

SCHEDULES

SCHEDULE 5

COMPLAINTS, CONDUCT MATTERS AND DSI MATTERS: PROCEDURE

PART 1

RECORDING AND REFERENCE OF COMPLAINTS

- 1 Part 1 of Schedule 3 to the Police Reform Act 2002 (handling of complaints) is amended as follows.
- 2 (1) Paragraph 2 (initial handling and recording of complaints) is amended as follows.
 - (2) In sub-paragraph (6), in the words following paragraph (c), for “record the complaint” substitute “contact the complainant and seek the complainant’s views on how the complaint should be handled”.
 - (3) After sub-paragraph (6) insert—
 - “(6A) A local policing body or chief officer that is subject to the duty in sub-paragraph (6) in relation to a complaint must record the complaint if—
 - (a) at any time the complainant indicates a wish for the complaint to be recorded, or
 - (b) the local policing body or chief officer determines that the complaint is to be handled in accordance with this Schedule.
 - (6B) The local policing body or chief officer must determine that a complaint is to be handled in accordance with this Schedule if—
 - (a) the complaint is one alleging that the conduct or other matter complained of has resulted in death or serious injury,
 - (b) the complaint is one alleging that there has been conduct by a person serving with the police which (if proved) might constitute the commission of a criminal offence or justify the bringing of disciplinary proceedings,
 - (c) the conduct or other matter complained of (if proved) might have involved the infringement of a person’s rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998), or
 - (d) the complaint is of a description specified for the purposes of paragraph 4(1)(b) in regulations made by the Secretary of State.
 - (6C) Where a local policing body or chief officer determines (for the purposes of sub-paragraph (6A)) that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must handle the complaint in such other manner as the local policing

Status: This is the original version (as it was originally enacted).

body or chief officer considers appropriate with a view to resolving the complaint to the complainant's satisfaction.

(The duty in this sub-paragraph ceases to apply if the complaint is recorded in accordance with sub-paragraph (6A)(a).)

(6D) Where a local policing body or chief officer records a complaint under sub-paragraph (6A), or determines that a complaint is to be handled otherwise than in accordance with this Schedule, the local policing body or chief officer must notify the complainant of the recording of the complaint or (as the case may be) of the determination."

(4) For sub-paragraph (7) substitute—

"(7) Nothing in this paragraph shall require the taking of any action in relation to a complaint if the complaint has been withdrawn."

(5) Omit sub-paragraph (8).

(6) At the end insert—

"(9) If a local policing body or chief officer decides that it or (as the case may be) he is not required to comply with any of sub-paragraphs (2), (3) and (6) to (6C) on the basis of a determination that what purports to be a complaint is not a complaint, the local policing body or chief officer must notify the complainant of the determination and the grounds on which it was made.

(10) If a local policing body or chief officer determines that part of what has been received (whether directly or by virtue of a notification under this paragraph) is a complaint and part is not, the local policing body or chief officer must proceed under this paragraph as if those two parts had been separately received."

3 Omit paragraph 3 (failures to notify or record a complaint) and the italic heading before that paragraph.

4 (1) Paragraph 4 (reference of complaints to the Commission) is amended as follows.

(2) In sub-paragraph (6)(b), for "a possible future investigation of the complaint" substitute "an investigation of the complaint (whether an existing investigation or a possible future one)".

(3) After sub-paragraph (6) insert—

"(6A) A local policing body which refers a complaint to the Commission under sub-paragraph (3) shall also give a notification of the making of the reference to the appropriate authority."

(4) Omit sub-paragraph (8).

(5) At the end insert—

"(9) The appropriate authority must record any complaint that is referred to the Commission under this paragraph that has not already been recorded."