

# **POLICE REFORM AND SOCIAL RESPONSIBILITY ACT 2011**

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## **EXPLANATORY NOTES**

### **OVERVIEW**

#### **Part 1- Police Reform**

#### **Other Provisions Relating to Policing and Crime and Disorder**

#### ***Schedule 14: Police: Complaints***

265. [Schedule 14](#) amends Part 2 and Schedule 3 to the Police Reform Act 2002. Part 2 sets out the role and functions of the Independent Police Complaints Commission (IPCC) and the handling of complaints and other matters which are dealt with in accordance with the Act. Schedule 3 makes provision about the handling and investigation of: (a) complaints about the conduct of a person serving with the police (“a complaint”), (b) matters which are not subject of a complaint but where there is an indication that a person serving with the police may have committed a criminal offence or behaved in a manner which would justify the bringing of disciplinary proceedings (“a conduct matter”), and (c) cases which are not the subject of a complaint and which are not a conduct matter but where a person who was, broadly, in the care of the police has died or sustained serious injury (“a DSI matter”). The full definitions of these terms appear in section 12 of the Police Reform Act 2002.
266. [Paragraph 2](#) of Schedule 14 amends section 9(2) (b) of Part 2 of the Police Reform Act to reduce the minimum number of Commissioners required in the IPCC from 10 Commissioners to 5.
267. [Paragraph 3](#) amends paragraph 10 of Schedule 2 to the Police Reform Act 2002 to remove the requirement for the IPCC to gain the consent of the Secretary of State for the delegation of Commission functions.
268. [Paragraph 4](#) removes section 14 of Part 2, which excluded complaints relating to the direction and control of a police force by or on behalf of the chief officer from the operation of Schedule 3 of the Police Reform Act. There is now a single regime for all complaints about the quality of service provided by the police, regardless of the whether they concern direction and control.
269. [Paragraph 5](#) amends section 29(1) of Part 2 to provide that the definition of “conduct” in relation to the making of complaints includes “decisions” made by a person serving with the police. The paragraph also amends paragraph 4 of Schedule 7 to the Police Reform Act with the effect that the appropriate authority (the body responsible for handling a complaint) requires the IPCC’s permission to refer a complaint concerning direction and control to the IPCC, where it is not otherwise required to refer it.
270. [Paragraph 6](#) amends section 10 of Part 2 to remove the exclusion of the IPCC having any function in relation to complaints relating to the direction and control of a police force.

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Act 2011 (c.13) which received Royal Assent on 15 September 2011*

271. [Paragraph 7](#) amends section 15 of Part 2 providing a new power for the local policing body to direct a chief officer to take such steps as the local poling body thinks appropriate if the chief officer of police has not complied with an obligation in the handling of a complaint.
272. [Paragraph 8](#) amends paragraph 2 of Schedule 3 to the Police Reform Act 2002 to provide for complaints made directly to the IPCC to be notified to the appropriate authority unless the IPCC considers it inappropriate to do so. The new paragraph 2(8) permits complaints not to be recorded if the complaint falls within a description of complaints (such as vexatious complaints) specified in Regulations.
273. [Paragraph 9](#) replaces paragraph 6 of Schedule 3. This paragraph deals with the local handling of complaints which have been recorded by the appropriate authority and are not required to be referred to the IPCC or which have been referred to the IPCC and have been referred back to the appropriate authority to deal with. The appropriate authority is required to determine if the complaint is suitable to be dealt with locally, and if so, is required to make arrangements for the complaint to be formally investigated. A complaint may not be locally resolved if the conduct complained of (if proven) would justify the bringing of criminal or disciplinary proceedings or would involve the infringement of a person's rights under Article 2 or 3 of the European Convention on Human Rights (the right to life and the prohibition on torture).
274. [Paragraph 10](#) amends paragraph 7 of Schedule 3 to allow the appropriate authority to disapply the provisions of the Schedule in relation to a complaint without the requirement to apply to the IPCC, unless the complaint is one which has previously been referred to the IPCC irrespective of whether the complaint was referred back. In such cases the permission of the IPCC is required to dispense with the complaint. The appropriate authority is obliged to inform the complainant if it decides to disapply the provisions of Schedule 3, or to ask the IPCC for permission to do so.
275. [Paragraph 11](#) amends paragraph 10 of Schedule 3 to require the appropriate authority to record any conduct matter arising in civil proceedings if it is one that must be referred to the IPCC, or it is not of a description specified in regulations. If the complaint does not have to be referred to the IPCC, and is of a description specified in regulations, the appropriate authority may still record it at its discretion.
276. [Paragraph 12](#) amends paragraph 11 of Schedule 3 to similar effect to the amendments to paragraph 10 of that Schedule described above.
277. [Paragraph 13](#) amends paragraph 21 of Schedule 3 to provide for the IPCC to require the discontinuance of an investigation if it appears that the complaint or matter is of a description specified in regulations. An appropriate authority may discontinue an investigation providing the complaint or matter was not one which was required to be referred to the IPCC. Where a complaint or matter is discontinued, the appropriate authority is required to notify the complainant and any person entitled to be kept properly informed about the handling of the complaint.
278. [Paragraph 14](#) amends paragraphs 23, 24, 25 and 27 of Schedule 3 to include consideration of whether the performance of a person whose conduct was subject of a complaint was satisfactory or not. The amendment to paragraph 27 provides for the IPCC to be able to recommend and ultimately direct that proceedings for unsatisfactory performance are brought against a person serving with the police.
279. [Paragraphs 15 and 16](#) add new paragraphs 3A, 3B and 3C to Schedule 3 to provide that there is no right of appeal against the non recording of a complaint if the appropriate authority is not required to record it, or the matter relates to the direction and control of a force and the appeal relates to a failure by the local policing body.
280. [Paragraph 17](#) amends paragraph 7 of Schedule 3 by adding a new sub-paragraph (8) to provide that an appeal against the decision to disapply the provisions of the Schedule will be made to 'the relevant appeal body' which will be either the Chief Officer

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or the IPCC. The amendment also secures that there is no right of appeal in a case where the IPCC gave the appropriate authority permission to disapply the provisions of Schedule 3, or where the complaint relates to direction and control.

281. [Paragraph 18](#) amends paragraph 9 of Schedule 3 to provide that an appeal against the outcome of a complaint that is subject of local resolution or handled otherwise than in accordance with the procedures in Schedule 3 will be made to ‘the relevant appeal body’. There is no right of appeal if the complaint relates to the direction and control of the force.
282. [Paragraph 19](#) amends paragraph 21 of Schedule 3 to provide that an appeal against the decision to discontinue an investigation of the complaint will be made to ‘the relevant appeal body’. There is no right of appeal if the complaint relates to the direction and control of the force.
283. [Paragraph 20](#) amends paragraph 25 of Schedule 3 to provide that an appeal with respect to an investigation will be made to ‘the relevant appeal body’. There is no right of appeal if the complaint relates to the direction and control of the force.
284. [Paragraph 21](#) adds a definition of ‘direction and control’ to paragraph 29 of Schedule 3.
285. [Paragraph 22](#) inserts new paragraph 30 into Schedule 3 to define who the ‘relevant appeal body’ is in respect of appeals dealt with under Schedule 3 of the Police Reform Act. The IPCC is the ‘relevant appeal body’ for complaints of a description specified in regulations – in any other case; the chief officer is the relevant appeal body. Paragraphs 31 and 32 provide that where an appeal is submitted to the wrong ‘relevant appeal body’ then the appeal will be forwarded to the ‘relevant appeal body’ and the person making the appeal will be notified that the appeal has been forwarded to the ‘relevant appeal body’.