



# Police Act 1996

## 1996 CHAPTER 16

### PART IV

#### COMPLAINTS, DISCIPLINARY PROCEEDINGS ETC.

### CHAPTER I

#### COMPLAINTS

#### *Interpretation*

#### **65 Interpretation of Chapter I**

In this Chapter—

“the appropriate authority” means—

- (a) in relation to a member of the metropolitan police force, the Commissioner of Police of the Metropolis, and
- (b) in relation to a member of any other police force—
- (c) if he is a senior officer, the police authority for the force’s area, and
- (ii) if he is not a senior officer, the chief officer of police of the force;

“the Authority” means the Police Complaints Authority;

“complaint” means a complaint about the conduct of a member of a police force which is submitted—

- (a) by a member of the public, or
- (b) on behalf of a member of the public and with his written consent;

“disciplinary proceedings” means proceedings identified as such by regulations under section 50;

“investigating officer” means a member of a police force appointed under section 68(3) or, as the case may be, section 69(5) or (6) to investigate a complaint;

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“senior officer” means a member of a police force holding a rank above that of superintendent;

“serious injury” means a fracture, damage to an internal organ, impairment of bodily function, a deep cut or a deep laceration.

### *The Police Complaints Authority*

## **66 The Police Complaints Authority**

- (1) The authority known as the Police Complaints Authority shall continue in existence as a body corporate.
- (2) Schedule 5 shall have effect in relation to the Authority.

### *Handling of Complaints etc.*

## **67 Preliminary**

- (1) Where a complaint is submitted to the chief officer of police for a police area, he shall take any steps that appear to him to be desirable for the purpose of obtaining or preserving evidence relating to the conduct complained of.
- (2) After complying with subsection (1), the chief officer shall determine whether he is the appropriate authority in relation to the member of a police force whose conduct is the subject of the complaint.
- (3) If the chief officer determines that he is not the appropriate authority, he shall—
  - (a) send the complaint or, if it was submitted orally, particulars of it, to the appropriate authority, and
  - (b) give notice that he has done so to the person by whom or on whose behalf the complaint was submitted.
- (4) Nothing in this Chapter shall have effect in relation to a complaint in so far as it relates to the direction or control of a police force by the chief officer of police or the person performing the functions of the chief officer of police.
- (5) If any conduct to which a complaint wholly or partly relates is or has been the subject of criminal or disciplinary proceedings, none of the provisions of this Chapter which relate to the recording and investigation of complaints shall have effect in relation to the complaint in so far as it relates to that conduct.

## **68 Investigation of complaints: senior officers**

- (1) Where a complaint about the conduct of a senior officer—
  - (a) is submitted to the appropriate authority, or
  - (b) is sent to the appropriate authority under section 67(3),the appropriate authority shall record and, subject to subsection (2), investigate it.
- (2) If satisfied that the conduct complained of, even if proved, would not justify criminal or disciplinary proceedings, the appropriate authority may deal with the complaint according to the appropriate authority’s discretion.

- (3) In any other case, the appropriate authority shall appoint a member of the appropriate authority's force or of some other force to investigate the complaint.
- (4) If the appropriate authority requests the chief officer of police of a police force to provide a member of his force for appointment under subsection (3), the chief officer shall comply with the request.
- (5) No member of a police force of a rank lower than that of the member whose conduct is the subject of the complaint may be appointed under subsection (3).
- (6) Unless an investigation under this section is supervised by the Authority under section 72, the investigating officer shall submit his report on it to the appropriate authority.

