Powers Act 2000(**11**);"";

(b) the definitions of "protected information" and "relevant warrant" were omitted;

(c) in the definition of "relevant authority", for paragraph (e) there were substituted—

> "(e) in the case of intercept information, the person to whom the relevant interception warrant is or was addressed"; and

(d) at the end there were inserted—

> ""relevant interception warrant" means the interception warrant issued under section 5 of the Regulation of Investigatory Powers Act 2000 that relates to the intercept information.".

(**7**) 1980 c. 43. Section 33 has been amended by section 17 of, and Part II of Schedule 4 to, the Criminal Justice Act 1991 (c. 53), section 2 of the Aggravated Vehicle-Taking Act 1992 (c. 11), paragraph 65 of Schedule 9 to the Powers of Criminal Courts (Sentencing) Act 2000 (c. 6) and paragraphs 25 and 27 of Schedule 32 to the Criminal Justice Act 2003 (c. 44).
(**8**) Section 12(7) has been amended by paragraphs 277 and 280 of Schedule 16 to the Police Reform and Social Responsibility Act 2011. Section 12(8)-(10) was inserted by section 135 of the Anti-social Behaviour, Crime and Policing Act 2014 (c. 12).
(**9**) 1992 c. 52.
(**10**) 2016 c. 25.
(**11**) 2000 c. 23.

PART 2

COMPLAINTS AND MISCONDUCT

Application: general

4. These Regulations confer functions on the Commission in relation to the exercise of functions by officers of the Authority in their capacity as LAPOs.

Application of the 2002 Act etc.

5.—(1) The following provisions of, or made under, the 2002 Act apply in relation to the exercise of functions by officers of the Authority in their capacity as LAPOs with the modifications set out in paragraphs (2) to (4) below:

(a) section 9 (the Independent Police Complaints Commission);

(b) section 19 (use of investigatory powers by or on behalf of the Commission);

(c) section 22(**12**) (power of the Commission to issue guidance);

(d) section 24 (consultation on regulations);

(e) any regulations made under section 27 (conduct of the Commission's staff); and

(f) any regulations made under Schedule 2 (the Independent Police Complaints Commission).

(2) Section 22 of the 2002 Act applies as if—

(a) for subsection (1) there were substituted—

"(1) The Commission may issue guidance—

(a) to the Chief Executive; and

(b) to officers of the Authority who have been authorised by the Secretary of the State for the purposes of section 114B of the Police and Criminal Evidence Act 1984,

concerning the exercise or performance, by the persons to whom the guidance is issued, of any of the powers or duties specified in subsection (2).";

(b) in subsection (2)(b)(iii) for "persons serving with the police" there were substituted "labour abuse prevention officers";

(c) for subsection (3) there were substituted—

"(3) Before issuing any guidance under this section, the Commission must consult with—

(a) the Chief Executive; and

(b) such other persons as it thinks fit.";

(d) in subsection (5)(b) for "the appropriate authority" there were substituted "the Chief Executive"; and

(e) in subsection (5)(f) for "paragraph 23 or 25 of Schedule 3" there were substituted "regulations 69 and 73 of the Gangmasters and Labour Abuse Authority (Complaints and Misconduct) Regulations 2017".

(3) Section 24 of the 2002 Act applies as if for paragraphs (b) to (d)(**13**) there were substituted—

(**12**) There are amendments to section 22 not relevant to these Regulations.

(**13**) Paragraphs (b) to (c) were first substituted by paragraph 12 of Schedule 4 to the Police and Justice Act 2006 (c. 48). Paragraph (b), as substituted, was then substituted by paragraphs 277 and 289 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 (c. 13).

"(b) the Authority; and

(c) such other persons as the Secretary of State thinks fit.".

(4) Where a provision listed in paragraph (1) (as modified by paragraphs (2) and (3)) contains a term that is defined in regulation 2 of these Regulations, the definition given in regulation 2 (rather than any definition contained in a provision of, or another provision made under, the 2002 Act) applies for the purposes of the application of the relevant provision in relation to the exercise of functions by officers of the Authority in their capacity as LAPOs.

General functions of the Commission under these Regulations

6.—(1) The Commission must—

(a) secure the maintenance by the Commission itself, and by the Chief Executive, of suitable arrangements with respect to the matters mentioned in paragraph (2);

(b) keep under review all arrangements maintained with respect to those matters;

(c) secure that arrangements maintained with respect to those matters—

(i) comply with the requirements of the provisions of these Regulations;

(ii) are efficient and effective; and

(iii) contain and manifest an appropriate degree of independence;

(d) 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; and

(e) make such recommendations, and give such advice, for the modification of the arrangements maintained with respect to those matters as appear, from the carrying out by the Commission of its other functions, to be necessary or desirable.

(2) Those matters are—

(a) the handling of complaints made about the conduct of a LAPO;

(b) the recording of matters from which it appears that there may have been conduct by a LAPO which constitutes or involves the commission of a criminal offence or behaviour justifying disciplinary proceedings;

(c) the recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with a LAPO; and

(d) the manner in which any such complaints or any such matters as are mentioned in paragraph (b) or (c) are investigated or otherwise handled and dealt with.

(3) The Commission must—

(a) 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) secure that arrangements exist which are conducive to, and facilitate, the reporting of misconduct by LAPOs.

(4) Subject to the other provisions of these Regulations, the Commission may do anything which appears to it to be calculated to facilitate, or is incidental or conducive to, the carrying out of its functions under these Regulations.

(5) The Commission 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 functions under paragraph (1)(c), (d) or (e), impose any such charge on that person for anything done by the Commission for the purposes of, or in connection with, the carrying out of its function as it thinks fit.