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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

## SCHEDULES

### SCHEDULE 3

Section 13

#### HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC.

##### PART 1

##### HANDLING OF COMPLAINTS

###### *Duties to preserve evidence relating to complaints*

- 1 (1) Where a complaint is made about the conduct of a chief officer, it shall be the duty of the [<sup>F1</sup>local policing body] maintaining his force to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to the conduct complained of.
- (2) Where—
- (a) a complaint is made to a chief officer about the conduct of a person under his direction and control, or
  - (b) a chief officer becomes aware that a complaint about the conduct of a person under his direction or control has been made to the Commission or to a [<sup>F2</sup>local policing body] ,
- the chief officer shall take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.
- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after the complaint is made or, as the case may be, he becomes aware of it.
- (4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the conduct complained of.
- (5) It shall be the duty of a [<sup>F3</sup>local policing body] to comply with all such directions as may be given to it by the Commission in relation to the performance of its duty under sub-paragraph (1).
- (6) It shall be the duty of a chief officer to take all such specific steps for obtaining or preserving evidence relating to any conduct that is the subject-matter of a complaint as he may be directed to take for the purposes of this paragraph by the [<sup>F4</sup>local policing body] maintaining his force or by the Commission.

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### Textual Amendments

- F1** Words in Sch. 3 para. 1(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(2\)\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F2** Words in Sch. 3 para. 1(2)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(2\)\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F3** Words in Sch. 3 para. 1(5) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(2\)\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F4** Words in Sch. 3 para. 1(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(2\)\(b\)](#); S.I. 2011/3019, art. 3, Sch. 1

### Modifications etc. (not altering text)

- C1** Sch. 3 para. 1 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(5\)\(6\)](#), Sch. 3

### Commencement Information

- I1** Sch. 3 para. 1 wholly in force at 1.4.2004; Sch. 3 para. 1 not in force at Royal Assent see s. 108(2); Sch. 3 para. 1 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 1 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

### *Initial handling and recording of complaints*

- 2 <sup>F5</sup>(1) Where a complaint is made to the Commission, it shall give notification of the complaint to the appropriate authority.
- (1A) But the Commission need not give that notification if the Commission considers that there are exceptional circumstances that justify its not being given.]
- (2) Where a complaint is made to a [<sup>F6</sup>local policing body], it shall—
- (a) determine whether or not it is itself the appropriate authority; and
  - (b) if it determines that it is not, give notification of the complaint to the person who is.
- (3) Where a complaint is made to a chief officer, he shall—
- (a) determine whether or not he is himself the appropriate authority; and
  - (b) if he determines that he is not, give notification of the complaint to the person who is.
- <sup>F7</sup>(4) .....
- (5) Where the Commission, a [<sup>F8</sup>local policing body] or a chief officer gives notification of a complaint under any of sub-paragraphs (1) to (3) <sup>F9</sup>..., the person who gave the notification <sup>F10</sup>... shall notify the complainant—
- (a) that the notification has been given and of what it contained; or
  - <sup>F11</sup>(b) .....
- (6) Where—
- (a) a [<sup>F12</sup>local policing body] determines, in the case of any complaint made to [<sup>F13</sup>the body], that it is itself the appropriate authority,
  - (b) a chief officer determines, in the case of any complaint made to that chief officer, that he is himself the appropriate authority, or

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- (c) a complaint is notified to a [<sup>F14</sup>local policing body] or chief officer under this paragraph,  
[<sup>F15</sup>the body] or chief officer shall record the complaint.
- (7) Nothing in this paragraph shall require the notification or recording by any person of any complaint about any conduct if—
- (a) that person is satisfied that the subject-matter of the complaint has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person whose conduct it was; or
- (b) the complaint has been withdrawn.
- [<sup>F16</sup>(8) Nothing in this paragraph shall require the recording by any person of any complaint about any conduct if that person considers that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph.]

#### Textual Amendments

- F5** Sch. 3 para. 2(1) (1A) substituted for Sch. 3 para. 2(1) (16.1.2012 for specified purposes, 22.11.2012 in so far as not already in force) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 8\(2\)](#); S.I. 2011/3019, art. 3, Sch. 1; S.I. 2012/2892, art. 2(g) (with art. 6)
- F6** Words in Sch. 3 para. 2(2) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(3\)\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F7** Sch. 3 para. 2(4) omitted (16.1.2012 for specified purposes, 22.11.2012 in so far as not already in force) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 8\(3\)](#); S.I. 2011/3019, art. 3, Sch. 1; S.I. 2012/2892, art. 2(g) (with art. 6)
- F8** Words in Sch. 3 para. 2(5) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(3\)\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F9** Words in Sch. 3 para. 2(5) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 8\(4\)\(a\)\(i\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F10** Words in Sch. 3 para. 2(5) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 8\(4\)\(a\)\(ii\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F11** Sch. 3 para. 2(5)(b) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 8\(4\)\(b\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F12** Words in Sch. 3 para. 2(6)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(3\)\(b\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F13** Words in Sch. 3 para. 2(6)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(3\)\(b\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F14** Words in Sch. 3 para. 2(6)(c) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(3\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F15** Words in Sch. 3 para. 2(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(3\)\(d\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F16** Sch. 3 para. 2(8) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 8\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

#### Modifications etc. (not altering text)

- C2** Sch. 3 para. 2 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(5\)\(6\)](#), Sch. 3

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### **Commencement Information**

- I2** Sch. 3 para. 2 wholly in force at 1.4.2004; Sch. 3 para. 2 not in force at Royal Assent see s. 108(2); Sch. 3 para. 2 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 2 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

### *Failures to notify or record a complaint*

#### *Failures to notify or record a complaint*

- 3 (1) This paragraph applies where anything which is or purports to be a complaint in relation to which paragraph (2) has effect is received by a [<sup>F17</sup>local policing body] or chief officer (whether in consequence of having been made directly or of a notification under that paragraph).
- (2) If the [<sup>F18</sup>local policing body] or chief officer decides not to take action under paragraph (2) for notifying or recording the whole or any part of what has been received, [<sup>F19</sup>the body] or chief officer shall notify the complainant of the following matters—
- (a) the decision to take no action and, if that decision relates to only part of what was received, the part in question;
  - (b) the grounds on which the decision was made; and
  - (c) that complainant's right to appeal against that decision under this paragraph.
- (3) The complainant shall have a right of appeal to the Commission against any failure by the [<sup>F20</sup>local policing body] or chief officer to make a determination under paragraph 2 or to notify or record anything under that paragraph.
- [<sup>F21</sup>3A) But the complainant has no right of appeal under sub-paragraph (3) in either of the following cases.
- (3B) The first case is where, by virtue of paragraph 2(7), there is no requirement to record the complaint.
- (3C) The second case is where—
- (a) the complaint relates to a direction and control matter, and
  - (b) the appeal relates to a failure by a local policing body.]
- (4) On an appeal under this paragraph, the Commission shall—
- (a) determine whether any action under paragraph 2 should have been taken in the case in question; and
  - (b) if the Commission finds in the complainant's favour, give such directions as the Commission considers appropriate to the [<sup>F20</sup>local policing body] or chief officer as to the action to be taken for making a determination, or for notifying or recording what was received;
- and it shall be the duty of a [<sup>F20</sup>local policing body] or chief officer to comply with any directions given under paragraph (b).
- (5) Directions under sub-paragraph (4)(b) may require action taken in pursuance of the directions to be treated as taken in accordance with any such provision of paragraph 2 as may be specified in the direction.
- (6) The Commission—

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- (a) shall give notification both to the [<sup>F22</sup>local policing body] or, as the case may be, the chief officer and to the complainant of any determination made by it under this paragraph; and
  - (b) shall give notification to the complainant of any direction given by it under this paragraph to the [<sup>F22</sup>local policing body] or chief officer.
- (7) The Secretary of State may by regulations make provision—
- (a) for the form and manner in which appeals under this paragraph are to be brought;
  - (b) for the period within which any such appeal must be brought; and
  - (c) for the procedure to be followed by the Commission when dealing with or disposing of any such appeal.

#### Textual Amendments

- F17** Words in Sch. 3 para. 3(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(4\)\(a\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F18** Words in Sch. 3 para. 3(2) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(4\)\(b\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F19** Words in Sch. 3 para. 3(2) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(4\)\(b\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F20** Words in Sch. 3 para. 3(3)(4) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(4\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1; S.I. 2011/3019, art. 3, Sch. 1
- F21** Sch. 3 para. 3(3A)-(3C) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 16](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F22** Words in Sch. 3 para. 3(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 300\(4\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1

#### Modifications etc. (not altering text)

- C3** Sch. 3 para. 3 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(5\)\(6\)](#), Sch. 3
- C4** Sch. 3 para. 3(3) restricted (1.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) Order 2004 \(S.I. 2004/671\), art. 4\(2\)](#)

#### Commencement Information

- I3** Sch. 3 para. 3 wholly in force at 1.4.2004; Sch. 3 para. 3 not in force at Royal Assent see s. 108(2); Sch. 3 para. 3 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 3 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

#### *Reference of complaints to the Commission*

- 4 (1) It shall be the duty of the appropriate authority to refer a complaint to the Commission if—
- (a) the complaint is one alleging that the conduct complained of has resulted in death or serious injury;
  - (b) the complaint is of a description specified for the purposes of this subparagraph in regulations made by the Secretary of State; or
  - (c) the Commission notifies the appropriate authority that it requires the complaint in question to be referred to the Commission for its consideration.

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- (2) In a case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a complaint to the Commission if that authority considers that it would be appropriate to do so so by reason of—
- (a) the gravity of the subject-matter of the complaint; or
  - (b) any exceptional circumstances.
- (3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a [<sup>F23</sup>local policing body] may refer a complaint to the Commission if—
- (a) it is one in relation to which the chief officer of police of the police force maintained by [<sup>F24</sup>that body] is the appropriate authority; and
  - (b) the [<sup>F23</sup>local policing body] considers that it would be appropriate to do so reason of—
    - (i) the gravity of the subject-matter of the complaint; or
    - (ii) any exceptional circumstances.
- (4) Where there is an obligation under this paragraph to refer a complaint to the Commission, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.
- (5) Subject to sub-paragraph (7), the following powers—
- (a) the power of the Commission by virtue of sub-paragraph (1)(c) to require a complaint to be referred to it, and
  - (b) the power of a [<sup>F25</sup>local policing body] or chief officer to refer a complaint to the Commission under sub-paragraph (2) or (3),
- shall each be exercisable at any time irrespective of whether the complaint is already being investigated by any person or has already been considered by the Commission.
- (6) A [<sup>F26</sup>local policing body] or chief officer which refers a complaint to the Commission under this paragraph shall give a notification of the making of the reference—
- (a) to the complainant, and
  - (b) except in a case where it appears to [<sup>F27</sup>that body] or chief officer that to do so might prejudice a possible future investigation of the complaint, to the person complained against.
- (7) A complaint that has already been referred to the Commission under this paragraph on a previous occasion—
- (a) shall not be required to be referred again under this paragraph unless the Commission so directs; and
  - (b) shall not be referred in exercise of any power conferred by this paragraph unless the Commission consents.
- [<sup>F28</sup>(8) In a case where—
- (a) a complaint relates to a direction and control matter, and
  - (b) there is no obligation under this paragraph for the appropriate authority to refer the complaint to the Commission,
- the appropriate authority may refer the complaint to the Commission under this paragraph only if the Commission consents.]

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#### Textual Amendments

- F23** Words in Sch. 3 para. 4(3) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 16 para. 300\(5\)\(a\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F24** Words in Sch. 3 para. 4(3)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 16 para. 300\(5\)\(a\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F25** Words in Sch. 3 para. 4(5)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 16 para. 300\(5\)\(b\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F26** Words in Sch. 3 para. 4(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 16 para. 300\(5\)\(c\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F27** Words in Sch. 3 para. 4(6)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 16 para. 300\(5\)\(c\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F28** Sch. 3 para. 4(8) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 14 para. 5\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

#### Modifications etc. (not altering text)

- C5** Sch. 3 para. 4 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(5\)\(6\)](#), Sch. 3

#### Commencement Information

- I4** Sch. 3 para. 4 wholly in force at 1.4.2004; Sch. 3 para. 4 not in force at Royal Assent see s. 108(2); Sch. 3 para. 4 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 4 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Duties of Commission on references under paragraph 4*

- 5 (1) It shall be the duty of the Commission in the case of every complaint referred to it by a [<sup>F29</sup>local policing body] or chief officer, to determine whether or not it is necessary for the complaint to be investigated.
- (2) Where the Commission determines under this paragraph that it is not necessary for a complaint to be investigated, it may, if it thinks fit, refer the complaint back to the appropriate authority to be dealt with by that authority in accordance with paragraph 6.
- (3) Where the Commission refers a complaint back under sub-paragraph (2), it shall give a notification of the making of the reference back—
- to the complainant, and
  - except in a case where it appears to the Commission that to do so might prejudice a possible future investigation of the complaint, to the person complained against.

#### Textual Amendments

- F29** Words in Sch. 3 para. 5(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 16 para. 300\(6\)](#); S.I. 2011/3019, art. 3, Sch. 1

#### Modifications etc. (not altering text)

- C6** Sch. 3 para. 5 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(5\)\(6\)](#), Sch. 3

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#### **Commencement Information**

- I5** Sch. 3 para. 5 wholly in force at 1.4.2004; Sch. 3 para. 5 not in force at Royal Assent see s. 108(2); Sch. 3 para. 5 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 5 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Handling of complaints by the appropriate authority*

- [<sup>F306</sup>** (1) This paragraph applies where a complaint has been recorded by the appropriate authority.
- (2) But this paragraph does not apply to a complaint if it is one that has been, or must be, referred to the Commission under paragraph 4, unless the complaint is for the time being—
- (a) referred back to the authority under paragraph 5, or
  - (b) the subject of a determination under paragraph 15.
- (3) Subject to paragraph 7, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution.
- (4) If the appropriate authority determines that the complaint is suitable for being subjected to local resolution, it shall make arrangements for it to be so subjected.
- (5) If the appropriate authority determines that the complaint is not so suitable, it shall make arrangements for the complaint to be investigated by the authority on its own behalf.
- (6) A determination that a complaint is suitable for being subjected to local resolution may not be made unless the following conditions are both met.
- (7) The first condition is that the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not justify the bringing of any criminal or disciplinary proceedings against the person whose conduct is complained of.
- (8) The second condition is that the appropriate authority is satisfied that the conduct complained of (even if it were proved) would not involve the infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998).
- (9) In a case where this paragraph applies to a complaint by virtue of sub-paragraph (2) (b), a determination that the complaint is suitable for being subjected to local resolution may not be made unless the Commission approves the determination.
- (10) No more than one application may be made to the Commission for the purposes of sub-paragraph (9) in respect of the same complaint.
- (11) Sub-paragraph (9) (where applicable) is in addition to sub-paragraphs (6) to (8).]

#### **Textual Amendments**

- F30** Sch. 3 para. 6 substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 9\(1\)](#); [S.I. 2012/2892](#), art. 2(g) (with art. 6)



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### *[<sup>F31</sup>Disapplication of] requirements of Schedule*

#### **Textual Amendments**

**F31** Words in Sch. 3 para. 7 heading substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 10\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

- 7 (1) If, in a case in which paragraph (6) applies, the appropriate authority considers—
- (a) that it should handle the complaint otherwise than in accordance with this Schedule or should take no action in relation to it, and
  - (b) that the complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph,
- the appropriate authority may <sup>F32</sup>... handle the complaint in whatever manner (if any) that authority thinks fit.
- [<sup>F33</sup>(1A) But, in a case where paragraph 6 applies by virtue of paragraph 6(2)(a) or (b), the appropriate authority may not handle the complaint in whatever manner (if any) the authority thinks fit unless—
- (a) the authority applies to the Commission, in accordance with the regulations, for permission to so handle the complaint, and
  - (b) the Commission gives permission.]

