
STATUTORY INSTRUMENTS

2020 No. 2

The Police (Complaints and Misconduct) Regulations 2020

PART 3

Investigations and subsequent proceedings

Notification of determination of form of investigation etc: exceptions

11.—(1) Subject to paragraph (3), the duties imposed by—

- (a) paragraph 15(9) of Schedule 3 (duty to notify interested persons etc. of determination of form of investigation)(1);
- (b) section 13B(11) of the 2002 Act (duty to notify interested persons etc. of determination that complaint or matter is to be re-investigated and of form of re-investigation), and
- (c) paragraph 26(5A) of Schedule 3 (duty to notify interested persons etc. of determination of form of re-investigation following review)(2),

on the Director General do not apply where in the opinion of the Director General the non-disclosure of information is necessary for a purpose mentioned in paragraph (2).

(2) The purposes are—

- (a) preventing the premature or inappropriate disclosure of information that is relevant to, or may be used in, any actual or prospective criminal proceedings;
- (b) preventing the disclosure of information in any circumstances in which its non-disclosure—
 - (i) is in the interests of national security;
 - (ii) is for the purposes of the prevention or detection of crime, or the apprehension or prosecution of offenders;
 - (iii) is required on proportionality grounds, or
 - (iv) is otherwise necessary in the public interest.

(3) The Director General may only conclude that the non-disclosure of information is necessary under paragraph (1) if satisfied that—

- (a) there is a real risk of the disclosure of that information causing an adverse effect, and
- (b) that adverse effect would be significant.

(4) The Director General must consider whether the non-disclosure of information is justified under paragraph (1) in circumstances where—

(1) Paragraph 15(9) was inserted by paragraphs 9 and 15 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.
(2) Paragraph 26(5A) was substituted by paragraphs 29 and 37 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

- (a) that information is relevant to, or may be used in, any actual or prospective disciplinary proceedings or performance proceedings or appeal against the outcome of such proceedings;
- (b) the disclosure of that information may lead to the contamination of the evidence of witnesses during such proceedings or appeal;
- (c) the disclosure of that information might prejudice the welfare or safety of any third party;
- (d) that information constitutes criminal intelligence.

Appointment of persons to carry out investigations

12. A person may not be appointed to carry out an investigation under paragraph 16 or 18 of Schedule 3 (investigations by the appropriate authority on its own behalf and investigations directed by the Director General)(3)—

- (a) unless the person has an appropriate level of knowledge, skills and experience to plan and manage the investigation;
- (b) if the person works, directly or indirectly, under the management of a person whose conduct is being investigated;
- (c) in a case where the conduct of a senior officer is being investigated, if the person is—
 - (i) the chief officer of the police force concerned;
 - (ii) a member of that force;
 - (iii) a special constable appointed for the area of that force;
 - (iv) a police staff member serving in that force, or
 - (v) a designated police volunteer serving in that force;
- (d) if the person’s involvement could reasonably give rise to a concern as to whether the person could act impartially.

Timeliness of investigations

13.—(1) Where an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf) is not completed within a relevant period, the appropriate authority must, as soon as practicable after the end of that period, provide in writing the information mentioned in paragraph (4) to—

- (a) where the appropriate authority is a chief officer, the local policing body for the relevant force, except in a case where it appears to the chief officer that to do so might prejudice the investigation or any other investigation (including a criminal investigation), and
- (b) the Director General.

(2) Where an investigation under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General)(4) is not completed within a relevant period, the Director General must, as soon as practicable after the end of that period, provide in writing the information mentioned in paragraph (4) to—

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- (3) Paragraph 16 was amended by paragraphs 1, 11 and 14 of Schedule 12 to the Serious Organised Crime and Police Act 2005, paragraphs 1, 11 and 12 of Schedule 14 to the Police Reform and Social Responsibility Act 2011, paragraph 8 and 17 of Schedule 6 to the Crime and Courts Act 2013 (c. 22) and paragraphs 9 and 16 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017; paragraph 18 was amended by paragraphs 1, 11 and 16 and of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 9 and 19 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.
 - (4) Paragraph 19 was amended by paragraphs 1, 11 and 17 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017; there are further amendments to paragraph 19 but none is relevant.

(a) the local policing body for the relevant force, and
(b) unless the chief officer of that force is the person to whose conduct the investigation relates, the chief officer of that force,

except in a case where it appears to the Director General that to do so might prejudice the investigation or any other investigation (including a criminal investigation).

(3) For the purposes of this regulation, each of the following is a “relevant period”—

- (a) the period of 12 months starting with the date on which—
- (i) the complaint to which the investigation relates was made, or
 - (ii) the conduct matter or DSI matter to which the investigation relates came to the attention of the appropriate authority;
- (b) each subsequent period of six months starting with the day after the end of the previous relevant period.

(4) The information is—

- (a) the date on which—
- (i) the complaint to which the investigation relates was made, or
 - (ii) the conduct matter or DSI matter to which the investigation relates came to the attention of the appropriate authority;
- (b) the date on which any notice was given under regulation 17(1) (special procedure: notification of severity assessment etc.);
- (c) the progress of the investigation;
- (d) an estimate of when the report on the investigation will be submitted or completed under paragraph 22 or 24A of Schedule 3 (final reports on investigations)(5);
- (e) the reason for the length of time being taken to complete the investigation, and
- (f) a summary of planned steps to progress the investigation and bring it to a conclusion.

