



Police Reform Act 2002

2002 CHAPTER 30

PART 2

COMPLAINTS AND MISCONDUCT

Application of Part 2

12 Complaints, matters and persons to which Part 2 applies

[^{F1}(1) In this Part references to a complaint are references (subject to the following provisions of this section) to any expression of dissatisfaction with a police force which is expressed (whether in writing or otherwise) by or on behalf of a member of the public.

(1A) But an expression of dissatisfaction is a complaint for the purposes of this Part—

- (a) where it relates to conduct of a person serving with the police, only if the person in question is a person falling within subsection (1B);
- (b) in any other case, only if the person in question has been adversely affected by the matter about which dissatisfaction is expressed.

(1B) In relation to an expression of dissatisfaction that relates to conduct of a person serving with the police, a person falls within this subsection if the person is—

- (a) a person who claims to be the person in relation to whom the conduct took place;
- (b) a person not falling within paragraph (a) who claims to have been adversely affected by the conduct; or
- (c) a person who claims to have witnessed the conduct.]

(2) In this Part “conduct matter” means (subject to the following provisions of this section, [^{F2}section 28A and any regulations made under it,]^{F3}... and any regulations made by virtue of section 23(2)(d)) any matter which is not and has not been the subject of a complaint but in the case of which there is an indication (whether from the circumstances or otherwise) that a person serving with the police may have—

- (a) committed a criminal offence; or

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- (b) behaved in a manner which would justify the bringing of disciplinary proceedings.
- [^{F4}(2A) In this Part “death or serious injury matter” (or “DSI matter” for short) means [^{F5}(subject to section 28A and any regulations made under it)] any circumstances (other than those which are or have been the subject of a complaint or which amount to a conduct matter)—
 - (a) in or in consequence of which a person has died or has sustained serious injury; and
 - (b) in relation to which the requirements of either subsection (2B) or subsection (2C) are satisfied.
- (2B) The requirements of this subsection are that at the time of the death or serious injury the person—
 - (a) had been arrested by a person serving with the police and had not been released from that arrest; or
 - (b) was otherwise detained in the custody of a person serving with the police.
- (2C) The requirements of this subsection are that—
 - (a) at or before the time of the death or serious injury the person had contact (of whatever kind, and whether direct or indirect) with a person serving with the police who was acting in the execution of his duties; and
 - (b) there is an indication that the contact may have caused (whether directly or indirectly) or contributed to the death or serious injury.
- (2D) In subsection (2A) the reference to a person includes a person serving with the police, but in relation to such a person “contact” in subsection (2C) does not include contact that he has whilst acting in the execution of his duties.]
- (3) The complaints that are complaints for the purposes of this Part by virtue of [^{F6}subsection (1B)(b)] do not, except in a case falling within subsection (4), include any [^{F7}where the person in question] claims to have been adversely affected as a consequence only of having seen or heard the conduct, or any of the alleged effects of the conduct.
- (4) A case falls within this subsection if—
 - (a) it was only because the person in question was physically present, or sufficiently nearby, when the conduct took place or the effects occurred that he was able to see or hear the conduct or its effects; or
 - (b) the adverse effect is attributable to, or was aggravated by, the fact that the person in relation to whom the conduct took place was already known to the person claiming to have suffered the adverse effect.
- [^{F8}(4A) In this section, “the person in question” means the person expressing dissatisfaction or the person on whose behalf dissatisfaction is being expressed.]
- (5) For the purposes of this section a person shall be taken to have witnessed conduct if, and only if—
 - (a) he acquired his knowledge of that conduct in a manner which would make him a competent witness capable of giving admissible evidence of that conduct in criminal proceedings; or
 - (b) he has in his possession or under his control anything which would in any such proceedings constitute admissible evidence of that conduct.

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- (6) [^{F9}For the purposes of this Part a person is not to be taken to have authorised another person to make a complaint on his behalf unless—]
- (a) that other person is for the time being designated for the purposes of this Part by the [^{F10}Director General] as a person through whom complaints may be made, or he is of a description of persons so designated; or
 - (b) the other person has been given, and is able to produce, the written consent to his so acting of the person on whose behalf he acts.
- (7) For the purposes of this Part, a person is serving with the police if—
- (a) he is a member of a police force;
 - [^{F11}(aa) he is a civilian employee of a police force;]
 - (b) he is an employee of [^{F12}the Common Council of the City of London] who is under the direction and control of a chief officer; ^{F13}...
 - (c) he is a special constable who is under the direction and control of a chief officer [^{F14}; or
 - (d) he is a person designated as a community support volunteer or a policing support volunteer under section 38.]
- [^{F15}(8) The Secretary of State may make regulations providing that, for the purposes of this Part and of any regulations made under this Part—
- (a) a contractor,
 - (b) a sub-contractor of a contractor, or
 - (c) an employee of a contractor or a sub-contractor,
- is to be treated as a person serving with the police.]
- [^{F15}(9) Regulations under subsection (8) may make modifications to this Part, and to any regulations made under this Part, in its application to those persons.]
- [^{F15}(10) In subsection (8) “contractor” means a person who has entered into a contract with a local policing body or a chief officer to provide services to a chief officer.]

