

## SCHEDULES

### SCHEDULE 12

Section 160

#### INVESTIGATIONS OF DEATHS AND SERIOUS INJURIES DURING OR AFTER CONTACT WITH THE POLICE

- 1 The Police Reform Act 2002 (c. 30) has effect subject to the following amendments.
- 2 (1) Section 10(2) (general functions of the Commission) is amended as follows.
- (2) After paragraph (b) insert—
- “(ba) the recording of matters from which it appears that a person has died or suffered serious injury during, or following, contact with a person serving with the police;”.
- (3) In paragraph (c), after “paragraph (b)” insert “or (ba)”.
- 3 In section 12 (matters to which Part 2 applies), after subsection (2) insert—
- “(2A) In this Part “death or serious injury matter” (or “DSI matter” for short) means any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter)—
- (a) in or in consequence of which a person has died or has sustained serious injury; and
- (b) in relation to which the requirements of either subsection (2B) or subsection (2C) are satisfied.
- (2B) The requirements of this subsection are that at the time of the death or serious injury the person—
- (a) had been arrested by a person serving with the police and had not been released from that arrest; or
- (b) was otherwise detained in the custody of a person serving with the police.
- (2C) The requirements of this subsection are that—
- (a) at or before the time of the death or serious injury the person had contact (of whatever kind, and whether direct or indirect) with a person serving with the police who was acting in the execution of his duties; and
- (b) there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.
- (2D) In subsection (2A) the reference to a person includes a person serving with the police, but in relation to such a person “contact” in subsection (2C) does not include contact that he has whilst acting in the execution of his duties.”
- 4 In the following provisions, for “and conduct matters” substitute “, conduct matters and DSI matters”—
- (a) the cross-heading preceding section 13;

- (b) the heading for section 13 (handling of complaints and conduct matters);  
and
  - (c) that section itself.
- 5 (1) Section 16(2) (assistance for which payment is required) is amended as follows.
- (2) In paragraph (a), for the words from “an investigation relating to” to the end substitute—
- “(i) an investigation relating to the conduct of a person who, at the time of the conduct, was a member of the other force, or
  - (ii) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, a member of the other force; and”.
- (3) In paragraph (b), for the words from “an investigation” to the end substitute—
- “(i) an investigation relating to the conduct of a person who, at the time of the conduct, was not a member of that force, or
  - (ii) an investigation of a DSI matter in relation to which the relevant officer was, at the time of the death or serious injury, not a member of that force.”
- 6 In section 18 (inspection of police premises on behalf of the Commission), in subsection (2)(a), after “conduct matters” insert “or DSI matters”.
- 7 (1) Section 21 (duty to provide information) is amended as follows.
- (2) In subsection (1), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- (3) In subsection (1)(a), after “subsection (2)” insert “or (2A)”.
- (4) In subsection (2), after “if” insert “(in the case of a complaint or recordable conduct matter)”.
- (5) After subsection (2) insert—
- “(2A) A person falls within this subsection if (in the case of a DSI matter)—
- (a) he is a relative of the person who has died;
  - (b) he is a relative of the person who has suffered serious injury and that person is incapable of making a complaint;
  - (c) he himself is the person who has suffered serious injury.”
- (6) In subsection (3)—
- (a) after “subsection (2)” insert “or (2A)”; and
  - (b) for “or recordable conduct matter” (in both places) substitute “, recordable conduct matter or DSI matter”.
- (7) In subsection (5), for “or conduct matter” substitute “, conduct matter or DSI matter”.
- (8) In subsections (6) and (7), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- (9) After subsection (9)(b) insert—
- “(ba) whether the Commission or the appropriate authority has made a determination under paragraph 21A of Schedule 3;”.

- (10) In subsection (9)(c), after “paragraph 22” insert “or 24A”.
- (11) In subsection (10), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- 8 (1) Section 22 (power of Commission to issue guidance) is amended as follows.
- (2) In subsection (2)(b)(ii), after “recordable conduct matters” insert “or DSI matters”.
- (3) In subsection (5)—
- (a) in paragraph (a), after “recordable conduct matters” insert “or DSI matters”;
  - (b) in paragraphs (b) and (d)(ii), after “recordable conduct matter” insert “or DSI matter”; and
  - (c) in paragraph (e)(i), for “or conduct matter” substitute “, conduct matter or DSI matter”.
- 9 (1) Section 23(2) (regulations) is amended as follows.
- (2) In paragraph (b), after “recordable conduct matters” insert “and DSI matters”.
- (3) For paragraph (h) substitute—
- “(h) for combining into a single investigation the investigation of any complaint, conduct matter or DSI matter with the investigation or investigations of any one or more, or any combination, of the following—
- (i) complaints (whether or not relating to the same conduct),
  - (ii) conduct matters, or
  - (iii) DSI matters,
- and for splitting a single investigation into two or more separate investigations;”.
- (4) In paragraph (j), for “or conduct matter” substitute “, conduct matter or DSI matter”.
- (5) In paragraph (n)(ii), after “recordable conduct matters” insert “or DSI matters”.
- 10 (1) Section 29 (interpretation) is amended as follows.
- (2) In subsection (1)—
- (a) for the definition of “the appropriate authority” substitute—
 

