
Status: Point in time view as at 01/09/2007. This version of this schedule contains provisions that are not valid for this point in time.
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SCHEDULES

SCHEDULE 3 U.K.

Section 13

HANDLING OF COMPLAINTS AND CONDUCT MATTERS ETC.

PART 1 E+W

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 police authority 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 police authority,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 police authority 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 police authority maintaining his force or by the Commission.

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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

- II** 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 (1) Where a complaint is made to the Commission—
- (a) it shall ascertain whether the complainant is content for the police authority or chief officer who is the appropriate authority to be notified of the complaint; and
 - (b) it shall give notification of the complaint to the appropriate authority if, and only if, the complainant is so content.
- (2) Where a complaint is made to a police authority, 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.
- (4) Where the Commission—
- (a) is prevented by sub-paragraph (1)(b) from notifying any complaint to the appropriate authority, and
 - (b) considers that it is in the public interest for the subject-matter of the complaint to be brought to the attention of the appropriate authority and recorded under paragraph 11,
- the Commission may bring that matter to the appropriate authority's attention under that paragraph as if it were a recordable conduct matter, and (if it does so) the following provisions of this Schedule shall have effect accordingly as if it were such a matter.
- (5) Where the Commission, a police authority or a chief officer gives notification of a complaint under any of sub-paragraphs (1) to (3) or the Commission brings any matter to the appropriate authority's attention under sub-paragraph (4), the person who gave the notification or, as the case may be, the Commission shall notify the complainant—
- (a) that the notification has been given and of what it contained; or
 - (b) that the matter has been brought to the appropriate authority's attention to be dealt with otherwise than as a complaint.
- (6) Where—

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- (a) a police authority determines, in the case of any complaint made to the authority, 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
 - (c) a complaint is notified to a police authority or chief officer under this paragraph,
- the authority 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.

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

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

- 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 police authority or chief officer (whether in consequence of having been made directly or of a notification under that paragraph).
 - (2) If the police authority 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, the authority 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 police authority or chief officer to make a determination under paragraph 2 or to notify or record anything under that paragraph.
 - (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 police authority or chief officer as to the action to be taken for making a determination, or for notifying or recording what was received;

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and it shall be the duty of a police authority 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—
- (a) shall give notification both to the police authority 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 police authority 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.

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 sub-paragraph 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.
- (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 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 police authority may refer a complaint to the Commission if—

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- (a) it is one in relation to which the chief officer of police of the police force maintained by that authority is the appropriate authority; and
 - (b) the police authority 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 police authority 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 police authority 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 that authority 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.

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 police authority 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

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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—
- (a) to the complainant, and
 - (b) 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.

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

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

- 6 (1) This paragraph applies where a complaint has been recorded by the appropriate authority unless the complaint—
- (a) is one which has been, or must be, referred to the Commission under paragraph 4; and
 - (b) is not for the time being either referred back to the authority under paragraph 5 or the subject of a determination under paragraph 15.
- (2) Subject to paragraph 7, the appropriate authority shall determine whether or not the complaint is suitable for being subjected to local resolution, and—
- (a) if it determines that it is so suitable and the complainant consents, it shall make arrangements for it to be so subjected; and
 - (b) in any other case, it shall make arrangements for the complaint to be investigated by that authority on its own behalf.
- (3) A determination that a complaint is suitable for being subjected to local resolution shall not be made unless either—
- (a) 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; or
 - (b) the Commission, in a case falling within sub-paragraph (4), has approved the use of local resolution.
- (4) The Commission may approve the use of local resolution in the case of any complaint if, on an application by the appropriate authority, the Commission is satisfied—
- (a) that the following two conditions are fulfilled—
 - (i) that the conduct complained of (even if it were proved) would not justify the bringing of any criminal proceedings; and
 - (ii) that any disciplinary proceedings the bringing of which would be justified in respect of that conduct (even if it were proved) would be

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unlikely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine;

or

- (b) that it will not be practicable (even if the complaint is thoroughly investigated) for either of the following to be brought—
- (i) criminal proceedings in respect of the conduct to which it relates that would be likely to result in a conviction; or
 - (ii) disciplinary proceedings in respect of that conduct that would be likely to result in a dismissal, a requirement to resign or retire, a reduction in rank or other demotion or the imposition of a fine.
- (5) No more than one application may be made to the Commission for the purposes of sub-paragraph (4) in respect of the same complaint.
- (6) Before a complainant can give his consent for the purposes of this paragraph to the local resolution of his complaint he must have been informed of his rights of appeal under paragraph 9.
- (7) A consent given for the purposes of this paragraph shall not be capable of being withdrawn at any time after the procedure for the local resolution of the complaint has been begun.