Textual Amendments

- F1** S. 12(1)-(1B) substituted for s. 12(1) (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss. 14(2), 183(5)(e); S.I. 2020/5, reg. 2(b) (with art. 3(1)(2)(4))
- F2** Words in s. 12(2) inserted (19.12.2012) by Police (Complaints and Conduct) Act 2012 (c. 22), ss. 2(3)(a), 3(3)
- F3** Words in s. 12(2) omitted (22.11.2012) by virtue of Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), Sch. 14 para. 8(6)(a); S.I. 2012/2892, art. 2(g) (with art. 6)
- F4** S. 12(2A)-(2D) inserted (1.7.2005) by Serious Organised Crime and Police Act 2005 (c. 15), ss. 160, 178, Sch. 12 para. 3; S.I. 2005/1521, art. 3(1)(w)
- F5** Words in s. 12(2A) inserted (19.12.2012) by Police (Complaints and Conduct) Act 2012 (c. 22), ss. 2(3)(b), 3(3)
- F6** Words in s. 12(3) substituted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss. 14(3)(a), 183(5)(e); S.I. 2020/5, reg. 2(b) (with art. 3(1)(2)(4))
- F7** Words in s. 12(3) substituted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), ss. 14(3)(b), 183(5)(e); S.I. 2020/5, reg. 2(b) (with art. 3(1)(2)(4))

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- F8** S. 12(4A) inserted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 14(4)**, 183(5)(e); S.I. 2020/5, reg. 2(b) (with art. 3(1)(2)(4))
- F9** Words in s. 12(6) substituted (31.1.2017 for specified purposes, 1.2.2020 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 14(5)**, 183(5)(e); S.I. 2020/5, reg. 2(b) (with art. 3(1)(2)(4))
- F10** Words in s. 12(6)(a) substituted (31.1.2017 for specified purposes, 8.1.2018 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), s. 183(1)(5)(e), Sch. 9 para. 19; S.I. 2017/1249, reg. 2 (with reg. 3)
- F11** S. 12(7)(aa) inserted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 280(a)**; S.I. 2011/3019, art. 3, Sch. 1
- F12** Words in s. 12(7)(b) substituted (16.1.2012) by Police Reform and Social Responsibility Act 2011 (c. 13), s. 157(1), **Sch. 16 para. 280(b)**; S.I. 2011/3019, art. 3, Sch. 1
- F13** Word in s. 12(7)(b) omitted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by virtue of Policing and Crime Act 2017 (c. 3), **ss. 41(1)(a)**, 183(1)(5)(e); S.I. 2017/1139, reg. 2(g) (as amended by S.I. 2017/1162, **reg. 2**)
- F14** S. 12(7)(d) and word inserted (31.1.2017 for specified purposes, 15.12.2017 in so far as not already in force) by Policing and Crime Act 2017 (c. 3), **ss. 41(1)(b)**, 183(1)(5)(e); S.I. 2017/1139, reg. 2(g) (as amended by S.I. 2017/1162, **reg. 2**)
- F15** S. 12(8)-(10) inserted (8.4.2015) by Anti-social Behaviour, Crime and Policing Act 2014 (c. 12), **ss. 135**, 185(1) (with ss. 21, 33, 42, 58, 75, 93); S.I. 2015/373, art. 5(a) (with art. 7)

Modifications etc. (not altering text)

- C1** Pt. 2 modified (15.12.2017) by S.I. 2012/1204, Sch. Pt. 1 (as inserted by The Police (Conduct, Complaints and Misconduct and Appeal Tribunal) (Amendment) Regulations 2017 (S.I. 2017/1134), reg. 1(1), **Sch. 2** (with reg. 2))
- C2** Pt. 2 applied (with application in accordance with reg. 1(3) of the amending S.I.) by The Police (Complaints and Misconduct) Regulations 2020 (S.I. 2020/2), regs. 1(1), **43(3)**
- C3** Pt. 2 applied (with modifications) (with application in accordance with reg. 1(3) of the amending S.I.) by The Police (Complaints and Misconduct) Regulations 2020 (S.I. 2020/2), regs. 1(1), **52**
- C4** Pt. 2 applied (with modifications) (with application in accordance with reg. 1(3) of the amending S.I.) by The Police (Complaints and Misconduct) Regulations 2020 (S.I. 2020/2), regs. 1(1), 42(1), **Sch. 2**
- C5** Pt. 2 applied (with modifications) (with application in accordance with reg. 1(3) of the amending S.I.) by The Police (Complaints and Misconduct) Regulations 2020 (S.I. 2020/2), regs. 1(1), **43(1)(2)**
- C6** Pt. 2 applied (with modifications) (with application in accordance with reg. 1(3) of the amending S.I.) by The Police (Complaints and Misconduct) Regulations 2020 (S.I. 2020/2), regs. 1(1), **42(2)**
- C7** S. 12 applied (with modifications) (28.12.2005) by The Revenue and Customs (Complaints and Misconduct) Regulations 2005 (S.I. 2005/3311), **reg. 3(2)(6)**, Sch. 1

Changes to legislation:

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