[<sup>F34</sup>(2) The appropriate authority shall notify the complainant—

    - (a) that the appropriate authority has decided to handle the complaint as permitted by sub-paragraph (1) (in a case where the appropriate authority is not required to apply for permission under sub-paragraph (1A) to so handle the complaint); or
    - (b) about the making of the application under sub-paragraph (1A) (in a case where the appropriate authority makes such an application).]

(3) Where such an application is made to the Commission, it shall, in accordance with regulations made by the Secretary of State—

      - (a) consider the application and determine whether to grant the permission applied for; and
      - (b) notify its decision to the appropriate authority and the complainant.

(4) Where an application is made under this paragraph in respect of any complaint, the appropriate authority shall not, while the application is being considered by the Commission, take any action in accordance with the provisions of this Schedule (other than under paragraph 1) in relation to that complaint.

(5) [<sup>F35</sup>Where the complaint is to be handled in whatever manner (if any) the authority thinks fit (whether or not the Commission's permission is needed), the authority—]

      - (a) shall not be required by virtue of any of the provisions of this Schedule (other than paragraph 1) to take any action in relation to the complaint; but
      - (b) may handle the complaint in whatever manner it thinks fit, or take no action in relation to the complaint, and for the purposes of handling the complaint may take any step that it could have taken, or would have been required to take, [<sup>F36</sup>if it were not proceeding in accordance with this paragraph].

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (6) Where [<sup>F37</sup>the appropriate authority applies to the Commission under sub-paragraph (1A) and] the Commission determines that no permission should be granted <sup>F38</sup>...—
- (a) it shall refer the matter back to the appropriate authority for the making of a determination under [<sup>F39</sup>paragraph 6(3)]; and
  - (b) the authority shall then make that determination.
- (7) No more than one application may be made to the Commission under this paragraph in respect of the same complaint.
- <sup>F40</sup>(8) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under this paragraph to handle the complaint otherwise than in accordance with this Schedule or to take no action in relation to it.
- (9) But the complainant has no right of appeal in either of the following cases.
- (10) The first case is where the appeal relates to a decision for which the Commission has given permission under this paragraph.
- (11) The second case is where the complaint relates to a direction and control matter.
- (12) On an appeal under this paragraph, subject to sub-paragraphs (13) and (14), the relevant appeal body shall—
- (a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
  - (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for handling the complaint in accordance with this Schedule or handling it otherwise than in accordance with this Schedule;
- and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).
- (13) Sub-paragraph (12) does not apply in a case where a particular chief officer of police is—
- (a) the person in respect of whose decision the appeal is made under this paragraph, and
  - (b) the relevant appeal body in relation to the appeal.
- (14) In such a case—
- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
  - (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for handling the complaint in accordance with this Schedule or handling it otherwise than in accordance with this Schedule.]

#### Textual Amendments

**F32** Words in Sch. 3 para. 7(1) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 10\(4\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- F33** Sch. 3 para. 7(1A) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 10(5)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F34** Sch. 3 para. 7(2) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 10(6)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F35** Sch. 3 para. 7(5) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 10(7)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F36** Words in Sch. 3 para. 7(5)(b) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 10(7)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F37** Words in Sch. 3 para. 7(6) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 10(8)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F38** Words in Sch. 3 para. 7(6) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 10(8)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F39** Words in Sch. 3 para. 7(6)(a) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 9(2)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F40** Sch. 3 para. 7(8)-(14) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 17(2)**; S.I. 2012/2892, art. 2(g) (with art. 6)

#### **Modifications etc. (not altering text)**

- C7** Sch. 3 para. 7 applied (with modifications) (1.4.2006) by The Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311), **reg. 3(5)(6)**, Sch. 3

#### **Commencement Information**

- I6** Sch. 3 para. 7 wholly in force at 1.4.2004; Sch. 3 para. 7 not in force at Royal Assent see s. 108(2); Sch. 3 para. 7 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 7 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

### *Local resolution of complaints*

- 8 (1) The arrangements made by the appropriate authority for subjecting any complaint to local resolution may include the appointment of a person who—
- is serving with the police, and
  - is under the direction and control of the chief officer of police of the relevant force,
- to secure the local resolution of the complaint.
- (2) The Secretary of State may by regulations make provision—
- for the different descriptions of procedures that are to be available for dealing with a complaint where it is decided it is to be subjected to local resolution;
  - for requiring a person complained against in a case in which the complaint is subjected to local resolution to be given an opportunity of commenting, in such manner as may be provided for in the regulations, on the complaint;
  - for requiring that, on the making of an application in accordance with the regulations, a record of the outcome of any procedure for the local resolution of any complaint is to be given to the complainant.
- (3) A statement made by any person for the purposes of the local resolution of any complaint shall not be admissible in any subsequent criminal, civil or disciplinary proceedings except to the extent that it consists of an admission relating to a matter that has not been subjected to local resolution.
- (4) If, after attempts have been made to resolve a complaint using local resolution, it appears to the appropriate authority—

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- (a) that the resolution of the complaint in that manner is impossible, or  
 (b) that the complaint is, for any other reason, not suitable for such resolution,  
 it shall make arrangements for the complaint to be investigated by that authority on its own behalf.
- (5) The local resolution of any complaint shall be discontinued if—  
 (a) any arrangements are made under sub-paragraph (4);  
 (b) the Commission notifies the appropriate authority that it requires the complaint to be referred to the Commission under paragraph 4; or  
 (c) the complaint is so referred otherwise than in pursuance of such a notification.
- (6) A person who has participated in any attempt to resolve a complaint using local resolution shall be disqualified for appointment under any provision of this Schedule to investigate that complaint, or to assist with the carrying out of the investigation of that complaint.

**Modifications etc. (not altering text)**

- C8** Sch. 3 para. 8 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(5)(6)**, Sch. 3

**Commencement Information**

- I7** Sch. 3 para. 8 wholly in force at 1.4.2004; Sch. 3 para. 8 not in force at Royal Assent see s. 108(2); Sch. 3 para. 8 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), **art. 4(e)**; Sch. 3 para. 8 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), **art. 2(d)**

*[<sup>F41</sup> Appeals relating to complaints dealt with other than by investigation*

**Textual Amendments**

- F41** Sch. 3 para. 8A substituted for Sch. 3 para. 9 (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 18**; [S.I. 2012/2892](#), art. 2(g) (with art. 6)

- 8A (1) The complainant shall have a right of appeal to the relevant appeal body against the outcome of any complaint that is—  
 (a) subjected to local resolution, or  
 (b) handled otherwise than in accordance with this Schedule.
- (2) But the complainant has no right of appeal if the complaint relates to a direction and control matter.
- (3) On an appeal under this paragraph, subject to sub-paragraphs (4) and (5), the relevant appeal body shall—  
 (a) determine whether the outcome of the complaint is a proper outcome; and  
 (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the appropriate authority as to the action to be taken in relation to the complaint;  
 and it shall be the duty of the appropriate authority to comply with any directions given under paragraph (b).

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- (4) Sub-paragraph (3) does not apply in a case where a chief officer of police is the relevant appeal body in relation to the appeal.
- (5) In such a case—
- (a) the appeal shall determine whether the outcome of the complaint is a proper outcome; and
  - (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate in relation to the complaint.]

## PART 2

### HANDLING OF CONDUCT MATTERS

#### *Conduct matters arising in civil proceedings*

- 10 (1) This paragraph applies where—
- (a) a [<sup>F42</sup>local policing body] or chief officer has received notification (whether or not under this paragraph) that civil proceedings relating to any matter have been brought by a member of the public against [<sup>F43</sup>that body] or chief officer, or it otherwise appears to a [<sup>F42</sup>local policing body] or chief officer that such proceedings are likely to be so brought; and
  - (b) it appears to [<sup>F43</sup>that body] or chief officer (whether at the time of the notification or at any time subsequently) that those proceedings involve or would involve a conduct matter.
- (2) [<sup>F44</sup>The authority] or chief officer—
- (a) shall consider whether it or, as the case may be, he is the appropriate authority in relation to the conduct matter in question; and
  - (b) if it or he is not, shall notify the person who is the appropriate authority about the proceedings, or the proposal to bring them, and about the circumstances that make it appear as mentioned in sub-paragraph (1)(b).
- (3) Where a [<sup>F45</sup>local policing body] or chief officer determines for the purposes of this paragraph that it or, as the case may be, he is the appropriate authority in relation to any conduct matter, it or he shall [<sup>F46</sup>determine whether the matter is one which it or he is required to refer to the Commission under paragraph 13 or is one which it would be appropriate to so refer].
- [<sup>F47</sup>(4) In a case where the appropriate authority determines that the matter is one which it or he is required to refer to the Commission under paragraph 13, or is one which it would be appropriate to so refer, it or he shall record the matter.
- (4A) In any other case, the appropriate authority shall determine whether the matter falls within a description of matters specified in regulations made by the Secretary of State for the purposes of this sub-paragraph.
- (4B) In a case where the appropriate authority determines that the matter does not fall within such a description, it or he shall record the matter.
- (4C) In any other case, the appropriate authority may (but need not) record the matter.

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (4D) In a case where the appropriate authority—
- (a) records a matter under this paragraph, and
  - (b) is not required to refer the matter to the Commission under paragraph 13 and does not do so,
- the appropriate authority may deal with the matter in such other manner (if any) as it or he may determine.]
- (5) Nothing in [<sup>F48</sup>sub-paragraph (4) or (4B)] shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.
- (6) For the purposes of this paragraph civil proceedings involve a conduct matter if—
- (a) they relate to such a matter; or
  - (b) they are proceedings that relate to a matter in relation to which a conduct matter, or evidence of a conduct matter, is or may be relevant.
- (7) The Secretary of State may by regulations provide for the times at which, or the periods within which, any requirement of this paragraph is to be complied with; and the period from which any such period is to run shall be such time as may be specified in those regulations or as may be determined in a manner set out in the regulations.

#### Textual Amendments

- F42** Words in Sch. 3 para. 10(1)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(2\)\(a\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F43** Words in Sch. 3 para. 10(1)(a)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(2\)\(a\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F44** Words in Sch. 3 para. 10(2) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(2\)\(b\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F45** Words in Sch. 3 para. 10(3) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(2\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F46** Words in Sch. 3 para. 10(3) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 11\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F47** Sch. 3 para. 10(4)-(4D) substituted for Sch. 3 para. 10(4) (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 11\(3\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F48** Words in Sch. 3 para. 10(5) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 11\(4\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

#### Modifications etc. (not altering text)

- C9** Sch. 3 para. 10 excluded by [The Independent Police Complaints Commission \(Transitional Provisions\) Order 2004 \(S.I. 2004/671\), art. 4\(3\)](#) (as inserted (15.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) \(Amendment\) Order 2004 \(S.I. 2004/1092\), art. 2\(5\)](#))
- C10** Sch. 3 para. 10 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I8** Sch. 3 para. 10 wholly in force at 1.4.2004; Sch. 3 para. 10 not in force at Royal Assent see s. 108(2); Sch. 3 para. 10 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 10 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

*Recording etc. of conduct matters in other cases*

- 11 (1) [<sup>F49</sup>This paragraph applies where—]
- (a) a conduct matter comes (otherwise than as mentioned in paragraph 10) to the attention of the [<sup>F50</sup>local policing body] or chief officer who is the appropriate authority in relation to that matter, and
  - (b) it appears to the appropriate authority that the conduct involved in that matter falls within sub-paragraph (2),
- <sup>F51</sup> .....
- (2) Conduct falls within this sub-paragraph if (assuming it to have taken place)—
- (a) it appears to have resulted in the death of any person or in serious injury to any person;
  - (b) a member of the public has been adversely affected by it; or
  - (c) it is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State.
- [<sup>F52</sup>(3) The appropriate authority must determine whether the matter is one which it or he is required to refer to the Commission under paragraph 13, or is one which it would be appropriate to so refer.
- (3A) In a case where the appropriate authority determines that the matter is one which it or he is required to refer to the Commission under paragraph 13, or is one which it would be appropriate to so refer, it or he shall record the matter.
- (3B) In any other case, the appropriate authority shall determine whether the matter falls within a description of matters specified in regulations made by the Secretary of State for the purposes of this sub-paragraph.
- (3C) In a case where the appropriate authority determines that the matter does not fall within such a description, it or he shall record the matter.
- (3D) In any other case, the appropriate authority may (but need not) record the matter.
- (3E) In a case where the appropriate authority—
- (a) records a matter under this paragraph, and
  - (b) is not required to refer the matter to the Commission under paragraph 13 and does not do so,
- the appropriate authority may deal with the matter in such other manner (if any) as it or he may determine.]
- (4) Nothing in [<sup>F53</sup>sub-paragraph (3A) or (3C)] shall require the appropriate authority to record any conduct matter if it is satisfied that the matter has been, or is already being, dealt with by means of criminal or disciplinary proceedings against the person to whose conduct the matter relates.
- (5) If it appears to the Commission—
- (a) that any matter that has come to its attention is a recordable conduct matter, but
  - (b) that that matter has not been recorded by the appropriate authority,
- the Commission may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

#### **Textual Amendments**

- F49** Words in Sch. 3 para. 11(1) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 12(2)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F50** Words in Sch. 3 para. 11(1)(a) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 16 para. 301(3)**; S.I. 2011/3019, art. 3, Sch. 1
- F51** Words in Sch. 3 para. 11(1)(b) omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 12(2)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F52** Sch. 3 para. 11(3)-(3E) substituted for Sch. 3 para. 11(3) (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 12(3)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F53** Words in Sch. 3 para. 11(4) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 12(4)**; S.I. 2012/2892, art. 2(g) (with art. 6)

#### **Modifications etc. (not altering text)**

- C11** Sch. 3 para. 11 excluded (15.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) Order 2004 \(S.I. 2004/671\)](#), art. 4(3) (as inserted (15.4.2004) by [The Independent Police Complaints Commission \(Transitional Provisions\) \(Amendment\) Order 2004 \(S.I. 2004/1092\)](#), **art. 2(5)**)
- C12** Sch. 3 para. 11 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(4)(6)**, Sch. 3

#### **Commencement Information**

- I9** Sch. 3 para. 11 wholly in force at 1.4.2004; Sch. 3 para. 11 not in force at Royal Assent see s. 108(2); Sch. 3 para. 11 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), **art. 4(e)**; Sch. 3 para. 11 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), **art. 2(d)**

#### *Duties to preserve evidence relating to conduct matters*

- 12 (1) Where a recordable conduct matter that relates to the conduct of a chief officer comes to the attention of the [<sup>F54</sup>local policing body] maintaining his force, it shall be the duty of [<sup>F55</sup>that body] to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to that matter.
- (2) Where a chief officer becomes aware of any recordable conduct matter relating to the conduct of a person under his direction and control, it shall be his duty to take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to that matter.
- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after he becomes aware of the matter in question.
- (4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the matter.
- (5) It shall be the duty of a [<sup>F56</sup>local policing body] to comply with all such directions as may be given to it by the Commission in relation to the performance of any duty imposed on it by virtue of sub-paragraph (1).
- (6) It shall be the duty of the chief officer to take all such specific steps for obtaining or preserving evidence relating to any recordable conduct matter as he may be directed



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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

to take for the purposes of this paragraph by the [<sup>F57</sup>local policing body] maintaining his force or by the Commission.