Modifications etc. (not altering text)

C7 Sch. 3 para. 6 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. 6 wholly in force at 1.4.2004; Sch. 3 para. 6 not in force at Royal Assent see s. 108(2); Sch. 3 para. 6 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 6 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

Dispensation by the Commission from requirements of Schedule

- 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 apply to the Commission, in accordance with the regulations, for permission to handle the complaint in whatever manner (if any) that authority thinks fit.
- (2) The appropriate authority shall notify the complainant about the making of the application under this paragraph.
- (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.

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- (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) Where the Commission gives permission under this paragraph to handle the complaint in whatever manner (if any) the appropriate authority thinks fit, 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, but for the permission.
- (6) Where the Commission determines that no permission should be granted under this paragraph—
- (a) it shall refer the matter back to the appropriate authority for the making of a determination under paragraph 6(2); 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.

Modifications etc. (not altering text)

C8 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

I7 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—
- (a) is serving with the police, and
 - (b) 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—
- (a) 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;
 - (b) 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;

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- (c) 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—
 - (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)

C9 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

I8 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\(d\)](#)

Appeals relating to local resolution

- 9
- (1) Subject to sub-paragraph (2), a complainant whose complaint has been subjected to local resolution shall have a right of appeal to the Commission against the conduct of the local resolution of that complaint.
 - (2) The only matter that shall fall to be determined on an appeal under this paragraph is whether there have been any contraventions of the procedural requirements relating to the local resolution of the complaint.
 - (3) Where an appeal is brought under this paragraph, it shall be the duty of the Commission to give both—
 - (a) the person complained against, and
 - (b) the appropriate authority,

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an opportunity of making representations about the matters to which the appeal relates.

- (4) On an appeal under this paragraph, the Commission shall determine whether there have been any contraventions of the procedural requirements relating to the local resolution of the complaint.
- (5) Where the Commission finds in the complainant's favour on an appeal under this paragraph—
- (a) it shall give such directions as the Commission considers appropriate to the appropriate authority as to the future handling of the complaint; and
 - (b) it shall be the duty of the appropriate authority to comply with any directions given to it under this sub-paragraph.
- (6) Where the Commission determines for the purposes of sub-paragraph (5) that the future handling of the complaint should include an investigation, paragraph 15 shall apply as it applies in the case of a determination mentioned in sub-paragraph (1) of that paragraph.
- (7) The Commission—
- (a) shall give notification to the appropriate authority, to the complainant and to the person complained against of any determination made by it under this paragraph; and
 - (b) shall give notification to the complainant and to the person complained against of any direction given by it under this paragraph to the appropriate authority.
- (8) 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.

Modifications etc. (not altering text)

C10 Sch. 3 para. 9 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

I9 Sch. 3 para. 9 wholly in force at 1.4.2004; Sch. 3 para. 9 not in force at Royal Assent see [s. 108\(2\)](#); Sch. 3 para. 9 in force for specified purposes at 1.10.2002 by [S.I. 2002/2306](#), [art. 4\(e\)](#); Sch. 3 para. 9 in force in so far as not already in force at 1.4.2004 by [S.I. 2004/913](#), [art. 2\(d\)](#)

PART 2 **E+W**

HANDLING OF CONDUCT MATTERS

Conduct matters arising in civil proceedings

- 10 (1) This paragraph applies where—

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- (a) a police authority 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 that authority or chief officer, or it otherwise appears to a police authority or chief officer that such proceedings are likely to be so brought; and
 - (b) it appears to that authority 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) 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 police authority 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 record that matter.
- (4) Where the appropriate authority records any matter under this paragraph it—
- (a) shall first determine whether the matter is one which it is required to refer to the Commission under paragraph 13 or is one which it would be appropriate to so refer; and
 - (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.
- (5) Nothing in sub-paragraph (3) 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.

