STATUTORY INSTRUMENTS

2015 No. 431

POLICE, ENGLAND AND WALES

The Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015

Made - - - -	*26th February 2015*
Laid before Parliament	*3rd March 2015*
Coming into force - -	*8th April 2015*

The Secretary of State makes the following Regulations in exercise of the powers conferred by sections 12(8) and (9), 23(2) and 105(4) and (5) of the Police Reform Act 2002(**1**).

In accordance with section 24 of the Police Reform Act 2002, the Secretary of State has consulted with the Independent Police Complaints Commission, such persons as appear to the Secretary of State to represent the views of police and crime commissioners, the Mayor's Office for Policing and Crime, the Common Council, the Association of Chief Police Officers and such other persons as she thinks fit.

In accordance with section 63(3)(b) of the Police Act 1996(**2**), the Secretary of State supplied a draft of these Regulations to the Police Advisory Board for England and Wales and has taken into consideration the Board's representations.

PART 1

Introductory

Citation, commencement and extent

1. These Regulations may be cited as the Independent Police Complaints Commission (Complaints and Misconduct) (Contractors) Regulations 2015 and come into force on 8th April 2015.

(**1**) 2002 c. 30. Relevant amendments were made by paragraphs 1, 9 and 10 of Schedule 12 to the Serious Organised Crime and Police Act 2005 (c. 15), paragraphs 1 and 2 of Schedule 23 to the Criminal Justice and Immigration Act 2008 (c. 4), Schedules 14 and 16 to the Police Reform and Social Responsibility Act 2011 (c. 13) and sections 1 to 3 of the Police Complaints and Conduct) Act 2012 (c. 22). Section 12(8) and (9) was inserted by section 135 of the Anti-social Behaviour, Crime and Police Act 2014 (c. 12).

(**2**) 1996 c. 16. Section 63(3)(b) was substituted by paragraphs 68 and 78 of Schedule 4 to the Serious Organised Crime and Policing Act 2005; there have been further amendments to section 63 that are not relevant for these purposes.

Interpretation

2. In these Regulations—

"1984 Act" means the Police and Criminal Evidence Act 1984(**3**);

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

"the 2014 Act" means the Anti-social Behaviour, Crime and Policing Act 2014(**4**);

"the 2012 Regulations" means the Police (Complaints and Misconduct) Regulations 2012(**5**);

"the 2013 Regulations" means the Police (Complaints and Conduct) Regulations 2013(**6**);

"appropriate authority" means the chief officer—

(a) in relation to a contractor or in relation to any complaint, conduct matter or investigation relating to the conduct of such a person; and

(b) in relation to a death or serious injury (DSI) matter if the relevant officer is a contractor;

"bank holiday" means a day which is a bank holiday under the Banking and Financial Dealings Act 1971(**7**) in England and Wales;

"Code B" means the code of practice issued under section 66(1)(c) and (d) of the 1984 Act(**8**);

"Code C" means the code of practice issued under section 66(1)(b) of the 1984 Act;

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

"complaint" has the same meaning as in regulation 8;

"conduct matter" has the same meaning as in regulation 8;

"contractor" means a person who is—

(a) a contractor in accordance with section 12(10) of the 2002 Act,

(b) a sub-contractor of a person falling within (a), or

(c) an employee of a person falling within (a) or (b);

"contractor friend" means a person chosen by the person concerned in accordance with regulation 58;

"contractor manager" means—

(a) the person who has responsibility for the management of the provision of the services to a chief officer, or

(b) the person—

(i) who has direct management responsibility for the person in relation to whom there is a complaint, conduct matter or DSI matter, and

(ii) who in the opinion of the chief officer has sufficient seniority, skills and experience to carry out this function;

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

"death or serious injury matter" or "DSI matter" has the same meaning as in regulation 8;

"disciplinary proceedings" in relation to the contractor means any proceedings or management process in accordance with which the conduct of a person is considered in order to determine

(**3**) 1984 c. 60.
(**4**) 2014 c. 12.
(**5**) S.I. 2012/1204 as amended by S.I. 2014/2406.
(**6**) S.I. 2013/281.
(**7**) 1971 c. 80.
(**8**) Section 66 was amended by section 57(1) and (4) of the Criminal Justice and Court Services Act 2000 (c. 43). There are other amendments which are not relevant to the provision made by these Regulations.

whether it is misconduct or gross misconduct and if so whether, as a result, any action is to be taken in relation to it;