#### Textual Amendments

- F54** Words in Sch. 3 para. 12(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(4\)\(a\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F55** Words in Sch. 3 para. 12(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(4\)\(a\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F56** Words in Sch. 3 para. 12(5) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(4\)\(b\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F57** Words in Sch. 3 para. 12(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(4\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1

#### Modifications etc. (not altering text)

- C13** Sch. 3 para. 12 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I10** Sch. 3 para. 12 wholly in force at 1.4.2004; Sch. 3 para. 12 not in force at Royal Assent see s. 108(2); Sch. 3 para. 12 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 12 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

#### *Reference of conduct matters to the Commission*

- 13 (1) It shall be the duty of a [<sup>F58</sup>local policing body] or a chief officer to refer a recordable conduct matter to the Commission if, in a case (whether or not falling within paragraph 10) in which [<sup>F59</sup>the body] or chief officer is the appropriate authority—
- that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;
  - that matter is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State; or
  - the Commission notifies the appropriate authority that it requires that matter to be referred to the Commission for its consideration.
- (2) In any case where there is no obligation under sub-paragraph (1) to make a reference, the appropriate authority may refer a recordable conduct matter to the Commission if that authority considers that it would be appropriate to do so by reason of—
- the gravity of the matter; or
  - any exceptional circumstances.
- (3) In a case in which a reference under sub-paragraph (1) or (2) is neither made nor required to be made, a [<sup>F60</sup>local policing body] maintaining any police force may refer any recordable conduct matter to the Commission if—
- it is one in relation to which the chief officer of police of that force is the appropriate authority; and
  - the [<sup>F61</sup>local policing body] considers that it would be appropriate to do so by reason of—
    - the gravity of the matter; or
    - any exceptional circumstances.

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- (4) Where there is an obligation under this paragraph to refer any matter to the Commission, it must be so referred within such period as may be provided for by regulations made by the Secretary of State.
- (5) Subject to sub-paragraph (7), the following powers—
- (a) the power of the Commission by virtue of sub-paragraph (1)(c) to require a matter to be referred to it, and
  - (b) the power of a [<sup>F62</sup>local policing body] or chief officer to refer any matter to the Commission under sub-paragraph (2) or (3),
- shall each be exercisable at any time irrespective of whether the matter is already being investigated by any person or has already been considered by the Commission.
- (6) Where—
- (a) a [<sup>F63</sup>local policing body] or chief officer refers a matter to the Commission under this paragraph, and
  - (b) [<sup>F64</sup>that body] or chief officer does not consider that to do so might prejudice a possible future investigation of that matter,
- [<sup>F64</sup>that body] or chief officer shall give a notification of the making of the reference to the person to whose conduct that matter relates.
- (7) A matter that has already been referred to the Commission under this paragraph on a previous occasion—
- (a) shall not be required to be referred again under this paragraph unless the Commission so directs; and
  - (b) shall not be referred in exercise of any power conferred by this paragraph unless the Commission consents.

#### **Textual Amendments**

- F58** Words in Sch. 3 para. 13(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(a\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F59** Words in Sch. 3 para. 13(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(a\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F60** Words in Sch. 3 para. 13(3) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(b\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F61** Words in Sch. 3 para. 13(3)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(b\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F62** Words in Sch. 3 para. 13(5)(b) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F63** Words in Sch. 3 para. 13(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(d\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F64** Words in Sch. 3 para. 13(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 301\(5\)\(d\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1

#### **Modifications etc. (not altering text)**

- C14** Sch. 3 para. 13 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

#### Commencement Information

- I11** Sch. 3 para. 13 wholly in force at 1.4.2004; Sch. 3 para. 13 not in force at Royal Assent see s. 108(2); Sch. 3 para. 13 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 13 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

#### *Duties of Commission on references under paragraph 13*

- 14 (1) It shall be the duty of the Commission, in the case of every recordable conduct matter referred to it by a [<sup>F65</sup>local policing body] or chief officer under paragraph 13, to determine whether or not it is necessary for the matter to be investigated.
- (2) Where the Commission determines under this paragraph that it is not necessary for a recordable conduct matter to be investigated, it may if it thinks fit refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.
- (3) Where—
- (a) the Commission refers a matter back to the appropriate authority under this paragraph, and
  - (b) the Commission does not consider that to do so might prejudice a possible future investigation of that matter,
- the Commission shall give a notification of the making of the reference to the person to whose conduct that matter relates.

#### Textual Amendments

- F65** Words in Sch. 3 para. 14(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011](#) (c. 13), s. 157(1), **Sch. 16 para. 301(6)**; S.I. 2011/3019, art. 3, Sch. 1

#### Modifications etc. (not altering text)

- C15** Sch. 3 para. 14 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005](#) (S.I. 2005/3311), **reg. 3(4)(6)**, Sch. 3

#### Commencement Information

- I12** Sch. 3 para. 14 wholly in force at 1.4.2004; Sch. 3 para. 14 not in force at Royal Assent see s. 108(2); Sch. 3 para. 14 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 14 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

## [<sup>F66</sup>PART 2A

### HANDLING OF DEATH AND SERIOUS INJURY (DSI) MATTERS

#### Textual Amendments

- F66** Sch. 3 Pt. 2A (paras. 14A-14D) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005](#) (c. 15), ss. 160, 178, **Sch. 12 para. 12**; S.I. 2005/1521, **art. 3(1)(w)**

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

*Duty to record DSI matters*

- 14A (1) Where a DSI matter comes to the attention of the [<sup>F67</sup>local policing body] or chief officer who is the appropriate authority in relation to that matter, it shall be the duty of the appropriate authority to record that matter.
- (2) If it appears to the Commission—
- (a) that any matter that has come to its attention is a DSI matter, but
  - (b) that that matter has not been recorded by the appropriate authority,
- the Commission may direct the appropriate authority to record that matter; and it shall be the duty of that authority to comply with the direction.

**Textual Amendments**

**F67** Words in Sch. 3 para. 14A(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 302\(2\)](#); S.I. 2011/3019, art. 3, Sch. 1

**Modifications etc. (not altering text)**

**C16** Sch. 3 para. 14A applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

*Duty to preserve evidence relating to DSI matters*

- 14B (1) Where—
- (a) a DSI matter comes to the attention of a [<sup>F68</sup>local policing body] , and
  - (b) the relevant officer in relation to that matter is the chief officer of the force maintained by [<sup>F69</sup>that body],
- it shall be the duty of [<sup>F69</sup>that body] to secure that all such steps as are appropriate for the purposes of Part 2 of this Act are taken, both initially and from time to time after that, for obtaining and preserving evidence relating to that matter.
- (2) Where—
- (a) a chief officer becomes aware of a DSI matter, and
  - (b) the relevant officer in relation to that matter is a person under his direction and control,
- it shall be his duty to take all such steps as appear to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to that matter.
- (3) The chief officer's duty under sub-paragraph (2) must be performed as soon as practicable after he becomes aware of the matter in question.
- (4) After that, he shall be under a duty, until he is satisfied that it is no longer necessary to do so, to continue to take the steps from time to time appearing to him to be appropriate for the purposes of Part 2 of this Act for obtaining and preserving evidence relating to the matter.
- (5) It shall be the duty of a [<sup>F70</sup>local policing body] to comply with all such directions as may be given to it by the Commission in relation to the performance of any duty imposed on it by virtue of sub-paragraph (1).

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (6) It shall be the duty of the chief officer to take all such specific steps for obtaining or preserving evidence relating to any DSI matter as he may be directed to take for the purposes of this paragraph by the [<sup>F71</sup>local policing body] maintaining his force or by the Commission.

#### Textual Amendments

- F68** Words in Sch. 3 para. 14B(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 302\(3\)\(a\)\(i\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F69** Words in Sch. 3 para. 14B(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 302\(3\)\(a\)\(ii\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F70** Words in Sch. 3 para. 14B(5) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 302\(3\)\(b\)](#); S.I. 2011/3019, art. 3, Sch. 1
- F71** Words in Sch. 3 para. 14B(6) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 16 para. 302\(3\)\(c\)](#); S.I. 2011/3019, art. 3, Sch. 1

#### Modifications etc. (not altering text)

- C17** Sch. 3 para. 14B applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3

#### *Reference of DSI matters to the Commission*

- 14C (1) It shall be the duty of the appropriate authority to refer a DSI matter to the Commission.
- (2) The appropriate authority must do so within such period as may be provided for by regulations made by the Secretary of State.
- (3) A matter that has already been referred to the Commission under this paragraph on a previous occasion shall not be required to be referred again under this paragraph unless the Commission so directs.

#### Modifications etc. (not altering text)

- C18** Sch. 3 para. 14C applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3

#### *Duties of Commission on references under paragraph 14C*

- 14D (1) It shall be the duty of the Commission, in the case of every DSI matter referred to it by a [<sup>F72</sup>local policing body] or a chief officer, to determine whether or not it is necessary for the matter to be investigated.
- (2) Where the Commission determines under this paragraph that it is not necessary for a DSI matter to be investigated, it may if it thinks fit refer the matter back to the appropriate authority to be dealt with by that authority in such manner (if any) as that authority may determine.]

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

### Textual Amendments

**F72** Words in Sch. 3 para. 14D(1) substituted (16.1.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 16 para. 302\(4\)](#); S.I. 2011/3019, art. 3, Sch. 1

### Modifications etc. (not altering text)

**C19** Sch. 3 para. 14D applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

## PART 3

### INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

#### *Power of the Commission to determine the form of an investigation*

- 15 (1) This paragraph applies where—
- (a) a complaint [<sup>F73</sup>, recordable conduct matter or DSI matter] is referred to the Commission; and
  - (b) the Commission determines that it is necessary for the complaint or matter to be investigated.
- (2) It shall be the duty of the Commission to determine the form which the investigation should take.
- (3) In making a determination under sub-paragraph (2) the Commission shall have regard to the following factors—
- (a) the seriousness of the case; and
  - (b) the public interest.
- (4) The only forms which the investigation may take in accordance with a determination made under this paragraph are—
- (a) an investigation by the appropriate authority on its own behalf;
  - (b) an investigation by that authority under the supervision of the Commission;
  - (c) an investigation by that authority under the management of the Commission;
  - (d) an investigation by the Commission.
- (5) The Commission may at any time make a further determination under this paragraph to replace an earlier one.
- (6) Where a determination under this paragraph replaces an earlier determination under this paragraph, or relates to a complaint or matter in relation to which the appropriate authority has already begun an investigation on its own behalf, the Commission may give—
- (a) the appropriate authority, and
  - (b) any person previously appointed to carry out the investigation,
- such directions as it considers appropriate for the purpose of giving effect to the new determination.
- (7) It shall be the duty of a person to whom a direction is given under sub-paragraph (6) to comply with it.

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (8) The Commission shall notify the appropriate authority of any determination that it makes under this paragraph in relation to a particular complaint [<sup>F73</sup>, recordable conduct matter or DSI matter] .

#### Textual Amendments

**F73** Words in Sch. 3 para. 15(1)(a)(8) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 13](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

**C20** Sch. 3 para. 15 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

**I13** Sch. 3 para. 15 wholly in force at 1.4.2004; Sch. 3 para. 15 not in force at Royal Assent see s. 108(2); Sch. 3 para. 15 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 15 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Investigations by the appropriate authority on its own behalf*

- 16 (1) This paragraph applies if the appropriate authority is required by virtue of—
- (a) any determination made by that authority under [<sup>F74</sup>paragraph 6(3)] (whether following the recording of a complaint or on a reference back under paragraph 5(2)) or under paragraph 8(4), or
  - (b) any determination made by the Commission under paragraph 15, to make arrangements for a complaint [<sup>F75</sup>, recordable conduct matter or DSI matter] to be investigated by the appropriate authority on its own behalf.
- (2) This paragraph also applies if—
- (a) a determination falls to be made by that authority under paragraph [<sup>F76</sup>10(4D)], or [<sup>F77</sup>11(3E)] or 14(2) in relation to any recordable conduct matter [<sup>F78</sup>or under paragraph 14D(2) in relation to any DSI matter]; and
  - (b) the appropriate authority determine that it is necessary for the matter to be investigated by the authority on its own behalf.
- (3) Subject to sub-paragraph (4) [<sup>F79</sup>or (5)], it shall be the duty of the appropriate authority to appoint—
- (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or
  - [<sup>F80</sup>(d) a National Crime Agency officer,] to investigate the complaint or matter.
- (4) The person appointed under this paragraph to investigate any complaint or [<sup>F81</sup>conduct matter]—
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
  - (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of

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the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.

- [<sup>F82</sup>(5) The person appointed under this paragraph to investigate any DSI matter—
- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control;
  - (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.]

#### Textual Amendments

- F74** Words in Sch. 3 para. 16(1)(a) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 9\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F75** Words in Sch. 3 para. 16(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F76** Words in Sch. 3 para. 16(2)(a) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 11\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F77** Words in Sch. 3 para. 16(2)(a) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 12\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F78** Words in Sch. 3 para. 16(2)(a) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F79** Words in Sch. 3 para. 16(3) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(4\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F80** Sch. 3 para. 16(3)(d) substituted for Sch. 3 para. 16(3)(b)(c) Sch. 3 (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 6 para. 17\(2\)](#); S.I. 2013/1682, art. 3(q)
- F81** Words in Sch. 3 para. 16(4) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(5\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F82** Sch. 3 para. 16(5) added (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 14\(6\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### Modifications etc. (not altering text)

- C21** Sch. 3 para. 16 applied (with modifications) (E.W.) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I14** Sch. 3 para. 16 wholly in force at 1.4.2004; Sch. 3 para. 16 not in force at Royal Assent see s. 108(2); Sch. 3 para. 16 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 16 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

#### *Investigations supervised by the Commission*

- 17 (1) This paragraph applies where the Commission has determined that it should supervise the investigation by the appropriate authority of any complaint [<sup>F83</sup>, recordable conduct matter or DSI matter] .
- (2) On being given notice of that determination, the appropriate authority shall, if it has not already done so, appoint—
  - (a) a person serving with the police (whether under the direction and control of the chief officer of police of the relevant force or of the chief officer of another force), or



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- [<sup>F84</sup>(d) a National Crime Agency officer,]  
to investigate the complaint or matter.
- (3) The Commission may require that no appointment is made under sub-paragraph (2) unless it has given notice to the appropriate authority that it approves the person whom that authority proposes to appoint.
- (4) Where a person has already been appointed to investigate the complaint or matter, or is selected under this sub-paragraph for appointment, and the Commission is not satisfied with that person, the Commission may require the appropriate authority, as soon as reasonably practicable after being required to do so—
- (a) to select another person falling within sub-paragraph (2)(a) [<sup>F85</sup>, (b) or (c)] to investigate the complaint or matter; and
- (b) to notify the Commission of the person selected.
- (5) Where a selection made in pursuance of a requirement under sub-paragraph (4) has been notified to the Commission, the appropriate authority shall appoint that person to investigate the complaint or matter if, but only if, the Commission notifies the authority that it approves the appointment of that person.
- (6) A person appointed under this paragraph to investigate any complaint or [<sup>F86</sup>conduct matter]—
- (a) in the case of an investigation relating to any conduct of a chief officer, must not be a person under that chief officer's direction and control; and
- (b) in the case of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.
- [<sup>F87</sup>(6A) The person appointed under this paragraph to investigate any DSI matter—
- (a) in relation to which the relevant officer is a chief officer, must not be a person under that chief officer's direction and control;
- (b) in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis, must be the person nominated by the Secretary of State for appointment under this paragraph.]
- (7) The person appointed to investigate the complaint or matter shall comply with all such requirements in relation to the carrying out of that investigation as may, in accordance with regulations made for the purposes of this sub-paragraph by the Secretary of State, be imposed by the Commission in relation to that investigation.

