



# Policing and Crime Act 2017

## 2017 CHAPTER 3

### PART 2

#### POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

### CHAPTER 6

#### INSPECTION

#### **36 Powers of inspectors to obtain information, access to police premises etc**

- (1) In Schedule 4A to the Police Act 1996 (further provision about Her Majesty's Inspectors of Constabulary), for paragraphs 6A and 6B substitute—

#### **“Powers of inspectors to obtain information etc**

- 6A (1) An inspector may serve on a person a notice requiring the person—
- (a) to provide the inspector with any information or documents that the inspector reasonably requires for the purposes of an inspection under section 54;
  - (b) to produce or deliver up to the inspector any evidence or other things that the inspector reasonably requires for those purposes.

This is subject to sub-paragraphs (6) to (9).

- (2) A notice under this paragraph must—
- (a) specify or describe the information, documents, evidence or other things that are required by the inspector;
  - (b) specify the period within which the information, documents, evidence or other things must be provided, produced or delivered up;
  - (c) where the notice is served on a person who has a right of appeal under paragraph 6D, give details of that right of appeal.

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- (3) In a case where a notice is served on a person who has a right of appeal under paragraph 6D, a period specified under sub-paragraph (2)(b) must not end before the end of the period within which the appeal could be brought.
- (4) A notice under this paragraph may specify the form and manner in which any information, documents, evidence or other things are to be provided, produced or delivered up.
- (5) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (6) A notice under this paragraph must not be used to obtain information, or any document or other thing, from—
  - (a) the Security Service,
  - (b) the Secret Intelligence Service,
  - (c) the Government Communications Headquarters,
  - (d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities,
  - (e) the Crown Prosecution Service,
  - (f) the Service Prosecuting Authority, or
  - (g) the Serious Fraud Office.
- (7) A notice under this paragraph must also not be used to obtain information, or any document or other thing, from any person if—
  - (a) the information, or the document or other thing, was obtained by that person (directly or indirectly) from a body or other entity mentioned in sub-paragraph (6), or
  - (b) the information, or the document or other thing, relates to a body or other entity mentioned in that sub-paragraph.
- (8) A notice under this paragraph must not require a person—
  - (a) to provide information that might incriminate the person;
  - (b) to provide an item subject to legal privilege within the meaning of the Police and Criminal Evidence Act 1984 (see section 10 of that Act);
  - (c) to make a disclosure that would be prohibited by any of Parts 1 to 7 or Chapter 1 of Part 9 of the Investigatory Powers Act 2016;
  - (d) to provide information that was provided to the person by, or by an agency of, the government of a country or territory outside the United Kingdom where that government does not consent to the disclosure of the information.
- (9) A notice under this paragraph must not require a postal or telecommunications operator to provide communications data.
- (10) In sub-paragraph (9), “communications data”, “postal operator” and “telecommunications operator” have the same meanings as in the Investigatory Powers Act 2016 (see sections 261 and 262 of that Act).
- (11) In this paragraph—

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“document” means anything in which information of any description is recorded;

“inspector” means—

- (a) an inspector of constabulary,
- (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary, or
- (c) a person authorised by an inspector of constabulary to act on behalf of the inspector for the purposes of this paragraph.

### **Powers of inspectors to obtain access to police premises**

- 6B (1) An inspector may serve on a person a notice requiring the person to allow the inspector access, which the inspector reasonably requires for the purposes of an inspection under section 54, to—
- (a) premises that are occupied (wholly or partly) for the purposes of—
    - (i) a police force,
    - (ii) a local policing body,
    - (iii) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of the police force or its local policing body), to assist a police force in relation to the discharge of its chief officer's functions, or
    - (iv) any other person who is, by virtue of any enactment, carrying out any of the activities of a police force, and
  - (b) documents and other things on those premises.
- (2) A notice under this paragraph must—
- (a) specify or describe the premises to which the inspector requires access;
  - (b) specify the time when access is required (which may be immediately after the service of the notice).
- (3) Where there are reasonable grounds for not allowing the inspector to have access to the premises at the time specified under sub-paragraph (2) (b), the requirement under this paragraph has effect as a requirement to secure that access is allowed to the inspector at the earliest practicable time specified by the inspector after there cease to be such grounds.
- (4) An inspector may cancel a notice under this paragraph by written notice to the person on whom it was served.
- (5) In this paragraph “document” and “inspector” have the same meanings as in paragraph 6A (and, for that purpose, the reference in paragraph (c) of the definition of “inspector” in paragraph 6A(11) to paragraph 6A is to be read as a reference to this paragraph).