Modifications etc. (not altering text)

- C11** 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))
- C12** 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

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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)

Commencement Information

I10 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)**

Recording etc. of conduct matters in other cases

- 11 (1) Where—
- (a) a conduct matter comes (otherwise than as mentioned in paragraph 10) to the attention of the police authority 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),
- it shall be the duty of the appropriate authority to record that matter.
- (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.
- (3) Where the appropriate authority records any matter under this paragraph it—
- (a) shall first determine whether the matter is one which it is required to refer to the Commission under paragraph (13) or is one which it would be appropriate to so refer; and
 - (b) if it is not required so to refer the matter and does not do so, may deal with the matter in such other manner (if any) as it may determine.
- (4) Nothing in sub-paragraph (1) 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.

Modifications etc. (not altering text)

- C13** 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)**)
- C14** 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

Status: Point in time view as at 01/09/2007. This version of this schedule contains provisions that are not valid for this point in time.
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. 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 police authority maintaining his force, it shall be the duty of that authority 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 police authority 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 to take for the purposes of this paragraph by the police authority maintaining his force or by the Commission.

Modifications etc. (not altering text)

- C15** 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

- I12** 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 police authority 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 the authority or chief officer is the appropriate authority—
- (a) that matter relates to any incident or circumstances in or in consequence of which any person has died or suffered serious injury;

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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)*

- (b) that matter is of a description specified for the purposes of this sub-paragraph in regulations made by the Secretary of State; or
 - (c) 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—
- (a) the gravity of the matter; 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 police authority maintaining any police force may refer any recordable conduct matter to the Commission if—
- (a) it is one in relation to which the chief officer of police of that force is the appropriate authority; and
 - (b) the police authority considers that it would be appropriate to do so by reason of—
 - (i) the gravity of the matter; or
 - (ii) any exceptional circumstances.
- (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 police authority 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 police authority or chief officer refers a matter to the Commission under this paragraph, and
 - (b) that authority or chief officer does not consider that to do so might prejudice a possible future investigation of that matter,
- that authority 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.

Modifications etc. (not altering text)

C16 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

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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)

Commencement Information

- I13** 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 police authority 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.

Modifications etc. (not altering text)

- C17** 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

- I14** 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\(d\)](#)

[^{F1}PART 2A **E+W**

HANDLING OF DEATH AND SERIOUS INJURY (DSI) MATTERS

Textual Amendments

- F1** 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\(1\)\(w\)](#)

Duty to record DSI matters

- 14A (1) Where a DSI matter comes to the attention of the police authority 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.

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- (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.

Modifications etc. (not altering text)

C18 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 police authority, and
 - (b) the relevant officer in relation to that matter is the chief officer of the force maintained by that authority,
- it shall be the duty of that authority 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 police authority 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 DSI matter as he may be directed to take for the purposes of this paragraph by the police authority maintaining his force or by the Commission.

Modifications etc. (not altering text)

C19 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

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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)

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)

C20 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 police authority 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.]

Modifications etc. (not altering text)

C21 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 **U.K.**

INVESTIGATIONS AND SUBSEQUENT PROCEEDINGS

Power of the Commission to determine the form of an investigation

- 15 (1) This paragraph applies where—
- (a) a complaint [^{F2}, 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

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- (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.
- (8) The Commission shall notify the appropriate authority of any determination that it makes under this paragraph in relation to a particular complaint [^{F2}, recordable conduct matter or DSI matter] .

Textual Amendments

F2 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)

C22 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

I15 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 paragraph 6(2) (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 [^{F3}, recordable conduct matter or DSI matter] to be investigated by the appropriate authority on its own behalf.