#### Textual Amendments

- F83** Words in Sch. 3 para. 17(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 15\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F84** Sch. 3 para. 17(2)(d) substituted for Sch. 3 para. 17(2)(b)(c) (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), [Sch. 6 para. 17\(3\)](#); S.I. 2013/1682, [art. 3\(q\)](#)
- F85** Words in Sch. 3 para. 17(4) substituted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\)](#), ss. 1, 53, [Sch. 1 para. 89\(4\)](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to [arts. 6, 7](#))
- F86** Words in Sch. 3 para. 17(6) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 15\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

**F87** Sch. 3 para. 17(6A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 15\(4\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

**Modifications etc. (not altering text)**

**C22** Sch. 3 para. 17 applied (with modifications) (E.W.) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

**Commencement Information**

**I15** Sch. 3 para. 17 wholly in force at 1.4.2004; Sch. 3 para. 17 not in force at Royal Assent see s. 108(2); Sch. 3 para. 17 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 17 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

*Investigations managed by the Commission*

- 18 (1) This paragraph applies where the Commission has determined that it should manage the investigation by the appropriate authority of any complaint [<sup>F88</sup>, recordable conduct matter or DSI matter] .
- (2) Sub-paragraphs (2) to [<sup>F89</sup>(6A)] of paragraph 17 shall apply as they apply in the case of an investigation which the Commission has determined is one that it should supervise.
- (3) The person appointed to investigate the complaint or matter shall, in relation to that investigation, be under the direction and control of the Commission.

**Textual Amendments**

**F88** Words in Sch. 3 para. 18(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 16\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

**F89** Word in Sch. 3 para. 18(2) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 16\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

**Modifications etc. (not altering text)**

**C23** Sch. 3 para. 18 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

**Commencement Information**

**I16** Sch. 3 para. 18 wholly in force at 1.4.2004; Sch. 3 para. 18 not in force at Royal Assent see s. 108(2); Sch. 3 para. 18 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 18 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

*Investigations by the Commission itself*

- 19 (1) This paragraph applies where the Commission has determined that it should itself carry out the investigation of a complaint [<sup>F90</sup>, recordable conduct matter or DSI matter].
- (2) The Commission shall designate both—
- (a) a member of the Commission’s staff to take charge of the investigation on behalf of the Commission, and

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

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- (b) all such other members of the Commission's staff as are required by the Commission to assist him.
- (3) The person designated under sub-paragraph (2) to be the person to take charge of an investigation relating to any conduct of the Commissioner of Police of the Metropolis or of the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that sub-paragraph.
- [<sup>F91</sup>(3A) The person designated under sub-paragraph (2) to be the person to take charge of an investigation of a DSI matter in relation to which the relevant officer is the Commissioner of Police of the Metropolis or the Deputy Commissioner of Police of the Metropolis must be the person nominated by the Secretary of State to be so designated under that sub-paragraph.]
- (4) A member of the Commission's staff who—
- (a) is designated under sub-paragraph (2) in relation to any investigation, but
  - (b) does not already, by virtue of section 97(8) of the 1996 Act, have all the powers and privileges of a constable throughout England and Wales and the adjacent United Kingdom waters,
- shall, for the purposes of the carrying out of the investigation and all purposes connected with it, have all those powers and privileges throughout England and Wales and those waters.
- (5) A member of the Commission's staff who is not a constable shall not, as a result of sub-paragraph (4), be treated as being in police service for the purposes of—
- (a) section 280 of the Trade Union and Labour Relations (Consolidation) Act 1992 (c. 52) (person in police service excluded from definitions of “worker” and “employee”); or
  - (b) section 200 of the Employment Rights Act 1996 (c. 18) (certain provisions of that Act not to apply to persons in police service).
- (6) The Secretary of State may by order [<sup>F92</sup>provide that—
- (a) such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order, and
  - (b) such provisions of a code of practice under section 60, 60A or 66 of that Act as may be so specified,
- shall apply.]
- [<sup>F93</sup>(6A) An order under sub-paragraph (6) may, in particular, provide that where a provision applied by the order allows a power to be exercised only if an authorisation is given by a police officer of or above a particular rank, the authorisation may be given by a member of the Commission's staff of or above a specified grade.]
- (7) References in this paragraph to the powers and privileges of a constable—
- (a) are references to any power or privilege conferred by or under any enactment (including one passed after the passing of this Act) on a constable; and
  - [<sup>F94</sup>(aa) a body required by section 26BA to enter into an agreement with the Commission, or]
  - (b) shall have effect as if every such power were exercisable, and every such privilege existed, throughout England and Wales and the adjacent United Kingdom waters (whether or not that is the case apart from this sub-paragraph).

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

(8) In this paragraph “United Kingdom waters” means the sea and other waters within the seaward limits of the United Kingdom’s territorial sea.

#### Textual Amendments

- F90** Words in Sch. 3 para. 19(1) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 17\(2\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F91** Sch. 3 para. 19(3A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 17\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F92** Words in Sch. 3 para. 19(6) substituted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 136\(2\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, [art. 3\(a\)](#)
- F93** Sch. 3 para. 19(6A) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 136\(3\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, [art. 3\(a\)](#)
- F94** Sch. 3 para. 19(7)(aa) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 95\(2\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, [art. 3\(c\)\(iii\)](#)

#### Modifications etc. (not altering text)

- C24** Sch. 3 para. 19 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3
- C25** Sch. 3 para. 19(4)(5)(7)(8) applied (with modifications) (16.1.2012) by [The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012 \(S.I. 2012/62\), regs. 1, 20\(3\)](#) (with reg. 3(6))

#### Commencement Information

- I17** Sch. 3 para. 19 wholly in force at 1.4.2004; Sch. 3 para. 19 not in force at Royal Assent see s. 108(2); Sch. 3 para. 19 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 19 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

*[<sup>F95</sup>Special procedure where investigation relates to police officer or special constable*

#### Textual Amendments

- F95** Sch. 3 paras. 19A-19E inserted (3.11.2008 for the purpose of making regulations and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 5](#) (with s. 14(1)); S.I. 2008/2712, [art. 2, Sch. para. 17\(b\)](#) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (with art. 3)

19A Paragraphs 19B to 19E apply to investigations of complaints or recordable conduct matters in cases where the person concerned (see paragraph 19B(11)) is a member of a police force or a special constable.

#### *Assessment of seriousness of conduct under investigation*

19B (1) If, during the course of an investigation of a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the person investigating must certify the investigation as one subject to special requirements.

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*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

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- (2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.
- (3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—
  - (a) as soon as is reasonably practicable after his appointment or designation, or
  - (b) in the case of a matter recorded in accordance with paragraph 21A(5) or 24B(2), as soon as is reasonably practicable after it is so recorded.
- (4) For the purposes of this paragraph a “severity assessment”, in relation to conduct, means an assessment as to—
  - (a) whether the conduct, if proved, would amount to misconduct or gross misconduct, and
  - (b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.
- (5) An assessment under this paragraph may only be made after consultation with the appropriate authority.
- (6) On completing an assessment under this paragraph, the person investigating the complaint or matter must give a notification to the person concerned that complies with sub-paragraph (7).
- (7) The notification must—
  - (a) give the prescribed information about the results of the assessment;
  - (b) give the prescribed information about the effect of paragraph 19C and of regulations under paragraph 19D;
  - (c) set out the prescribed time limits for providing the person investigating the complaint or matter with relevant statements and relevant documents respectively for the purposes of paragraph 19C(2);
  - (d) give such other information as may be prescribed.
- (8) Sub-paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—
  - (a) the investigation, or
  - (b) any other investigation (including, in particular, a criminal investigation).
- (9) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.
- (10) On revising a severity assessment, the person investigating the complaint or matter must notify the prescribed information about the revised assessment to the person concerned.
- (11) In this paragraph and paragraphs 19C to 19E—

“the person concerned”—

  - (a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph 19B(1);
  - (b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates;

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

“relevant document”—

- (a) means a document relating to any complaint or matter under investigation, and
  - (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;
- “relevant statement” means an oral or written statement relating to any complaint or matter under investigation.

*Duty to consider submissions from person whose conduct is being investigated*

- 19C (1) This paragraph applies to—
- (a) an investigation of a complaint that has been certified under paragraph 19B(1) as one subject to special requirements, or
  - (b) an investigation of a recordable conduct matter.
- (2) If before the expiry of the appropriate time limit notified in pursuance of paragraph 19B(7)(c)—
- (a) the person concerned provides the person investigating the complaint or matter with a relevant statement or a relevant document, or
  - (b) any person of a prescribed description provides that person with a relevant document,
- that person must consider the statement or document.

*Interview of person whose conduct is being investigated*

- 19D (1) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with any interview of the person concerned which is held during the course of an investigation within paragraph 19C(1)(a) or (b) by the person investigating the complaint or matter.
- (2) Regulations under this paragraph may, in particular, make provision—
- [ requiring the person concerned to attend an interview,]
- <sup>F96</sup>(za)
- (a) for determining how the time at which an interview is to be held is to be agreed or decided,
  - (b) about the information that must be provided to the person being interviewed,
  - (c) for enabling that person to be accompanied at the interview by a person of a prescribed description.

**Textual Amendments**

**F96** Sch. 3 para. 19D(2)(za) inserted (19.12.2012) by [Police \(Complaints and Conduct\) Act 2012 \(c. 22\)](#), ss. 1(3), 3(3)

*Duty to provide certain information to appropriate authority*

- 19E (1) This paragraph applies during the course of an investigation within paragraph 19C(1) (a) or (b).

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (2) The person investigating the complaint or matter must supply the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in sub-paragraph (3).
- (3) That purpose is determining, in accordance with regulations under section 50 or 51 of the 1996 Act, whether the person concerned should be, or should remain, suspended—
  - (a) from office as constable, and
  - (b) where that person is a member of a police force, from membership of that force.]

*[<sup>F97</sup>Interview of persons serving with the police etc during certain investigations*

#### **Textual Amendments**

**F97** Sch. 3 para. 19F and cross-heading inserted (19.12.2012) by [Police \(Complaints and Conduct\) Act 2012 \(c. 22\)](#), **ss. 1(2), 3(3)**

- 19F (1) This paragraph applies to an investigation of a complaint, recordable conduct matter or DSI matter which—
  - (a) is carried out by the appropriate authority under the management of the Commission, or
  - (b) is carried out by the Commission itself.
- (2) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with an interview which—
  - (a) is held with a serving officer during the course of the investigation by the person investigating the complaint or matter, and
  - (b) is not within paragraph 19D(1).
- (3) Regulations under sub-paragraph (2) may in particular make provision—
  - (a) requiring a serving officer to attend an interview,
  - (b) for determining how the time at which an interview is to be held is to be agreed or decided,
  - (c) about the information that must be provided to a serving officer being interviewed,
  - (d) for enabling a serving officer to be accompanied at the interview by a person of a prescribed description.
- (4) “Serving officer” means a person who—
  - (a) is serving with the police, or
  - (b) is serving with an additional police body.
- (5) A person is serving with an additional police body if the person is a member of, or is employed or otherwise engaged for the purposes of, that body (subject to sub-paragraph (6)).
- (6) The Secretary of State may by regulations provide, in relation to an additional police body, that a person is serving with that body only if the person—
  - (a) is a member of, or is employed or otherwise engaged for the purposes of, that body, and

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (b) is of a prescribed description.
- (7) An “additional police body” means—
- (a) a body of constables which is maintained by an authority other than a local policing body and is prescribed in regulations made by the Secretary of State under this sub-paragraph, or
  - <sup>F98</sup>(b) the National Crime Agency.]
- (8) The Secretary of State must obtain the consent of the Northern Ireland Assembly before making provision in regulations under this paragraph which would be within the legislative competence of the Northern Ireland Assembly.
- (9) But consent under sub-paragraph (8) is not required in relation to a provision if—
- (a) a Bill for an Act of the Northern Ireland Assembly containing the provision would require the consent of the Secretary of State under section 8 of the Northern Ireland Act 1998, and
  - (b) the provision does not affect, other than incidentally, a transferred matter (within the meaning of that Act).
- (10) Nothing in this paragraph prevents or restricts the holding of interviews to which regulations under this paragraph do not apply during the course of any investigation under this Schedule.]

#### Textual Amendments

**F98** Sch. 3 para. 19F(7)(b) substituted (7.10.2013) by [Crime and Courts Act 2013 \(c. 22\)](#), s. 61(2), **Sch. 8 para. 153(2)**; S.I. 2013/1682, art. 3(v)

#### *Restrictions on proceedings pending the conclusion of an investigation*

- 20 (1) No criminal or disciplinary proceedings shall be brought in relation to any matter which is the subject of an investigation in accordance with the provisions of this Schedule <sup>F99</sup> until—
- (a) the appropriate authority has certified the case as a special case under paragraph 20B(3) or 20E(3), or]
  - <sup>F100</sup>(b)] a report on that investigation has been submitted to the Commission or to the appropriate authority under paragraph 22 <sup>F101</sup>or 24A] .
- (2) Nothing in this paragraph shall prevent the bringing of criminal or disciplinary proceedings in respect of any conduct at any time after the discontinuance of the investigation in accordance with the provisions of this Schedule which relates to that conduct.
- (3) The restrictions imposed by this paragraph in relation to the bringing of criminal proceedings shall not apply to the bringing of criminal proceedings by the Director of Public Prosecutions in any case in which it appears to him that there are exceptional circumstances which make it undesirable to delay the bringing of such proceedings.

#### Textual Amendments

**F99** Words in Sch. 3 para. 20(1) substituted for word (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, **Sch. 11 para. 2(a)**; S.I. 2005/1521, art. 3(1)(v)



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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

**F100** Words in Sch. 3 para. 20(1) renumbered (1.7.2005) as Sch. 3 para. 20(1)(b) by virtue of [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 2\(b\)](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

**F101** Words in Sch. 3 para. 20(1) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 18](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

#### **Modifications etc. (not altering text)**

**C26** Sch. 3 para. 20 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

**C27** Sch. 3 para. 20 applied (with modifications) (16.1.2012) by [The Elected Local Policing Bodies \(Complaints and Misconduct\) Regulations 2012 \(S.I. 2012/62\)](#), regs. 1, [23](#) (with [reg. 3\(6\)](#))

#### **Commencement Information**

**I18** Sch. 3 para. 20 wholly in force at 1.4.2004; Sch. 3 para. 20 not in force at Royal Assent see s. 108(2); Sch. 3 para. 20 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 20 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

### *[<sup>F102</sup>Accelerated procedure in special cases*

#### **Textual Amendments**

**F102** Sch. 3 paras. 20A-20I inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 3](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)

- 20A (1) If, at any time before the completion of his investigation, [<sup>F103</sup>the person investigating] a complaint or recordable conduct matter believes that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, he shall proceed in accordance with the following provisions of this paragraph.
- (2) If the person was appointed under paragraph 16, he shall submit to the appropriate authority—
- (a) a statement of his belief and the grounds for it; and
  - (b) a written report on his investigation to that point;
- and if he was appointed following a determination made by the Commission under paragraph 15 he shall send a copy of the statement and the report to the Commission.
- (3) If the person was appointed under paragraph 17 or 18 or designated under paragraph 19, he shall submit to the appropriate authority—
- (a) a statement of his belief and the grounds for it; and
  - (b) a written report on his investigation to that point;
- and shall send a copy of the statement and the report to the Commission.
- (4) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- (5) A statement and report may be submitted under this paragraph whether or not a previous statement and report have been submitted; but a second or subsequent statement and report may be submitted only if the person submitting them has grounds to believe that the appropriate authority will reach a different determination under paragraph 20B(2) or 20E(2).

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (6) After submitting a report under this paragraph, the person [<sup>F104</sup>investigating] the complaint or recordable conduct matter shall continue his investigation to such extent as he considers appropriate.
- (7) The special conditions are that—
  - [<sup>F105</sup>(a) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct to which the investigation relates constitutes gross misconduct;]
  - (c) it is in the public interest for the person whose conduct [<sup>F106</sup>it is] to cease to be a member of a police force, or to be a special constable, without delay.
- (8) <sup>F107</sup> .....
- (9) In paragraphs 20B to 20H “special report” means a report submitted under this paragraph.