## **69 Investigation of complaints: standard procedure**

- (1) If a chief officer of police determines that he is the appropriate authority in relation to a member of a police force—
  - (a) whose conduct is the subject of a complaint, and
  - (b) who is not a senior officer,he shall record the complaint.
- (2) After recording a complaint under subsection (1), the chief officer of police shall consider whether the complaint is suitable for informal resolution and may appoint a member of his force to assist him.
- (3) A complaint is not suitable for informal resolution unless—
  - (a) the member of the public concerned gives his consent, and
  - (b) the chief officer of police is satisfied that the conduct complained of, even if proved, would not justify criminal or disciplinary proceedings.
- (4) If it appears to the chief officer of police that the complaint is suitable for informal resolution, he shall seek to resolve it informally and may appoint a member of his force to do so on his behalf.
- (5) If it appears to the chief officer of police that the complaint is not suitable for informal resolution, he shall appoint a member of his own or some other force to investigate it formally.
- (6) If, after attempts have been made to resolve a complaint informally, it appears to the chief officer of police—
  - (a) that informal resolution of the complaint is impossible, or
  - (b) that the complaint is for any other reason not suitable for informal resolution,he shall appoint a member of his own or some other force to investigate it formally.
- (7) A member of a police force may not be appointed to investigate a complaint formally if he has previously been appointed to act in relation to it under subsection (4).
- (8) If a chief officer of police requests the chief officer of police of some other force to provide a member of that other force for appointment under subsection (5) or (6), that chief officer shall comply with the request.

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- (9) Unless the investigation is supervised by the Authority under section 72, the investigating officer shall submit his report on it to the chief officer of police who appointed him.

## **70 References of complaints to Authority**

- (1) The appropriate authority—
- (a) shall refer to the Authority—
    - (i) any complaint alleging that the conduct complained of resulted in the death of, or serious injury to, some other person, and
    - (ii) any complaint of a description specified for the purposes of this section in regulations made by the Secretary of State, and
  - (b) may refer to the Authority any complaint which is not required to be referred to them.
- (2) The Authority may require the submission to them for consideration of any complaint not referred to them by the appropriate authority; and the appropriate authority shall comply with any such requirement not later than the end of the period specified for the purposes of this subsection in regulations made by the Secretary of State.
- (3) Where a complaint falls to be referred to the Authority under subsection (1)(a), the appropriate authority shall refer it to them not later than the end of the period specified for the purposes of sub-paragraph (i) or, as the case may be, (ii) of that subsection in regulations made by the Secretary of State.

## **71 References of other matters to Authority**

- (1) The appropriate authority may refer to the Authority any matter to which this section applies, if it appears to the appropriate authority that the matter ought to be referred by reason—
- (a) of its gravity, or
  - (b) of exceptional circumstances.
- (2) This section applies to any matter which—
- (a) appears to the appropriate authority to indicate that a member of a police force may have committed a criminal offence or behaved in a manner which would justify disciplinary proceedings, and
  - (b) is not the subject of a complaint.

## **72 Supervision of investigations by Authority**

- (1) The Authority shall supervise the investigation of—
- (a) any complaint alleging that the conduct of a member of a police force resulted in the death of, or serious injury to, some other person,
  - (b) any other description of complaint specified for the purposes of this section in regulations made by the Secretary of State, and
  - (c) any complaint which is not within paragraph (a) or (b), and any matter referred to the Authority under section 71, if the Authority determine that it is desirable in the public interest that they should do so.

- (2) Where the Authority have made a determination under subsection (1)(c), they shall notify it to the appropriate authority.
- (3) Where an investigation is to be supervised by the Authority, they may require—
  - (a) that no appointment is made under section 68(3) or 69(5) unless they have given notice to the appropriate authority that they approve the person whom that authority propose to appoint, or
  - (b) if such an appointment has already been made and the Authority are not satisfied with the person appointed, that—
    - (i) the appropriate authority, as soon as is reasonably practicable, select another member of a police force and notify the Authority that it proposes to appoint him, and
    - (ii) the appointment is not made unless the Authority give notice to the appropriate authority that they approve that person.
- (4) The Secretary of State shall by regulations authorise the Authority, subject to any restrictions or conditions specified in the regulations, to impose requirements as to a particular investigation additional to any requirements imposed by virtue of subsection (3).
- (5) A member of a police force shall comply with any requirement imposed on him by virtue of regulations under subsection (4).