(5) The appropriate authority or Director General (as the case may be) must send a copy of the information provided in writing under paragraph (1) or (2) to—

- (a) except where paragraph (6) applies, the complainant (if any) and any interested person, and
- (b) except in a case where it appears to the appropriate authority or Director General (as the case may be) that to do so might prejudice the investigation or any other investigation (including a criminal investigation), the person to whose conduct the investigation relates.

(6) This paragraph applies where the Director General or appropriate authority (as the case may be) is of the opinion that the non-disclosure of the information is necessary for a purpose mentioned in regulation 35(3) (exceptions to duties to keep the complainant and interested person informed).

(7) Paragraphs (4) and (5) of regulation 35 apply in relation to paragraph (6) of this regulation as they apply in relation to paragraph (2) of regulation 34.

Combining and splitting investigations

14.—(1) Where an investigation is being carried out under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the appropriate authority may—

(5) Paragraph 22 was substituted by paragraphs 1, 11 and 21 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraphs 1, 3 and 12 of Schedule 23, and Part 8 of Schedule 28, to the Criminal Justice and Immigration Act 2008 and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017; there are further amendments to paragraph 22 but none is relevant. Paragraph 24A was inserted by paragraphs 1, 11 and 24 of Schedule 12 to the Serious Organised Crime and Police Act 2005 and amended by paragraphs 1, 3 and 15 of Schedule 23 to the Criminal Justice and Immigration Act 2008 and paragraph 47 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017; there are further amendments to paragraph 24A but none is relevant.

- (a) combine that investigation with another such investigation, or
 - (b) split that investigation into two or more such separate investigations,
- if it considers that it is more efficient and effective, or is otherwise in the public interest, to do so.
- (2) Where an investigation is being carried out under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General), the Director General may—
- (a) combine that investigation with another investigation, or
 - (b) split that investigation into two or more separate investigations,
- if the Director General considers that it is more efficient and effective, or is otherwise in the public interest, to do so.
- (3) In relation to an investigation being carried out under paragraph 18 of Schedule 3, the Director General may only take action under paragraph (2) after consultation with the appropriate authority.
- (4) Nothing in this regulation prevents the Director General from determining that—
- (a) where an investigation is split into two or more separate investigations, those investigations may take different forms;
 - (b) two or more separate investigations which take different forms (including an investigation being carried out by the appropriate authority on its own behalf) may be combined into a single investigation.

Change of form of investigation: provision of documentation and evidence

- 15.**—(1) This regulation applies where the Director General determines⁽⁶⁾ that—
- (a) an investigation being carried out by the Director General should instead take the form of an investigation by the appropriate authority on its own behalf or an investigation by that authority under the direction of the Director General, or
 - (b) an investigation being carried out by the appropriate authority under the direction of the Director General should instead take the form of an investigation by the appropriate authority on its own behalf.
- (2) The Director General must send to the appropriate authority any documentation and evidence gathered during the investigation which will assist the appropriate authority to carry out its functions under Part 2 of the 2002 Act.

Special procedure: severity assessment

- 16.**—(1) Where paragraph 19A of Schedule 3 (special procedure where investigation relates to police officer or special constable)⁽⁷⁾ applies to an investigation, the person investigating must proceed with the investigation in accordance with this regulation and regulations 17 to 22 (special procedure).
- (2) In the case of an investigation under paragraph 18 of Schedule 3 (investigations directed by the Director General), the person investigating must, as soon as is reasonably practicable—
- (a) form an opinion as to—
 - (i) whether the conduct of the person concerned⁽⁸⁾, if proved, would amount to misconduct that is so serious as to justify disciplinary action or gross misconduct⁽⁹⁾, and

⁽⁶⁾ See paragraph 15 of Schedule 3 and section 13B of the 2002 Act; see also paragraph 26 of Schedule 3.

⁽⁷⁾ Paragraph 19A was substituted by paragraphs 9 and 21 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

⁽⁸⁾ Paragraph 19A(7) of Schedule 3 defines “the person concerned”.

- (ii) if that conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take;
 - (b) notify the Director General of that opinion, and
 - (c) refer the case to the Director General for the Director General to make a severity assessment in relation to the conduct of the person concerned.
- (3) In the case of an investigation under paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally, the person investigating must, as soon as is reasonably practicable, refer the case to the Director General for the Director General to make a severity assessment in relation to the conduct of the person concerned.
- (4) In any other case, the person investigating must, as soon as is reasonably practicable, make a severity assessment in relation to the conduct of the person concerned.
- (5) A severity assessment may only be made after consultation with the appropriate authority.

Special procedure: notification of severity assessment etc.

17.—(1) Except where paragraph (4) applies, on the completion of a severity assessment, the person investigating must give the person concerned a notification stating—

- (a) the conduct that is the subject matter of the allegation and how that conduct is alleged to fall below the Standards of Professional Behaviour;
 - (b) that there is to be an investigation into the matter and the identity of the person investigating;
 - (c) the result of the severity assessment;
 - (d) that if the person concerned is dismissed at disciplinary proceedings, information including the person’s full name and a description of the conduct which led to dismissal will be added to the list referred to in section 88B(2) of the Police Act 1996 (police barred list)⁽¹⁰⁾ and may be subject to publication for a period of up to five years;
 - (e) that the person concerned has the right to seek advice from the person’s staff association or any other body;
 - (f) the effect of regulation 18 (special procedure: police friend);
 - (g) the effect of regulation 20 (special procedure: representations to the person investigating) and regulation 8 of the Conduct Regulations (legal and other representation), and
 - (h) that whilst the person concerned does not have to say anything it may harm the person’s case if the person does not mention when interviewed or when providing any information under regulation 20 or regulation 31 of the Conduct Regulations (procedure on receipt of notice) something later relied on in any disciplinary proceedings or appeal against the outcome of such proceedings.
- (2) Where a notice is given under paragraph (1), the person investigating must—
- (a) except where paragraph (4) applies, provide a copy of the terms of reference of the investigation to the person concerned, or
 - (b) where paragraph (4) applies, give the person concerned a notice stating that the terms of reference of the investigation are not being provided and explaining why,

where practicable, at the same time as notice is given under paragraph (1), or otherwise within a period of five working days starting with the first working day after the day on which such notice is given.