**Textual Amendments**

**F103** Words in Sch. 3 para. 20A(1) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 6\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

**F104** Words in Sch. 3 para. 20A(6) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 6\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

**F105** Sch. 3 para. 20A(7)(a) substituted (1.12.2008) for Sch. 3 para. 20A(7)(a)(b) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 6\(4\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

**F106** Words in Sch. 3 para. 20A(7)(c) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 6\(4\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

**F107** Sch. 3 para. 20A(8) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 149, 153, Sch. 23 para. 6\(5\), Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)

*Investigations managed or carried out by Commission: action by appropriate authority*

- 20B (1) This paragraph applies where —
- (a) a statement and special report on an investigation carried out under the management of the Commission, or
  - (b) a statement and special report on an investigation carried out by a person designated by the Commission,
- are submitted to the appropriate authority under paragraph 20A(3).
- (2) The appropriate authority shall determine whether the special conditions are satisfied.
- [<sup>F108</sup>(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—
- (a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and
  - (b) take such steps as are required by those regulations in relation to a case so certified.]
- (5) <sup>F109</sup> .....

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (6) The appropriate authority shall notify the Commission of a certification under sub-paragraph (3).
- (7) If the appropriate authority determines—
  - (a) that the special conditions are not satisfied, or
  - (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,it shall submit to the Commission a memorandum under this sub-paragraph.
- (8) The memorandum required to be submitted under sub-paragraph (7) is one which—
  - (a) notifies the Commission of its determination that those conditions are not satisfied or (as the case may be) that they are so satisfied but the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings; and
  - (b) (in either case) sets out its reasons for so determining.
- (9) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

#### Textual Amendments

- F108** Sch. 3 para. 20B(3) substituted (1.12.2008) for Sch. 3 para. 20B(3)(4) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 7\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))
- F109** Sch. 3 para. 20B(5) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 7\(3\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to [art. 3](#))

#### *Investigations managed or carried out by Commission: action by Commission*

- 20C (1) On receipt of a notification under paragraph 20B(6), the Commission shall give a notification—
  - (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (2) The notification required by sub-paragraph (1) is one setting out—
  - (a) the findings of the special report;
  - (b) the appropriate authority's determination under paragraph 20B(2); and
  - (c) the action that the appropriate authority is required to take as a consequence of that determination.
- (3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (1) as they have effect in relation to the duties imposed on the Commission by that section.
- (4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

*Investigations managed or carried out by Commission: action by Commission*

- 20D (1) On receipt of a memorandum under paragraph 20B(7), the Commission shall—
- (a) consider the memorandum;
  - (b) determine, in the light of that consideration, whether or not to make a recommendation under paragraph 20H; and
  - (c) if it thinks fit to do so, make a recommendation under that paragraph.
- (2) If the Commission determines not to make a recommendation under paragraph 20H, it shall notify the appropriate authority and the person [<sup>F110</sup>investigating the complaint or matter] of its determination.

**Textual Amendments**

**F110** Words in Sch. 3 para. 20D(2) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008](#) (c. 4), ss. 127, 153, [Sch. 23 para. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

*Other investigations: action by appropriate authority*

- 20E (1) This paragraph applies where—
- (a) a statement and a special report on an investigation carried out by an appropriate authority on its own behalf, or
  - (b) a statement and a special report on an investigation carried out under the supervision of the Commission,
- are submitted to the appropriate authority under paragraph 20A(2) or (3).
- (2) The appropriate authority shall determine whether the special conditions are satisfied.
- [<sup>F111</sup>(3) If the appropriate authority determines that the special conditions are satisfied then, unless it considers that the circumstances are such as to make it inappropriate to do so, it shall—
- (a) certify the case as a special case for the purposes of regulations under section 50(3) or 51(2A) of the 1996 Act; and
  - (b) take such steps as are required by those regulations in relation to a case so certified.]

(5) <sup>F112</sup> .....

(6) Where the statement and report were required under paragraph 20A(2) to be copied to the Commission, the appropriate authority shall notify the Commission of a certification under sub-paragraph (3).

(7) If the appropriate authority determines—

    - (a) that the special conditions are not satisfied, or
    - (b) that, although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it shall notify the person [<sup>F113</sup>investigating the complaint or matter] of its determination.

(8) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

**Textual Amendments**

- F111** Sch. 3 para. 20E(3) substituted (1.12.2008) for Sch. 3 para. 20E(3)(4) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, **Sch. 23 para. 9(2)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F112** Sch. 3 para. 20E(5) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 9\(3\)](#), **Sch. 28 Pt. 8** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(k)(ii)** (subject to art. 3)
- F113** Words in Sch. 3 para. 20E(7) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, **Sch. 23 para. 9(4)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)

*Other investigations: action by appropriate authority*

- 20F (1) If the appropriate authority certifies a case under paragraph 20E(3), it shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (2) The notification required by sub-paragraph (1) is one setting out—
- (a) the findings of the report;
  - (b) the authority's determination under paragraph 20E(2); and
  - (c) the action that the authority is required to take in consequence of that determination.
- (3) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (1) as they have effect in relation to the duties imposed on the appropriate authority by that section.
- (4) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (3), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (1) notification of the findings of the special report by sending that person a copy of that report.

20G **F114** .....

**Textual Amendments**

- F114** Sch. 3 para. 20G and preceding cross-heading repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 10](#), **Sch. 28 Pt. 8** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(k)(ii)** (subject to art. 3)

*Special cases: recommendation or direction of Commission*

- 20H (1) Where the appropriate authority has submitted, or is required to submit, a memorandum to the Commission under paragraph 20B(7), the Commission may make a recommendation to the appropriate authority that it should certify the case under paragraph 20B(3).

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (2) If the Commission determines to make a recommendation under this paragraph, it shall give a notification—
  - (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (3) The notification required by sub-paragraph (2) is one setting out—
  - (a) the findings of the special report; and
  - (b) the Commission's recommendation under this paragraph.
- (4) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (2) as they have effect in relation to the duties imposed on the Commission by that section.
- (5) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (4), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (2) notification of the findings of the special report by sending that person a copy of the report.
- (6) It shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to certify the case and proceed accordingly.
- (7) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not certify the case under paragraph 20B(3)—
  - (a) the Commission may direct the appropriate authority so to certify it; and
  - (b) it shall be the duty of the appropriate authority to comply with the direction and proceed accordingly.
- (8) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.
- (9) The Commission may at any time withdraw a direction given under this paragraph.
- (10) The appropriate authority shall keep the Commission informed of whatever action it takes in response to a recommendation or direction.

*Special cases: recommendation or direction of Commission*

- 20I (1) Where—
- (a) the Commission makes a recommendation under paragraph 20H in the case of an investigation of a complaint, and
  - (b) the appropriate authority notifies the Commission that the recommendation has been accepted,
- the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be, taken by the appropriate authority to give effect to it.
- (2) Where in the case of an investigation of a complaint the appropriate authority—

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (a) notifies the Commission that it does not accept the recommendation made by the Commission under paragraph 20H, or
  - (b) fails to certify the case under paragraph 20B(3) and to proceed accordingly, it shall be the duty of the Commission to determine what (if any) further steps to take under paragraph 20H.
- (3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—
- (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 20H; and
  - (b) where it determines under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.]

*Power <sup>F115</sup> ... to discontinue an investigation*

#### Textual Amendments

**F115** Words in Sch. 3 para. 21 omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 13\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

- 21 <sup>F116</sup>(1) The Commission may by order require the discontinuance of the investigation of a complaint or matter if (whether on the application of the appropriate authority or otherwise) it appears to the Commission that—
- (a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and
  - (b) discontinuance of the investigation is within the Commission's power.
- (1A) The appropriate authority that is investigating a complaint or matter may discontinue the investigation if it appears to that authority that—
- (a) the complaint or matter is of a description specified in regulations made by the Secretary of State for the purposes of this paragraph, and
  - (b) discontinuance of the investigation is not within the Commission's power.
- (1B) For the purposes of this paragraph—
- (a) discontinuance of the investigation of a complaint is within the Commission's power if—
    - (i) the investigation is being undertaken by the appropriate authority on its own behalf and the complaint is one required to be referred to the Commission under paragraph 4; or
    - (ii) the investigation is under the supervision or management of the Commission;
  - (b) discontinuance of the investigation of a matter other than a complaint is within the Commission's power if the investigation is under the supervision or management of the Commission.]
- (2) The Commission shall not discontinue any investigation that is being carried out in accordance with paragraph 19 except in such cases as may be authorised by regulations made by the Secretary of State.

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (3) Where the Commission makes an order under this paragraph or discontinues an investigation being carried out in accordance with paragraph 19, it shall give notification of the discontinuance—
- (a) to the appropriate authority;
  - (b) to every person entitled to be kept properly informed in relation to the subject matter of the investigation under section 21; and
  - (c) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.
- [<sup>F117</sup>(3A) Where the appropriate authority discontinues an investigation under sub-paragraph (1A), the appropriate authority shall give notification of the discontinuance—
- (a) to every person entitled to be kept properly informed in relation to the investigation under section 21; and
  - (b) in a case where the investigation that is discontinued is an investigation of a complaint, to the complainant.]
- (4) Where an investigation of a complaint[<sup>F118</sup>, recordable conduct matter or DSI matter] is discontinued [<sup>F119</sup>in accordance with an order under sub-paragraph (1)]—
- (a) the Commission may give the appropriate authority directions to do any such things as it is authorised to direct by regulations made by the Secretary of State;
  - (b) the Commission may itself take any such steps of a description specified in regulations so made as it considers appropriate for purposes connected with the discontinuance of the investigation; and
  - (c) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.
- (5) The appropriate authority shall comply with any directions given to it under sub-paragraph (4).
- [<sup>F120</sup>(6) Where an investigation of a complaint, recordable conduct matter or DSI matter is discontinued in accordance with sub-paragraph (1A)—
- (a) the appropriate authority may take any such steps of a description specified in regulations made by the Secretary of State as he or it considers appropriate for purposes connected with the discontinuance of the investigation; and
  - (b) subject to the preceding paragraphs, neither the appropriate authority nor the Commission shall take any further action in accordance with the provisions of this Schedule in relation to that complaint or matter.]
- [<sup>F121</sup>(7) The complainant shall have a right of appeal to the relevant appeal body against any decision by the appropriate authority under sub-paragraph (1A) to discontinue the investigation of the complaint.
- (8) But the complainant has no right of appeal if the complaint relates to a direction and control matter.
- (9) On an appeal under this paragraph, subject to sub-paragraphs (10) and (11), the relevant appeal body shall—
- (a) determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and



*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (b) if the relevant appeal body finds in the complainant's favour, give such directions as the relevant appeal body thinks appropriate to the local policing body or chief officer as to the action to be taken for investigating the complaint;
- and it shall be the duty of a local policing body or chief officer to comply with any directions given under paragraph (b).
- (10) Sub-paragraph (9) does not apply in a case where a particular chief officer of police is—
- (a) the person in respect of whose decision an appeal is made under this paragraph, and
- (b) the relevant appeal body in relation to the appeal.
- (11) In such a case—
- (a) the appeal shall determine whether any decision taken by the appropriate authority under this paragraph should have been taken in the case in question; and
- (b) if the appeal finds in the complainant's favour, the chief officer of police must take such action as the chief officer thinks appropriate for investigating the complaint.]

#### Textual Amendments

- F116** Sch. 3 para. 21(1)-(1B) substituted for Sch. 3 para. 21(1) (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 14 para. 13\(4\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F117** Sch. 3 para. 21(3A) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 14 para. 13\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F118** Words in Sch. 3 para. 21(4) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178](#), [Sch. 12 para. 19](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F119** Words in Sch. 3 para. 21(4) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 14 para. 13\(6\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F120** Sch. 3 para. 21(6) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 14 para. 13\(7\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F121** Sch. 3 para. 21(7)-(11) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\)](#), [Sch. 14 para. 19\(2\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)

#### Modifications etc. (not altering text)

- C28** Sch. 3 para. 21 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I19** Sch. 3 para. 21 wholly in force at 1.4.2004; Sch. 3 para. 21 not in force at Royal Assent see s. 108(2); Sch. 3 para. 21 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 21 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

*<sup>F122</sup>Procedure where conduct matter is revealed during investigation of DSI matter*

**Textual Amendments**

**F122** Sch. 3 para. 21A inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 20](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

- 21A (1) If during the course of an investigation of a DSI matter it appears to a person appointed under paragraph 18 or designated under paragraph 19 that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,
- he shall make a submission to that effect to the Commission.
- (2) If, after considering a submission under sub-paragraph (1), the Commission determines that there is such an indication, it shall—
- (a) notify the appropriate authority in relation to the DSI matter and (if different) the appropriate authority in relation to the person whose conduct is in question of its determination; and
  - (b) send to it (or each of them) a copy of the submission under sub-paragraph (1).
- (3) If during the course of an investigation of a DSI matter it appears to a person appointed under paragraph 16 or 17 that there is an indication that a person serving with the police (“the person whose conduct is in question”) may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,
- he shall make a submission to that effect to the appropriate authority in relation to the DSI matter.
- (4) If, after considering a submission under sub-paragraph (3), the appropriate authority determines that there is such an indication, it shall—
- (a) if it is not the appropriate authority in relation to the person whose conduct is in question, notify that other authority of its determination and send to that authority a copy of the submission under sub-paragraph (3); and
  - (b) notify the Commission of its determination and send to it a copy of the submission under sub-paragraph (3).
- (5) Where the appropriate authority in relation to the person whose conduct is in question—
- (a) is notified of a determination by the Commission under sub-paragraph (2),
  - (b) (in a case where it is also the appropriate authority in relation to the DSI matter) makes a determination under sub-paragraph (4), or
  - (c) (in a case where it is not the appropriate authority in relation to the DSI matter) is notified by that other authority of a determination by it under sub-paragraph (4),
- it shall record the matter under paragraph 11 as a conduct matter <sup>F123</sup> . . . .

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- [ Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue of sub-paragraph (5)—
- (a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) continue the investigation as if appointed or designated to investigate the conduct matter, and
  - (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.]

#### Textual Amendments

**F123** Words in Sch. 3 para. 21A(5) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, Sch. 23 para. 11(2), **Sch. 28 Pt. 8** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(k)(ii)** (subject to art. 3)

**F124** Sch. 3 para. 21A(6) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, **Sch. 23 para. 11(3)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)

#### Modifications etc. (not altering text)

**C29** Sch. 3 para. 21A applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(4)(6)**, Sch. 3

#### *Final reports on investigations: complaints, conduct matters and certain DSI matters*

- [<sup>F125</sup>22(1) This paragraph applies on the completion of an investigation of—
- (a) a complaint,<sup>[F126</sup> or]
  - (b) a conduct matter, or
  - (c) <sup>F127</sup> .....
- (2) A person appointed under paragraph 16 shall submit a report on his investigation to the appropriate authority.
- (3) A person appointed under paragraph 17 or 18 shall—
- (a) submit a report on his investigation to the Commission; and
  - (b) send a copy of that report to the appropriate authority.
- (4) In relation to [<sup>F128</sup>a matter that was formerly a DSI matter but has been recorded as a conduct matter in pursuance of paragraph 21A(5)], the references in sub-paragraphs (2) and (3) of this paragraph to the appropriate authority are references to—
- (a) the appropriate authority in relation to the DSI matter; and
  - (b) (where different) the appropriate authority in relation to the person whose conduct is in question.
- (5) A person designated under paragraph 19 as the person in charge of an investigation by the Commission itself shall submit a report on it to the Commission.
- (6) A person submitting a report under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- [<sup>F129</sup>(7) The Secretary of State may by regulations make provision requiring a report on an investigation within paragraph 19C(1)(a) or (b)—
- (a) to include such matters as are specified in the regulations;

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (b) to be accompanied by such documents or other items as are so specified.
- (8) A person who has submitted a report under this paragraph on an investigation within paragraph 19C(1)(a) or (b) must supply the appropriate authority with such copies of further documents or other items in that person's possession as the authority may request.
- (9) The appropriate authority may only make a request under sub-paragraph (8) in respect of a copy of a document or other item if the authority—
- (a) considers that the document or item is of relevance to the investigation, and
  - (b) requires a copy of the document or the item for either or both of the purposes mentioned in sub-paragraph (10).
- (10) Those purposes are—
- (a) complying with any obligation under regulations under section 50(3) or 51(2A) of the 1996 Act which the authority has in relation to any person to whose conduct the investigation related;
  - (b) ensuring that any such person receives a fair hearing at any disciplinary proceedings in respect of any such conduct of his.]]