"HMIC" means Her Majesty's Inspectors of Constabulary;

"investigator" means a person appointed or designated to investigate under regulations 42 to 45;

"person concerned" has the meaning in regulation 54;

"recordable conduct matter" means a conduct matter that is required to be recorded by the appropriate authority under regulation 29 or 30 or has been so recorded;

"relevant appeal body" means a body within the meaning of regulation 91(1);

"relevant offence" means—

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

(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(**9**));

"relevant officer", in relation to a DSI matter, means the contractor—

(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 person it means the one who so dealt with the person who died or suffered serious injury last before the death or serious injury occurred (but where it cannot be determined which of the employees of the contractor dealt with a person last before a death or serious injury occurred, the most senior of them);

"senior officer" means a member of a police force holding a rank above that of chief superintendent;

"trade union" has the same meaning as in sections 1 and 119 of the Trade Union and Labour Relations (Consolidation) Act 1992(**10**);

"unsatisfactory performance proceedings" means any proceedings or management process in accordance with which the performance of the contractor 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.

Saving and transitional provisions

3.—(1) Subject to paragraphs (2) and (3), regulation 35 of the 2012 Regulations is omitted.

(2) Notwithstanding the omission of regulation 35 of the 2012 Regulations—

(a) regulation 35 as in force immediately before the coming into force of these Regulations continues to have effect—

(i) to a matter in respect of which section 39(9) to (11) of the 2002 Act continues to apply;

(ii) to a matter which came to the attention of the preceding appropriate authority before 8th April 2015; and

(b) nothing in these Regulations shall apply to a matter to which sub-paragraph (a) applies.

(**9**) 1980 c. 43.
(**10**) 1992 c. 52.

(3) In this regulation, "preceding appropriate authority" is the appropriate authority for the purposes of a matter in relation to which regulation 35 of the 2012 Regulations has effect.

Application: general

4.—(1) For the purposes of Part 2 of the 2002 Act and the Regulations listed in paragraph (2) a contractor is to be treated as a person serving with the police.

(2) The Regulations are—

(a) the 2012 Regulations; and

(b) the 2013 Regulations.

(3) But in the application of Part 2 of the 2002 Act and the Regulations listed in paragraph (2) to contractors, Part 2 and those Regulations are to be modified, and therefore the provisions in Part 2 and the regulations listed in paragraph (2) specified in the first column of the table in the Schedule are to be read as having effect as set out in the provisions of these Regulations specified in the second column of the table in the Schedule opposite the respective entries.

Delegation of functions to the contractor manager

5. In relation to a contractor, the chief officer may arrange for the contractor manager to carry out the functions of the appropriate authority.

PART 2

Complaints and Misconduct

General functions of the Commission under these Regulations

6.—(1) The functions of the Commission shall be—

(a) to secure the maintenance by the Commission itself, and by local policing bodies, chief officers and contractors, 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 provisions of these Regulations, 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; and

(e) to make such recommendations, and to give such advice, for the modification of the arrangements maintained with respect to those matters, and also of the practice of the police or contractors or in relation to other 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 contractors;

(b) the recording of matters from which it appears that there may have been conduct by such persons 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 contractor;

(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) It shall be the duty of the Commission—

(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 Commission has functions.

(4) It shall also be the duty of the Commission—

(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, between the Commission and the inspectors of the 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 Commission to be appropriate, for facilitating the carrying out by those inspectors of their functions.

(5) 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.

(6) 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)(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 that function as it thinks fit.

Reports to the Secretary of State

7.—(1) As soon as practicable after the end of each of its financial years, the Commission shall make a report to the Secretary of State on the carrying out of its functions under these Regulations during that year.

(2) The Commission shall also make such reports to the Secretary of State about matters relating generally to the carrying out of its functions under these Regulations as the Secretary of State may, from time to time, require.

(3) The Commission may, from time to time, make such other reports to the Secretary of State as it considers appropriate for drawing the Secretary of State's attention to matters which—

(a) have come to the Commission's notice; and

(b) are matters that it considers should be drawn to the Secretary of State's attention by reason of their gravity or of other exceptional circumstances.

(4) The Commission shall prepare such reports containing advice and recommendations as it thinks appropriate for the purpose of carrying out its function under regulation 6(1)(e) (general functions of the Commission).

(5) Where the Secretary of State receives any report under this regulation, the Secretary of State 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 Secretary of State considers it appropriate to do so,

lay a copy of the report before Parliament and cause the report to be published.