““the appropriate authority”—

    - (a) in relation to a person serving with the police or in relation to any complaint, conduct matter or investigation relating to the conduct of such a person, means—
      - (i) if that person is a senior officer, the police authority for the area of the police force of which he is a member; and
      - (ii) if he is not a senior officer, the chief officer under whose direction and control he is; and
    - (b) in relation to a death or serious injury matter, means—
      - (i) if the relevant officer is a senior officer, the police authority for the area of the police force of which he is a member; and
      - (ii) if he is not a senior officer, the chief officer under whose direction and control he is;” and

(b) after the definition of “conduct matter” insert—

““death or serious injury matter” and “DSI matter” have the meaning given by section 12;”.

(3) After subsection (1) insert—

“(1A) In this Part “the relevant officer”, in relation to a DSI matter, means the person serving with the police (within the meaning of section 12(7))—

- (a) who arrested the person who has died or suffered serious injury,
- (b) in whose custody that person was at the time of the death or serious injury, or
- (c) with whom that person had the contact in question;

and where there is more than one such person it means, subject to subsection (1B), the one who so dealt with him last before the death or serious injury occurred.

(1B) Where it cannot be determined which of two or more persons serving with the police dealt with a person last before a death or serious injury occurred, the relevant officer is the most senior of them.”

11 Schedule 3 (handling of complaints and conduct matters) is amended as set out in the following paragraphs.

12 After paragraph 14 insert—

## “PART 2A

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

#### **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.

(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.

#### **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.

**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.

**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.”

13 In paragraph 15(1)(a) and (8) (power of the Commission to determine the form of an investigation), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.

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- 14 (1) Paragraph 16 (investigations by the appropriate authority on its own behalf) is amended as follows.
- (2) In sub-paragraph (1), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- (3) In sub-paragraph (2)(a), after “recordable conduct matter” insert “or under paragraph 14D(2) in relation to any DSI matter”.
- (4) In sub-paragraph (3), after “(4)” insert “or (5)”.
- (5) In sub-paragraph (4), for “matter” substitute “conduct matter”.
- (6) After sub-paragraph (4) add—
- “(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.”
- 15 (1) Paragraph 17 (investigations supervised by the Commission) is amended as follows.
- (2) In sub-paragraph (1), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- (3) In sub-paragraph (6), for “matter” substitute “conduct matter”.
- (4) After sub-paragraph (6) insert—
- “(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.”
- 16 (1) Paragraph 18 (investigations managed by the Commission) is amended as follows.
- (2) In sub-paragraph (1), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- (3) In sub-paragraph (2), for “(6)” substitute “(6A)”.
- 17 (1) Paragraph 19 (investigations by the Commission itself) is amended as follows.
- (2) In sub-paragraph (1), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- (3) After sub-paragraph (3) insert—
- “(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.”

- 18 In paragraph 20(1) (restrictions on proceedings pending the conclusion of an investigation), after “22” insert “or 24A”.
- 19 In paragraph 21(4) (power of the Commission to discontinue an investigation), for “or recordable conduct matter” substitute “, recordable conduct matter or DSI matter”.
- 20 After paragraph 21 insert—

*“Procedure where conduct matter is revealed during investigation of DSI matter*

- 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—

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- (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).”

21 For paragraph 22 (final reports on investigations) substitute—

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

- 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.”

22 (1) In the heading preceding paragraph 23, after “investigation report” insert “under paragraph 22”.

- (2) In paragraph 23(1)—
- (a) in paragraph (a), for “(2)” substitute “(3)”; and
  - (b) in paragraph (b), for “(3)” substitute “(5)”.



(3) After paragraph 23(12) insert—

“(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.”

23 (1) In the heading preceding paragraph 24, after “investigation report” insert “under paragraph 22”.

(2) In paragraph 24(1)—

- (a) in paragraph (a), for “22(1)” substitute “22(2)”; and
- (b) in paragraph (b), for “22(2)” substitute “22(3)”.

(3) After paragraph 24(10) insert—

“(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.”

24 After paragraph 24 insert—

*“Final reports on investigations: other DSI matters*

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.

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

24B (1) If the Commission determines under paragraph 24A(4) that the report indicates that a person serving with the police may have—

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

it shall notify the appropriate authority in relation to the person whose conduct is in question of its determination and, if it appears that that

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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).
- 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,
- 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).”