#### Textual Amendments

- F125** Sch. 3 para. 22 substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 21](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F126** Word in Sch. 3 para. 22(1)(a) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 12\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F127** Sch. 3 para. 22(1)(c) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 149, 153, [Sch. 23 para. 12\(2\)\(b\)](#), [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F128** Words in Sch. 3 para. 22(4) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 12\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (subject to art. 3)
- F129** Sch. 3 para. 22(7)-(10) inserted (3.11.2008 for certain purposes and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 12\(4\)](#) (with s. 14(1)); S.I. 2008/2712, [art. 2](#), [Sch. para. 17\(b\)](#) (subject to arts. 3, 4); S.I. 2008/2993, [art. 2\(1\)\(i\)\(ii\)](#) (subject to art. 3)

#### Modifications etc. (not altering text)

- C30** Sch. 3 para. 22 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), [reg. 3\(4\)\(6\)](#), Sch. 3

#### Commencement Information

- I20** Sch. 3 para. 22 wholly in force at 1.4.2004; Sch. 3 para. 22 not in force at Royal Assent see s. 108(2); Sch. 3 para. 22 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, [art. 4\(e\)](#); Sch. 3 para. 22 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, [art. 2\(d\)](#)

*Action by the Commission in response to an investigation report <sup>F130</sup> under paragraph 22]*

#### Textual Amendments

- F130** Words in Sch. 3 para. 23 heading inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 22\(1\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- 23 (1) This paragraph applies where—
- (a) a report on an investigation carried out under the management of the Commission is submitted to it under sub-paragraph [F131(3)] of paragraph 22; or
  - (b) a report on an investigation carried out by a person designated by the Commission is submitted to it under sub-paragraph [F132(5)] of that paragraph.
- (2) On receipt of the report, the Commission—
- (a) if it appears that the appropriate authority has not already been sent a copy of the report, shall send a copy of the report to that authority;
  - [F133](b) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;]
  - (c) if it determines that [F134those conditions are so satisfied], shall notify the Director of Public Prosecutions of the determination and send him a copy of the report; and
  - (d) shall notify the appropriate authority [F135and the persons mentioned in sub-paragraph (5)] of its determination under paragraph (b) and of any action taken by it under paragraph (c).
- [F136(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
- (2B) The second condition is that—
- (a) the circumstances are such that, in the opinion of the Commission, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
  - (b) any matters dealt with in the report fall within any prescribed category of matters.]
- (3) The Director of Public Prosecutions shall notify the Commission of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2)(c).
- (4) It shall be the duty of the Commission to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(c).
- (5) [F137The] persons are—
- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.
- [F138(6) On receipt of the report, the Commission shall also notify the appropriate authority that it must—
- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—
    - (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- [<sup>F139</sup>(ia) whether or not any such person's performance is unsatisfactory, and]  
 (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
- (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.”
- (7) On receipt of a notification under sub-paragraph (6) the appropriate authority shall make those determinations and submit a memorandum to the Commission which—
- (a) sets out the determinations the authority has made, and
  - (b) if the appropriate authority has decided in relation to any person to whose conduct the investigation related that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding.]
- (8) On receipt of a memorandum under sub-paragraph (7), the Commission shall—
- (a) consider the memorandum and whether the appropriate authority [<sup>F140</sup>has made the determinations under sub-paragraph (6)(a)] that the Commission considers appropriate in respect of the matters dealt with in the report;
  - (b) determine, in the light of its consideration of those matters, whether or not to make recommendations under paragraph 27; and
  - (c) make such recommendations (if any) under that paragraph as it thinks fit.
- (9) On the making of a determination under sub-paragraph (8)(b) the Commission shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (10) The notification required by sub-paragraph (9) is one setting out—
- (a) the findings of the report;
  - (b) the Commission’s determination under sub-paragraph (8)(b); and
  - (c) the action which the appropriate authority is to be recommended to take as a consequence of the determination.
- (11) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the Commission by sub-paragraph (9) of this paragraph as they have effect in relation to the duties imposed on the Commission by that section.
- (12) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (11), the Commission shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (9) notification of the findings of the report by sending that person a copy of the report.
- [<sup>F141</sup>(13) In relation to a DSI matter in respect of which a determination has been made under paragraph 21A(2) or (4), the references in this paragraph to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.]

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

### Textual Amendments

- F131** Word in Sch. 3 para. 23(1)(a) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 22\(2\)\(a\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F132** Word in Sch. 3 para. 23(1)(b) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 22\(2\)\(b\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F133** Sch. 3 para. 23(2)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F134** Words in Sch. 3 para. 23(2)(c) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(2\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F135** Words in Sch. 3 para. 23(2)(d) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(2\)\(c\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F136** Sch. 3 para. 23(2A)(2B) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F137** Word in Sch. 3 para. 23(5) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(4\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F138** Sch. 3 para. 23(6)(7) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(5\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F139** Sch. 3 para. 23(6)(a)(ia) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 14\(2\)](#); S.I. 2012/2892, [art. 2\(g\)](#) (with art. 6)
- F140** Words in Sch. 3 para. 23(8)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 13\(6\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F141** Sch. 3 para. 23(13) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 22\(3\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

### Modifications etc. (not altering text)

- C31** Sch. 3 para. 23 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3

### Commencement Information

- I21** Sch. 3 para. 23 wholly in force at 1.4.2004; Sch. 3 para. 23 not in force at Royal Assent see s. 108(2); Sch. 3 para. 23 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 23 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

*Action by the appropriate authority in response to an investigation report [F<sup>142</sup> under paragraph 22]*

### Textual Amendments

- F142** Words in Sch. 3 para. 24 heading inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 160, 178, Sch. 12 para. 23\(1\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)

- 24 (1) This paragraph applies where—
- a report of an investigation is submitted to the appropriate authority in accordance with paragraph [F<sup>143</sup>22(2)] ; or
  - a copy of a report on an investigation carried out under the supervision of the Commission is sent to the appropriate authority in accordance with paragraph [F<sup>144</sup>22(3)] .

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (2) On receipt of the report or (as the case may be) of the copy, the appropriate authority—
- [<sup>F145</sup>(a) shall determine whether the conditions set out in sub-paragraphs (2A) and (2B) are satisfied in respect of the report;]
  - (b) if it determines that [<sup>F146</sup>those conditions are so satisfied], shall notify the Director of Public Prosecutions of the determination and send him a copy of the report[<sup>F147</sup> and
  - (c) shall notify the persons mentioned in sub-paragraph (5) of its determination under paragraph (a) and of any action taken by it under paragraph (b).]
- [<sup>F148</sup>(2A) The first condition is that the report indicates that a criminal offence may have been committed by a person to whose conduct the investigation related.
- (2B) The second condition is that—
- (a) the circumstances are such that, in the opinion of the appropriate authority, it is appropriate for the matters dealt with in the report to be considered by the Director of Public Prosecutions, or
  - (b) any matters dealt with in the report fall within any prescribed category of matters.]
- (3) The Director of Public Prosecutions shall notify the appropriate authority of any decision of his to take, or not to take, action in respect of the matters dealt with in any report a copy of which has been sent to him under sub-paragraph (2).
- (4) It shall be the duty of the appropriate authority to notify the persons mentioned in sub-paragraph (5) if criminal proceedings are brought against any person by the Director of Public Prosecutions in respect of any matters dealt with in a report copied to him under sub-paragraph (2)(b).
- (5) [<sup>F149</sup>The] persons are—
- (a) in the case of a complaint, the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, every person entitled to be kept properly informed in relation to that matter under that section.
- [<sup>F150</sup>(5A) In the case of a report falling within sub-paragraph (1)(b) which relates to a recordable conduct matter, the appropriate authority shall also notify the Commission of its determination under sub-paragraph (2)(a).
- (5B) On receipt of such a notification that the appropriate authority has determined that the conditions in sub-paragraphs (2A) and (2B) are not satisfied in respect of the report, the Commission—
- (a) shall make its own determination as to whether those conditions are so satisfied, and
  - (b) if it determines that they are so satisfied, shall direct the appropriate authority to notify the Director of Public Prosecutions of the Commission's determination and to send the Director a copy of the report.
- (5C) It shall be the duty of the appropriate authority to comply with any direction given to it under sub-paragraph (5B).]
- [<sup>F151</sup>(6) On receipt of the report or (as the case may be) copy, the appropriate authority shall also—



*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (a) in accordance with regulations under section 50 or 51 of the 1996 Act, determine—
- (i) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer, and
  - [<sup>F152</sup>(ia) whether or not any such person's performance is unsatisfactory, and]
  - (ii) what action (if any) the authority is required to, or will in its discretion, take in respect of the matters dealt with in the report, and
- (b) determine what other action (if any) the authority will in its discretion take in respect of those matters.]
- (7) On the making of [<sup>F153</sup>the determinations] under sub-paragraph (6) the appropriate authority shall give a notification—
- (a) in the case of a complaint, to the complainant and to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (b) in the case of a recordable conduct matter, to every person entitled to be kept properly informed in relation to that matter under that section.
- (8) The notification required by sub-paragraph (7) is one setting out—
- (a) the findings of the report;
  - [<sup>F154</sup>(b) the determinations the authority has made under sub-paragraph (6);]
  - (d) the complainant's right of appeal under paragraph 25.
- (9) Subsections (5) to (7) of section 20 shall have effect in relation to the duties imposed on the appropriate authority by sub-paragraph (7) of this paragraph as they have effect in relation to the duties imposed on the appropriate authority by that section.
- (10) Except so far as may be otherwise provided by regulations made by virtue of sub-paragraph (9), the appropriate authority shall be entitled (notwithstanding any obligation of secrecy imposed by any rule of law or otherwise) to discharge the duty to give a person mentioned in sub-paragraph (7) notification of the findings of the report by sending that person a copy of the report.
- [<sup>F155</sup>(11) In relation to a DSI matter in respect of which a determination has been made under paragraph 21A(2) or (4), the references in this paragraph to the appropriate authority are references to the appropriate authority in relation to the person whose conduct is in question.]

#### Textual Amendments

- F143** Words in Sch. 3 para. 24(1)(a) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 23\(2\)\(a\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F144** Words in Sch. 3 para. 24(1)(b) substituted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 160, 178, [Sch. 12 para. 23\(2\)\(b\)](#); S.I. 2005/1521, [art. 3\(1\)\(w\)](#)
- F145** Sch. 3 para. 24(2)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F146** Words in Sch. 3 para. 24(2)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(2\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F147** Sch. 3 para. 24(2)(c) and word inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(2\)\(c\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F148** Sch. 3 para. 24(2A)(2B) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 14\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- F149** Word in Sch. 3 para. 24(5) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 14(4)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F150** Sch. 3 para. 24(5A)-(5C) inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 14(5)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F151** Sch. 3 para. 24(6) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 14(6)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F152** Sch. 3 para. 24(6)(a)(ia) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 14(3)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F153** Words in Sch. 3 para. 24(7) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 14(7)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F154** Sch. 3 para. 24(8)(b) substituted (1.12.2008) for Sch. 3 para. 24(8)(b)(c) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 14(8)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F155** Sch. 3 para. 24(11) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 23(3)**; S.I. 2005/1521, **art. 3(1)(w)**

#### **Modifications etc. (not altering text)**

- C32** Sch. 3 para. 24 applied (with modifications) (28.12.2005) by virtue of The Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311), **reg. 3(4)(6)**, Sch. 3

#### **Commencement Information**

- I22** Sch. 3 para. 24 wholly in force at 1.4.2004; Sch. 3 para. 24 not in force at Royal Assent see s. 108(2); Sch. 3 para. 24 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 24 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

### *[<sup>F156</sup>Final reports on investigations: other DSI matters*

#### **Textual Amendments**

- F156** Sch. 3 paras. 24A-24C inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 24**; S.I. 2005/1521, **art. 3(1)(w)**

- 24A (1) This paragraph applies on the completion of an investigation of a DSI matter in respect of which neither the Commission nor the appropriate authority has made a determination under paragraph 21A(2) or (4).
- (2) [<sup>F157</sup>The person investigating] shall—
- (a) submit a report on the investigation to the Commission; and
  - (b) send a copy of that report to the appropriate authority.
- (3) A person submitting a report [<sup>F158</sup>to the Commission] under this paragraph shall not be prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in his report as he thinks fit.
- (4) On receipt of the report, the Commission shall determine whether the report indicates that a person serving with the police may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings.

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

**Textual Amendments**

- F157** Words in Sch. 3 para. 24A(2) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 15](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F158** Words in Sch. 3 para. 24A(3) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 95\(7\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)

*Action by the Commission in response to an investigation report under paragraph 24A*

- 24B (1) If the Commission determines under paragraph 24A(4) that the report indicates that a person serving with the police may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

it shall notify the appropriate authority in relation to the person whose conduct is in question of its determination and, if it appears that that authority has not already been sent a copy of the report, send a copy of the report to that authority.

- (2) Where the appropriate authority in relation to the person whose conduct is in question is notified of a determination by the Commission under sub-paragraph (1), it shall record the matter under paragraph 11 as a conduct matter <sup>F159</sup> . . . .

[ Where a DSI matter is recorded under paragraph 11 as a conduct matter by virtue <sup>F160</sup>(3) of sub-paragraph (2)—

- (a) the person investigating the DSI matter shall (subject to any determination made by the Commission under paragraph 15(5)) investigate the conduct matter as if appointed or designated to do so, and
- (b) the other provisions of this Schedule shall apply in relation to that matter accordingly.]

**Textual Amendments**

- F159** Words in Sch. 3 para. 24B(2) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 149, 153, Sch. 23 para. 16\(2\), Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F160** Sch. 3 para. 24B(3) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\), ss. 127, 153, Sch. 23 para. 16\(3\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)

- 24C (1) [<sup>F161</sup>This paragraph applies where] the Commission determines under paragraph 24A(4) that there is no indication in the report that a person serving with the police may have—
- (a) committed a criminal offence, or
  - (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

<sup>F162</sup> . . .

<sup>F163</sup>(2) . . . . .

[ The Commission may notify the appropriate authority that it must, in accordance <sup>F164</sup>(3) with regulations under section 50 or 51 of the 1996 Act, determine—

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (a) whether or not the performance of a person serving with the police is unsatisfactory, and
- (b) what action (if any) the authority will take in respect of any such person's performance.]

[ On receipt of a notification under sub-paragraph (3) the appropriate authority shall  
<sup>F164</sup>(4) make those determinations and submit a memorandum to the Commission setting out the determinations the authority has made.]

[ On receipt of a memorandum under sub-paragraph (4), the Commission shall—  
<sup>F164</sup>(5) (a) consider the memorandum and whether the appropriate authority has made the determinations under sub-paragraph (4) that the Commission considers appropriate;  
 (b) determine whether or not to make recommendations under paragraph 27;  
 (c) make such recommendations (if any) under that paragraph as it thinks fit.]]