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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) This paragraph also applies if—
- (a) a determination falls to be made by that authority under paragraph 10(4)(b), or 11(3)(b) or 14(2) in relation to any recordable conduct matter [^{F4}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) [^{F5}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
 - [^{F6}(b) a member of the staff of the Serious Organised Crime Agency, [^{F7} or
 - (c) a member of the staff of the National Policing Improvement Agency who is a constable,]]
- to investigate the complaint or matter.
- (4) The person appointed under this paragraph to investigate any complaint or [^{F8}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.
- [^{F9}(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

- F3** 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\(1\)\(w\)](#)
- F4** 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\(1\)\(w\)](#)
- F5** 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\(1\)\(w\)](#)
- F6** Sch. 3 para. 16(3)(b) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 55, 178, Sch. 2 para. 11\(2\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 8 (subject to art. 4(2)-(7))
- F7** Sch. 3 para. 16(3)(c) and preceding word inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 1, 53, Sch. 1 para. 89\(2\)](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to arts. 6, 7)
- F8** 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\(1\)\(w\)](#)
- F9** 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\(1\)\(w\)](#)

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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)

Modifications etc. (not altering text)

C23 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

I16 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 [^{F10}, 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
- [^{F11}(b) a member of the staff of the Serious Organised Crime Agency,]^{F12} or
- (c) a member of the staff of the National Policing Improvement Agency who is a constable,]]
- 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) [^{F13}, (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 [^{F14}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.

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- [^{F15}(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

- F10** 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\(1\)\(w\)](#)
- F11** Sch. 3 para. 17(2)(b) substituted (1.4.2006) by [Serious Organised Crime and Police Act 2005 \(c. 15\), ss. 55, 178, Sch. 2 para. 11\(3\)](#); S.I. 2006/378, [art. 4\(1\)](#), Sch. para. 8 (subject to [art. 4\(2\)-\(7\)](#))
- F12** Sch. 3 para. 17(2)(c) and preceding word inserted (1.4.2007) by [Police and Justice Act 2006 \(c. 48\), ss. 1, 53, Sch. 1 para. 89\(3\)](#); S.I. 2007/709, [art. 3\(a\)](#) (subject to [arts. 6, 7](#))
- F13** 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](#))
- F14** 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\(1\)\(w\)](#)
- F15** 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)

- C24** 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

- I17** 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 [^{F16}, recordable conduct matter or DSI matter] .
- (2) Sub-paragraphs (2) to [^{F17}(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.

*Status: Point in time view as at 01/09/2007. This version of this
 schedule contains provisions that are not valid for this point in time.*
*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

- F16** 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\(1\)\(w\)](#)
- F17** 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)

- C25** 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

- I18** 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 [^{F18}, 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
 - (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.
- [^{F19}(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—

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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)

- (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 provide that such provisions of the 1984 Act relating to investigations of offences conducted by police officers as may be specified in the order shall apply, subject to such modifications as may be so specified, to investigations of offences conducted by virtue of this paragraph by members of the Commission’s staff designated under sub-paragraph (2).
- (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
 - (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).
- (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

- F18** 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\(1\)\(w\)](#)
- F19** 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\(1\)\(w\)](#)

Modifications etc. (not altering text)

- C26** 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

Commencement Information

- I19** 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\(d\)](#)

VALID FROM 03/11/2008

Special procedure where investigation relates to police officer or special constable

- [^{F20}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.

*Status: Point in time view as at 01/09/2007. This version of this
 schedule contains provisions that are not valid for this point in time.*
*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

F20 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)

VALID FROM 03/11/2008

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.
- (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;

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- (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;
 - “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.

Textual Amendments

F20 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](#))

VALID FROM 03/11/2008

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.

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- (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.

Textual Amendments

F20 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)

VALID FROM 03/11/2008

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—
- (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

F20 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)

VALID FROM 03/11/2008

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).

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- (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.]

Textual Amendments

- F20** 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)

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 [^{F21} until—
- (a) the appropriate authority has certified the case as a special case under paragraph 20B(3) or 20E(3), or]
 - [^{F22}(b)] a report on that investigation has been submitted to the Commission or to the appropriate authority under paragraph 22 [^{F23}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

- F21** 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)**
- F22** 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)**
- F23** 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)

- C27** 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

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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)

Commencement Information

I20 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\(d\)](#)

Accelerated procedure in special cases

[^{F24}20A(1) If, at any time before the completion of his investigation, a person appointed or designated to investigate 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).
- (6) After submitting a report under this paragraph, the person appointed or designated to investigate the complaint or recordable conduct matter shall continue his investigation to such extent as he considers appropriate.
- (7) The special conditions are that—
 - (a) the person whose conduct is the subject matter of the investigation may have committed an imprisonable offence and that person's conduct is of a serious nature;
 - (b) there is sufficient evidence, in the form of written statements or other documents, to establish on the balance of probabilities that conduct justifying dismissal took place; and
 - (c) it is in the public interest for the person whose conduct is the subject matter of the investigation to cease to be a member of a police force, or to be a special constable, without delay.