### **73 Reports on investigations etc**

- (1) At the end of an investigation which the Authority have supervised, the investigating officer shall—
  - (a) submit a report on the investigation to the Authority, and
  - (b) send a copy of the report to the appropriate authority.
- (2) After considering a report submitted to them under subsection (1), the Authority shall submit an appropriate statement to the appropriate authority.
- (3) If it is practicable to do so, the Authority, when submitting the appropriate statement under subsection (2), shall send a copy of it to the member of a police force whose conduct has been investigated.
- (4) If—
  - (a) the investigation related to a complaint, and
  - (b) it is practicable to do so,the Authority shall also send a copy of the appropriate statement to the person by or on behalf of whom the complaint was submitted.
- (5) The power to issue an appropriate statement includes power to issue separate statements in respect of the disciplinary and criminal aspects of an investigation.
- (6) No disciplinary proceedings shall be brought before the appropriate statement is submitted to the appropriate authority.
- (7) Subject to subsection (8), neither the appropriate authority nor the Director of Public Prosecutions shall bring criminal proceedings before the appropriate statement is submitted to the appropriate authority.

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- (8) The restriction imposed by subsection (7) does not apply if it appears to the Director that there are exceptional circumstances which make it undesirable to wait for the submission of the appropriate statement.
- (9) In this section “appropriate statement” means a statement—
- (a) as to whether the investigation was or was not conducted to the Authority’s satisfaction,
  - (b) specifying any respect in which it was not so conducted, and
  - (c) dealing with any such other matters as the Secretary of State may by regulations provide.

#### **74 Steps to be taken after investigation: senior officers**

On receiving—

- (a) a report concerning the conduct of a senior officer which is submitted to it under section 68(6), or
- (b) a copy of a report concerning the conduct of a senior officer which is sent to it under section 73(1),

the appropriate authority shall send a copy of the report to the Director of Public Prosecutions unless the report satisfies the appropriate authority that no criminal offence has been committed.

#### **75 Steps to be taken after investigation: standard procedure**

- (1) Nothing in this section or section 76 has effect in relation to senior officers.
- (2) On receiving—
- (a) a report concerning the conduct of a member of a police force who is not a senior officer which is submitted to him under section 69(9), or
  - (b) a copy of a report concerning the conduct of such a member which is sent to him under section 73(1),
- a chief officer of police shall determine whether the report indicates that a criminal offence may have been committed by a member of the police force for his area.
- (3) If the chief officer determines that the report indicates that a criminal offence may have been committed by a member of the police force for his area, he shall send a copy of the report to the Director of Public Prosecutions.
- (4) After the Director has dealt with the question of criminal proceedings, the chief officer shall, in such cases as may be prescribed by regulations made by the Secretary of State, send the Authority a memorandum which—
- (a) is signed by the chief officer,
  - (b) states whether he has brought (or proposes to bring) disciplinary proceedings in respect of the conduct which was the subject of the investigation, and
  - (c) if he has not brought (or does not propose to bring) such proceedings, gives his reasons.
- (5) If the chief officer considers that the report does not indicate that a criminal offence may have been committed by a member of the police force for his area, he shall, in such cases as may be prescribed by regulations made by the Secretary of State, send the Authority a memorandum to that effect which—

- (a) is signed by the chief officer,
  - (b) states whether he has brought (or proposes to bring) disciplinary proceedings in respect of the conduct which was the subject of the investigation, and
  - (c) if he has not brought (or does not propose to bring) such proceedings, gives his reasons.
- (6) Where the investigation—
  - (a) related to conduct which was the subject of a complaint, and
  - (b) was not supervised by the Authority,the chief officer shall, if he is required by virtue of regulations under subsection (4) or (5) to send the Authority a memorandum, at the same time send them a copy of the complaint, or of the record of the complaint, and a copy of the report of the investigation.
- (7) Where a chief officer has sent the Authority a memorandum under subsection (4) or (5), he shall—
  - (a) if the memorandum states that he proposes to bring disciplinary proceedings, bring and proceed with them, and
  - (b) if the memorandum states that he has brought such proceedings, proceed with them.

## **76 Powers of Authority as to disciplinary proceedings**

- (1) Where a memorandum under section 75 states that a chief officer of police has not brought disciplinary proceedings or does not propose to bring such proceedings, the Authority may recommend him to bring such proceedings.
- (2) Where a chief officer has brought disciplinary proceedings in accordance with a recommendation under subsection (1), he shall proceed with them.
- (3) If after the Authority have made a recommendation under this section and consulted the chief officer he is still unwilling to bring disciplinary proceedings, they may direct him to do so.
- (4) Where the Authority give a chief officer a direction under this section, they shall supply him with a written statement of their reasons for doing so.
- (5) Subject to subsection (6), it shall be the duty of a chief officer to comply with such a direction.
- (6) The Authority may withdraw a direction given under this section.
- (7) A chief officer shall—
  - (a) advise the Authority of what action he has taken in response to a recommendation or direction under this section, and
  - (b) supply the Authority with such other information as they may reasonably require for the purposes of discharging their functions under this section.