#### Textual Amendments

- F161** Words in Sch. 3 para. 24C(1) substituted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 95(8)(a)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)
- F162** Words in Sch. 3 para. 24C omitted (1.10.2014) by virtue of [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 95(8)(b)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)
- F163** Sch. 3 para. 24C(2) repealed (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), s. 185(1), **Sch. 11 para. 95(8)(c)** (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)
- F164** Sch. 3 paras. 24C(3)-(5) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), **ss. 138(1)**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(a)

#### *Appeals <sup>F165</sup> ... with respect to an investigation*

#### Textual Amendments

- F165** Words in Sch. 3 para. 25 heading omitted (22.11.2012) by virtue of [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), **Sch. 14 para. 20(1)**; S.I. 2012/2892, art. 2(g) (with art. 6)

- 25 (1) This paragraph applies where a complaint has been subjected to—
- (a) an investigation by the appropriate authority on its own behalf; or
  - (b) an investigation under the supervision of the Commission.
- (2) The complainant shall have the following rights of appeal [<sup>F166</sup>to the relevant appeal body] —
- (a) a right to appeal on the grounds that he has not been provided with adequate information—
    - (i) about the findings of the investigation; or
    - <sup>F167</sup>(ii) about any determination of the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report on the investigation;]
  - (b) a right to appeal against the findings of the investigation; <sup>F168</sup> . . .
- <sup>F169</sup>(ba) a right of appeal against any determination by the appropriate authority that a person to whose conduct the investigation related has a case to answer in

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

respect of misconduct or gross misconduct or has no case to answer [<sup>F170</sup>or that such a person's performance is, or is not, unsatisfactory];

- (c) a right of appeal against any determination by the appropriate authority relating to the taking (or not taking) of action in respect of any matters dealt with in the report; and
- (d) a right of appeal against any determination by the appropriate authority under paragraph 24(2)(a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report;]

and it shall be the duty of the [<sup>F171</sup>relevant appeal body] to notify the appropriate authority, every person entitled to be kept properly informed in relation to the complaint under section 21 and the person complained against of any appeal brought under this paragraph [<sup>F172</sup>(except that the duty to notify the appropriate authority does not apply where that authority is the relevant appeal body)].

[<sup>F173</sup>(2ZA) But the complainant has no right of appeal if the complaint relates to a direction and control matter.]

[<sup>F174</sup>(2A) In sub-paragraph (2)—

- (a) references to the findings of an investigation do not include a reference to findings on a report submitted under paragraph 20A; and
- (b) references to the report of an investigation do not include a reference to a report submitted under that paragraph.]

(3) On the bringing of an appeal under this paragraph, the Commission may require the appropriate authority to submit a memorandum to the Commission which—

[<sup>F175</sup>(za) sets out whether the appropriate authority has determined that a person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer;]

[<sup>F176</sup>(zb) sets out whether the appropriate authority has determined any such person's performance is, or is not, unsatisfactory;]

[<sup>F177</sup>(a) sets out what action (if any) the authority has determined that it is required to or will, in its discretion, take in respect of the matters dealt with in the report;]

(c) if the appropriate authority has decided in relation to [<sup>F178</sup>a person to whose conduct the investigation related] that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding; [<sup>F179</sup> and

(d) if the appropriate authority made a determination under paragraph 24(2) (a) as a result of which it is not required to send the Director of Public Prosecutions a copy of the report, sets out the reasons for that determination;]

and it shall be the duty of the appropriate authority to comply with any requirement under this sub-paragraph.

(4) Where the Commission so requires on the bringing of any appeal under this paragraph in the case of an investigation by the appropriate authority on its own behalf, the appropriate authority shall provide the Commission with a copy of the report of the investigation.

(5) On an appeal under this paragraph, the [<sup>F180</sup>relevant appeal body] shall determine [<sup>F181</sup>such of the following as it considers appropriate in the circumstances]—

- (a) whether the complainant has been provided with adequate information about the matters mentioned in sub-paragraph (2)(a);

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (b) whether the findings of the investigation need to be reconsidered; <sup>F168</sup> ...
  - <sup>F182</sup>(c) whether the appropriate authority—
    - (i) has made such a determination as is mentioned in sub-paragraph (3) (za) [<sup>F183</sup>or (zb)] that the [<sup>F180</sup>relevant appeal body] considers to be appropriate in respect of the matters dealt with in the report, and
    - (ii) has determined that it is required to or will, in its discretion, take the action (if any) that the [<sup>F180</sup>relevant appeal body] considers to be so appropriate; and
  - (d) whether the conditions set out in paragraph 24(2A) and (2B) are satisfied in respect of the report.]
- (6) If, on an appeal under this paragraph, the [<sup>F184</sup>relevant appeal body] determines that the complainant has not been provided with adequate information about any matter<sup>F185</sup>—
- (a) in a case where the Commission is the relevant appeal body,] the Commission shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed<sup>F186</sup>; and
  - (b) in a case where the appropriate authority is the relevant appeal body, that authority shall take such steps as it considers appropriate for securing that the complainant is properly informed.]
- (7) Nothing in [<sup>F187</sup>sub-paragraph (6)(a)] shall authorise the Commission to require the disclosure of any information the disclosure of which to the appellant has been or is capable of being withheld by virtue of regulations made under section 20(5).
- (8) If, on an appeal under this paragraph, the Commission determines that the findings of the investigation need to be reconsidered [<sup>F188</sup>in a case where the Commission is the relevant appeal body], it shall either—
- (a) review those findings without an immediate further investigation; or
  - (b) direct that the complaint be re-investigated<sup>F189</sup>; and
- in a case where the appropriate authority is the relevant appeal body, that authority shall re-investigate the complaint.]
- (9) If, on an appeal under this paragraph, the [<sup>F190</sup>relevant appeal body] determines that the appropriate authority [<sup>F191</sup>has not made a determination as to whether there is a case for a person to whose conduct the investigation related to answer that the [<sup>F190</sup>relevant appeal body]<sup>F192</sup>considers appropriate, or determines that the appropriate authority has not made a determination as to whether a person's performance is or is not unsatisfactory, or determines that the appropriate authority] has not determined that it is required to or will, in its discretion, take the action in respect of the matters dealt with in] the report that the [<sup>F190</sup>relevant appeal body]<sup>F193</sup>considers appropriate—
- (a) sub-paragraph (9ZA) applies if the Commission is the relevant appeal body; or
  - (b) sub-paragraph (9ZB) applies if the chief officer of police is the relevant appeal body.

(9ZA) The Commission shall— ]

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*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

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- (a) determine, in the light of that determination, whether or not to make recommendations under paragraph 27; and
  - (b) make such recommendations (if any) under that paragraph as it thinks fit.
- [<sup>F194</sup>(9ZB) The chief officer of police shall take such action as the chief officer thinks appropriate in relation to the bringing of disciplinary proceedings in respect of the matters dealt with in the report.
- (9ZC) If disciplinary proceedings are brought by virtue of sub-paragraph (9ZB), it shall be the duty of the appropriate authority to ensure that they are proceeded with to a proper conclusion.]
- [<sup>F195</sup>(9A) If, on an appeal under this paragraph, the [<sup>F196</sup>relevant appeal body] determines that the conditions set out paragraph 24(2A) and (2B) are satisfied in respect of the report, [<sup>F197</sup> in a case where the Commission is the relevant appeal body it shall direct the appropriate authority to, or in a case where the appropriate authority is the relevant appeal body it shall ] —
  - (a) <sup>F198</sup> ... notify the Director of Public Prosecutions of the <sup>F199</sup> ... determination, and
  - (b) <sup>F200</sup> ... send the Director a copy of the report.]
- (10) The [<sup>F201</sup>relevant appeal body] shall give notification of any determination under this paragraph—
  - (a) to the appropriate authority [<sup>F202</sup>(unless it is the relevant appeal body)],
  - (b) to the complainant;
  - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (d) except in a case where it appears to the [<sup>F203</sup>relevant appeal body] that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (11) [<sup>F204</sup>In a case where the Commission is the relevant appeal body, it] shall also give notification of any directions given to the appropriate authority under this paragraph—
  - (a) to the complainant;
  - (b) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.
- (12) It shall be the duty of the appropriate authority to comply with any directions given to it under this paragraph.
- (13) The Secretary of State may by regulations make provision—
  - (a) for the form and manner in which appeals under this paragraph are to be brought;
  - (b) for the period within which any such appeal must be brought; and
  - (c) for the procedure to be followed by the [<sup>F205</sup>relevant appeal body] when dealing with or disposing of any such appeal.

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

### Textual Amendments

- F166** Words in Sch. 3 para. 25(2) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(3\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F167** Sch. 3 para. 25(2)(a)(ii) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(2\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F168** Word in Sch. 3 para. 25(2)(b)(5)(b) repealed (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 149, 153, [Sch. 28 Pt. 8](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(k\)\(ii\)](#) (subject to art. 3)
- F169** Sch. 3 para. 25(2)(ba)-(d) substituted (1.12.2008) for Sch. 3 para. 25(2)(c) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(2\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F170** Words in Sch. 3 para. 25(2)(ba) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(4\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F171** Words in Sch. 3 para. 25(2) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(3\)\(b\)\(i\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F172** Words in Sch. 3 para. 25(2) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(3\)\(b\)\(ii\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F173** Sch. 3 para. 25(2ZA) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(4\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F174** Sch. 3 para. 25(2A) inserted (1.7.2005) by [Serious Organised Crime and Police Act 2005 \(c. 15\)](#), ss. 159, 178, [Sch. 11 para. 4](#); S.I. 2005/1521, [art. 3\(1\)\(v\)](#)
- F175** Sch. 3 para. 25(3)(za) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(3\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F176** Sch. 3 para. 25(3)(zb) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(4\)\(b\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F177** Sch. 3 para. 25(3)(a) substituted (1.12.2008) for Sch. 3 para. 25(3)(a)(b) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(3\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F178** Words in Sch. 3 para. 25(3)(c) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(3\)\(c\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F179** Sch. 3 para. 25(3)(d) and word inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(3\)\(d\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F180** Words in Sch. 3 para. 25(5) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(5\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F181** Words in Sch. 3 para. 25(5) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(4\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F182** Sch. 3 para. 25(5)(c)(d) substituted (1.12.2008) for Sch. 3 para. 25(5)(c) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 17\(4\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to art. 3)
- F183** Words in Sch. 3 para. 25(5)(c)(i) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(4\)\(c\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F184** Words in Sch. 3 para. 25(6) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(6\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F185** Sch. 3 para. 25(6)(a) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(6\)\(b\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F186** Sch. 3 para. 25(6)(b) and preceding word inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(6\)\(c\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F187** Words in Sch. 3 para. 25(7) substituted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(7\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F188** Words in Sch. 3 para. 25(8) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 20\(8\)\(a\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)



*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- F189** Words in Sch. 3 para. 25(8) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(8)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F190** Words in Sch. 3 para. 25(9) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(9)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F191** Words in Sch. 3 para. 25(9) substituted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(5)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F192** Words in Sch. 3 para. 25(9) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 14(4)(d)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F193** Words in Sch. 3 para. 25(9)(9ZA) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(9)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F194** Sch. 3 para. 25(9ZB)(9ZC) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(10)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F195** Sch. 3 para. 25(9A) inserted (1.12.2008) by Criminal Justice and Immigration Act 2008 (c. 4), ss. 127, 153, **Sch. 23 para. 17(6)** (with s. 14(1)); S.I. 2008/2993, **art. 2(1)(i)(i)** (subject to art. 3)
- F196** Words in Sch. 3 para. 25(9A) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F197** Words in Sch. 3 para. 25(9A) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F198** Word in Sch. 3 para. 25(9A)(a) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(c)(i)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F199** Word in Sch. 3 para. 25(9A)(a) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(c)(ii)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F200** Word in Sch. 3 para. 25(9A)(b) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(11)(d)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F201** Words in Sch. 3 para. 25(10) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(12)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F202** Words in Sch. 3 para. 25(10)(a) inserted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(12)(b)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F203** Words in Sch. 3 para. 25(10)(d) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(12)(c)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F204** Words in Sch. 3 para. 25(11) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(13)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F205** Words in Sch. 3 para. 25(13) substituted (22.11.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 20(14)**; S.I. 2012/2892, art. 2(g) (with art. 6)

#### **Modifications etc. (not altering text)**

- C33** Sch. 3 para. 25 applied (with modifications) (1.4.2006) by The Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311), **reg. 3(5)(6)**, Sch. 3

#### **Commencement Information**

- I23** Sch. 3 para. 25 wholly in force at 1.4.2004; Sch. 3 para. 25 not in force at Royal Assent see s. 108(2); Sch. 3 para. 25 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, **art. 4(e)**; Sch. 3 para. 25 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, **art. 2(d)**

#### *Reviews and re-investigations following an appeal*

- 26 (1) On a review under paragraph 25(8)(a) of the findings of an investigation the powers of the Commission shall be, according to its determination on that review, to do one or more of the following—
- (a) to uphold the findings in whole or in part;
  - (b) to give the appropriate authority such directions—

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (i) as to the carrying out by the appropriate authority of its own review of the findings,
  - (ii) as to the information to be provided to the complainant, and
  - (iii) generally as to the handling of the matter in future,
- as the Commission thinks fit;
- (c) to direct that the complaint be re-investigated.
- (2) Where the Commission directs under paragraph 25 or sub-paragraph (1) that a complaint be re-investigated, it shall make a determination of the form that the re-investigation should take.
- (3) Sub-paragraphs (3) to (7) of paragraph 15 shall apply in relation to a determination under sub-paragraph (2) as they apply in the case of a determination under that paragraph.
- (4) The other provisions of this Schedule (including this paragraph) shall apply in relation to any re-investigation in pursuance of a direction under paragraph 25(8) or sub-paragraph (1) of this paragraph as they apply in relation to any investigation in pursuance of a determination under paragraph 15.
- (5) The Commission shall give notification of any determination made by it under this paragraph—
- (a) to the appropriate authority;
  - (b) to the complainant;
  - (c) to every person entitled to be kept properly informed in relation to the complaint under section 21; and
  - (d) except in a case where it appears to the Commission that to do so might prejudice any proposed re-investigation of the complaint, to the person complained against.
- (6) The Commission shall also give notification of any directions given to the appropriate authority under this paragraph —
- (a) to the complainant;
  - (b) to every person entitled to be kept properly informed in relation to the complaint under section ; and
  - (c) except in a case where it appears to the Commission that to do so might prejudice any proposed review or re-investigation of the complaint, to the person complained against.