(9) Paragraph 29 of Schedule 3 defines “misconduct” and “gross misconduct”.

(10) Section 88B(2) was inserted by Schedule 8 to the Policing and Crime Act 2017.

(3) Except where paragraph (4) applies, where a copy of the terms of reference of the investigation has been provided under paragraph (2) and those terms are revised, the person investigating must provide a copy of the revised terms to the person concerned as soon as practicable.

(4) This paragraph applies for so long as—

(a) in the case of an investigation under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General), the Director General, or

(b) in the case of an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the person investigating the complaint or matter, considers that giving the notification or providing a copy of the terms, or revised terms, of reference of the investigation might prejudice the investigation or any other investigation (including a criminal investigation).

(5) A copy of the terms, or revised terms, of reference of the investigation provided under paragraph (2) or (3) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

(6) On the completion of a severity assessment, the person investigating must notify the appropriate authority of the result of the assessment.

(7) A notice under paragraph (1) and a copy of the terms, or revised terms, of reference of the investigation under paragraph (2) or (3) must be—

(a) given to the person concerned in person;

(b) left with a person at, or sent by recorded delivery to, the last known address of the person concerned;

(c) given to the person concerned in person by that person's police friend, where the police friend has agreed with the appropriate authority to deliver the notice, or

(d) given to the person concerned in any other manner agreed between the person investigating and the person concerned.

Special procedure: police friend

18.—(1) This regulation applies where the person investigating a complaint or matter has given the person concerned a notification under regulation 17 (special procedure: notification of severity assessment etc.).

(2) The person concerned may choose—

(a) a member of a police force;

(b) a special constable;

(c) a police staff member, or

(d) where the person concerned is a member of a police force, a person nominated by the person's staff association,

who is not otherwise involved in the matter to act as the person's police friend.

(3) A police friend may—

(a) advise the person concerned throughout proceedings under these Regulations;

(b) provide any relevant statement or relevant document to the person investigating⁽¹¹⁾;

(11) See regulation 20.

- (c) accompany the person concerned to any interview of that person conducted by the person investigating⁽¹²⁾, and
- (d) make representations to the Director General concerning any aspect of the proceedings under these Regulations.

(4) Where a police friend is a member of a police force, a special constable or a police staff member, the chief officer of the force of which the police friend is a member must permit the police friend to use a reasonable amount of duty time for the purposes mentioned in paragraph (3).

(5) The reference in paragraph (4) to the force of which the police friend is a member includes a reference to the force maintained for the police area for which a special constable is appointed and the force in which a police staff member is serving.

Special procedure: revision of severity assessment

19.—(1) Where in the case of an investigation under—

- (a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or
- (b) paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally,

the Director General has made a severity assessment and indicates that it is appropriate to revise the assessment, the person investigating must refer the case to the Director General for the Director General to revise the assessment.

(2) Where in the case of an investigation under—

- (a) paragraph 18 of Schedule 3, or
- (b) paragraph 19 of Schedule 3 other than by the Director General acting personally,

the Director General has made a severity assessment and the person investigating forms the opinion that it is appropriate to revise that assessment, the person investigating must notify the Director General of that opinion.

(3) Where in any other case the person investigating has made a severity assessment and considers it appropriate to do so, the person investigating may revise the assessment.

- (4) A severity assessment may only be revised after consultation with the appropriate authority.
- (5) On the revision of a severity assessment, the person investigating must notify—
 - (a) the appropriate authority, and
 - (b) except where paragraph (6) applies, the person concerned,

of the result of the revision.

(6) This paragraph applies for so long as—

- (a) in the case of an investigation under paragraph 18 or 19 of Schedule 3, the Director General, or
- (b) in the case of an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the person investigating the complaint or matter,

considers the notification might prejudice the investigation or any other investigation (including a criminal investigation).

(7) A notice under paragraph (5)(b) must be—

- (a) given to the person concerned in person;

⁽¹²⁾ See regulation 21.

- (b) left with a person at, or sent by recorded delivery to, the last known address of the person concerned;
- (c) given to the person concerned in person by that person's police friend, where the police friend has agreed with the appropriate authority to deliver the notice, or
- (d) given to the person concerned in any other manner agreed between the person investigating and the person concerned.

Special procedure: representations to the person investigating

20.—(1) This regulation applies where the person investigating a complaint or matter has provided the person concerned with a copy of the terms of reference of the investigation, or given the person concerned a notice, under regulation 17(2) (special procedure: notification of severity assessment etc.).

(2) Where in the case of an investigation under—

- (a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or
- (b) paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally,

the person concerned or the person's police friend provides the person investigating the complaint or matter with a relevant statement or relevant document before the expiry of the time limit mentioned in paragraph (4), the person investigating must send the statement or document to the Director General for consideration.

