



Police Reform Act 2002

2002 CHAPTER 30

PART 2

COMPLAINTS AND MISCONDUCT

Application of Part 2

12 Complaints, matters and persons to which Part 2 applies

- (1) In this Part references to a complaint are references (subject to the following provisions of this section) to any complaint about the conduct of a person serving with the police which is made (whether in writing or otherwise) by—
- a member of the public who claims to be the person in relation to whom the conduct took place;
 - a member of the public not falling within paragraph (a) who claims to have been adversely affected by the conduct;
 - a member of the public who claims to have witnessed the conduct;
 - a person acting on behalf of a person falling within any of paragraphs (a) to (c).
- (2) In this Part “conduct matter” means (subject to the following provisions of this section^{F1}... and any regulations made by virtue of section 23(2)(d)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have—
- committed a criminal offence; or
 - behaved in a manner which would justify the bringing of disciplinary proceedings.
- [^{F2}(2A) In this Part “death or serious injury matter” (or “DSI matter” for short) means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter)—
- in or in consequence of which a person has died or has sustained serious injury; and

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- (b) in relation to which the requirements of either subsection (2B) or subsection (2C) are satisfied.
- (2B) The requirements of this subsection are that at the time of the death or serious injury the person—
- (a) had been arrested by a person serving with the police and had not been released from that arrest; or
 - (b) was otherwise detained in the custody of a person serving with the police.
- (2C) The requirements of this subsection are that—
- (a) at or before the time of the death or serious injury the person had contact (of whatever kind, and whether direct or indirect) with a person serving with the police who was acting in the execution of his duties; and
 - (b) there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.
- (2D) In subsection (2A) the reference to a person includes a person serving with the police, but in relation to such a person “contact” in subsection (2C) does not include contact that he has whilst acting in the execution of his duties.]
- (3) The complaints that are complaints for the purposes of this Part by virtue of subsection (1)(b) do not, except in a case falling within subsection (4), include any made by or on behalf of a person who claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.
- (4) A case falls within this subsection if—
- (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or
 - (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.
- (5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if—
- (a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
 - (b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.
- (6) For the purposes of this Part a person falling within subsection 1(a) to (c) shall not be taken to have authorised another person to act on his behalf unless—
- (a) that other person is for the time being designated for the purposes of this Part by the Commission as a person through whom complaints may be made, or he is of a description of persons so designated; or
 - (b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.
- (7) For the purposes of this Part, a person is serving with the police if—
- (a) he is a member of a police force;
 - [^{F3}(aa) he is a civilian employee of a police force;]

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- (b) he is an employee of [^{F4}the Common Council of the City of London] who is under the direction and control of a chief officer; or
- (c) he is a special constable who is under the direction and control of a chief officer.

Textual Amendments

- F1** Words in s. 12(2) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 14 para. 8(6)(a)**; S.I. 2012/2892, art. 2(g) (with art. 6)
- F2** S. 12(2A)-(2D) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, **Sch. 12 para. 3**; S.I. 2005/1521, **art. 3(1)(w)**
- F3** S. 12(7)(aa) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 280(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F4** Words in s. 12(7)(b) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 280(b)**; S.I. 2011/3019, art. 3, Sch. 1

Modifications etc. (not altering text)

- C1** S. 12 applied (with modifications) (28.12.2005) by The Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311), **reg. 3(2)(6)**, Sch. 1

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