**Modifications etc. (not altering text)**

**C34** Sch. 3 para. 26 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\)](#), **reg. 3(5)(6)**, Sch. 3

**Commencement Information**

**I24** Sch. 3 para. 26 wholly in force at 1.4.2004; Sch. 3 para. 26 not in force at Royal Assent see s. 108(2); Sch. 3 para. 26 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), **art. 4(e)**; Sch. 3 para. 26 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), **art. 2(d)**

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

*Duties with respect to disciplinary proceedings [F206 etc]*

**Textual Amendments**

**F206** Word in Sch. 3 para. 27 heading inserted (1.10.2014) by *Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), s. 185(1), Sch. 11 para. 95(9)(a)* (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)

- 27 (1) This paragraph applies where, in the case of any investigation, the appropriate authority—
- (a) has given, or is required to give, a notification under paragraph 24(7) of the action it is [F207 required to or will, in its discretion,] take in relation to the matters dealt with in any report of the investigation; or
  - (b) has submitted, or is required to submit, a memorandum to the Commission under paragraph 23 or 25 setting out the action that it is [F208 required to or will, in its discretion,] take in relation to those matters [F209; or
  - (c) has submitted, or is required to submit, a memorandum to the Commission under paragraph 24C(4).]
- (2) Subject to paragraph 20 and to any recommendations or directions under the following provisions of this paragraph, it shall be the duty of the appropriate authority—
- (a) to take the action which has been or is required to be notified or, as the case may be, which is or is required to be set out in the memorandum; and
  - (b) in a case where that action consists of or includes the bringing of disciplinary proceedings, to secure that those proceedings, once brought, are proceeded with to a proper conclusion.
- (3) Where this paragraph applies by virtue of sub-paragraph (1)(b), the Commission may make a recommendation to the appropriate authority in respect of any person serving with the police—
- [F210(z) that the person has a case to answer in respect of misconduct or gross misconduct or has no case to answer in relation to his conduct to which the investigation related;]
  - [F211(zb) that the person's performance is, or is not, unsatisfactory;]
  - [F212(a) that disciplinary proceedings of the form specified in the recommendation are brought against that person in respect of his conduct[F213, efficiency or effectiveness ] to which the investigation related;]
  - (b) that any disciplinary proceedings brought against that person are modified so as to [F214 deal with such aspects of that conduct][F215, efficiency or effectiveness] as may be so specified;
- and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.
- [F216(3A) Where this paragraph applies by virtue of sub-paragraph (1)(c), the Commission may make a recommendation to the appropriate authority—
- (a) that the performance of a person serving with the police is, or is not, satisfactory;
  - (b) that action of the form specified in the recommendation is taken in respect of the person's performance;

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

and it shall be the duty of the appropriate authority to notify the Commission whether it accepts the recommendation and (if it does) to set out in the notification the steps that it is proposing to take to give effect to it.]

- (4) If, after the Commission has made a recommendation under this paragraph, the appropriate authority does not take steps to secure that full effect is given to the recommendation—
- (a) the Commission may direct the appropriate authority to take steps for that purpose; and
  - (b) it shall be the duty of the appropriate authority to comply with the direction.
- (5) A direction under sub-paragraph (4) may, to such extent as the Commission thinks fit, set out the steps to be taken by the appropriate authority in order to give effect to the recommendation.
- (6) Where the Commission gives the appropriate authority a direction under this paragraph, it shall supply the appropriate authority with a statement of its reasons for doing so.
- (7) Where disciplinary [<sup>F217</sup>or other] proceedings have been brought in accordance with a recommendation or direction under this paragraph, it shall be the duty of the authority to ensure that they are proceeded with to a proper conclusion.
- (8) The Commission may at any time withdraw a direction given under this paragraph; and sub-paragraph (7) shall not impose any obligation in relation to any time after the withdrawal of the direction.
- (9) The appropriate authority shall keep the Commission informed—
- (a) in a case in which this paragraph applies by virtue of sub-paragraph (1)(b) [<sup>F218</sup>or (c)], of whatever action it takes in pursuance of its duty under sub-paragraph (2); and
  - (b) in every case of a recommendation or direction under this paragraph, of whatever action it takes in response to that recommendation or direction.

#### Textual Amendments

- F207** Words in Sch. 3 para. 27(1)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 18\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))
- F208** Words in Sch. 3 para. 27(1)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 18\(2\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))
- F209** Sch. 3 para. 27(1)(c) and word inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), [ss. 138\(3\)](#), 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, [art. 3\(a\)](#)
- F210** Sch. 3 para. 27(3)(za) inserted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 18\(3\)\(a\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))
- F211** Sch. 3 para. 27(3)(zb) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(5\)\(a\)](#); S.I. 2012/2892, [art. 2\(g\)](#) (with [art. 6](#))
- F212** Sch. 3 para. 27(3)(a) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 18\(3\)\(b\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))
- F213** Words in Sch. 3 para. 27(3)(a) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\)](#), s. 157(1), [Sch. 14 para. 14\(5\)\(b\)](#); S.I. 2012/2892, [art. 2\(g\)](#) (with [art. 6](#))
- F214** Words in Sch. 3 para. 27(3)(b) substituted (1.12.2008) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, [Sch. 23 para. 18\(3\)\(c\)](#) (with s. 14(1)); S.I. 2008/2993, [art. 2\(1\)\(i\)\(i\)](#) (subject to [art. 3](#))

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- F215** Words in Sch. 3 para. 27(3)(b) inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011 \(c. 13\), s. 157\(1\), Sch. 14 para. 14\(5\)\(c\)](#); S.I. 2012/2892, art. 2(g) (with art. 6)
- F216** Sch. 3 para. 27(3A) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), ss. 138\(4\), 185\(1\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(a)
- F217** Words in Sch. 3 para. 27(7) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 95\(9\)\(b\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)
- F218** Words in Sch. 3 para. 27(9)(a) inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\), s. 185\(1\), Sch. 11 para. 95\(9\)\(c\)](#) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(c)(iii)

**Modifications etc. (not altering text)**

- C35** Sch. 3 para. 27 applied (with modifications) (28.12.2005) by virtue of [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(4\)\(6\)](#), Sch. 3

**Commencement Information**

- I25** Sch. 3 para. 27 wholly in force at 1.4.2004; Sch. 3 para. 27 not in force at Royal Assent see s. 108(2); Sch. 3 para. 27 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306, art. 4\(e\)](#); Sch. 3 para. 27 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913, art. 2\(d\)](#)

*Information for complainant about disciplinary recommendations*

- 28 (1) Where—
- (a) the Commission makes recommendations under paragraph 27 in the case of an investigation of a complaint, and
  - (b) the appropriate authority notify the Commission that the recommendations have been accepted,
- the Commission shall notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21 of that fact and of the steps that have been, or are to be taken, by the appropriate authority to give effect to it.
- (2) Where in the case of an investigation of a complaint the appropriate authority—
- (a) notify the Commission that it does not (either in whole or in part) accept recommendations made by the Commission under paragraph 27, or
  - (b) fails to take steps to give full effect to any such recommendations,
- it shall be the duty of the Commission to determine what if any further steps to take under that paragraph.
- (3) It shall be the duty of the Commission to notify the complainant and every person entitled to be kept properly informed in relation to the complaint under section 21—
- (a) of any determination under sub-paragraph (2) not to take further steps under paragraph 27; and
  - (b) where they determine under that sub-paragraph to take further steps under that paragraph, of the outcome of the taking of those steps.

**Modifications etc. (not altering text)**

- C36** Sch. 3 para. 28 applied (with modifications) (1.4.2006) by [The Revenue and Customs \(Complaints and Misconduct\) Regulations 2005 \(S.I. 2005/3311\), reg. 3\(5\)\(6\)](#), Sch. 3

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

### Commencement Information

**I26** Sch. 3 para. 28 wholly in force at 1.4.2004; Sch. 3 para. 28 not in force at Royal Assent see s. 108(2); Sch. 3 para. 28 in force for specified purposes at 1.10.2002 by S.I. 2002/2306, art. 4(e); Sch. 3 para. 28 in force in so far as not already in force at 1.4.2004 by S.I. 2004/913, art. 2(d)

### *[<sup>F219</sup>Recommendations by the Commission*

### Textual Amendments

**F219** Sch. 3 paras. 28A, 28B and cross-headings inserted (1.10.2014) by [Anti-social Behaviour, Crime and Policing Act 2014 \(c. 12\)](#), ss. 139, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2014/2454, art. 3(a)

- 28A (1) This paragraph applies where the Commission has received a report under—
- (a) paragraph 22(3) (report on completion of investigation of complaint or conduct matter supervised or managed by Commission),
  - (b) paragraph 22(5) (report on completion of investigation of complaint or conduct matter by Commission itself), or
  - (c) paragraph 24A(2) (report on completion of investigation of DSI matter that is not also conduct matter).
- (2) This paragraph also applies where the Commission has made a determination on an appeal under—
- (a) paragraph 8A (appeal relating to complaint dealt with other than by investigation), or
  - (b) paragraph 25 (appeal with respect to an investigation).
- (3) The Commission may make a recommendation in relation to a matter dealt with in the report or appeal.
- (4) A recommendation under this paragraph may be made to any person if it is made—
- (a) following the receipt of a report relating to—
    - (i) a DSI matter,
    - (ii) a conduct matter of a type specified in regulations, or
    - (iii) a complaint of a type specified in regulations; or
  - (b) following a determination on an appeal relating to a complaint of a type specified in regulations.
- (5) In any other case, a recommendation under this paragraph may be made only to—
- (a) a person serving with the police, or
  - (b) a local policing body.
- (6) Where the Commission makes a recommendation under this paragraph, it must also—
- (a) publish the recommendation, and
  - (b) send a copy of it—
    - (i) in a case where the recommendation is made to a local policing body, to the chief officer of the police force maintained by that body;
    - (ii) in a case where the recommendation is made to a chief officer of a police force, to the local policing body that maintains the police force;

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*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

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- (iii) in a case where the recommendation is made to a contractor (within the meaning of section 12(10)), to the chief officer of a police force to whom the contractor is providing services, and the local policing body that maintains the police force;
  - (iv) in a case where the recommendation is made to a sub-contractor or an employee of a contractor, to the contractor and the persons to whom a copy must be sent under paragraph (iii);
  - (v) in a case where the recommendation is made to an employee of a sub-contractor, to the sub-contractor, the contractor and the persons to whom a copy must be sent under sub-paragraph (iii);
  - (vi) in any other case, to any person to whom the Commission thinks a copy should be sent.
- (7) Nothing in this paragraph affects the power of the Commission to make recommendations or give advice under section 10(1)(e) (whether arising under this Schedule or otherwise).]

*<sup>F219</sup>Response to recommendation*

- 28B (1) A person to whom a recommendation under paragraph 28A is made must provide to the Commission a response in writing stating—
- (a) what action the person has taken or proposes to take in response to the recommendation, or
  - (b) why the person has not taken, or does not propose to take, any action in response.
- (2) The person must provide the response to the Commission before the end of the period of 56 days beginning with the day on which the recommendation was made, unless sub-paragraph (3) applies.
- (3) The Commission may extend the period of 56 days following an application received before the end of the period; and if the Commission grants an extension, the person must provide the response before the end of the extended period.
- (4) But if proceedings for judicial review of the Commission's decision to make a recommendation are started during the period allowed by sub-paragraph (2) or (3), that period is extended by however many days the proceedings are in progress.
- (5) On receiving a response, the Commission must, within the period of 21 days beginning with the day on which the Commission received it—
- (a) publish the response, and
  - (b) send a copy of it to any person who was sent a copy of the recommendation under paragraph 28A(6)(b),
- unless the person giving the response has made representations under sub-paragraph (6).
- (6) The person giving the response may, at the time of providing it to the Commission, make representations to the Commission asserting that the requirements of publication and disclosure under sub-paragraph (5) should not apply to the response, or to particular parts of it.
- (7) On receiving such representations, the Commission may decide—

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (a) that the response should not be published, or that only parts of it should be published;
  - (b) that the response should not be disclosed, or that only parts of the response should be disclosed.
- (8) Where, following a decision on representations, the Commission decides to publish or disclose a response (in whole or in part), it must do so only after the person giving the response has been informed of the Commission's decision, and—
- (a) in a case where the Commission has decided to accept all of the representations, it must do so within the period of 21 days beginning with the day on which it received the response;
  - (b) in a case where the Commission has decided to reject any of the representations, it must do so—
    - (i) within the period of 21 days beginning with the day on which the person was informed of the Commission's decision on the representations, but
    - (ii) not before the end of the period of 7 days beginning with that day.
- (9) But if proceedings for judicial review of the Commission's decision to reject a representation are started during the period of 7 days referred to in sub-paragraph (8) (b)(ii)—
- (a) the Commission must not publish or disclose the response while the proceedings are in progress;
  - (b) if the court upholds the Commission's decision to reject a representation, the Commission must publish and disclose the response (in whole or in part, as appropriate) before the end of the period of 7 days beginning with the day on which the proceedings are no longer in progress.
- (10) Where a local policing body or a chief officer makes a response under this paragraph, the body or officer must, at the time the Commission publishes the response, also publish the response (to the same extent as published by the Commission) and the recommendation under paragraph 28A.
- (11) For the purposes of this paragraph—
- (a) “disclosing” a response means sending a copy of it as mentioned in sub-paragraph (5)(b);
  - (b) the period during which judicial review proceedings are in progress includes any day on which an appeal is in progress or may be brought.]

*[<sup>F220</sup>Minor definitions*

**Textual Amendments**

**F220** Sch. 3 para. 29 inserted (3.11.2008 for certain purposes and 1.12.2008 otherwise) by [Criminal Justice and Immigration Act 2008 \(c. 4\)](#), ss. 127, 153, **Sch. 23 para. 19** (with s. 14(1)); S.I. 2008/2712, art. 2, **Sch. para. 17(b)** (subject to arts. 3, 4); S.I. 2008/2993, **art. 2(1)(i)(ii)** (subject to art. 3)

29

In this Part of this Schedule—

<sup>F221</sup>“direction and control matter” means a matter that relates to the direction and control of a police force by—

- (a) the chief officer of police of that force, or



*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

- (b) a person for the time being carrying out the functions of the chief officer of police of that force;]
- “gross misconduct” means a breach of the Standards of Professional Behaviour that is so serious as to justify dismissal;
- “misconduct” means a breach of the Standards of Professional Behaviour;
- “the person investigating”, in relation to a complaint, recordable conduct matter or DSI matter, means the person appointed or designated to investigate that complaint or matter;
- “prescribed” means prescribed by regulations made by the Secretary of State;
- “the Standards of Professional Behaviour” means the standards so described in, and established by, regulations made by the Secretary of State.]

#### Textual Amendments

**F221** Words in Sch. 3 para. 29 inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011](#) (c. 13), s. 157(1), **Sch. 14 para. 21**; S.I. 2012/2892, art. 2(g) (with art. 6)

#### *<sup>F222</sup> Appeals: the relevant appeal body*

#### Textual Amendments

**F222** Sch. 3 paras. 30-32 and cross-heading inserted (22.11.2012) by [Police Reform and Social Responsibility Act 2011](#) (c. 13), s. 157(1), **Sch. 14 para. 22**; S.I. 2012/2892, art. 2(g) (with art. 6)

- 30 (1) The relevant appeal body in relation to an appeal is—
- the Commission, in a case where the relevant complaint falls within a description of complaints specified in regulations made by the Secretary of State for the purposes of this paragraph; or
  - the chief officer of police who is the appropriate authority in relation to the relevant complaint, in any other case.
- (2) In this paragraph and paragraphs 31 and 32—
- “appeal” means an appeal under paragraph 7(8), 8A, 21(7) or 25(2);
- “relevant complaint”, in relation to an appeal, means the complaint to which the appeal relates.
- 31 (1) This paragraph applies in a case where—
- an appeal is made to the Commission, and
  - the appropriate authority is the relevant appeal body in relation to the appeal.
- (2) The Commission must—
- forward the appeal to the appropriate authority; and
  - notify the person who made the appeal—
    - that the appropriate authority is the relevant appeal body; and
    - the appeal has been forwarded.
- (3) The appeal is to be taken to have been—
- made to the appropriate authority, and

*Status: Point in time view as at 01/10/2014.*

*Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)*

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- (b) so made at the time when it is forwarded to the appropriate authority.
- 32 (1) This paragraph applies in a case where—
  - (a) an appeal is made to the appropriate authority; and
  - (b) the Commission is the relevant appeal body in relation to the appeal.
- (2) The appropriate authority must—
  - (a) forward the appeal to the Commission; and
  - (b) notify the person who made the appeal—
    - (i) that the Commission is the relevant appeal body; and
    - (ii) the appeal has been forwarded.
- (3) The appeal is to be taken to have been—
  - (a) made to the Commission; and
  - (b) so made at the time when it is forwarded to the Commission.]

**Status:**

Point in time view as at 01/10/2014.

**Changes to legislation:**

There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3.