(8) In sub-paragraph (7)—

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- (a) in paragraph (a), “imprisonable offence” means an offence which is punishable with imprisonment in the case of a person aged 21 or over; and
- (b) in paragraph (b), “conduct justifying dismissal” means conduct which is so serious that disciplinary proceedings brought in respect of it would be likely to result in a dismissal.

(9) In paragraphs 20B to 20H “special report” means a report submitted under this paragraph.]

Textual Amendments

F24 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\(1\)\(v\)](#)

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

[^{F24}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.
- (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 Regulation 11 of the Police (Conduct) Regulations 2004 (S.I. 2004/645); and
 - (b) subject to any request made under paragraph 20G(1), take such steps as are required by that Regulation in relation to a case so certified.
- (4) The reference in sub-paragraph (3) to Regulation 11 includes a reference to any corresponding provision replacing that Regulation.
- (5) If the appropriate authority determines that the special conditions are satisfied then it shall notify the Director of Public Prosecutions of its determination and send him a copy of the special report.
- (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

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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

F24 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\(1\)\(v\)](#)

Investigations managed or carried out by Commission: action by Commission

[^{F24}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.

Textual Amendments

F24 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\(1\)\(v\)](#)

Investigations managed or carried out by Commission: action by Commission

[^{F24}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.

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- (2) If the Commission determines not to make a recommendation under paragraph 20H, it shall notify the appropriate authority and the person appointed under paragraph 18 or designated under paragraph 19 of its determination.]

Textual Amendments

F24 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\(1\)\(v\)](#)

Other investigations: action by appropriate authority

- [
^{F24}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.
- (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 Regulation 11 of the Police (Conduct) Regulations 2004 (S.I. 2004/645); and
 - (b) subject to any request made under paragraph 20G(1), take such steps as are required by that Regulation in relation to a case so certified.
- (4) The reference in sub-paragraph (3) to Regulation 11 includes a reference to any corresponding provision replacing that Regulation.
- (5) If the appropriate authority determines that the special conditions are satisfied then it shall notify the Director of Public Prosecutions of its determination and send him a copy of the special report.
- (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 appointed under paragraph 16 or 17 of its determination.
- (8) In this paragraph “special conditions” has the meaning given by paragraph 20A(7).]

Status: Point in time view as at 01/09/2007. This version of this schedule contains provisions that are not valid for this point in time.
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

F24 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\(1\)\(v\)](#)

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.

Textual Amendments

F24 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\(1\)\(v\)](#)

Special cases: Director of Public Prosecutions

- [^{F24}20G (1) On receiving a copy of a special report under paragraph 20B(5) or 20E(5), the Director of Public Prosecutions may request the appropriate authority not to bring disciplinary proceedings without his prior agreement, if the Director considers that bringing such proceedings might prejudice any future criminal proceedings.
- (2) The Director of Public Prosecutions—
- (a) 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 a special report copied to him under paragraph 20B(5) or 20E(5); and
 - (b) where the special report was copied to him under paragraph 20B(5), shall send a copy of that notification to the Commission.
- (3) 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

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of Public Prosecutions in respect of any matters dealt with in a special report copied to him under paragraph 20B(5).

- (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 special report copied to him under paragraph 20E(5).
- (5) Those 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.]

Textual Amendments

F24 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\(1\)\(v\)](#)

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).
- (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)—

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- (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.

Textual Amendments

F24 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\(1\)\(v\)](#)

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—
- (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.]

Textual Amendments

F24 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\(1\)\(v\)](#)

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Power of the Commission to discontinue an investigation

- 21 (1) If at any time appears to the Commission (whether on an application by the appropriate authority or otherwise) that a complaint or matter that is being investigated—
- (a) by the appropriate authority on its own behalf, or
 - (b) under the supervision or management of the Commission,
- is of a description of complaint or matter specified in regulations made by the Secretary of State for the purposes of this sub-paragraph, the Commission may by order require the discontinuance of the investigation.
- (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.
- (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.
- (4) Where an investigation of a complaint [^{F25}, recordable conduct matter or DSI matter] is discontinued in accordance with this paragraph—
- (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).