(3) Where, in any other case, the person concerned or the person's police friend provides the person investigating the complaint or matter with a relevant statement or relevant document before the expiry of the time limit mentioned in paragraph (4), the person investigating must consider the statement or document.

(4) The time limit is 10 working days starting with the day after the day on which a copy of the terms of reference of the investigation is provided, or a notice is given, under regulation 17(2), unless this period is extended by—

- (a) the person investigating, or
- (b) in the case of an investigation under paragraph 19 of Schedule 3 other than by the Director General acting personally, the Director General.

Special procedure: interview of the person concerned

21.—(1) This regulation applies where the person investigating a complaint or matter has provided the person concerned with a copy of the terms of reference of the investigation, or given the person concerned a notice under regulation 17(2) (special procedure: notification of severity assessment etc.).

(2) In the case of an investigation under paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally, if the Director General wishes the person concerned to be interviewed as part of the investigation, the person investigating must refer the case to the Director General for the Director General—

- (a) if reasonably practicable, to agree a date and time for the interview with the person concerned;
- (b) where no date and time is agreed, to specify a date and time for the interview.

(3) In any other case, if the person investigating wishes to interview the person concerned as part of the investigation, the person investigating must—

- (a) if reasonably practicable, agree a date and time for the interview with the person concerned;
 - (b) where no date and time is agreed, specify a date and time for the interview.
- (4) Where a date and time is specified under paragraph (2) or (3) and —
- (a) the person concerned or that person's police friend will not be available at that time, and
 - (b) the person concerned proposes an alternative time which satisfies paragraph (5),
- the interview must be postponed to the time proposed by the person concerned.
- (5) An alternative time proposed by the person concerned must—
- (a) be reasonable, and
 - (b) fall before the end of the period of five working days starting with the first working day after the day specified by the person investigating or the Director General.
- (6) The person investigating must give the person concerned—
- (a) a notice stating the date, time and place of the interview, and
 - (b) such information as the person investigating or, in the case of an investigation under paragraph 19 of Schedule 3 other than by the Director General acting personally, the Director General considers appropriate in the circumstances of the case to enable the person concerned to prepare for the interview.
- (7) The person concerned must attend the interview.
- (8) A police friend may not answer any questions asked of the person concerned during the interview.

Special procedure: duty to provide information to appropriate authority

22.—(1) In a case where the Director General or person investigating has made a severity assessment under regulation 16 (special procedure: severity assessment), the person investigating must provide the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in paragraph (2).

- (2) The purpose is determining, in accordance with the Conduct Regulations, whether the person concerned should be, or should remain, suspended—
- (a) from the office of constable, and
 - (b) where that person is a member of a police force, from membership of that force.

Police friend: police staff members and designated police volunteers

23.—(1) This regulation applies where—

- (a) it appears to—
 - (i) the person investigating a complaint, or
 - (ii) in the case of an investigation of a complaint under paragraph 19 of Schedule 3 (investigations by the Director General) other than by the Director General acting personally, the Director General,
that there is an indication that a police staff member or designated police volunteer to whose conduct the investigation relates may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings;
- (b) in the case of an investigation of a complaint under paragraph 18 of Schedule 3 (investigations directed by the Director General), the Director General determines that there is such an indication, or

- (c) the investigation of a recordable conduct matter relates to the conduct of a police staff member or designated police volunteer.
- (2) The police staff member or designated police volunteer to whose conduct the investigation relates may choose—
- (a) a person employed by a trade union of which that person is an official within the meaning of sections 1 and 119 of the Trade Union and Labour Relations (Consolidation) Act 1992 (meaning of “trade union”)(**13**);
 - (b) an official of a trade union (within that meaning) whom the union has reasonably certified in writing as having experience of, or as having received training in, acting as a police staff member’s companion or designated police volunteer’s companion at disciplinary proceedings;
 - (c) a member of a police force;
 - (d) a special constable;
 - (e) a police staff member, or
 - (f) any other person nominated by the police staff member or designated police volunteer to whose conduct the investigation relates and approved by the chief officer of the force in which that police staff member or designated police volunteer is serving,
- who is not otherwise involved in the matter to act as the police staff member or designated police volunteer’s police friend.
- (3) A police friend may—
- (a) advise the police staff member or designated police volunteer to whose conduct the investigation relates throughout proceedings under these Regulations;
 - (b) provide any relevant statement or relevant document to the person investigating;
 - (c) accompany the police staff member or designated police volunteer to whose conduct the investigation relates to any interview of that person conducted by the person investigating, and
 - (d) make representations to the Director General concerning any aspect of the proceedings under these Regulations.
- (4) Paragraphs (4) and (5) of regulation 18 (police friend: special procedure) apply for the purposes of this regulation as they apply for the purposes of that regulation.

Accelerated procedure: statement and report

24.—(1) Where paragraph 20A of Schedule 3 (accelerated procedure in special cases)(**14**) applies, the person investigating, the appropriate authority and (where the person investigating is not also the Director General carrying out the investigation under paragraph 19 of Schedule 3 personally) the Director General must proceed in accordance with—

- (a) this regulation, and
- (b) regulation 25 (accelerated procedure: investigations by the appropriate authority on its own behalf) or regulation 26 (accelerated procedure: other investigations) as appropriate.

(2) In the case of an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), the person investigating must—

- (a) submit the documents mentioned in paragraph (5) to the appropriate authority, and

(13) 1992 c. 52. There are amendments to section 119 but none is relevant.