## **77 Information as to the manner of dealing with complaints etc**

Every police authority in carrying out its duty with respect to the maintenance of an efficient and effective police force, and inspectors of constabulary in carrying out their

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duties with respect to the efficiency and effectiveness of any police force, shall keep themselves informed as to the working of sections 67 to 76 in relation to the force.

## **78 Constabularies maintained by authorities other than police authorities**

- (1) An agreement for the establishment in relation to any body of constables maintained by an authority, other than a police authority, of procedures corresponding or similar to any of those established by or by virtue of this Chapter may, with the approval of the Secretary of State, be made between the Authority and the authority maintaining the body of constables.
- (2) Where no such procedures are in force in relation to a body of constables, the Secretary of State may by order establish such procedures.
- (3) An agreement under this section may at any time be varied or terminated with the approval of the Secretary of State.
- (4) Before making an order under this section the Secretary of State shall consult—
  - (a) the Authority, and
  - (b) the authority maintaining the body of constables to whom the order would relate.
- (5) A statutory instrument containing an order under this section shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (6) Nothing in any other enactment passed or made before 31st October 1984 shall prevent an authority who maintain a body of constables from carrying into effect procedures established by virtue of this section.
- (7) No such procedures shall have effect in relation to anything done by a constable outside England and Wales.

## **79 Reports**

- (1) The Authority shall, at the request of the Secretary of State, report to him on such matters relating generally to their functions as the Secretary of State may specify, and the Authority may for that purpose carry out research into any such matters.
- (2) The Authority may make a report to the Secretary of State on any matters coming to their notice under this Chapter to which they consider that his attention should be drawn by reason of their gravity or of other exceptional circumstances.
- (3) The Authority shall send a copy of any report under subsection (2)—
  - (a) to the police authority and the chief officer of police of any police force which appears to the Authority to be concerned, or
  - (b) if the report concerns a body of constables such as is mentioned in section 78, to the authority maintaining it and the officer having the direction and the control of it.
- (4) As soon as practicable after the end of each calendar year the Authority shall make to the Secretary of State a report on the discharge of their functions during that year.
- (5) The Secretary of State shall lay before Parliament a copy of every report received by him under this section and shall cause every such report to be published.



- (6) The Authority shall send to each police authority—
  - (a) a copy of every report made under subsection (4), and
  - (b) any statistical or other general information—
    - (i) which relates to the year dealt with by the report and to the area of that police authority, and
    - (ii) which the Authority consider should be brought to the police authority's attention in connection with its functions under section 77.

## **80 Restriction on disclosure of information**

- (1) No information received by the Authority in connection with any of their functions under sections 67 to 79 or regulations made by virtue of section 81 shall be disclosed by any person who is or has been a member, officer or servant of the Authority except—
  - (a) to the Secretary of State or to a member, officer or servant of the Authority or, so far as may be necessary for the proper discharge of the functions of the Authority, to other persons,
  - (b) for the purposes of any criminal, civil or disciplinary proceedings, or
  - (c) in the form of a summary or other general statement made by the Authority which does not identify the person from whom the information was received or any person to whom it relates.
- (2) Any person who discloses information in contravention of this section shall be guilty of an offence and liable on summary conviction to a fine of an amount not exceeding level 5 on the standard scale.