Textual Amendments

F25 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\(1\)\(w\)](#)

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

I21 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\(d\)](#)

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*Changes to legislation: There are currently no known outstanding effects for
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Procedure where conduct matter is revealed during investigation of DSI matter

- [^{F26}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 (and the other provisions of this Schedule shall apply in relation to that matter accordingly).]

Textual Amendments

F26 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\(1\)\(w\)](#)

Status: Point in time view as at 01/09/2007. This version of this schedule contains provisions that are not valid for this point in time.
Changes to legislation: There are currently no known outstanding effects for the Police Reform Act 2002, SCHEDULE 3. (See end of Document for details)

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

- [^{F27}22 (1) This paragraph applies on the completion of an investigation of—
- (a) a complaint,
 - (b) a conduct matter, or
 - (c) a DSI matter in respect of which the Commission or the appropriate authority has made a determination under paragraph 21A(2) or (4).
- (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 a DSI matter in respect of which a determination has been made under paragraph 21A(2) or (4), 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.]

Textual Amendments

F27 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\(1\)\(w\)](#)

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

I22 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 [^{F28}under paragraph 22]

- 23 (1) This paragraph applies where—

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- (a) a report on an investigation carried out under the management of the Commission is submitted to it under sub-paragraph [^{F29}(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 [^{F30}(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;
 - (b) shall determine whether the report indicates that a criminal offence may have been committed by the person whose conduct was the subject-matter of the investigation;
 - (c) if it determines that the report does so indicate, 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 of its determination under paragraph (b) and of any action taken by it under paragraph (c).
- (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) Those 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.
- (6) Where the Commission—
- (a) has determined under sub-paragraph (2)(b) that there is no indication in the report that a criminal offence may have been committed,
 - (b) is notified by the Director of Public Prosecutions, in any case in which it has sent him a copy of the report, that the Director proposes to take no action in respect any of the matters dealt with in the report, or
 - (c) is satisfied that all criminal proceedings brought or likely to be brought in respect of matters dealt with in the report have been brought to a conclusion (apart from the bringing and determination of any appeal),
- the Commission shall give a notification to the appropriate authority requiring it to determine what action (if any) it will itself take in respect of the matters dealt with in the report.
- (7) On being required under sub-paragraph (6) to determine what action it will take in respect of the matters dealt with in the report the appropriate authority shall make that determination and submit a memorandum to the Commission which—
- (a) sets out whether the appropriate authority is proposing to take any action in respect of the matters dealt with in the report;

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- (b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take; and
 - (c) if the appropriate authority has decided in relation to any person whose conduct is the subject-matter of the report 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 is proposing to take the action 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.
- [^{F31}(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.]

Textual Amendments

- F28** 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\(1\)\(w\)](#)
- F29** 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\(1\)\(w\)](#)
- F30** 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\(1\)\(w\)](#)
- F31** 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\(1\)\(w\)](#)

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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

I23 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 [F³² under paragraph 22]

- 24 (1) This paragraph applies where—
- (a) a report of an investigation is submitted to the appropriate authority in accordance with paragraph [F³³22(2)] ; or
 - (b) 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 [F³⁴22(3)] .
- (2) On receipt of the report or (as the case may be) of the copy, the appropriate authority—
- (a) shall determine whether the report indicates that a criminal offence may have been committed by a person whose conduct was the subject-matter of the investigation; and
 - (b) if it determines that the report does so indicate, shall notify the Director of Public Prosecutions of the determination and send him a copy of the report.
- (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) Those 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.
- (6) Where the appropriate authority—
- (a) has determined under sub-paragraph (2) that there is no indication in the report that a criminal offence may have been committed,
 - (b) is notified by the Director of Public Prosecutions, in any case in which it has sent him a copy of the report, that the Director proposes to take no action in respect any of the matters dealt with in the report, or
 - (c) is satisfied that all criminal proceedings brought or likely to be brought in respect of matters dealt with in the report have been brought to a conclusion (apart from the bringing and determination of any appeal),

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the appropriate authority shall determine what action (if any) it will itself take in respect of the matters dealt with in the report.