(14) Paragraph 20A was substituted by paragraphs 9 and 23 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

- (b) if that person was appointed following a determination by the Director General under paragraph 15 or 26 of Schedule 3 (power of the Director General to determine the form of an investigation and re-investigation), send a copy of those documents to the Director General.
- (3) In the case of an investigation under paragraph 18 of Schedule 3 (investigations directed by the Director General), other than where the Director General has made a determination in accordance with paragraph 20A(1)(b) of Schedule 3—
 - (a) the person investigating must submit the documents mentioned in paragraph (5) to the Director General, and
 - (b) if the Director General agrees that the special conditions are satisfied, the Director General must submit those documents to the appropriate authority.
- (4) In any other case, the Director General must submit the documents mentioned in paragraph (5) to the appropriate authority.
- (5) The documents are—
 - (a) a statement of—
 - (i) the belief of the person investigating or Director General (as the case may be) that the appropriate authority would, on consideration of the matter, be likely to consider that the special conditions are satisfied, and
 - (ii) the grounds for that belief, and
 - (b) a written report on the investigation to that point.
- (6) Subject to paragraph (7), a person submitting a report under this regulation is not prevented by any obligation of secrecy imposed by any rule of law or otherwise from including all such matters in the report as the person sees fit.
- (7) Where a person would contravene section 21A of the 2002 Act (restriction on disclosure of sensitive information)(15) by submitting a report in its entirety to the appropriate authority under this regulation, the person must instead submit the report having removed or obscured the information which by virtue of section 21A the person must not disclose.
- (8) A statement and report may be submitted under this regulation—
 - (a) whether or not a previous statement and report have been submitted, but
 - (b) if a previous statement and report (or previous statements and reports) have been submitted, only if the person submitting them has grounds to believe that the appropriate authority will reach a different determination under regulation 25 or 26.
- (9) After the submission of a statement and report under this regulation, the person investigating the complaint or recordable conduct matter must continue the investigation to such extent as—
 - (a) in the case of an investigation under paragraph 16 of Schedule 3, the person investigating considers appropriate;
 - (b) in the case of an investigation under paragraph 18 or 19 of Schedule 3, the Director General considers appropriate.
- (10) In regulations 25 and 26, “special report” means a report submitted under this regulation.

Accelerated procedure: investigations by the appropriate authority on its own behalf

25.—(1) This regulation applies if a statement and special report on an investigation under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf) are

(15) Section 21A was inserted by section 19 of the Policing and Crime Act 2017 and amended by paragraphs 15 and 28 of Schedule 9 to that Act.

submitted to the appropriate authority under regulation 24 (accelerated procedure: statement and report).

(2) The appropriate authority must determine whether the special conditions are satisfied.

(3) If the appropriate authority determines that the special conditions are satisfied, it must, unless it considers that the circumstances are such as to make it inappropriate to do so—

(a) certify the case as one where the special conditions are satisfied for the purposes of the Conduct Regulations, and

(b) take such steps as are required by those Regulations in relation to the case⁽¹⁶⁾.

(4) If the appropriate authority determines that—

(a) the special conditions are not satisfied, or

(b) although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it must notify the person investigating the complaint or recordable conduct matter of its determination.

(5) If the statement and special report were required under regulation 23(2)(b) to be copied to the Director General, the appropriate authority must notify the Director General of—

(a) a certification under paragraph (3), or

(b) its determination under paragraph (4).

Accelerated procedure: other investigations

26.—(1) This regulation applies if a statement and special report on an investigation under—

(a) paragraph 18 of Schedule 3 (investigations directed by the Director General), or

(b) paragraph 19 of Schedule 3 (investigations by the Director General),

are submitted to the appropriate authority under regulation 24 (accelerated procedure: statement and report).

(2) The appropriate authority must determine whether the special conditions are satisfied.

(3) If the appropriate authority determines that the special conditions are satisfied, it must, unless it considers that the circumstances are such as to make it inappropriate to do so—

(a) certify the case as one where the special conditions are satisfied for the purposes of the Conduct Regulations, and

(b) take such steps as are required by those Regulations in relation to the case.

(4) The appropriate authority must notify the Director General of a certification under paragraph (3).

(5) If the appropriate authority determines that—

(a) the special conditions are not satisfied, or

(b) although those conditions are satisfied, the circumstances are such as to make it inappropriate at present to bring disciplinary proceedings,

it must submit a memorandum to the Director General notifying the Director General of its determination and the reasons for it.

(6) On receipt of a memorandum under paragraph (5), the Director General must—

(a) consider the memorandum, and

⁽¹⁶⁾ See regulation 2(1) and Part 5 of the Conduct Regulations (meaning of “special conditions” and accelerated misconduct hearings).

- (b) determine, in light of that consideration, whether or not to direct the appropriate authority to certify the case under paragraph (3).

(7) If the Director General determines not to direct the appropriate authority to certify the case under paragraph (3), the Director General must notify—

- (a) the appropriate authority, and
- (b) if the person investigating is not also the Director General carrying out the investigation under paragraph 19 of Schedule 3 personally, the person investigating the complaint or recordable conduct matter,

of that determination.

(8) If the Director General determines to direct the appropriate authority to certify the case under paragraph (3), the Director General must—

- (a) provide the appropriate authority with a statement of the Director General's reasons for doing so, and
- (b) direct the appropriate authority to certify the case under paragraph (3),

and the appropriate authority must certify the case under that paragraph, take such steps as are required by the Conduct Regulations in relation to the case and keep the Director General informed of whatever action it takes in response to the direction.

