

Status: Point in time view as at 01/12/2008.

Changes to legislation: Criminal Justice and Immigration Act 2008, Paragraph 5 is up to date with all changes known to be in force on or before 06 January 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)

SCHEDULES

SCHEDULE 23

INVESTIGATION OF COMPLAINTS OF POLICE MISCONDUCT ETC.

5 After paragraph 19 insert—

“Special procedure where investigation relates to police officer or special constable

19A Paragraphs 19B to 19E apply to investigations of complaints or recordable conduct matters in cases where the person concerned (see paragraph 19B(11)) is a member of a police force or a special constable.

Assessment of seriousness of conduct under investigation

19B (1) If, during the course of an investigation of a complaint, it appears to the person investigating that there is an indication that a person to whose conduct the investigation relates may have—

- (a) committed a criminal offence, or
- (b) behaved in a manner which would justify the bringing of disciplinary proceedings,

the person investigating must certify the investigation as one subject to special requirements.

(2) If the person investigating a complaint certifies the investigation as one subject to special requirements, the person must, as soon as is reasonably practicable after doing so, make a severity assessment in relation to the conduct of the person concerned to which the investigation relates.

(3) The person investigating a recordable conduct matter must make a severity assessment in relation to the conduct to which the investigation relates—

- (a) as soon as is reasonably practicable after his appointment or designation, or
- (b) in the case of a matter recorded in accordance with paragraph 21A(5) or 24B(2), as soon as is reasonably practicable after it is so recorded.

(4) For the purposes of this paragraph a “severity assessment”, in relation to conduct, means an assessment as to—

- (a) whether the conduct, if proved, would amount to misconduct or gross misconduct, and
- (b) if the conduct were to become the subject of disciplinary proceedings, the form which those proceedings would be likely to take.

(5) An assessment under this paragraph may only be made after consultation with the appropriate authority.

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- (6) On completing an assessment under this paragraph, the person investigating the complaint or matter must give a notification to the person concerned that complies with sub-paragraph (7).
- (7) The notification must—
- (a) give the prescribed information about the results of the assessment;
 - (b) give the prescribed information about the effect of paragraph 19C and of regulations under paragraph 19D;
 - (c) set out the prescribed time limits for providing the person investigating the complaint or matter with relevant statements and relevant documents respectively for the purposes of paragraph 19C(2);
 - (d) give such other information as may be prescribed.
- (8) Sub-paragraph (6) does not apply for so long as the person investigating the complaint or matter considers that giving the notification might prejudice—
- (a) the investigation, or
 - (b) any other investigation (including, in particular, a criminal investigation).
- (9) Where the person investigating a complaint or matter has made a severity assessment and considers it appropriate to do so, the person may revise the assessment.
- (10) On revising a severity assessment, the person investigating the complaint or matter must notify the prescribed information about the revised assessment to the person concerned.
- (11) In this paragraph and paragraphs 19C to 19E—
- “the person concerned”—
- (a) in relation to an investigation of a complaint, means the person in respect of whom it appears to the person investigating that there is the indication mentioned in paragraph 19B(1);
 - (b) in relation to an investigation of a recordable conduct matter, means the person to whose conduct the investigation relates;
- “relevant document”—
- (a) means a document relating to any complaint or matter under investigation, and
 - (b) includes such a document containing suggestions as to lines of inquiry to be pursued or witnesses to be interviewed;
- “relevant statement” means an oral or written statement relating to any complaint or matter under investigation.

Duty to consider submissions from person whose conduct is being investigated

- 19C (1) This paragraph applies to—
- (a) an investigation of a complaint that has been certified under paragraph 19B(1) as one subject to special requirements, or
 - (b) an investigation of a recordable conduct matter.
- (2) If before the expiry of the appropriate time limit notified in pursuance of paragraph 19B(7)(c)—

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- (a) the person concerned provides the person investigating the complaint or matter with a relevant statement or a relevant document, or
 - (b) any person of a prescribed description provides that person with a relevant document,
- that person must consider the statement or document.

Interview of person whose conduct is being investigated

- 19D(1) The Secretary of State may by regulations make provision as to the procedure to be followed in connection with any interview of the person concerned which is held during the course of an investigation within paragraph 19C(1) (a) or (b) by the person investigating the complaint or matter.
- (2) Regulations under this paragraph may, in particular, make provision—
- (a) for determining how the time at which an interview is to be held is to be agreed or decided,
 - (b) about the information that must be provided to the person being interviewed,
 - (c) for enabling that person to be accompanied at the interview by a person of a prescribed description.

Duty to provide certain information to appropriate authority

- 19E(1) This paragraph applies during the course of an investigation within paragraph 19C(1)(a) or (b).
- (2) The person investigating the complaint or matter must supply the appropriate authority with such information in that person's possession as the authority may reasonably request for the purpose mentioned in sub-paragraph (3).
- (3) That purpose is determining, in accordance with regulations under section 50 or 51 of the 1996 Act, whether the person concerned should be, or should remain, suspended—
- (a) from office as constable, and
 - (b) where that person is a member of a police force, from membership of that force.”

Commencement Information

- I1** Sch. 23 para. 5 in force at 3.11.2008 for specified purposes by S.I. 2008/2712, art. 2, Sch. para. 17(b) (with art. 4)
- I2** Sch. 23 para. 5 in force at 1.12.2008 in so far as not already in force by S.I. 2008/2993, art. 2(1)(i)(ii) (with art. 3)

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