

## **POLICE REFORM ACT 2002**

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### **EXPLANATORY NOTES**

#### **THE ACT**

##### *Commentary on Sections*

##### *Schedule 3 Part 2: Handling of conduct matters*

##### *Paragraph 13: Reference of conduct matters to the Commission*

93. The duties and powers related to the referral of a complaint to the Commission, as set out in paragraph 4 of this Schedule, are the same as those which relate to the referral of a conduct matter that is not the subject of a complaint.
94. One of the general functions of the Commission is to secure public confidence in the arrangements for handling conduct matters (and complaints), as set out in section 10. In order to achieve this, there needs to be provision to enable matters about serious conduct, or which attract high public interest, or which involve exceptional circumstances, to go to the Commission and for that independent Commission to determine how they should be handled.
95. This paragraph describes which conduct matters come forward to the Commission. Conduct matters will come forward to the Commission in one of four ways:
- *sub-paragraph (1)(a)* and *(b)* place a duty on the appropriate authority to refer a conduct matter if the alleged conduct has resulted in death or serious injury (i.e. as set out in section 29(1): fracture, damage to an internal organ, a deep cut or laceration or any injury causing the impairment of any bodily function) or it falls into a category specified in regulations made by the Secretary of State – a list of specified categories will be set in regulations to ensure that all serious conduct matters are brought to the attention of the Commission;
  - *sub-paragraph (1)(c)* gives a power to the Commission to direct an appropriate authority to refer a conduct matter to it because it may have particular concerns about that matter;
  - *sub-paragraph (2)* enables the appropriate authority voluntarily to refer any other conduct matter because there may be particular concerns about the gravity or exceptional circumstances of that matter (e.g. high incidence of a particular conduct or a particular local sensitivity); or
  - where a chief officer, who is the appropriate authority, is not required to refer a conduct matter to the Commission and does not do so, *sub-paragraph (3)* gives a power to his police authority to refer that conduct matter to the Commission if it has particular concerns about the gravity or exceptional circumstances of that matter.
96. Where there is an obligation to refer a conduct matter to the Commission, *sub-paragraph (4)* requires the referral to be made within a period set in regulations made by the Secretary of State.

*These notes refer to the Police Reform Act 2002  
(c.30) which received Royal Assent on 24 July 2002*

97. *Sub-paragraph (5)* provides for all these powers of referral to be exercisable at any time and, where appropriate with the consent of the Commission, irrespective of whether a conduct matter is under investigation or has already been considered by the Commission. The purpose of this is to allow a late referral where concerns arise after an investigation has started.
98. *Sub-paragraph (6)* requires the appropriate authority to notify the person whose alleged conduct is the subject of the recordable conduct matter providing there is no prejudice to any investigation.