(9) The Director General may at any time withdraw a direction given under this regulation.

Report on investigation

27.—(1) For the purposes of paragraph 22(7) of Schedule 3 (final reports on investigations)(**17**), a report on an investigation to which paragraph 19A of Schedule 3 (special procedure where investigation relates to police officer or special constable) applies must—

- (a) include an accurate summary of the evidence;
- (b) be accompanied by, or refer to, any relevant documents, and
- (c) where the investigation was carried out under paragraph 16 of Schedule 3 (investigations by the appropriate authority on its own behalf), include the opinion of the person investigating as to the matters mentioned in paragraph (3)(a), (b) and (e).

(2) On completion of an investigation—

- (a) carried out under paragraph 18 or 19 of Schedule 3 (investigations directed by the Director General and investigations by the Director General), and
- (b) to which paragraph 19A of that Schedule applies,

where the Director General seeks the views of the appropriate authority on the matters mentioned in paragraph 23(5A)(a) of that Schedule (action by the Director General in relation to an investigation report)(**18**), the Director General must notify the appropriate authority of the Director General's opinion as to the matters mentioned in paragraph (3).

(3) The matters are—

- (a) whether any person to whose conduct the investigation related has a case to answer in respect of misconduct or gross misconduct or has no case to answer;
- (b) whether or not any such person's performance is unsatisfactory;

(17) Paragraph 22(7) was inserted by paragraphs 1, 3 and 12 of Schedule 23 to the Criminal Justice and Immigration Act 2008 and amended by paragraph 47 of Schedule 5 to the Policing and Crime Act 2017.

(18) Paragraph 23(5A) was inserted by paragraphs 9 and 26 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

- (c) whether or not disciplinary proceedings should be brought against any such person and, if so, what form those proceedings should take (taking into account, in particular, the seriousness of any breach of the Standards of Professional Behaviour);
 - (d) whether or not performance proceedings should be brought against any such person;
 - (e) whether or not any matter which was the subject of the investigation should be referred to be dealt with under the reflective practice review process.
- (4) The appropriate authority must provide the Director General with its views (if any) on the matters mentioned in paragraph 23(5A)(a) of Schedule 3 before the expiry of the time limit mentioned in paragraph (5).
- (5) The time limit is 28 days starting with the day after which the Director General seeks the appropriate authority's views in accordance with paragraph 23(5A)(a) of Schedule 3, unless this period is extended by the Director General.

Provision of copy of report on investigation etc. to person to whose conduct the investigation related

28.—(1) Except where paragraph (2) applies, where—

- (a) the Director General determines under paragraph 23(5A)(b) of Schedule 3 (duty to make determinations on receipt or completion of report on investigation) that neither disciplinary proceedings nor performance proceedings should be brought against a person to whose conduct the investigation related, or
- (b) the appropriate authority determines under paragraph 24(6) of Schedule 3 (duty to make determinations on receipt of report on investigation)**(19)** that it will bring neither disciplinary proceedings nor performance proceedings against such a person,

the Director General or appropriate authority (as the case may be) must provide the person with a copy of the report on the investigation or such parts of it as relate to the person.

(2) This paragraph applies for so long as the Director General or appropriate authority (as the case may be) believes that providing a copy of the report, or part of it, under paragraph (1) might prejudice any investigation or proceedings (including a criminal investigation or proceedings) or review under paragraph 25 of Schedule 3 (reviews with respect to an investigation)**(20)**.

(3) A copy of the report, or part of it, provided under paragraph (1) may be in a form which keeps anonymous the identity of the complainant (if any) or any other person.

(4) Where the Director General or appropriate authority would contravene section 21A of the 2002 Act (restriction on disclosure of sensitive information) by providing a copy of the report, or part of it, under paragraph (1), the Director General or appropriate authority must instead provide the copy having removed or obscured the information which by virtue of section 21A must not be disclosed.

Reviews

29.—(1) This regulation applies to reviews under—

(19) Paragraph 24(6) was substituted by paragraphs 1, 3 and 14 of Schedule 23 to the Criminal Justice and Immigration Act 2008 and amended by paragraphs 1 and 14 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and paragraphs 9, 27 and 47 of Schedule 5 to the Policing and Crime Act 2017.

(20) Paragraph 25 was amended by paragraphs 1, 15 and 20 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and paragraphs 1 and 8 of Schedule 4, paragraphs 29, 34 and 47 of Schedule 5 and paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