## **81 Regulations**

- (1) The Secretary of State may make regulations as to the procedure to be followed under this Chapter.
- (2) The Secretary of State shall by regulations provide—
  - (a) that, subject to such exceptions, and in accordance with such procedures, as may be specified in the regulations, the chief officer of police of a police force shall supply a copy of, or of the record of, any complaint concerning the conduct of a member of his force—
    - (i) to that member, and
    - (ii) to the person by or on behalf of whom the complaint was submitted;
  - (b) procedures for the informal resolution of complaints of such descriptions as may be specified in the regulations, and for giving the person by or on behalf of whom the complaint was submitted a record of the outcome of any such procedure if he applies for one within such period as the regulations may provide;
  - (c) procedures for giving a member of a police force, whose conduct is the subject of a complaint which falls to be resolved informally, an opportunity to comment orally or in writing on the complaint;
  - (d) for cases in which any provision of this Chapter is not to apply where—
    - (i) a complaint, other than a complaint which falls to be resolved informally, is withdrawn, or
    - (ii) the complainant indicates that he does not wish any further steps to be taken;

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- (e) for enabling the Authority to dispense with any requirement of this Chapter;
  - (f) for enabling the Authority to relinquish the supervision of the investigation of any complaint or other matter;
  - (g) procedures for the reference or submission of complaints or other matters to the Authority;
  - (h) for the time within which the Authority are to give a notification under section 72(2);
  - (i) that the Authority shall be supplied with such information or documents of such description as may be specified in the regulations at such time or in such circumstances as may be so specified;
  - (j) that any action or decision of the Authority which they take in consequence of their receipt of a memorandum under section 75 shall, if it is an action or decision of a description specified in the regulations, be notified to the person concerned and that, in connection with such a notification, the Authority shall have power to supply that person with any relevant information;
  - (k) that chief officers of police shall have power to delegate any functions conferred on them by or by virtue of this Chapter.
- (3) In this section “document” means anything in which information of any description is recorded.

## **82 Regulations – supplementary**

- (1) Regulations under this Chapter may make different provision for different circumstances and may authorise the Secretary of State to make provision for any purposes specified in the regulations.
- (2) Subject to subsection (3), a statutory instrument containing regulations under this Chapter shall be subject to annulment in pursuance of a resolution of either House of Parliament.
- (3) Regulations to which this subsection applies shall not be made unless a draft of them has been laid before and approved by resolution of each House of Parliament.
- (4) Subsection (3) applies to regulations made by virtue of section 70(1)(a)(ii), 72(1)(b) or (4), 75(4) or (5) or 81(2)(b), (e) or (f).

## **83 Guidance concerning complaints etc**

- (1) The Secretary of State may issue guidance to police authorities, chief officers of police and other members of police forces concerning the discharge of their functions under this Chapter and they shall have regard to any such guidance in the discharge of their functions.
- (2) Guidance may not be issued under subsection (1) in relation to the handling of a particular case.
- (3) A failure on the part of a person to whom guidance is issued under subsection (1) to have regard to such guidance shall be admissible in evidence on any appeal from a decision taken in proceedings under regulations made in accordance with section 50(3).
- (4) In discharging their functions under section 76 the Authority shall have regard to any guidance given to them by the Secretary of State with respect to such matters as are

for the time being the subject of guidance under subsection (1), and they shall have regard in particular, but without prejudice to the generality of this subsection, to any such guidance as to the principles to be applied in cases that involve any question of criminal proceedings.

- (5) The report of the Authority under section 79(4) shall contain a statement of any guidance given to the Authority under subsection (4) above during the year to which the report relates.

## CHAPTER II

### DISCIPLINARY AND OTHER PROCEEDINGS

#### **84 Representation at disciplinary and other proceedings**

- (1) A member of a police force of the rank of superintendent or below may not be dismissed, required to resign or reduced in rank by a decision taken in proceedings under regulations made in accordance with section 50(3)(a) unless he has been given an opportunity to elect to be legally represented at any hearing held in the course of those proceedings.
- (2) Where a member of a police force makes an election to which subsection (1) refers, he may be represented at the hearing, at his option, either by counsel or by a solicitor.
- (3) Except in a case where a member of a police force of the rank of superintendent or below has been given an opportunity to elect to be legally represented and has so elected, he may be represented at the hearing only by another member of a police force.
- (4) Regulations under section 50 shall specify—
- (a) a procedure for notifying a member of a police force of the effect of subsections (1) to (3) above,
  - (b) when he is to be notified of the effect of those subsections, and
  - (c) when he is to give notice whether he wishes to be legally represented at the hearing.
- (5) If a member of a police force—
- (a) fails without reasonable cause to give notice in accordance with the regulations that he wishes to be legally represented, or
  - (b) gives notice in accordance with the regulations that he does not wish to be legally represented,
- he may be dismissed, required to resign or reduced in rank without his being legally represented.
- (6) If a member of a police force has given notice in accordance with the regulations that he wishes to be legally represented, the case against him may be presented by counsel or a solicitor whether or not he is actually so represented.