- (7) On the making of a determination 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;
 - (b) whether the authority has determined under sub-paragraph (6) to take any action;
 - (c) the action (if any) which that authority has decided to take; and
 - (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.
- [^{F35}(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

- F32** 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\(1\)\(w\)](#)
- F33** 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\(1\)\(w\)](#)
- F34** 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\(1\)\(w\)](#)
- F35** 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

- I24** 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\(d\)](#)

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Final reports on investigations: other DSI matters

- [^{F36}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) A person appointed under paragraph 16, 17 or 18 or designated under paragraph 19 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 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.]

Textual Amendments

F36 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\(1\)\(w\)](#)

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

- [^{F36}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 (and the other provisions of this Schedule shall apply in relation to that matter accordingly).]

Textual Amendments

F36 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\(1\)\(w\)](#)

- [^{F36}24C(1) If 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,

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it shall make such recommendations or give such advice under section 10(1)(e) (if any) as it considers necessary or desirable.

- (2) Sub-paragraph (1) does not affect any power of the Commission to make recommendations or give advice under section 10(1)(e) in other cases (whether arising under this Schedule or otherwise).]

Textual Amendments

F36 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\(1\)\(w\)](#)

Appeals to the Commission with respect to an investigation

- 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 to the Commission—
- (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
 - (ii) about any proposals of the appropriate authority to take, or not to take, action in consequence of the report;
 - (b) a right to appeal against the findings of the investigation; and
 - (c) a right of appeal against any proposal of the appropriate authority to take, or not to take, action in respect of any of the matters dealt with in the report of the investigation;

and it shall be the duty of the Commission 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.

[^{F37}(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—
- (a) sets out whether the appropriate authority is proposing to take any action in respect of the matters dealt with in the report;
 - (b) if the appropriate authority is proposing to take any action, sets out what action it is proposing to take; and
 - (c) if the appropriate authority has decided in relation to any person whose conduct is the subject-matter of the report that disciplinary proceedings should not be brought against that person, sets out its reasons for so deciding;

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

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schedule contains provisions that are not valid for this point in time.*
*Changes to legislation: There are currently no known outstanding effects for
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- (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 Commission shall determine—
 - (a) whether the complainant has been provided with adequate information about the matters mentioned in sub-paragraph (2)(a);
 - (b) whether the findings of the investigation need to be reconsidered; and
 - (c) whether the appropriate authority is proposing to take the action that the Commission considers appropriate in consequence of the report.
- (6) If, on an appeal under this paragraph, the Commission determines that the complainant has not been provided with adequate information about any matter, the Commission shall give the appropriate authority all such directions as the Commission considers appropriate for securing that the complainant is properly informed.
- (7) Nothing in sub-paragraph (6) 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, it shall either—
 - (a) review those findings without an immediate further investigation; or
 - (b) direct that the complaint be re-investigated.
- (9) If, on an appeal under this paragraph, the Commission determines that the appropriate authority is not proposing to take the action in consequence of the report that the Commission considers appropriate, the Commission shall—
 - (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.
- (10) The Commission shall give notification of any determination 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 review or re-investigation of the complaint, to the person complained against.
- (11) 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 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.

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- (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 Commission when dealing with or disposing of any such appeal.

Textual Amendments

F37 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\(1\)\(v\)](#)

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

I25 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—
 - (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.

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- (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

I26 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\(d\)](#)

Duties with respect to disciplinary proceedings

- 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 proposing to 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 proposing to take in relation to those matters.
- (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.

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- (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—
- (a) that disciplinary proceedings, or such disciplinary proceedings as may be specified in the recommendation, are brought against that person in respect of the conduct which was the subject-matter of the investigation; or
 - (b) that any disciplinary proceedings brought against that person are modified so as to include such charges 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.
- (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 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), 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.

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

I27 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\(d\)](#)

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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

Commencement Information

I28 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\(d\)](#)

VALID FROM 03/11/2008

Minor definitions

- ^{F38}29 In this Part of this Schedule—
- “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;

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“the Standards of Professional Behaviour” means the standards so described in, and established by, regulations made by the Secretary of State.]

Textual Amendments

- F38** 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)

Status:

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Changes to legislation:

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