- (a) paragraph 6A of Schedule 3 (reviews relating to complaints dealt with other than by investigation)(**21**);
 - (b) paragraph 25 of Schedule 3 (reviews with respect to an investigation).
- (2) Subject to paragraphs (3) and (4), an application for a review must be made within a period of 28 days starting with the day after the day on which the information mentioned in regulation 33(2)(a) (matters of which the complainant must be kept properly informed: reviews) was provided to the complainant.
- (3) For the purposes of the period mentioned in paragraph (2), the following is to be left out of account—
- (a) any time elapsing between the application for a review being received by the Director General under paragraph 31(1)(a) of Schedule 3 (reviews: applications erroneously made to the Director General)(**22**) and being forwarded to the local policing body under paragraph 31(2)(a) of that Schedule;
 - (b) any time elapsing between the application for a review being received by the local policing body under paragraph 32(1)(a) of Schedule 3 (reviews: applications erroneously made to a local policing body)(**23**) and being forwarded to the Director General under paragraph 32(2)(a) of that Schedule.
- (4) The relevant review body(**24**) may extend the period mentioned in paragraph (2) in any case where it is satisfied that, because of the special circumstances of the case, it is just to do so.
- (5) Subject to paragraph (6), an application for a review must be made in writing and must state—
- (a) details of the complaint;
 - (b) the date on which the complaint was made;
 - (c) the name of the police force or local policing body whose decision is the subject of the application, and
 - (d) the date on which the information mentioned in regulation 33(2)(a) was provided to the complainant.
- (6) Where the relevant review body receives an application for a review which fails to comply with one or more of the requirements mentioned in paragraph (5), it may decide to proceed as if those requirements had been complied with.
- (7) Where the relevant review body receives an application for a review, subject to paragraph (8), it must request any information from any person which it considers necessary to dispose of the review.
- (8) Sub-paragraphs (2) to (3A) of paragraph 19ZA of Schedule 3 (limitations on information notices)(**25**) apply to a request for information under paragraph (7) as they apply to an information notice served under paragraph 19ZA of Schedule 3.

(21) Paragraph 6A was inserted by paragraphs 29 and 31 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(22) Paragraph 31 was substituted by paragraphs 29 and 40 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(23) Paragraph 32 was substituted by paragraphs 29 and 41 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(24) See paragraph 30 of Schedule 3 (which was inserted by paragraphs 1, 15 and 22 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and amended by paragraphs 29 and 39 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017) and regulation 32 of these Regulations.

(25) Paragraph 19ZA was inserted by section 137 of the Anti-social Behaviour, Crime and Policing Act 2014 and amended by paragraphs 13 and 61 of Schedule 10 to the Investigatory Powers Act 2016 (c. 25) and paragraphs 15 and 56 of the Policing and Crime Act 2017.

(9) The relevant review body must comply with its duty under paragraph 6A(4) or 25(4A) of Schedule 3 (duty to determine whether outcome of complaint is reasonable and proportionate)(26) as soon as practicable.

Recommendations by the Director General or a local policing body

30.—(1) The kinds of recommendation described for the purposes of paragraph 28ZA(1) of Schedule 3 (recommendations by the Director General or a local policing body)(27) are—

- (a) a recommendation that an apology be made to the complainant concerned;
- (b) a recommendation that any property seized from the complainant concerned be returned;
- (c) a recommendation that a matter be referred to be dealt with under the reflective practice review process;
- (d) any other recommendation, other than a recommendation that compensation be paid, which the Director General or local policing body (as the case may be) considers appropriate to remedy the dissatisfaction expressed by the complainant concerned.

(2) A recommendation under paragraph 28ZA of Schedule 3 may only be made—

- (a) where the recommendation is made by virtue of paragraph 24(6A) of Schedule 3 (action by the appropriate authority in response to an investigation report)(28), to the chief officer to whose conduct the complaint relates;
- (b) in all other cases, to the appropriate authority.

(3) Paragraphs (4) to (7) apply where a person makes a recommendation under—

- (a) paragraph 28ZA of Schedule 3;
- (b) paragraph 6A(6)(a) or (b) of Schedule 3 (reviews relating to complaints dealt with other than by investigation: recommendations other than under paragraph 28ZA);
- (c) paragraph 25(4E)(a), (b) or (c) or (4G)(b) of Schedule 3 (reviews with respect to an investigation: recommendations other than under paragraph 28ZA)(29).

(4) The person to whom the recommendation is made must provide to the person making the recommendation a written response stating—

- (a) whether the person to whom the recommendation is made accepts the recommendation;
- (b) if the person does, the steps that the person is proposing to take to give effect to the recommendation;
- (c) if the person does not, the reasons why the person does not.

(5) Subject to paragraph (6), the person to whom the recommendation is made must provide the response before the end of the period of 28 days starting with the day after the day on which the recommendation was made.

(6) The person making the recommendation may extend the period mentioned in paragraph (5) and if the person does so the person to whom the recommendation is made must provide the response before the end of the extended period.

(7) The person making the recommendation must send a copy of the recommendation and the response to it to—

- (a) the complainant concerned;

(26) Sub-paragraph (4A) of paragraph 25 was inserted by paragraphs 29 and 34 of Schedule 5 to the Policing and Crime Act 2017.

(27) Paragraph 28ZA was inserted by paragraph 45 of Schedule 5 to the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(28) Paragraph 24(6A) was inserted by paragraphs 9 and 27 of Schedule 5 to the Policing and Crime Act 2017.

(29) Sub-paragraphs (4E) and (4G) of paragraph 25 were inserted by paragraphs 29 and 34 of Schedule 5 to the Policing and Crime Act 2017; sub-paragraph (4E)(b) was amended by paragraphs 15 and 56 of Schedule 9 to that Act.

- (b) any interested person, and
 - (c) except in a case where it appears to the person making the recommendation that to do so might prejudice any investigation (including a criminal investigation), the person complained against (if any).
- (8) In this regulation, “complainant concerned”—
- (a) in relation to a recommendation under paragraph 28ZA of Schedule 3, has the meaning given by sub-paragraph (3) of that paragraph;
 - (b) in relation to a recommendation under paragraph 6A(6)(a) or (b) or 25(4E)(a), (b) or (c) or (4G)(b) of Schedule 3, means the complainant who applied under paragraph 6A(2) or 25(1B) of Schedule 3 for the review.