### **Failure to comply with notice under paragraph 6A or 6B**

- 6C (1) If a person who has received a notice under paragraph 6A or 6B—

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- (a) fails or refuses without reasonable excuse to do what is required by the notice, or
  - (b) (in the case of a notice under paragraph 6A) knowingly or recklessly provides information in response to the notice that is false in a material respect,
- the chief inspector of constabulary may certify in writing to the High Court that the person has failed to comply with the notice.
- (2) The High Court may then inquire into the matter and, after hearing any witness who may be produced against or on behalf of the person, and after hearing any statement offered in defence, deal with the person as if the person had committed a contempt of court.

### **Appeals against notices under paragraph 6A**

- 6D (1) A person on whom a notice is served under paragraph 6A may appeal against the notice to the First-tier Tribunal on the ground that the notice is not in accordance with the law.
- (2) The right of appeal conferred by sub-paragraph (1) does not apply where the notice is served on a person who is—
- (a) a member of a police force;
  - (b) a special constable;
  - (c) a member of the civilian staff of a police force, including the metropolitan police force (within the meaning of Part 1 of the Police Reform and Social Responsibility Act 2011);
  - (d) a local policing body or a person employed by a local policing body;
  - (e) a person providing services, in pursuance of contractual arrangements (but without being employed by a chief officer of police of a police force or its local policing body), to assist a police force in relation to the discharge of its chief officer's functions;
  - (f) a person employed by a person providing services as mentioned in paragraph (e);
  - (g) any other person who is, by virtue of any enactment, carrying out any of the activities of a police force.
- (3) If an appeal is brought, any requirement imposed by the notice is of no effect pending the determination or withdrawal of the appeal.
- (4) If the Tribunal considers that the notice is not in accordance with the law—
- (a) it must quash the notice, and
  - (b) it may give directions regarding the service of a further notice under paragraph 6A.

### **Sensitive information: restriction on further disclosure**

- 6E (1) Where an inspector receives information within sub-paragraph (2), the inspector must not disclose the information, or the fact that it has been received, unless the relevant authority consents to the disclosure.

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- (2) The information is—
- (a) intelligence service information;
  - (b) protected information relating to a relevant warrant;
  - (c) information obtained from a government department which, at the time it is provided to the inspector, is identified by the department as information the disclosure of which may, in the opinion of the relevant authority—
    - (i) cause damage to national security, international relations or the economic interests of the United Kingdom or any part of the United Kingdom, or
    - (ii) jeopardise the safety of any person.
- (3) Where an inspector discloses to another person information within sub-paragraph (2), or the fact that the inspector has received it, the other person must not disclose that information or that fact unless the relevant authority consents to the disclosure.
- (4) A prohibition on disclosure in sub-paragraph (1) or (3) does not apply to disclosure by one inspector to another.
- (5) In this paragraph—
- “government department” means a department of Her Majesty's Government but does not include—
- (a) the Security Service,
  - (b) the Secret Intelligence Service, or
  - (c) the Government Communications Headquarters (“GCHQ”);
- “inspector” means—
- (a) an inspector of constabulary,
  - (b) a person appointed under section 56 as an assistant inspector of constabulary or staff officer to the inspectors of constabulary, or
  - (c) a person authorised by an inspector of constabulary to act on behalf of the inspector in receiving information (whether under paragraph 6A or otherwise);
- “intelligence service information” means information that was obtained (directly or indirectly) from or that relates to—
- (a) the Security Service,
  - (b) the Secret Intelligence Service,
  - (c) GCHQ, or
  - (d) any part of Her Majesty's forces, or of the Ministry of Defence, which engages in intelligence activities;
- “Minister of the Crown” includes the Treasury;
- “protected information”, in relation to a relevant warrant, means information relating to any of the matters mentioned in section 57(4) of the Investigatory Powers Act 2016 in relation to the warrant;
- “relevant authority” means—

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- (a) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Security Service, the Director-General of the Security Service;
  - (b) in the case of intelligence service information obtained (directly or indirectly) from or relating to the Secret Intelligence Service, the Chief of the Secret Intelligence Service;
  - (c) in the case of intelligence service information obtained (directly or indirectly) from or relating to GCHQ, the Director of GCHQ;
  - (d) in the case of intelligence service information obtained (directly or indirectly) from or relating to Her Majesty's forces or the Ministry of Defence, the Secretary of State;
  - (e) in the case of protected information relating to a relevant warrant, the person to whom the relevant warrant is or was addressed;
  - (f) in the case of information within sub-paragraph (2)(c)—
    - (i) the Secretary of State, or
    - (ii) the Minister of the Crown in charge of the government department from which the information was obtained (if that Minister is not a Secretary of State);
- “relevant warrant” means—
- (a) a warrant under Chapter 1 of Part 2 of the Investigatory Powers Act 2016, or
  - (b) a warrant under Chapter 1 of Part 6 of that Act.

