



Policing and Crime Act 2017

2017 CHAPTER 3

PART 2

POLICE COMPLAINTS, DISCIPLINE AND INSPECTION

CHAPTER 1

POLICE COMPLAINTS

20 Investigations by IPCC: powers of seizure and retention

- (1) In Schedule 3 to the Police Reform Act 2002 (handling of complaints and conduct matters etc), in Part 3 (investigations and subsequent proceedings), before paragraph 19A insert—

“Investigations by the Commission: power of seizure

- 19ZE (1) The powers conferred by this paragraph are exercisable by a person—
- (a) who is designated under paragraph 19(2) in relation to an investigation (the “designated person”), and
 - (b) who is lawfully on any premises for the purposes of the investigation.
- (2) The designated person may seize anything which is on the premises if the designated person has reasonable grounds for believing—
- (a) that it is evidence relating to the conduct or other matter to which the investigation relates, and
 - (b) that it is necessary to seize it in order to prevent the evidence being concealed, lost, altered or destroyed.
- (3) The designated person may require any information which is stored in any electronic form and is accessible from the premises to be produced in a form in which it can be taken away and in which it is visible and legible,

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or from which it can readily be produced in a visible and legible form, if the designated person has reasonable grounds for believing—

- (a) that it is evidence relating to the conduct or other matter to which the investigation relates, and
 - (b) that it is necessary to do so in order to prevent the evidence being concealed, lost, tampered with or destroyed.
- (4) The powers conferred by this paragraph do not authorise the seizure of an item which the designated person exercising the power has reasonable grounds for believing to be an item subject to legal privilege within the meaning of the 1984 Act (see section 10 of that Act).
- (5) Where a designated person has the power to seize a thing or require information to be produced under this paragraph and under section 19 of the 1984 Act (by virtue of section 97(8) of the 1996 Act or paragraph 19(4)), the designated person is to be treated for all purposes as acting in exercise of the power conferred by section 19 of the 1984 Act.
- (6) In this paragraph “premises” has the same meaning as in the 1984 Act (see section 23 of that Act).

Further provision about seizure under paragraph 19ZE

- 19ZF (1) This paragraph applies where a designated person seizes anything under paragraph 19ZE(2).
- (2) The designated person must provide a notice in relation to the thing seized if requested to do so by a person showing himself—
- (a) to be the occupier of the premises on which it was seized, or
 - (b) to have had custody or control of it immediately before the seizure.
- (3) The notice must state what has been seized and the reason for its seizure.
- (4) The notice must be provided within a reasonable time from the making of the request for it.
- (5) In this paragraph “designated person” has the same meaning as in paragraph 19ZE.

Investigations by the Commission: power of retention

- 19ZG (1) This paragraph applies to anything which, for the purposes of an investigation in accordance with paragraph 19—
- (a) has been seized under paragraph 19ZE(2) or taken away following a requirement imposed under paragraph 19ZE(3), or
 - (b) is otherwise lawfully in the possession of the Commission.
- (2) Anything to which this paragraph applies may be retained by the Commission for as long as is necessary in all the circumstances, including (amongst other things) so that it may be used as evidence in criminal or disciplinary proceedings or in an inquest held under Part 1 of the Coroners and Justice Act 2009.

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- (3) For the purposes of sub-paragraph (2), the retention of anything to which this paragraph applies is not necessary if having a photograph or copy of the thing would suffice (and the Commission may arrange for the thing to be photographed or copied before it ceases to be retained).

Further provision about things retained under paragraph 19ZG

- 19ZH (1) This paragraph applies to anything which—
- (a) has been seized (whether under paragraph 19ZE(2) or otherwise), and
 - (b) is being retained by the Commission under paragraph 19ZG.
- (2) If a request for permission to be granted access to a thing to which this paragraph applies is made to the Commission by—
- (a) a person who had custody or control of the thing immediately before it was seized, or
 - (b) someone acting on behalf of such a person,
- the Commission must allow the person who made the request access to it under the supervision of a member of the Commission’s staff.
- (3) Sub-paragraph (4) applies if a request for a photograph or copy of a thing to which this paragraph applies is made to the Commission by—
- (a) a person who had custody or control of the thing immediately before it was seized, or
 - (b) someone acting on behalf of such a person.
- (4) The Commission must either—
- (a) allow the person who made the request access to the thing under the supervision of a member of the Commission’s staff for the purpose of photographing or copying it, or
 - (b) arrange for the thing to be photographed or copied.
- (5) If the Commission acts under sub-paragraph (4)(b), the Commission must supply the photograph or copy to the person who made the request within a reasonable time from the making of the request.
- (6) The Commission is not obliged to do anything in response to a request under sub-paragraph (2) or (3) if the Commission has reasonable grounds for believing that to do so would prejudice—
- (a) any investigation being carried out in accordance with this Schedule, or
 - (b) any criminal or disciplinary proceedings or any inquest held under Part 1 of the Coroners and Justice Act 2009.”

- (2) In section 21 of the Police and Criminal Evidence Act 1984 (access and copying), at the end insert—

“(10) The references to a constable in subsections (1) and (2) do not include a constable who has seized a thing under paragraph 19ZE of Schedule 3 to the Police Reform Act 2002.”