Recommendations by the Director General under paragraph 28A of Schedule 3

31.—(1) The types of conduct matter specified for the purposes of paragraph 28A(4)(a)(ii) of Schedule 3 (recommendation following receipt or completion of report relating to a conduct matter)(**30**) are any matter—

- (a) falling within paragraph 13(1)(a) of Schedule 3 (conduct matters relating to incidents where a person has died or suffered serious injury etc.);
- (b) relating to—
 - (i) a serious assault, as determined in guidance issued by the Director General;
 - (ii) a serious sexual offence, as determined in guidance issued by the Director General;
 - (iii) serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;
 - (iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person’s race, sex, religion or other status determined in guidance by the Director General;
 - (v) a relevant offence;
 - (vi) conduct which took place in the same incident as one in which conduct falling within sub-paragraphs (i) to (v) took place;
- (c) that the Director General determines must be investigated in accordance with regulation 8 (recordable conduct matters relating to the conduct of chief officers etc.);
- (d) in respect of which the Director General gives a notification to the appropriate authority under paragraph 13(1)(c) of Schedule 3 (power of the Director General to require a conduct matter to be referred)(**31**), or
- (e) that the Director General is treating as having been referred to the Director General under paragraph 13A(1) of Schedule 3 (power of Director General to treat conduct matter as having been referred)(**32**).

(2) The types of complaint specified for the purposes of paragraph 28A(4)(a)(iii) and (b) of Schedule 3 (recommendation following receipt or completion of report or review relating to a complaint)(**33**) are any complaint—

(30) Paragraph 28A was inserted by section 139 of the Anti-social Behaviour, Crime and Policing Act 2014; sub-paragraph (4)(a) was amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(31) Paragraph 13(1)(c) was amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(32) Paragraph 13A(1) was inserted by section 17(1) and (6) of the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(33) Sub-paragraph (4)(b) of paragraph 28A was amended by paragraph 47 of Schedule 5 to the Policing and Crime Act 2017.

- (a) falling within paragraph 4(1)(a) of Schedule 3 (complaints alleging that conduct or other matter has resulted in death or serious injury)(**34**);
- (b) alleging conduct which constitutes—
 - (i) a serious assault, as determined in guidance issued by the Director General;
 - (ii) a serious sexual offence, as determined in guidance issued by the Director General;
 - (iii) serious corruption, including abuse of position for a sexual purpose or for the purpose of pursuing an improper emotional relationship, as determined in guidance issued by the Director General;
 - (iv) a criminal offence or behaviour which is liable to lead to disciplinary proceedings and which in either case was aggravated by discriminatory behaviour on the grounds of a person's race, sex, religion or other status determined in guidance by the Director General;
 - (v) a relevant offence;
- (c) which arises from the same incident as one in which any conduct falling within sub-paragraphs (a) or (b) took place;
- (d) that the Director General determines must be investigated in accordance with regulation 5 (complaints relating to the conduct of chief officers etc.);
- (e) in respect of which the Director General gives a notification to the appropriate authority under paragraph 4(1)(c) of Schedule 3 (power of the Director General to require a complaint to be referred)(**35**), or
- (f) that the Director General is treating as having been referred to the Director General under paragraph 4A(1) of Schedule 3 (power of the Director General to treat complaint as having been referred)(**36**).

Relevant review body

32. The description of complaints specified for the purposes of paragraph 30(1)(a) of Schedule 3 (reviews: cases where the Director General is the relevant review body)(**37**) is any complaint—

- (a) about the conduct of a senior officer;
- (b) in relation to which the appropriate authority is unable to satisfy itself, from the complaint alone, that the conduct complained of (if it were proved)—
 - (i) would not justify the bringing of criminal or disciplinary proceedings against a person serving with the police, or
 - (ii) would not involve an infringement of a person's rights under Article 2 or 3 of the Convention (within the meaning of the Human Rights Act 1998);
- (c) that has been, or must be, referred to the Director General under paragraph 4 of Schedule 3 (reference of complaints to the Director General)(**38**);

(34) Paragraph 4(1)(a) was amended by paragraphs 1 and 7 of Schedule 4 to the Policing and Crime Act 2017.

(35) Paragraph 4(1)(c) was amended by paragraphs 15 and 56 of Schedule 9 to the Policing and Crime Act 2017.

(36) Paragraph 4A(1) was inserted by section 17(1) and (3) of the Policing and Crime Act 2017 and amended by paragraphs 15 and 56 of Schedule 9 to that Act.

(37) Paragraph 30(1)(a) was inserted by paragraphs 1, 15 and 22 of Schedule 14 to the Police Reform and Social Responsibility Act 2011 and amended by paragraphs 29 and 39 of Schedule 5, and paragraphs 15 and 56 of Schedule 9, to the Policing and Crime Act 2017.

(38) Paragraph 4 was amended by paragraphs 277 and 300 of Schedule 16 to the Police Reform and Social Responsibility Act 2011 and section 17(1) and (2) of, and paragraphs 1 and 7 of Schedule 4, paragraphs 1, 4, 29 and 30 of Schedule 5 and paragraphs 15 and 56 of Schedule 9 to, the Policing and Crime Act 2017.

- (d) that the Director General is treating as having been referred to the Director General under paragraph 4A(1) of Schedule 3 (power of the Director General to treat complaint as having been referred);
- (e) arising from the same incident as a complaint to which any of sub-paragraphs (a) to (d) applies;
- (f) to any part of which any of sub-paragraphs (a) to (e) applies.