### **Provision of sensitive information to inspectors**

- 6F (1) A person who provides information that is intelligence service information or protected information relating to a relevant warrant to an inspector (whether under a provision of this Schedule or otherwise) must—
- (a) make the inspector aware that the information is intelligence service information or (as the case may be) protected information relating to a relevant warrant, and
  - (b) provide the inspector with such additional information as will enable the inspector to identify the relevant authority in relation to the information.

(2) In this paragraph, “inspector”, “intelligence service information”, “protected information relating to a relevant warrant” and “relevant authority” have the same meaning as in paragraph 6E.”

- (2) Omit section 86 of the Police Reform and Social Responsibility Act 2011 (which is spent as a result of subsection (1) above).

#### **Commencement Information**

**II** S. 36 in force for specified purposes at Royal Assent, see s. 183

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**I2** S. 36 in force at 2.5.2017 in so far as not already in force by S.I. 2017/399, reg. 4(a)

### **37 Inspectors and inspections: miscellaneous**

(1) In section 54 of the Police Act 1996 (appointment and functions of inspectors of constabulary), after subsection (6) insert—

“(7) For the purposes of this section, a police force includes—

- (a) staff appointed by the chief officer of police of the police force;
- (b) staff appointed by a local policing body if, or to the extent that, they are employed to assist the police force;
- (c) persons providing services, in pursuance of contractual arrangements (but without being employed by the chief officer of police of the police force or its local policing body), to assist the police force in relation to the discharge of its chief officer's functions;
- (d) any other persons if, or to the extent that, they are engaged by virtue of any enactment in carrying out the activities of the police force.”

(2) In section 55 of that Act (publication of reports of inspections), after subsection (5) insert—

“(5A) The comments of the local policing body, together with any comments submitted by the chief officer of police and any response to those comments by the local policing body, must be published before the end of the period of 56 days beginning with the day on which the report is published.

(5B) If the published report includes a recommendation, the comments of the local policing body must include an explanation of—

- (a) the action the local policing body has taken or proposes to take in response to the recommendation, or
- (b) why the local policing body has not taken, or does not propose to take, any action in response.”

(3) In that section, in subsection (6), for the words after “subsection (5)” substitute “to—

- (a) the inspectors of constabulary, and
- (b) the Secretary of State.”

(4) In section 56 of that Act (assistant inspectors and staff officers), in subsections (1) and (2), for “Secretary of State” substitute “chief inspector of constabulary”.

(5) In paragraph 2 of Schedule 4A to that Act (inspection programmes and inspection frameworks)—

- (a) in sub-paragraph (1)(a), for “he proposes” substitute “the inspectors of constabulary propose”;
- (b) in sub-paragraph (1)(b), for “he proposes to carry out his” substitute “they propose to carry out their”;
- (c) after sub-paragraph (5) insert—

“(6) The chief inspector of constabulary or, at the request of the chief inspector, any other inspector may carry out inspections that have not been set out in an inspection programme (and have not been required under section 54(2B) or requested under section 54(2BA)).

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- (7) Before deciding to carry out, or to request another inspector to carry out, an inspection that has not been set out in an inspection programme, the chief inspector of constabulary must consult —
- (a) the Secretary of State, and
  - (b) the local policing body for the police force to which the inspection relates.”
- (6) In Schedule 6 to the Crime and Courts Act 2013 (inspection and complaints), in paragraph 4, after sub-paragraph (1) insert—
- “(1A) The comments must be published before the end of the period of 56 days beginning with the day on which the HMIC report is published by the Secretary of State.
- (1B) If the HMIC report includes a recommendation, the comments must include an explanation of—
- (a) the action the Director General has taken or proposes to take in response to the recommendation, or
  - (b) why the Director General has not taken, or does not propose to take, any action in response.”

#### **Commencement Information**

- I3** [S. 37](#) in force for specified purposes at Royal Assent, see [s. 183](#)
- I4** [S. 37](#) in force at 2.5.2017 in so far as not already in force by [S.I. 2017/399](#), **reg. 4(a)** (with [regs. 7, 8](#))



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