

POLICE REFORM ACT 2002

EXPLANATORY NOTES

THE ACT

Commentary on Sections

Part 3: Removal, suspension and disciplining of police officers

Section 36: Conduct of disciplinary proceedings

182. As with the handling of complaints, the handling of disciplinary proceedings could make or break public confidence and trust in the police. This section deals with regulations that can be made by the Secretary of State under sections 50 and 51 of the 1996 Act. In addition to the existing powers to make regulations under these sections, this section allows regulations to cover the rights of the IPCC in regards to disciplinary proceedings and the right of specified persons to participate in or to be present at disciplinary proceedings, and to provide for inference to be drawn from a failure to mention a fact when questioned or charged in police disciplinary proceedings.
183. The complainant and the general public need to be assured that evidence in a disciplinary hearing will be presented fully and robustly. There is a possibility of this not happening, particularly when the IPCC does not accept the disciplinary proposals from an appropriate authority and directs it to vary the proposals in a specified way, as provided in paragraph 27 of Schedule 3. To avoid this, *subsection (1)(a)* of this section enables the creation of regulations to ensure that the IPCC will have the right to bring and conduct, or otherwise participate or intervene in, any disciplinary proceedings arising from a complaint or other conduct matter.
184. To ensure greater openness in the disciplinary process, *subsection (1)(b)* allows regulations to update procedures regarding persons able to participate in or attend disciplinary proceedings. The current intention is that up to three supporters of the complainant will be able to attend in all cases. The presiding officer of the hearing may allow more in special circumstances, and he will be expected to be even-handed in the treatment of the officer facing the charge. It would be possible for regulations to allow members of the general public to have access to disciplinary hearings in certain appropriate cases.
185. *Subsection (1)(c)* enables regulations to provide for inference to be drawn from a failure to mention a fact when questioned or charged in police disciplinary proceedings. This would bring the regulations on police conduct into line with those in criminal proceedings, where the change was made as a result of provision made under section 34 of the Criminal Justice and Public Order Act 1994.