#### **85 Appeals against dismissal etc**

- (1) A member of a police force who is dismissed, required to resign or reduced in rank by a decision taken in proceedings under regulations made in accordance with section 50(3) may appeal to a police appeals tribunal against the decision except where he has a

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right of appeal to some other person; and in that case he may appeal to a police appeals tribunal from any decision of that other person as a result of which he is dismissed, required to resign or reduced in rank.

- (2) Where a police appeals tribunal allows an appeal it may, if it considers that it is appropriate to do so, make an order dealing with the appellant in a way—
  - (a) which appears to the tribunal to be less severe than the way in which he was dealt with by the decision appealed against, and
  - (b) in which he could have been dealt with by the person who made that decision.
- (3) The Secretary of State may make rules as to the procedure on appeals to police appeals tribunals under this section.
- (4) Rules made under this section may make provision for enabling a police appeals tribunal to require any person to attend a hearing to give evidence or to produce documents, and may, in particular, apply subsections (2) and (3) of section 250 of the Local Government Act 1972 with such modifications as may be set out in the rules.
- (5) A statutory instrument containing rules made under this section shall be laid before Parliament after being made.
- (6) Schedule 6 shall have effect in relation to appeals under this section.

## **86 Admissibility of statements in subsequent proceedings**

- (1) Subject to subsection (2), no statement made by a person for the purpose of the informal resolution of a complaint shall be admissible in any subsequent criminal, civil or disciplinary proceedings.
- (2) A statement is not rendered inadmissible by subsection (1) if it consists of or includes an admission relating to a matter which does not fall to be resolved informally.
- (3) In this section “complaint” and “disciplinary proceedings” have the meanings given in section 65.

## **87 Guidance concerning disciplinary proceedings etc**

- (1) The Secretary of State may issue guidance to police authorities, chief officers of police and other members of police forces concerning the discharge of their functions under regulations made under section 50 in relation to the matters mentioned in subsection (2)(e) of that section, and they shall have regard to any such guidance in the discharge of their functions.
- (2) Subsections (2) to (5) of section 83 shall apply in relation to guidance issued under subsection (1) above as they apply in relation to guidance issued under subsection (1) of that section.

## **88 Liability for wrongful acts of constables**

- (1) The chief officer of police for a police area shall be liable in respect of torts committed by constables under his direction and control in the performance or purported performance of their functions in like manner as a master is liable in respect of torts committed by his servants in the course of their employment, and accordingly shall in respect of any such tort be treated for all purposes as a joint tortfeasor.

- (2) There shall be paid out of the police fund—
  - (a) any damages or costs awarded against the chief officer of police in any proceedings brought against him by virtue of this section and any costs incurred by him in any such proceedings so far as not recovered by him in the proceedings; and
  - (b) any sum required in connection with the settlement of any claim made against the chief officer of police by virtue of this section, if the settlement is approved by the police authority.
- (3) Any proceedings in respect of a claim made by virtue of this section shall be brought against the chief officer of police for the time being or, in the case of a vacancy in that office, against the person for the time being performing the functions of the chief officer of police; and references in subsections (1) and (2) to the chief officer of police shall be construed accordingly.
- (4) A police authority may, in such cases and to such extent as appear to it to be appropriate, pay out of the police fund—
  - (a) any damages or costs awarded against a person to whom this subsection applies in proceedings for a tort committed by that person,
  - (b) any costs incurred and not recovered by such a person in such proceedings, and
  - (c) any sum required in connection with the settlement of a claim that has or might have given rise to such proceedings.
- (5) Subsection (4) applies to a person who is—
  - (a) a member of the police force maintained by the police authority,
  - (b) a constable for the time being required to serve with that force by virtue of section 24 or 98, or
  - (c) a special constable appointed for the authority's police area.